



## New Jersey's Response to ICE Visits at the Workplace

THE CURRENT ADMINISTRATION'S intensified and more aggressive immigration enforcement policies have created new challenges for employers and their workforce, particularly due to the heightened risk of workplace visits by ICE agents. The unpredictable and disruptive nature of these "raids" means it is important for employers to prepare in advance by ensuring that their business is in compliance with current immigration law, and also by providing their employees with a written protocol that outlines how to respond when agents appear at the worksite.

Following are some guidelines to help New Jersey employers understand how they should respond when ICE visits at the workplace. They reflect both federal law and New Jersey-specific guidance, including protections under the Immigrant Trust Directive, state anti-discrimination laws, and best practices for employers:

### 1. DETERMINE THE NATURE OF THE VISIT

ICE can come in 2 main capacities:

- **With a Warrant or Subpoena Signed by a Judge:** For inspection, arrest, or to search the premises.
- **Without a Warrant:** To request records or access the premises *voluntarily*.

### 2. ASK FOR IDENTIFICATION AND DOCUMENTATION

Politely but firmly request:

- The agent's **identification and agency affiliation**.
- A copy of any **warrant, subpoena, or notice signed by a judge**.
- Do not allow entry or turn over any documents until this is provided and reviewed.

### 3. REVIEW THE DOCUMENT

Have legal counsel review the documentation immediately. Key types include:

- **Judicial Warrant Signed by a Judge:** Required for ICE to enter non-public areas or search/seize items.
- **Administrative Subpoena or Warrant (Form I-9 Notice of Inspection):** May authorize document inspection but not access to employee-only areas without consent.
- **ICE Notice of Inspection (NOI):** Gives the employer 3 business days to produce I-9 forms.

### 4. RESTRICT ACCESS TO NON-PUBLIC AREAS

Unless ICE has a judicial warrant, **do not permit access to employee-only or private areas of the workplace.**

- You have the legal right to deny entry without a warrant *signed by a judge*.
- Public areas (e.g., lobbies) may be accessed without a warrant.

### 5. NOTIFY LEGAL COUNSEL IMMEDIATELY

Employers should have an **immigration or employment attorney** on-call for such incidents.

- Do **not** make any statements or sign any documents without legal review.
- Do **not** consent to a search unless legally required.

### 6. AVOID DISCRIMINATORY OR RETALIATORY CONDUCT

Under **New Jersey Law Against Discrimination (LAD)** and federal laws:

- Do **not** question employees about their immigration status
- Do **not** fire or discipline workers solely based on ICE inquiries or assumptions.
- Protect employees from harassment or intimidation.

### 7. FOLLOW NJ STATE PROTECTIONS

Under New Jersey's **Immigrant Trust Directive**, local law enforcement cannot assist ICE in civil immigration enforcement, and **employers should not volunteer information or access unless required by law.**

### 8. TRAIN STAFF AND HAVE A PLAN

Employers should:

- Designate a **point person** for ICE encounters.
- Train supervisors and reception staff on how to respond.
- Maintain an **Immigration Enforcement Response Policy** in writing.

### 9. COMMUNICATE WITH EMPLOYEES CAREFULLY

After an ICE visit:

- Provide general updates to employees without violating privacy rights.
- Reassure employees of their rights and protections under state and federal law.

### 10. DOCUMENT EVERYTHING

Keep records of:

- The ICE agent's name and badge number.
- A copy of any warrant or documentation.
- Notes on what happened during the visit.

It is important for companies to practice these response protocols with employees and staff to ensure readiness for possible ICE visits. Conducting response protocol drills can ensure that employees, staff, and employer's designated ICE POC (Point of Contact) are fully prepared in the event of an ICE raid. ■

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*If you would like more information about New Jersey's ICE response guidelines for businesses, contact the NIEDWESKE LAW FIRM, LLC at 908-738-8500 and one of our highly skilled employment attorneys will assist you.*