



# Buchalter

## **Employee Handbook** **Protecting Employers and** **Employees during Worksite** **Enforcement**

**PREPARED FOR:**  
**Employers**

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## Purpose and Scope

This handbook provides guidance to employers, managers, HR professionals, compliance teams, and employees on responding lawfully and calmly to immigration-related worksite enforcement actions.

The goals of this handbook are to:

- Protect employee rights
- Ensure employer compliance with federal law
- Maintain HIPAA compliance in healthcare settings
- Minimize disruption to patient care and business operations
- Reduce legal and reputational risk

This handbook applies to all employees, contractors, managers, and leadership.

## Key Principles

- Employers are not required to grant access to non-public areas without a valid judicial warrant.
- Employees have the right to remain silent and request legal counsel.
- Employers must not discriminate or retaliate based on immigration status or national origin.
- HIPAA privacy protections remain in effect during enforcement actions.
- Preparation and consistency are essential to compliance and risk mitigation.

## Agencies That May Appear at the Workplace

Agencies may include:

- Immigration and Customs Enforcement (ICE)
- Homeland Security Investigations (HSI)
- U.S. Citizenship and Immigration Services (USCIS)
- Other federal law enforcement agencies

Each agency has different authority. Employers should never assume access is required without proper legal documentation.

## Designated Response Team

Employers should designate a Worksite Enforcement Response Team, typically including:

- Human Resources
- Compliance Officer
- Senior Leadership
- Legal Counsel

Only designated personnel should interact with agents. All other employees should continue working unless directed otherwise.

## Step-by-Step Response Protocol

### Step 1: Identify the Agent

- Ask for official identification and business card.
- Record name, badge number, agency, and supervisor contact information.
- Remain calm and professional.

### Step 2: Determine the Purpose

ICE may appear to:

- Arrest an individual (requires arrest warrant)
- Conduct a search (requires search warrant)
- Request documents such as Forms I-9 (Notice of Inspection or subpoena)

If documentation is not presented, request it.

### Step 3A: If Presenting a Notice of Inspection (NOI) or Subpoena

- Obtain a copy immediately.
- Do NOT consent to immediate inspection.
- Employers generally have three business days to respond to an NOI.
- Contact legal counsel before producing documents.

*California employers may have additional employee notification obligations within 72 hours.*

### Step 3B: If Presenting a Warrant Search Warrant (Judicial)

Must be signed by a judge or magistrate and identify:

- Location to be searched
- Individual(s) to be arrested or items to be seized
- Time and scope limitations

### ICE Administrative Warrant (Form I-200 / I-205)

- Signed by an ICE officer
- Does NOT authorize entry into non-public areas

### Step 4: Contact Legal Counsel Immediately

Primary Contact: \_\_\_\_\_

**Phone:** \_\_\_\_\_

Secondary Contact: \_\_\_\_\_

**Phone:** \_\_\_\_\_

You may request agents wait in a conference room or lobby while counsel is contacted.

**Step 5: Documentation & Inventory**

- Keep copies of all documents provided.
- Inventory all documents or equipment seized.
- Take detailed notes marked "Attorney-Client Privileged & Confidential."

**Step 6: Do's and Don'ts**

**DO:**

- Follow direction of legal counsel.
- Escort officers at all times.
- Review all documents carefully.
- Limit access strictly to the warrant scope.
- Remain professional and calm.

**DO NOT:**

- Sign documents without counsel review.
- Answer substantive questions.
- Hide employees or advise them to leave.
- Block entrances or interfere with lawful enforcement.
- Provide false information.

## Understanding Warrants

**Judicial Warrant**

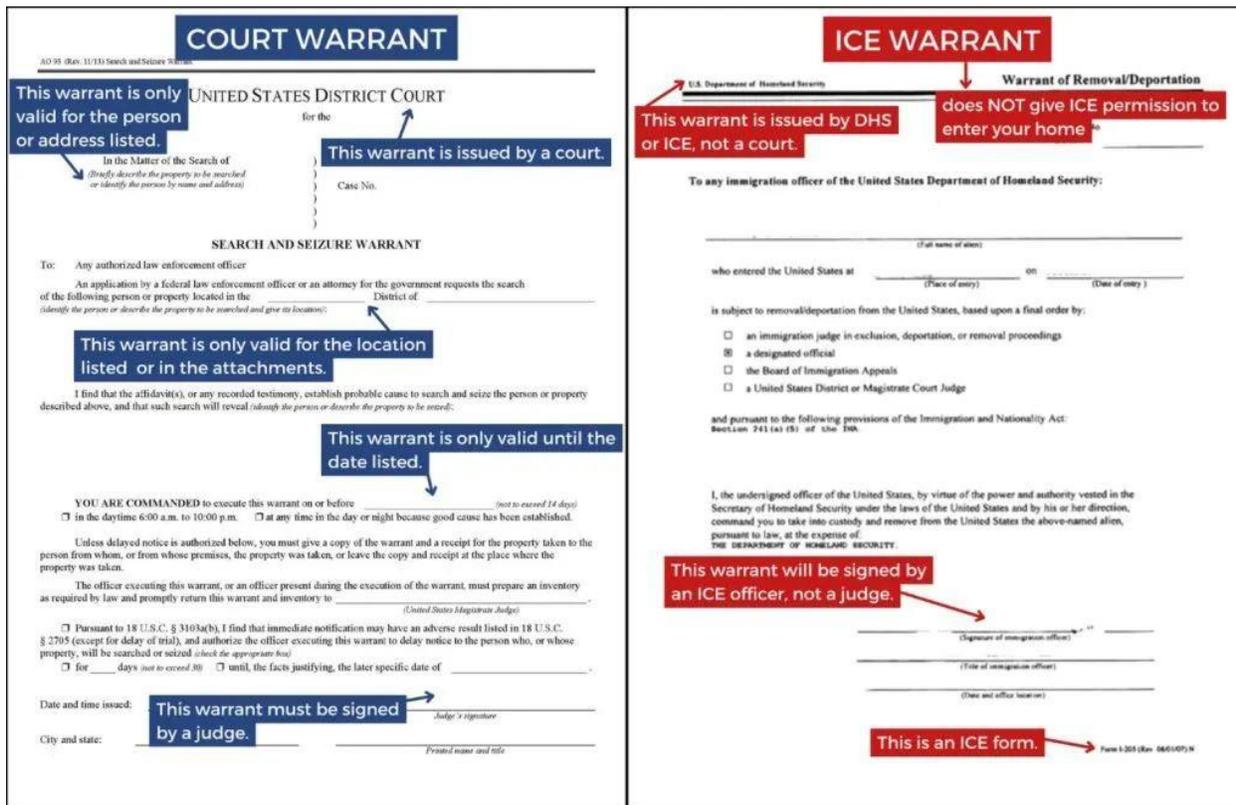
- Issued by court
- Signed by judge or magistrate
- Specifies scope and location
- May authorize access to non-public areas as stated

**ICE Administrative Warrant**

- Issued by DHS/ICE
- Signed by ICE officer
- Does NOT authorize workplace entry beyond public areas

**At-a-Glance Comparison**

Judicial Warrant	ICE Administrative Warrant
<ul style="list-style-type: none"> <li>• Court Issued</li> </ul>	<ul style="list-style-type: none"> <li>• Agency Issued</li> </ul>
<ul style="list-style-type: none"> <li>• Judge Signature</li> </ul>	<ul style="list-style-type: none"> <li>• ICE Officer Signature</li> </ul>
<ul style="list-style-type: none"> <li>• May compel access as specified</li> </ul>	<ul style="list-style-type: none"> <li>• No authority to enter non-public areas</li> </ul>



## Access to the Workplace

- Public areas may be accessed without consent.
- Non-public areas require a judicial warrant or employer consent.
- Employers should escort agents at all times.

## HIPAA Compliance (Healthcare-Specific Guidance)

### Protected Health Information (PHI) may only be disclosed:

- With a valid court order
- Pursuant to a judicial subpoena or warrant meeting HIPAA standards (45 CFR §164.512(f))
- As otherwise required by law after legal review

### Important:

- Administrative immigration warrants do NOT compel disclosure of PHI.
- Verbal requests do NOT authorize disclosure.
- Staff may not confirm whether an individual is a patient without legal review.
- Minimum Necessary standards apply.

## Patient Care & EMTALA Considerations

### If ICE seeks to detain a patient receiving treatment:

- Patient care must not be disrupted in a manner that jeopardizes health or safety.
- Clinical staff must continue medically necessary treatment.
- Legal must be notified immediately.
- EMTALA obligations remain applicable.

## Employee Rights During Questioning

### Employees:

- Have the right to remain silent.
- Do not have to answer questions about immigration status.
- May request to speak with an attorney.

## Document Requests and I-9 Audits

- Employers generally have three business days to respond to an NOI.
- Do not provide documents immediately unless legally required.
- Consult counsel before production.

## Recording and Documentation

### Where legally permitted:

- Record enforcement activity.
- Maintain written notes of agent names and actions.

## Prohibited Conduct

- Do not hide employees.
- Do not retaliate against employees asserting rights.
- Do not re-verify I-9s unless legally required.

## Post-Enforcement Steps

- Debrief with legal counsel.
- Communicate factually with employees.
- Address operational impact.
- Conduct compliance review.

## Training and Preparedness

**Employers should conduct regular training for:**

- Managers
- HR
- Front desk personnel
- Compliance officers

Training should include mock scenarios and warrant recognition.

## Employee Support

**Provide impacted employees with information on:**

- Legal resources
- Company benefits
- Available support services

## Questions and Legal Support

All questions should be directed to Human Resources or designated immigration counsel.

Buchalter offers employer trainings on worksite enforcement response, I-9 compliance, and immigration risk mitigation.

## About Buchalter

Buchalter is a full-service business law firm with offices across the United States. Our Immigration, Global Mobility, and International Trade practices advise employers, investors, and executives on regulatory compliance, workforce strategy, and risk management.

## Disclaimer

This handbook is provided for general informational purposes only and does not constitute legal advice. Immigration enforcement actions are fact-specific and rapidly evolving. Employers should consult qualified legal counsel before taking action in response to any government inspection, audit, or enforcement activity.

## Appendix A

### Quick Response Checklist for Managers (1-Page Reference)

#### If ICE or any immigration enforcement agency arrives on site:

- Remain calm and professional.
- Ask for identification and record name, badge number, and agency.
- Ask for documentation (warrant, subpoena, or Notice of Inspection).
- Do NOT consent to entry into non-public areas without judicial warrant.
- Do NOT provide documents immediately unless legally required.
- Immediately contact designated legal counsel and Response Team.
- Escort agents to a conference room or lobby while awaiting counsel.
- Accompany agents at all times if a judicial warrant authorizes access.
- Limit access strictly to the scope listed in the warrant.
- Inventory and copy any documents or items seized.
- Notify Compliance and document the interaction.

#### Healthcare-Specific Reminders:

- Do NOT disclose PHI without valid court order or HIPAA-compliant process.
- Do NOT confirm whether an individual is a patient.
- Ensure patient care is not disrupted.
- Maintain EMTALA compliance at all times.

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## Appendix B

### Healthcare Front Desk Decision Tree

#### Scenario 1: Agent Requests Access

1. Ask for identification.
2. Ask for warrant or written documentation.
3. If NONE provided → Do not consent; contact Legal immediately.
4. If Administrative (ICE) Warrant → Do not permit entry beyond public areas; contact Legal.
5. If Judicial Warrant → Copy warrant; verify address and scope; contact Legal; escort agents as directed.

#### Scenario 2: Agent Requests Patient Information

1. Do not confirm patient status.
2. Request written court order or subpoena.
3. Immediately contact Privacy Officer or Legal.
4. Disclose only minimum necessary information if legally required.

#### Scenario 3: Agent Seeks to Detain Individual Receiving Care

1. Notify clinical leadership immediately.
2. Ensure medically necessary treatment continues.
3. Contact Legal.
4. Document interaction.

### Buchalter Client Distribution Notice

This handbook is prepared by Buchalter for client educational and compliance purposes. It reflects current federal immigration enforcement procedures and healthcare privacy requirements as of the effective date. Because enforcement priorities and regulatory interpretations may change, employers should consult counsel before relying on this material for specific situations.

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## Appendix C

### Agency Access to Worksites - Public v. Non-Public Areas, Documents, Information

*This section describes the general legal principles applicable to an enforcement agent's access to employer locations, documents, and information. Federal (e.g., HIPAA, FERPA), state and local laws and regulations can and do place limits on an employer's ability to voluntarily provide enforcement agents with access to certain locations, documents, and information, beyond what is presented below. It is incumbent upon employers to ensure that any policies or procedures comply with all applicable laws and regulations.*

- **Agent Access to Public Locations: Generally**, to access **public** locations (i.e., areas of an employer's worksite that are freely accessible to the public), documents, or information, a federal agent does not need to obtain the consent of the employer or a legally sufficient warrant or subpoena. *Some jurisdictions have enacted special laws limiting this authority, such as California.*
- **Agent Access to Non-Public Locations:** To access **non-public** locations, documents, or information, the agent must have either (1) the voluntary consent of the employer or an agent of the employer; or (2) a legally sufficient warrant or subpoena compelling access to the location, records, or information they are seeking.

**Special Rule for California Employers:** California's Immigrant Worker Protection Act limits the ability of California employers to voluntarily consent to searches by immigration enforcement officers:

- **Non-Public Areas of a Place of Labor:** California employers may not allow immigration enforcement agents to access non-public areas of a place of labor, **unless a valid judicial warrant is presented.**
- **Employee Records:** California employers may not allow immigration enforcement agents to access, review, or collect employee records **unless a valid judicial warrant, valid subpoena, or Notice of Inspection** (a special subpoena for I-9 audits only) **is presented.**

### Designating Non-Public Areas of a Worksite

Employers should clearly identify any areas of a worksite that are not freely accessible to the public. Frequently, this can be accomplished through installing visible signage at or around the entrances to any non-public areas. Certain facilities may be amenable to further access controls, such as posting security personnel or installing electronic badge access control systems.

Critically, employers should adopt written access policies and procedures and provide training on these policies to any front-line employees likely to be the first point of contact for enforcement agents. Agents should never be allowed into a non-public area of a worksite, provided with employee records or information unless and until a member of the Worksite Enforcement Response Team has verified that the agent has a proper judicial warrant or valid subpoena.

### Agency Access to former "Protected Areas" (Guidance for Healthcare Facilities, Schools, Social Services Establishments, and other former protected areas)

**Current Policy:** As of January 20, 2025, DHS policy permits ICE to conduct immigration enforcement actions in or near "protected areas," without obtaining prior approval from agency leadership or documenting exigent circumstances justifying the action.

Employers and Entities located in or near protected areas can no longer rely on the policy protections previously afforded to them by DHS; and should ensure that key personnel are trained to respond appropriately to a worksite enforcement action:

- Designate a Worksite Enforcement Response Team
- Develop and implement a Worksite Enforcement Response Plan
- Ensure that nonpublic areas are clearly identified and, where appropriate, implement access control measures (e.g., access badges).
- Train public-facing or front-line employees who are likely to be the first point of contact for agents on the organization's response plan
- Ensure vendors and independent contractors are aware of and trained on facility access protocols

Healthcare facilities, schools, and other regulated entities should collaborate closely with their legal teams to ensure any policies or procedures are consistent with applicable federal, state, or local laws, especially those prohibiting or limiting information sharing with third parties for immigration enforcement purposes or any other reason.

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