Public Counsel

FAQs

Nonprofit and Small Business Rights with Respect to Immigration Enforcement

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As a nonprofit or small business owner, it is critical to know your rights and responsibilities if immigration enforcement officials appear at your facility, office, or workplace. Here are some answers to common questions on this topic.

***Template policies on immigration enforcement are attached to this publication and a recording of our webinar on this topic can be found here.**

Please note that this guide uses Immigration and Customs Enforcement (ICE) synonymously with all immigration enforcement agencies. While these agencies take on different roles and may interact with the community for different purposes, this guide applies to interactions with all of the agencies.

1. What information should I request from clients/customers and how should I store it?

Only request and store necessary data. Without a **specific** business need to ask for or keep certain information, it may be best not to do so. This is essential because all stored data is vulnerable to investigation if ICE appears at your location with proper documentation (e.g., judicial search warrant or subpoena). With these documents, ICE may be able access sensitive information like Social Security Numbers or ITINs if you have them stored.

For example, if you need proof of residency status, you can request a utility bill from clients or customers in lieu of a passport.

Data retention looks different depending on whether you store information online or in physical files. Digital files should be encrypted and password-protected for security. Enable dual-factor authentication as an additional safety measure. Limit access to these files to only necessary personnel. If your business or nonprofit stores information in physical files, confirm that they are in a safe location and protected with locks.

Create a written policy that covers information disclosure and retention if you do not have one already. Generally, advise that employees and staff not open links from unfamiliar senders, do not save files to their personal devices, and do not download programs without company consent. Employees and staff should be trained on your data storage, privacy, and disclosure policies. Click here for Public Counsel's sample data retention policy for nonprofits.

Please see pages 7 and 8 of this guide for more information about the plain view rule and your privacy rights as they apply to data collection and preservation.

2. What are my responsibilities as an employer related to I-9 Audits?

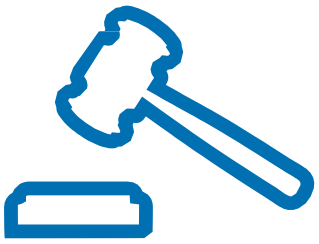
As an employer, you have an obligation to ensure that all employees hired by your organization are authorized to work in the United States. The I-9 form is the form employers must complete with their employees to verify their eligibility to work in the United States. For detailed information on completing the I-9 process, please read the USCIS publication here.

ICE I-9 Audits

An I-9 Audit is when ICE wants to check that all of your employees are authorized to work in the United States. These audits may be random or based on specific information ICE receives (e.g., from a tip or surveillance).

ICE will serve a Notice of Inspection to an employer via mail or in-person to initiate the audit. That notice may ask the organization to deliver I-9s, payroll documents, lists of current employees, articles of incorporation, and/or business licenses for ICE to inspect.

Contact a lawyer as soon as you receive the Notice of Inspection. You will have three (3) days to comply with the request.
Make sure to take this three-day period in order to prepare documents and respond to ICE's questions. Waiving the three-day period allows ICE to investigate immediately.



These inspections will occur either at the employer's worksite or at an ICE field office. As ICE is inspecting, they may be suspicious if they observe more workers on site than I-9 forms presented, and if they observe many employees being paid in cash.

ICE will not need a separate search warrant to access I-9s, but you and your staff should still exercise your constitutional rights to limit the inspection to the scope of the Notice of Inspection.

Here are some important policies and procedures to follow if ICE arrives at your workplace for an audit:

1. Contact your lawyer or a trusted non-profit legal service provider as soon as possible.
2. Do not give ICE consent to speak with employees.
3. Ask ICE agents to wait outside and avoid letting them enter without a valid and signed judicial warrant. If they do have a signed judicial warrant to enter and inspect the premises, arrange for the ICE inspector to be accompanied at all times while on the premises. Granting them permission to enter does not allow them to approach employees to ask about their right to be in the United States.
4. Only give ICE agents what they have requested. Keep I-9s and other employee files separately. You can insist upon a subpoena or judicial warrant to access other personal information aside from I-9s. If you get a subpoena, speak to a lawyer as soon as possible.
5. Ask ICE inspectors to review I-9 forms outside of your organization's office.
6. Post this notice of inspection for employees to see within 72 hours of receiving a Notice of Inspection. You must also notify specific employees whose I-9s are deemed defective by ICE. In California, employers have an obligation to warn employees in writing of an imminent inspection of the I-9 forms by federal immigration authorities. Cal. Lab. Code § 90.2(a)(1). Employers in other states may do this as a best practice.

If ICE finds errors or issues with any I-9 documentation provided by any employee, you will be given ten (10) days to correct the forms. After this correction period ends, any uncorrected technical or procedural errors are considered substantive errors and could result in a fine.

- It may actually take someone a long time to get the correct documentation even if they do have it (ex. A document expired and it needs to be renewed), and so the employee may need to be placed on leave until they can get their status in order. Please note that ICE's determination might not be that someone is unauthorized to work, only that they have an expired document.

Internal I-9 Audits

Employers should not conduct any internal discriminatory or retaliatory audits. For example, performing any audit based on an employee's national origin is prohibited. Before conducting an audit, consider its timing, scope, and selective nature. For more information, you can find ICE guidance on internal audits for employers here.

For additional information on I-9 audits and workplace authorization, please read Public Counsel's Work Authorization FAQ for Employers publication here.

3. What are my organization and our staff/client's rights when interacting with immigration and law enforcement?

The Department of Homeland Security (DHS) contains several branches including the **Homeland Security Investigations (HSI)** unit which conducts workplace enforcement operations, conducts transnational criminal investigations, and oversees international and exchange students;

Immigration and Customs Enforcement (ICE) or the **Enforcement and Removal Operations (ERO)** which work to arrest and deport individuals, as well as the **Customs and Border Patrol (CBP)** department which operate as immigration enforcement at points of entry, airports, and within 100 miles of the border. All of these departments are trained to identify themselves as "police" when asked, and so it is important to ask the officers to identify themselves.

Interacting with immigration or law enforcement can be stressful, which makes it difficult to exercise our rights even when we have them. However, regardless of your immigration status, everyone has a right to:

- Stay silent
- Ask for identification
- Document and record interactions
- Deny entry into private spaces if ICE agents arrive without a judicial warrant (due to the Fourth Amendment's protection from unreasonable searches and seizures)
- Ask for supporting documentation (e.g., warrants and subpoenas)

4. What should my organization's written policy on interactions with law enforcement include?

Written policies are valuable tools to help protect your clients' and organization's legal rights if immigration enforcement arrives at your facility, office, or workplace. Policies train staff for unexpected and stressful situations, encourage discussion and agreement within the organization, and communicate that immigrants are welcome at your organization.

Ensure that your written policy contains the following

Elements

Scope of the policy

- When policy should be applied, which properties/locations policy applies to, staff roles/locations (e.g., owner, property manager, reception, of-site staff) and obligations (e.g., receptionist will call property manager when law enforcement arrives)
- Address **all** interactions with law enforcement and official visitors, not just visits from ICE
- Any organizational/employee rules specific to your industry (ex. housing provider, religious institution, child care provider, etc.)

Data collection and preservation

- Safely store all employee and client information. The **plain view rule** allows law enforcement to access any document that is openly visible. If sensitive documents are on your desktop, sitting in your trash can, or at the top of a pile of papers, law enforcement can look at them. They may be able to seize the documents if they can tell that they are related to their search or some illegal activity.

Protocols for public vs. private space

- ICE, and other government officials, can enter public areas without getting permission. A public area is somewhere where members of the general public may come and go freely. The Fourth Amendment protects everyone from intrusions into their privacy, including unreasonable searches and seizures like an arrest or taking documents or property. A government official must have a judicial warrant to search private areas. But what makes an area private?
- For a space to be considered private, there must be a "reasonable expectation of privacy." Both you, subjectively, and society, objectively, must reasonably expect that area to be private. We have a reasonable expectation of privacy in our homes, our hotel rooms, and on our personal computers. We do not have a reasonable expectation of privacy in garbage left on the curb, on public streets, or in public buildings.
- Sometimes it can be difficult to determine whether an area is public or private. You can place signs in locations around your facility to indicate that a space is private, such as a sign that says "Restricted Area: No Entry Without Authorization." This is a helpful step, but be cautious because these signs alone may not make an area legally private for 4th Amendment purposes. Your staff must also work to make sure their behavior matches your policy and unauthorized people are not permitted into private areas without express permission.
- There are several important exceptions to the warrant requirement. The most important is consent. If your staff give consent for an ICE agent to enter a private area, they may enter without a warrant. Other exceptions include exigent circumstances like an emergency or hot pursuit of a criminal, as well as if an officer has probable cause to believe a search may reveal unlawful activity.

Monitoring and receiving visitors to the space

You should examine whether your organization has policies that consider:

- How visitors sign in and out
- Who is permitted to grant entry into the building
- What doors require key card access or remain locked

What to include in your policy about law enforcement (including immigration agents) interactions

- Before any interaction with law enforcement, your organization should designate which people are authorized to speak to law enforcement. All staff should be trained on who they must contact in the event that law enforcement are present in person. All staff should strictly follow the policies or remain silent.
- Your policy should list the designated authorized contact people and their duties. These contact people should be familiar with different types of warrants/subpoenas; be comfortable checking date, location, and scope of warrants; ask for, check, and document the agent's credentials; should know the contact information for your company's legal representative; and be comfortable interacting with law enforcement on organization's behalf. It should be clear whether authorized representatives are working on-site or of-site and have after-hour availability. Include their contact information and your attorney or legal services organization's contact information in your policy. If non-authorized staff are asked a specific question like, "Is this person here?" They do not have to tell them where the person is or if they are at work that day. They should answer by saying, "I am not authorized to speak with you" or "I decline to answer questions." They may also stay silent.
- Staff should not consent to law enforcement entering any private areas unless they have and display a judicial warrant. The validity of all documentation presented by law enforcement must be confirmed by the authorized contact people before taking any action.

Policies should also incorporate organization-specific information. For example, if your organization is a school, there may be additional laws that you must follow to protect student and parental rights. Additional guidance for schools in California can be found here. Click here for sample policies for healthcare-related organizations and here for resources specific to homeless service providers.

For sample policy templates, please refer to the attachments at the end of this publication. We recommend you work with an attorney to tailor policies to your particular organization. Click here for additional information and guidance on creating a written policy.

How to Implement Your Policy

After working with an attorney or obtaining legal services to draft a policy, organizations should seek approval of the policy from their Board of Directors. Then, conduct staff trainings to explain the policies and how to respond to client concerns. It is important to practice the policies through role playing exercises at these trainings as well.

5. When law enforcement such as ICE is at the door, what should we do?

- **Stay calm**. Don't run. Staff who first encounter the law agents should contact all of the authorized people listed in your policy. Authorized persons should let the staff know how long it will be until they can arrive. All authorized persons who are available should go to the site in person.

- **Non-authorized staff may ask the agents to wait outside if they have entered the facility**. Once the authorized persons arrive, they will speak with the law enforcement officers outside and confirm their identities. Authorized persons will remind the officers that they do not have permission to enter private (non-public) areas without a judicial warrant and ask to see their documentation.

- **Authorized or non-authorized staff should inform all staff, clients, and community members that law enforcement officers are present at the site, and to remain calm.** Staff may instruct all people present to remain calm, and remind them of their rights to remain silent, right to request a lawyer, and that they do not have to answer any questions from the agent. Organizations should think carefully about their notification procedures in order to avoid creating fear or confusion.

- **If the agents do NOT have a valid judicial warrant**, inform the officers that "*We have a policy of denying access without a valid judicial warrant*."

- **If the officers DO present a valid judicial warrant**, the authorized person should double check the warrant before taking action. Then, make sure the search remains only in boundaries authorized by the warrant by accompanying them throughout the search and documenting everything that occurs. Object to any search outside the scope of the judicial warrant, but do not engage in debate or argument. Present the objection and make note of it.

- **If presented with a subpoena**, seek legal counsel before responding as you may have rights to object to what the subpoena is requesting or to not respond. Document where, when, and how the documents were served.

- **Do not release any information about clients, staff, or others unless a judicial warrant or subpoena specifically requires you to do so. Do not help agents sort people by immigration status or country of origin**.

- **If agents try to take something vital to your business or organization**, explain why it is vital and ask for permission to photocopy it before it is taken. If materials are attorney-client privileged or protected by privacy laws, request that those documents not be inspected until you speak with an attorney. **Document any information or materials agents take**. Ask for a copy of the list of any items the agents seized during the search.

- **Staff should complete a report with detailed information immediately after the encounter.**

Remember, workers also do not have to hand over IDs or papers to ICE. Any information they give to ICE may be used against them later.

Warrants

Arrest warrants authorize law enforcement to arrest an individual. Even judicial arrest warrants do not give government officials rights to search your private facility. A judicial arrest warrant authorizes entry into the named individual's home/residence to make the arrest if there is reason to believe that the individual is present. It does not authorize entry into anyone else's home or business to make the arrest.

Search Warrants authorize law enforcement to look for something. This could be things like contraband, an individual believed to be in the U.S. unlawfully, or evidence or an instrumentality of an offense.

If an officer has a **judicial search or arrest warrant**, ask to see it. The warrant will list where officers are allowed to search and what can be seized. Object if officers go in non-public locations or take items not on the warrant or in plain view. Judicial warrants should have a judge's signature and they expire 14 days after they have been issued.

Administrative warrants are **not** court orders. An ICE warrant will be signed by an officer or immigration judge, not a district court. These do not give officials the right to enter private parts of your facility. These can be used in public to detain the person named in the warrant.

Look for:

1. **Who issued the document?**
2. **Does it have the correct name and address listed? Is it spelled correctly?**
3. **Does it authorize a search of the facility? What does it authorize?**
4. **Has it expired? Have more than 14 days elapsed since it was signed?**
5. **Is it signed by a judge and not an immigration official?**

For more information on identifying warrants and subpoenas, please see this resource.

Key Phrases to Practice

"I am not authorized to speak with you." Then remain silent.

"I do not want to answer any of your questions." Then remain silent.

"Do you have a warrant? Please pass it under the door."

"I do not consent to your entry."

"I do not give you permission to search me."

"Am I being detained?"

"Am I free to go?"

And if you are not free to leave,
"I do not want to talk to you until I speak to a lawyer."

Documenting the Encounter

Announce you are recording a video and stay a safe distance away. Only record agents, avoid filming staff, clients, or other community members present.

Document:

- Date and time
- Number and names/badge numbers of officers. Take photos of credentials.
- Who did officers say they were (from what agency) and why did they say they were there.
- Did they present a judicial warrant? Did you ask? Take a photo of documentation.
- What happened? Did they take pictures? Make arrests? Have weapons? Mistreat or yell at anyone? Prevent anyone from moving freely?

For more information about and how to document immigration enforcement interactions, please see this resource.

Please also see Template V: Documenting ICE Encounters for a fillable report your organization may use to record information after an immigration or law enforcement encounter.

After the Encounter

If anyone was arrested, ask where they are being taken so you can help their family and a lawyer find them.

Provide a space for staff to debrief and discuss the encounter. If as a result of an ICE audit or raid, you determine that an employee does not have proper work authorization, consider offering leave while the worker applies for work authorization. If you need to terminate the employee, pay wages and benefits promptly. You should also consider providing a reference for the worker and offering separation pay.

6. Helpful Resources

- Public Counsel Know Your Rights Webinar Recording for Nonprofits and Small Businesses
- Work Authorization FAQ for Employers
- Guidance for Employers
- Guidance to Nonprofits Regarding Immigration Enforcement
- Guidance and Model Policies to Assist California's Healthcare Facilities in Responding to Immigration Issues
- Guidance for K-12 Schools
- Guidance for Homeless Service Providers
- Guide for Early Childhood Programs
- Red Cards - Blue Cards
    * These know your rights cards are helpful for staff and customers. They are free for nonprofits.
- Trump's Rescission of Protected Areas Policies Undermines Safety for All
- ICE Detainee Locator
- CA Lawyer Search

This document provides general guidance only and should not be construed as legal advice. The information in this document may change over time. If your small business or nonprofit needs legal assistance, or if you have further questions about these topics, please contact Public Counsel's Community Development Project at (213) 385-2977, ext. 200 or apply for our services online at: https://publiccounsel.org/programs/community-development-project/get-help/.

The Community Development Project provides free legal assistance to qualifying low-income entrepreneurs and qualifying nonprofit organizations that share our mission of serving low-income communities and addressing issues of poverty within Los Angeles County.

Template Policies for Nonprofits and Small Businesses

TEMPLATE I

[YOUR ORGANIZATION'S LOGO]

[YOUR ORGANIZATION'S NAME]'S POLICIES ON ENCOUNTERS WITH IMMIGRATION AND LAW ENFORCEMENT AGENTS

PURPOSE

The purpose of this policy is to provide clear guidelines that ensure the protection of client and employee rights, safeguard client confidentiality, and legal compliance during employee interactions with immigration or law enforcement agencies and officials. [YOUR ORGANIZATION'S NAME] will take steps to the greatest extent possible under the law to protect our staff and clients and their information. It is the policy of [YOUR ORGANIZATION'S NAME] not to allow agents or employees of U.S. Immigration and Customs Enforcement (ICE), Customs and Border Protection (CBP), or other deputized federal agencies to carry out immigration enforcement, access to our facilities, records, or information unless this is required by law or a valid judicial warrant.

[YOUR ORGANIZATION'S NAME] is dedicated to serving people, regardless of income, where they are from, or their individual circumstances. [YOUR ORGANIZATION'S NAME] strives to create a safe environment for staff, clients, and anybody seeking services from our organization. This policy reinforces [YOUR ORGANIZATION'S NAME]'s commitment to protecting the individuals we serve from potential harm, undue scrutiny, or violations of their rights.

SCOPE

This policy and procedure applies to all [YOUR ORGANIZATION'S NAME] sites.[1]

ROLES

ROLE OF THE AUTHORIZED REPRESENTATIVE

1. [YOUR ORGANIZATION'S NAME] will designate specific staff members as the Authorized Representatives if an interaction with immigration or law enforcement agents should take place. At least one Authorized Representative will be onsite at [YOUR ORGANIZATION'S NAME]'s office during business hours to handle any inquiries by law enforcement officials or immigration agents at the office. The Authorized Representative(s) will handle ALL contacts with law enforcement or immigration agents at the [YOUR ORGANIZATION'S NAME] office.

   See the attached for a list of [YOUR ORGANIZATION'S NAME] Authorized Representatives.[2]

[1] Please specify which sites if the policy does not apply to all of your organization's physical locations.
[2] Recommend designating at least four people depending on the size of your organization, and to include their names and phone numbers or other preferred contact.

2. More specifically, the Authorized Representatives(s) will:

   - Attend trainings related to immigration enforcement and geared towards the Authorized Representatives(s) duties. Through these trainings the Authorized Representatives will be required to learn how to:
     - Validate a properly issued court order, warrant, subpoena, or summons.
     - Differentiate between administrative requests and judicial warrants or other court ordered requests.
     - Correctly identify the information required on a court ordered request and ensure [YOUR ORGANIZATION'S NAME] does not provide more than the required information.
     - Properly interact with immigration agents and law enforcement to deescalate the situation in the hopes of preventing a raid, especially if the agents lack a judicial warrant.
     - Help implement policies and procedures and ensure staff are assigned to specific duties during a potential or actual visit by law enforcement or immigration agents, including making sure professionals identified to provide assistance (such as attorneys, the media, etc.) are notified immediately.
     - Provide guidance to other staff on what to do in relation to interaction with immigration agents and law enforcement.
     - Inform clients and residents in close proximity to the officers, as appropriate, that law enforcement officials are at the site, and remind them that they all have the right to remain silent.
     - Appropriately document all the facts about a visit from law enforcement or immigration agents, including any and all actions taken by law enforcement or immigration agents that may be unlawful, the information contained in the warrant, the names and badge numbers of the agents, the names and dates of birth of any detained individuals, and contact information for all witnesses.

   - Have available the contact information for at least one immigration attorney or a lawyer, such as a nonprofit legal organization, who can be available via phone if law enforcement or immigration agents comes to the [YOUR ORGANIZATION'S NAME] office.

ROLE OF NON-AUTHORIZED STAFF

3. If other [YOUR ORGANIZATION'S NAME] staff come across immigration agents or law enforcement, they will immediately contact the Authorized Representatives(s) and politely inform the immigration agent or other law enforcement official that only designated individuals are authorized to answer their questions, review a warrant or to consent to their entry into the [YOUR ORGANIZATION'S NAME] office. Non-authorized staff will not give consent to officers to entry any private areas of the property.

4. If an immigration agent or law enforcement official contacts [YOUR ORGANIZATION'S NAME] via phone or email, staff will direct them immediately to the Authorized Representatives on duty and will politely inform the immigration or other law enforcement officials that only the designated individuals are authorized to answer their questions.

5. Front desk staff will inform other staff that law enforcement or immigration authorities have arrived on the property.[3]

CODE YELLOW PROTOCOL

6. **Call in a Code Yellow**: A "Code Yellow" will be used to alert personnel and Authorized Representatives of the presence of immigration agents, and the possibility of an immigration raid. Should someone call a Code Yellow, an Authorized Representative should be immediately alerted and put into contact with the person who issued the Code Yellow alert. All staff, as well as volunteer receptionists, will be notified of what a "Code Yellow" means and what to do.

7. As part of the protocols for Code Yellow, staff will be directed that:
    a. **Remind people nearby of their rights**: Specified staff will calmly inform clients and residents of immigration agents' presence at the building and remind them of KYR information, including their right to remain silent and refuse to answer questions. Staff will also inform clients and residents that they are taking steps to protect their clients and residents and their information.
    b. **Document everything**: A receptionist or other staff member, as well as Authorized Representatives, will attempt to document all the facts about the interaction with law enforcement or immigration agents. Please see our documentation report for more on what information to capture.[4]

PROTOCOL IF IMMIGRATION OR LAW ENFORCEMENT HAVE ALREADY ENTERED [YOUR ORGANIZATION'S NAME] PREMISES

1. **Notify Authorized Representative**: [YOUR ORGANIZATION'S NAME] staff that encounter immigration agents or law enforcement, will immediately notify the Authorized Representatives on duty of the presence of immigration officials or law enforcement.
    - Staff who encounter immigration agents or law enforcement are asked to:
        - Remain calm, and remember that you are NOT REQUIRED to answer any questions from law enforcement or immigration. You have the right to REMAIN SILENT.
        - Politely inform the agent(s) that you will contact the Authorized Representatives that can help answer their questions or requests.
        - Staff should not put themselves in situations where they feel threatened or in harm's way.

2. **Authorized Representative takes action**: The Authorized Representatives will come to meet with immigration officials or law enforcement on the premises; they will:
    - Direct the agent to a location away from clients and residents (e.g., the lobby or exterior entryway to the building), if possible.
    - Ask the agent(s) why they are there and request to see the agent's badge and write down his or her name and badge number. If possible the Authorized Representatives will instruct another member on staff to make a photo copy.
    - If the agent tries to enter into the premises, advise the agent that the premises are private property.

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[3] Please add any additional details here as to the methods of contacting staff and clients who are present at the office, such as through an intercom system, text message blast, email, or other means. Your organization should think critically about how to communicate this information in a way that does not create panic.
[4] This report is Template IV.

- Clearly let the agent know that you DO NOT CONSENT to a search of private areas without a properly issued judicial search warrant.
- Validate all legal documentation presented (such as a warrant, court order, etc.) BEFORE allowing them to enter the premises. ONLY provide information [YOUR ORGANIZATION'S NAME] is required to provide in accordance with presented legal documents and the law.
- The Authorized Representatives will document all information that is provided on the documentation report,[5] and make a photocopy of all legal documents presented.

PROTOCOL IF SEEKING PRIVATE STAFF OR CLIENT INFORMATION

1. **Communicate the Need for Formal Documentation**: If agents or officers request information in person or over the phone, politely say that you will put them on hold and have them speak to an authorized representative of the organization. If speaking to them over the phone, transfer the call to the authorized representative, or collect their contact information and have the authorized representative call them back. The authorized representative will politely inform the requesting officer that the organization follows a formal process and requires a subpoena or court order to release any information.
2. **Request a Subpoena or Court Order**: Authorized representatives will reiterate to the requesting party that compliance requires a subpoena or court order. Informal requests (e.g., verbal inquiries) do not necessitate compliance.
3. **Adhere to the Established Process for Handling Subpoenas and Court Orders**:
    A. Subpoenas requesting staff information must be forwarded to the Human Resources Department immediately.
    B. Subpoenas requesting client or agency information must be sent to **[FILL IN]** Department immediately.
    C. Document when the subpoena was received and how it was served.
4. **Clarify Confidentiality Policies**: Authorized representatives will ensure that officers are aware of applicable confidentiality laws, such as HIPAA (Health Insurance Portability and Accountability Act), VAWA (Violence Against Women Act), and state-specific privacy laws.
5. **Contact a Lawyer**: A lawyer may be able to help you object to a subpoena or court order requesting staff or client information.

[5] Template IV.

TEMPLATE II

[YOUR ORGANIZATION'S LOGO]

ROLES OF AUTHORIZED REPRESENTATIVES IN AN ENCOUNTER WITH IMMIGRATION OR LAW ENFORCEMENT AGENTS

[YOUR ORGANIZATION'S NAME] will designate staff members as the Authorized Representatives if an interaction with law enforcement or immigration agents takes place. These designated Representatives will handle ALL inquiries by immigration agents or law enforcement officials at the office.

IF YOU RECEIVE A "CODE YELLOW" CALL

8. If you receive a CODE YELLOW call, either on your direct line, or the receptionist received one and transfers it to you, be prepared to drop what you are doing and respond immediately.
9. Find out where exactly the law enforcement/immigration agents are located.
    a. Contact the other Authorized Representatives to see who may be available to respond. It is always better for two representatives to respond together, if possible.
    b. Let the caller know approximately how soon an Authorized Representative will arrive, and who it will be.
10. Call an attorney from our referral list to see if they would be available to consult over the phone after you arrive on site.[6]

IF A CODE YELLOW IS CALLED AT THE [YOUR ORGANIZATION'S NAME] RECEPTION

1. If the receptionist informs you that immigration agents or law enforcement is at the front door, the office entry, or already inside the office, try to find another Authorized Representative to accompany you to the reception area or wherever the agent is.
    a. Let the receptionist know that you will come to the front and have them inform the agent or official that you will be there and to please wait.
    b. Ask the receptionist to help document what takes place when you interact with the agent or official (written notes or phone video).
    c. Call an attorney from our referral list to see if they are available to consult over the phone once you interact with the agent or official.
2. If the receptionist informs you that immigration agents or law enforcement has called the [YOUR ORGANIZATION'S NAME] main line, have the call transferred to you and speak to the agent or official. Take notes to document the phone call fully. You may also put the phone call on speaker phone and use a recording service to transcribe the phone call. Notify the caller that you are recording the phone call.

PROTOCOL FOR INTERACTION WITH IMMIGRATION AGENTS OR LAW

[6] Prepare this referral list in advance. It is a good idea to include numbers for local rapid responses networks.

ENFORCEMENT IN PERSON

1. If the agent(s) are outside of the front door, speak to them through the door – DO NOT OPEN THE DOOR. If you cannot hear them through the door, you should go outside in order to speak with them and have the agents move away from the entrance for the conversation. If they are already on the property, such as in the lobby, let the agent know that this is private property and they do not have consent to be on the property. Ask the agent I to speak with you outside of the premises (i.e., to leave the office or the building premises).
1. Ask the agent(s) why they are there and request to see the agent's badge. Write down their name, badge number, and affiliation. If possible the Authorized Representatives will instruct another member on staff to make a photo copy.
2. If the agent tries to enter into the premises, advise the agent that the premises are private property and that you do not consent to their entry.
3. Note that if the visitor is a law enforcement official that you have a relationship with, use your judgment – depending on the nature of the relationship – on how to handle your interaction, but
    a. You should still decline a request to enter the premises without a valid judicial search warrant.
    b. You should still limit what you say and information you provide as much as possible.
4. If the agent(s) say they have a warrant allowing them access, ask them to produce the document.
    a. If you need to open the door (e.g., the front door) in order to get the document, say "I am opening this door only to receive your document – I am NOT consenting to your entry."
    b. Review the document to determine if it is a valid judicial warrant, or other document, for example an arrest warrant or Notice of Inspection for I-9 documentation.
    c. If you are not certain if it is a valid judicial warrant, tell the agent(s) that you are not certain this is valid, you therefore cannot consent to their entry, but that you will try to contact our attorney to consult with them – and ask them to wait.
    d. Things to look out for on the warrant:
        i. Who issued the warrant? A district court? The Department of Homeland Security? A judicial search warrant will be issued by a district court.
        ii. Scope:
            1. Correct address: Ensure the address listed on the warrant matches the [YOUR ORGANIZATION'S NAME] address.
            2. Name of the person targeted: If the warrant lists a person's name, confirm that the name on the warrant is accurate and spelled correctly.
            3. The warrant must also identify the specific areas to be searched if it is a search warrant. Limit the scope of the warrant to the areas identified.
        iii. Expiration Date: Check if the warrant is current and not expired. A judicial warrant expires 14 days after it has been issued.
        iv. Judge's signature: Verify that the warrant is signed by a judge.
5. Depending on what happens, you may need to:
    - Attempt to interact with immigration agents and law enforcement to deescalate the situation, especially if the agents lack authority from the courts to enter [YOUR ORGANIZATION'S NAME]'s premises.
    - You are not legally required to answer any questions, or consent to any requests that are not accompanied by a judicial warrant or subpoena.
    - If the agents lack a judicial warrant:
        - You should politely say that you decline any request for entry or search, and DO NOT CONSENT to a search of private areas without a properly issued judicial search warrant.

        - You do not have to put yourself in a situation where you feel threatened or in harm's way; you should not try to force them to leave or get in their way. Simply reiterate that you request they leave the premises.
    - If the agents have a valid judicial warrant:
        - Carefully review what is authorized under the warrant. Ask another Authorized Representative to review the warrant as well. If the warrant is valid, take steps to limit the activities and/or searches by the agents solely to what is specified in the warrant.
    - Appropriately document all the facts about the encounter. Please see separate [YOUR ORGANIZATION'S NAME] documentation form for more information on what to document.[7]

[7] See Template IV.

TEMPLATE III

[YOUR ORGANIZATION'S LOGO]

ROLES OF NON-AUTHORIZED STAFF IN AN ENCOUNTER WITH IMMIGRATION OR LAW ENFORCEMENT AGENTS

PREPARATION AND BEST PRACTICES

The "PRIVATE PROPERTY NOTICE"[8] signs will be posted near building entrances, including the primary public entrance.[9]

In addition, all staff should:

- Be vigilant about suspicious individuals and unmarked cars.
- Ensure front desk door and vehicle gate[10] are always closed. Promptly close the front door and vehicle gate behind you.
- Keep any sign-in sheets or documents with personally identifiable information of any staff or clients away from view, especially at the reception desk or in areas accessible to the public.

OVERVIEW – WHAT TO DO IF ICE APPEAR IN PERSON AT [YOUR ORGANIZATION'S NAME] OFFICES

A. If a visitor requests entry, as you would normally, ask the visitor who they are before allowing entry. If they identify themselves as an agent or officer with immigration or law enforcement, you should politely say that you are not authorized to consent to any requests, and that you will call an Authorized Representative to the front.
B. **Immediately contact the Authorized Organizational Representative as listed below. Call these Authorized Representatives and say this is a "Code Yellow" situation. If there is another reception person who can watch the front desk and entry door, go and find the Authorized Representatives in person:**

First: Name (xxx-xxx-xxxx);
Second: Name (xxx-xxx-xxxx);
Third: Name (xxx-xxx-xxxx);
Fourth: Name (xxx-xxx-xxxx)

C. You can then inform the agent or officer that an Authorized Representative will be coming to the front to respond to their request, ask them to wait.
D. You are not legally required to answer any questions. You have the legal right to remain silent, and you should feel comfortable exercising that right.
E. You legally do not have to allow entrance if there is no valid judicial warrant or other legal requirement. You should say that you are not trained and not authorized to determine the

[8] Template V.
[9] It is a best practice to walk through your property and identify which areas should be designated as private areas, and place signs on door or doorways leading to those areas, as appropriate.
[10] This section should be adapted to reflect your building's needs.

validity of warrants, again saying only the Authorized Representative can make that determination and allow entry.

F. **Do not consent to any requests from the agent(s),** and reiterate that you do not have the authority to provide consent or respond to any questions.
G. If you can, take a phone video recording of the event, and announce that you are recording the event. Turn your phone horizontally while filming to capture more of the action, and focus on capturing the actions of the agents, rather than capturing staff or client information. If agents ask you to move back, move back but continue recording.
H. You do not have to put yourself in a situation where you feel threatened or in harm's way; you should not try to force them to leave or get in their way. Simply reiterate that you do not have the authority to allow them access to the premises and do not consent to any action or request.
I. Front desk staff should notify all staff present about the appearance of law enforcement or immigration enforcement on the premises. Front desk staff should make an announcement through the intercom system.[11]
J. Staff should remind any clients or others present about their right to remain silent and right to refuse to answer questions.

PROCEDURES IF SOMEONE CALLS SAYING THIS IS A "CODE YELLOW" SITUATION

A. If someone calls and says they have a "CODE YELLOW" situation: find out where they are located exactly, and explain that you will immediately contact an Authorized Representative, and that you will put them on hold and get back on the line when you have reached them.
B. **Immediately contact the Authorized Representative as listed below. Say this is a "Code Yellow" situation, and let them know where the caller is located.**
    1. **First: Name (xxx-xxx-xxxx);**
    2. **Second: Name (xxx-xxx-xxxx);**
    3. **Third: Name (xxx-xxx-xxxx);**
    4. **Fourth: Name (xxx-xxx-xxxx)**
C. Find out which Authorized Representative(s) will be going out to the site, and how soon they will be arriving. Let the Representative know you will get back on the phone with the caller and get more information from the caller.

D. Get back on the phone with the caller – let them know which Authorized Representative(s) will be coming to their site. Ask them to remain calm, and get as much information as possible about the situation (if they are able – they may not feel comfortable saying much if immigration or law enforcement agents are in their immediate presence), including:
    1. Did they identify themselves as ICE agents or other law enforcement officials?
    2. What time did they arrive?
    3. How many are there?
    4. Description of the situation – are they being intimidating, or civil?
    5. What did they say?
    6. What are they currently doing?

    Relay this information to the Authorized Representative.

[11] Fill in with the appropriate notification system such as an intercom, email, text message, or Slack/Teams message.

E. If you can, stay on the phone with the caller. (This can provide the caller with an excuse to not have to deal with the agents at the scene, and provide time for the Authorized Representatives to arrive). Remind the caller that an Authorized Representative is on their way to address their requests.
F. You do not need to put yourself in a situation where you feel threatened or in harm's way; simply reiterate that you do not have the authority to allow them access to the premises and do not consent to any action or request.
G. You legally do not have to allow entry if there is no valid judicial warrant or other legal requirement. You should say that you are not trained and not authorized to determine the validity of warrants, saying only the Authorized Representative can make that determination and allow entry.

PROCEDURES IF SOMEONE CALLS ON THE PHONE SAYING THEY ARE AN ICE AGENT OR OTHER LAW ENFORCEMENT OFFICIAL

A. As you would normally, ask the caller who they are calling for and who they are. If they identify themselves as an agent or officer with immigration or law enforcement, you should politely say that you will put them on hold and have them speak to an Authorized Representative of the organization.

    1. **Immediately contact the Authorized Organizational Representative as listed below (do not immediately transfer the call to them). Call or talk to these Authorized Representatives and say this is a "Code Yellow" situation, before transferring the call to their direct line:**

        1. **First: Name (xxx-xxx-xxxx);**
        2. **Second: Name (xxx-xxx-xxxx);**
        3. **Third: Name (xxx-xxx-xxxx);**
        4. **Fourth: Name (xxx-xxx-xxxx)**

    2. You can then inform the agent that you are transferring their call to an Authorized Representative who can speak to them. Transfer the call.

TEMPLATE IV
DOCUMENTING ICE ENCOUNTERS

If possible, document everything you can from any incident or encounter with ICE agents or officials. If you feel comfortable, you can video record the incident on your phone. If you do so, ANNOUNCE THAT YOU ARE RECORDING. Otherwise, you can take notes, and later write up full notes. This information can be used in the future, possibly in court, to document any illegal actions taken by ICE agents, which can be used to stop or reverse any course of action ICE may be taking against residents, clients or [your organization's name]'s properties.

Today's Date:

Date of enforcement action:

Time action began and ended:

Describe the enforcement action:

- How many agents were present?
- What agency conducted the action (i.e., ICE, local police or state police)?
- Names and/or badge numbers of the agents:
- How did their uniforms identify them?
- Why did they say they were there?
- Did you ask to see a warrant?
- Did the agents present a warrant?
- If not, did you deny them consent to enter? What did you say?
- How did they react if you denied them consent to enter?

- If the agents presented a warrant, was a supervisor alerted? Who?
- Was the warrant an administrative warrant, signed by an immigration official?
- If it was an administrative warrant, did you tell the agents that your organization has a policy of denying access to non-public areas in the absence of a judicial warrant? What did you say?
- How did the agents react if you denied them consent to enter based on an administrative warrant?
- Did the agents present a judicial warrant, signed by a judge?
- If so, please describe the warrant:
- What was the date of the warrant?
- What items or persons were the subjects of the search?
- What areas were identified to be searched?
- Which judge signed the warrant?

- Did you allow the agents entry based on a judicial warrant?

- Did the agents stay within the areas they were authorized to search by the warrant? If not, what other areas did they enter?

- Did they look in closed closets, cabinets, or drawers? Did they ask permission first?

- Did they block any exits? How?

- Did they keep anyone from moving around freely? Who?

- Did they arrest anyone? Who?

- Did they seize any items?

- Did they take pictures of documents? If so, whose? How did they get the documents? What?

- Did they take fingerprints? If so, whose?

- Were there children present? If so, whose? How many?

- Did the agents yell at anyone? Who? Why? Which agents (if known)?

- Did the agents have guns drawn or were they touching their weapons?

- Who witnessed the interaction? Please list their names and contact information if you have it.

- Is there anything else to add about the enforcement action?

TEMPLATE V

PRIVATE PROPERTY NOTICE

This is private property.

The building owner and the property manager are not authorized to allow anyone to access or enter the property, including for purposes of a search, seizure or arrest, without a legally valid and executed judicial warrant. Additionally, the property manager at this property is not authorized to determine the validity of such documents. Accordingly, you should direct any and all warrants and/or legal documents of any kind to the corporate office for the owner of this property at the following address

[List name and address of person/organization who will be the Owner's Representative]