

ICE OUTLINE

Before ICE comes, the following are some steps to take:

1. Make sure your I-9 forms are in compliance with regard to employees.
2. Make sure that employees understand privacy protections that would apply to congregant information and general confidentiality of employee information.
3. Designate a site representative who will be the point of contact for any ICE visit until legal counsel is contacted.
4. Create private spaces and limit public spaces. Use signage to designate non-public spaces. Schools can be non-public spaces as well as areas where only church employees and/or pastors are present or offices/areas that persons may only be present in with a church employee or pastor. [Note that marking a public area with a private sign will not transform the area from public to private.]
5. Keep all documents that contain private information in confidential areas.
5. Train staff who may come into contact with ICE on the procedures to follow in the event of an ICE visit. Consider having practice drills.
6. Anticipate workforce disruptions over fear of raids which could lead to absenteeism. Certain collective actions, such as protests over workplace conditions, may be protected under the National Labor Relations Act (NLRA), even for unauthorized workers and those not part of a union. Train managers to avoid threatening discipline for legally protected actions and instead engage with staff in a supportive, neutral manner. Open communication channels should be implemented, or reiterated, to address employee concerns and minimize disruptions.

A **summary of steps** to respond in the moment of ICE comes onsite are the following and employees should be directed to contact Human Resources or the designated site representative on this issue with any questions. The designated site representative should then handle any communications and serve as the point of contact until legal counsel is contacted.

1. **Enforce all visitor policies consistently.** ICE officers may not officially present themselves in their capacity as ICE agents.
2. **Stay calm and professional; request identification.**
 - o Politely ask ICE agents for their official credentials, noting names and badge numbers.
 - o Politely ask for the purpose of the visit and request any warrant or official documentation that specifies the scope of the search. Make copies of any document presented.
 1. A warrant or subpoena must be signed and dated by a judge, include a time frame within which the search must be conducted, and the warrant presented to you, and a specific description of the location/premises to be searched and list of items to be searched and/or seized.

2. If it is not a judge signed warrant, it may only be an ICE administrative warrant, which is not valid to allow ICE agents to enter non-public Church areas.
 - o ICE agents are able to enter any public areas of the workplace but must have a valid warrant for any non-public areas (non-public areas are generally those open only to staff). But, to minimize what they can see or hear in public spaces, direct them to an empty conference room. Keep them out of all private spaces other than the conference room.
 - o Maintain privacy by limiting speaking within earshot of ICE agents and cover private documents and close out computer screens. ICE agents can look at or hear anything in plain view and could use that to expand or authorize a search.
3. **Contact HR/the Site Administrator so that legal counsel may be immediately contacted.**
 - o The receptionist or other initial point of contact should inform the ICE agent that they do not have authority to answer any of the agent's questions.
 - o Inform the agent(s) that your church has legal representation, and the church will follow established protocols.
 - o Contact the site administrator to handle any further communications with legal counsel and ICE.
 - o Do not answer any questions until the Church's lawyer is present on the scene or in communication by phone. Give, or send, the lawyer a copy of the warrant.
4. **Review the warrant type and scope.**
 - o Employee and/or congregant information cannot be disclosed without consent, a valid warrant, or a valid court order requiring disclosure.
 1. A valid warrant, as mentioned above, must be signed by a judge. If only an administrative ICE warrant or a subpoena for production of documents, then immediate compliance is not required and inform the agent that the warrant cannot be responded to until after review by the site administrator and legal counsel. Provide copies to those persons for review.
 2. Regardless, if the ICE agent orders immediate access, comply and immediately contact legal counsel and the site administrator.
 - o Do not consent to any search that goes beyond the warrant's details. Do not, however, engage in an argument or debate with the agent; simply present your objection to the agent and make note of it.
 - o To the extent possible, limit agent access to the areas or materials explicitly mentioned in the warrant document; otherwise, note your objections.
 - o A church representative can be with each agent and may take notes of what the officer is doing.

- Tell agents if they are reviewing any attorney-client privileged materials and ask them to label any privileged documents they seize as privileged. You can request that these not be reviewed until you are able to speak to your attorney. You cannot stop them from taking privileged materials, but your attorney can argue about these later. If you cannot obtain copies, take careful notes of exactly which documents were taken.
- If the warrant is valid and agents want access to locked areas, unlock them.
- Do not block or interfere with ICE agents or their activities or stand in their way. However, you do not have to give access to non-public areas if they did not present a valid search warrant.
- Do not destroy any documents; do not hide anyone; do not provide false information.
- You are not required to sort, nor should an employer sort, employees by immigration status or nationality.

5. Protect your employees and/or congregants.

- Employees and/or congregants are not obligated to speak with ICE agents. While you cannot instruct them to remain silent or refuse to speak with ICE, you can let them know their rights, including the right to either remain silent or not or to have an attorney or not. They also can refuse to show identity documents or not.
- Reassure staff/congregants that they may request a lawyer or consult an attorney before allowing themselves to be interrogated.
- If granting access to congregants may interfere with ethical obligations, consult with Human Resources who will consult with legal counsel.
- Obtain consent from a minor congregant's parent or guardian (provided the minor congregant is not legally independent) before allowing a minor to be interviewed or searched, unless there is a valid warrant that explicitly allows the contact at issue.
- If employees or congregants are detained or taken into custody, ask ICE where they are being taken and be sure that their families are contacted.
- It is possible that an ICE agent may pose as a family member; do not attempt to determine if persons who claim to be family members are instead ICE agents; follow normal Church protocols for responding to inquiries by family members.

6. Document everything.

- Keep a log of times, dates and ICE agent names, badge numbers and interactions.
- Note any items or documents seized by ICE. Ask if copies can be made before items are seized.
- Also, ask ICE for a list of items seized during the search. They are required to provide this inventory.

7. Take appropriate follow-up steps after any visit from ICE.

- **Debrief with legal counsel:** Discuss next steps, possible legal exposure and how to support any affected employees or congregants.
- **Communicate with employees:** Provide updates and clarity on what occurred and what they should do moving forward.
- **Handle all follow-up with ICE through your attorney:** Ensure all additional requests and responses are managed by legal counsel.
- **Consider whether any type of public statement should be made and/or a crisis communication team assembled.**

Stay Prepared and Informed

- Have a plan for how the church will respond to a potential ICE raid.
- Brief leadership, managers and HR personnel on basic legal rights and internal protocols for handling law enforcement visits.
- Remember that consistent, lawful procedures help protect your organization and its workforce.