

FRAGOMEN

Increased Immigration and Customs Enforcement

Frequently Asked Questions

What should employers know?

- Understand the different types of immigration officers.
- Know the difference between the types of immigration enforcement actions: Immigration and Customs Enforcement (ICE) raid or arrest, site visit, and serving subpoenas/requests for documents.
- Understand the public, semi-restricted, and restricted/private areas of your business or campus, and the rules around when an immigration officer can or can't access each area.
- Know the different types of documents that may be presented (warrant, subpoena, notice or request for information), and what kind of cooperation or access each requires.
- Understand the differences between a judicial warrant and an immigration arrest warrant; a grand jury/federal court subpoena and an immigration subpoena; and a notice of inspection for I-9 forms.

What issues should you understand before any enforcement visit?

- What is the company's policy on a consent to search?
- Who has the authority to consent and when to consent to a search?
- Will the company cooperate by providing personal information on employees or other community members?
- Will the company provide information on rights and obligations to individual foreign national employees or community members?
- What form will the company use to provide guidance to employees or community members information?
- Who should be notified when immigration enforcement agents arrive? Does it differ depending on where and the purpose of the visit?

How do I respond to immigration enforcement visit?

1. Politely ask the officer(s) to identify themselves and their agencies.
2. Request a copy of documents, such as criminal and civil arrest warrants.
3. Notify the proper person in the legal department or management.

4. Only consent to allow officers to enter private areas if legally required or consistent with company policy.
5. Only provide documents or allow the officers to search for records if legally required or consistent with company policy.
6. Do not obstruct or get in the way of the officers' actions. Follow lawful instructions.

What should companies tell their employees?

- Employers should make sure that their non-citizens employees know that obligations to maintaining employees' lawful immigration is not only a company issue. It is a personal issue.
- Each foreign national must make sure that they meet their individual U.S. immigration obligations. Doing so will ensure that each foreign national's travel to and time in the United States are as smooth as possible.
- Individuals should remind themselves of these obligations by reviewing:
<https://www.fragomen.com/migrated-sitemap-pages/know-your-obligations.html>.
- Employers should also consider making counsel available to employees who may need additional legal support if their status could be eliminated, such as TPS, DACA, and parole.

What about universities, hospitals, or other entities that provide services to foreign nationals with or without status in the United States?

- Hospitals and universities have special considerations, such as Health Insurance Portability and Accountability Act (HIPPA) and Family Educational Rights and Privacy Act (FERPA).
- Hospitals, universities, and similar entities must also account for the complexities of their spaces. It is difficult to discern between public and semi-restricted spaces in open campuses.

Key Contacts



Dan Brown
Partner, Employment Eligibility
and ICE Enforcement Counsel
dbrown@fragomen.com |
+1 202 380 1089



Carl W. Hampe
Partner, Litigation and
Enforcement Defense
champe@fragomen.com |
+1 202 349 2174



K. Edward (Eddie) Raleigh
Partner, Enforcement Defense
and Enterprise Compliance
keraleigh@fragomen.com |
+1 202 380 1114