

What Employers Need to Know About Immigration Raids on Their Premises

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Restaurateurs and other employers usually are not experts in conducting forensic evaluations of work authorization documents — nor are they expected to be. According to some Pew Research Center estimates, 20 percent of cooks in restaurants nationwide and at least 30 percent of dishwashers who may be undocumented nevertheless succeed in being hired as legal employees. Their employers then proceed to withhold taxes and Social Security based upon documentation of work authorization that went unrecognized as false.

Restaurants historically have been targets of U.S. Immigration and Customs Enforcement (ICE) raids and, as the Trump Administration Department of Homeland Security and ICE broaden their enforcement priorities, more raids could occur.

An ICE raid implicates potential civil and criminal charges. Therefore, it is essential to consult with counsel on these matters. The below overview provides employers with basic considerations in advance of a possible ICE raid.

How to Prepare for a Possible ICE Raid

- Identify a first responder (and a back-up) who initially will interact with the ICE officer(s) and accompany the officer(s) while they are on your premises.
- Advise your employees that if a raid occurs, they should not block, interfere, or engage in any hostilities with the ICE officers as the officers conduct their activities.
- Inform your employees that they have a right to talk, and not talk, with ICE officers if they like. However, do not direct employees *not* to speak to agents when questioned. Suggest they can contact the American Civil Liberties Union (ACLU) if they have any questions about their rights.

What to Do if a Raid Happens

- ICE needs a search warrant. Be sure to ask to see the warrant, examine it to see if it grants entry to your premises and that it is properly signed.
- You can contact your attorney immediately, but ICE will not delay the raid to wait for your attorney.
- Do not engage in any activities that could support a harboring charge, such as hiding employees, aiding in their escape from the premises, providing false or misleading information, denying the presence of specific named employees, or shredding documents.
- After the raid, contact the families of any detained employee, debrief your staff, and make notes for your attorney as a privileged attorney-client communication.

Our complimentary webinar, “Restaurant Industry Insights: What Enhanced Immigration Enforcement Means for Your Business,” addresses this and other related topics. To view the recording, click [here](#).

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