

EMPLOYER PREPAREDNESS: PROTECTING IMMIGRANT WORKERS

Tip: If you are able to “open or close” a door, keep it closed and ask ICE for a valid warrant.

1 Police and immigration officers are allowed to be in public areas of your business, but this does not give them the right to question or arrest just anyone. Police or immigration enforcement cannot go into private areas, such as an employees-only breakroom, without a warrant. If ICE arrives at your place of business, encourage employees to go to private areas and remain silent. Clearly designate public and private areas.

2 Create protocol. Designate an HR or legal staff member to communicate with ICE, train all employees on protocol, especially receptionists and front desk staff.

3 Be sure that you and your employees know and exercise these constitutional rights:

- The right to remain silent and not answer questions.
- The right to not sign anything without consulting a lawyer.
- The right to ask for a warrant if you are being arrested.

Politely and calmly assert your rights.

You must comply with valid judicial warrants. A valid judicial warrant must:

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- Be issued by a South Dakota or FEDERAL court;
 - Be signed by a JUDGE of that court; and
 - State specifically WHO or WHAT is being looked for.

Look at the warrant to see if there is a judge's signature. The warrant also must include a specific timeframe when the warrant must be completed. If valid you must provide access to the specified private area. Courts have decided that a warrant signed by a DHS or ICE official is **not valid** for entering private spaces and conducting a search.

5 I-9 Audit and Notice of Inspection: ICE must present a Notice of Inspection requesting your I-9 paperwork for all employees. You will have 2-3 days to prepare these documents. ICE can penalize employers without proper documentation.

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