Nonprofit Rights and Responsibilities

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Today's Objectives

- Understand obligations in immigration compliance
- Understand what immigration enforcers can and cannot do, and the sources of their authority
- Prepare for enforcement scenarios
- Reduce legal and operational risk

The State of Immigration Policy, Administration, and Enforcement

- **Increased Regulations and Policy Changes**
- **Heightened Nonimmigrant Visa Scrutiny**
  - Increased Unpredictability
- **Longer Processing Times**
  - Enhanced security measures (social media checks)
- **Tightening Asylum and Humanitarian Pathways**
- **Expanded Enforcement Infrastructure**

Policy Shifts

- **Reduced Refugee Admissions**
- **Termination of Temporary Protected Status for Haitian immigrants**
  - TPS benefits were slated to terminate on February 6, 2026
  - On February 2, 2026, a judge paused the termination
  - TPS for Haiti is valid while litigation proceeds.
  - SCOTUS heard the case on April 29, 2026 and is expected to issue a ruling in July

Policy Shifts (Continued)

- **F-1 Admissions for Foreign Students Down Nearly 36%**
- **Ongoing uncertainty around Deferred Action for Childhood Arrivals (DACA)**
  - Currently still active
  - Due to ongoing litigation, the government will not grant any new first-time DACA requests

State and Local Immigration Activity

- Detention capacity pressures at the Marion County jail
- Increased Attorney General enforcement against employers
- Senate Bill 76
- New ICE administrative office in Carmel

Common Enforcement Actions

- Increased Deportations
- Worksite Inspections
- Worksite Raids and Apprehensions
- I-9 Audits

Immigration Privacy

The less you know about employee/clientele immigration status, the better.

- At minimum, employers must have I-9s for all employees *to verify identity and work authorization* but should not dig deeper into immigration matters beyond that
- This protects the privacy and dignity
- This protects an organization from knowledge-based liability

Immigration Privacy in Action

Team:

The Company values its employees above all else and we want to ensure your safety and privacy in the workplace. The Company wants to remind you of our values which includes our support for you in your employment by creating an environment free from any form of discrimination harassment or intolerance.

We want to make sure that we establish certain guidelines governing communications about private personnel matters, specifically, related to immigration matters. As an employer, we are required to obtain an I-9 form from every employee within 3 days of employment. This form shows that the employee has the legal status to work in the United States. *All employees have valid I-9 forms on file*.

Immigration Privacy in Action (Continued)

As an employer, we do not sponsor team members with immigration-related support, nor do we provide assistance to team member's family. Immigration law is complex and if you have immigration questions or concerns, you should speak to a trusted immigration attorney. Therefore, please do not ask the Company for advice or assistance with immigration matters. Please do not discuss personal immigration-related issues or those of your family or friends in the workplace.

How Nonprofits Can Implement Immigration Privacy

- Set clear boundaries around sensitive information
- Emphasize privacy and trust with clients
- Train staff on how to redirect conversations appropriately

Criminal Harboring Risks for Employers and Nonprofits

Criminal Harboring Generally

- "Harboring" is a federal offense under 8 U.S.C. §1324(a)
- Prohibits concealing or shielding unauthorized individuals
- Applies when employer/organization knows or recklessly disregards status
- Harboring liability may extend to any location (workplace, building, vehicle)

Employer Criminal Harboring Risk

- **What the Law Prohibits**
  - Concealing or sheltering undocumented individuals.
  - Shielding individuals from detection.
  - Assisting in evading immigration enforcement.
- **When Risk Arises**
  - Employers knows or recklessly disregards unlawful status.
  - Takes action to protect or hide the individual.
- **Common Risk Scenarios**
  - Hiding employees during ICE activity
  - Providing false or misleading information to immigration authorities.
  - Helping employees avoid or escape immigration enforcement (opening the back door for people to flee).

Nonprofit Services & Where Risk Arises

Generally Safe

- Providing food, shelter, healthcare or social services.
- Offering broadly available programs (no status-based targeting).
- Sharing "Know Your Rights" information.
- Referring individuals to legal counsel.
- Limiting knowledge of immigration status.

Risky

- Hiding or concealing individuals from law enforcement.
- Directing individuals to mislead authorities.
- Structuring processes to shield individuals from enforcement
- Acting with knowledge of unlawful status AND intent to protect, shield, or conceal.

Providing services is generally lawful. Helping someone avoid detection is where legal risk begins.

Form I-9 Compliance and Audits

Form I-9 Compliance

- **What is Form I-9?**
  - Verifies identity and work authorization for all paid employees
- **Who Completes It?**
  - Section 1 → Completed by Employee
  - Section 2 → Completed by Employer (within 3 business days)
- **Document Requirements**
  - List A OR List B + List C
  - Must be original and unexpired
  - **Key Risk: Document Abuse**
    - Cannot request specific documents or more than required

- **Retention Rule**
  - Form I-9 must be retained in employer records 3 years after hire OR 1 year after termination

I-9 Audits

- **What is an I-9 Audit?**
  - These are conducted by ICE to assess employer I-9 compliance
  - Begins with a **Notice of Inspection (NOI)**
- **Notice of Inspection (NOI)**
  - Issued by a government agency (e.g., ICE)
  - Includes a **3-day deadline** to produce I-9 forms
- **Employer Must:**
  - Provide all requested I-9s within **3 business days**
- **Potential Outcomes**
  - **Fines and penalties**
  - “Do Not Rehire” list
- **Key Features:**
  - **Document-driven (not a raid)**
  - Typically handled with legal counsel

Notice of Inspection

I-9 Audits Require a Notice of Inspection

Titled "Notice of Inspection"

Issued by a government agency (i.e., ICE)

Office of Investigations

U.S. Department of Homeland Security
[Address]
[Address]

U.S. Immigration
and Customs
Enforcement

NOTICE OF INSPECTION

[Date]

[Name of Company Official]
[Company Name]
[Company Address]

Dear Sir/Madam:

I-9 Violations and Enforcement

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- **Technical vs. Substantive Violations**
  - Technical: Minor, correctable errors unrelated to an employee's authorization to work
  - Substantive: Serious, non-correctable errors affecting work authorization
    - Uncorrected technical violations → become substantive violations
- **Enforcement Trends**
  - Current administration is funding immigration enforcement through I-9 audits
  - Expanded scope of substantive violations
- **Audit Exposure**
  - Authorities are using AI to quickly identify violations
  - If 50% or more forms have violations, the government may impose a fine per each I-9 form in violation
    - Average error rate is 80%
    - Average fine is $2,861 per each I-9 form in violation

Common Mistakes and Best Practices

- **Common Mistakes**
  - Incomplete sections
  - Incorrect information
  - Missing signatures
  - Timing violations
- **Best Practices**
  - Conduct internal Form I-9 audits with counsel
  - Train HR/staff on compliance
  - Maintain consistent documentation procedures

I-9 Resources

- ICE Form I-9 Inspection Factsheet
  - Details technical vs. substantive violations
  - Outcomes of the audit process
  - Prohibited acts
- U.S. Citizenship and Immigration Services I-9 Central
  - Includes updates on policy changes, changes in policy,
  - Copies of the I-9 instructions, and a link to the M-274.
- M-274 Handbook for Employers
  - Contains examples of completed Form I-9s that are easy to follow
  - Detailed and updated periodically.

ICE Raids

Features of Raids

- Raids are surprise events that begin with an ICE agent appearing at a worksite ***and presenting a warrant***
- These are highly disruptive and intimidating with an immediate impact on the workforce
- These also can result in negative public exposure

Warrants

ICE Raids Require a Judicial Warrant

Issued by a federal or state court


AO 93 (Rev. [illegible]) Search and Seizure Warrant

UNITED STATES DISTRICT COURT

for the

In the Matter of the Search of
(Briefly describe the property to be searched or identify the person by name and address)

Case No.

SEARCH AND SEIZURE WARRANT

To: Any authorized law enforcement officer

An application by a federal law enforcement officer or an attorney for the government requests the search of the following person or property located in the ______ District of ______
(identify the person or describe the property to be searched and give its location):

Date and time issued: ______ ______
Judge's signature

City and state: ______ ______
Printed name and title

Signed by a judge or magistrate judge

Administrative Warrants

Issued by a government agency

Includes "Warrant" in its title

U.S. DEPARTMENT OF HOMELAND SECURITY **Warrant for Arrest of Alien**

File No. ________________

Date: ________________

To: **Any immigration officer authorized pursuant to sections 236 and 287 of the Immigration and Nationality Act and part 287 of title 8, Code of Federal Regulations, to serve warrants of arrest for immigration violations**

How to Prepare for ICE Raids

How to Prepare for ICE Raids

- **Step 0: Know Employee Rights in the Workplace During an ICE Raid**
  - The right to remain silent means the right to decline to answer a question
  - The right to refuse to show identity documents that reveal country of nationality or citizenship
  - The right to contact a lawyer
  - The right to refrain from signing anything

How to Prepare for ICE Raids (Continued)

- **Step 1: Be Prepared to Cooperate and Communicate That Cooperation**
  - The three most important things to keep in mind during an ICE raid are:
    - Cooperate
    - Remind the enforcement agents you are cooperating
    - And finally, cooperate
  - *<u>This does not mean you should abandon your legal rights or your responsibility to protect the safety and well-being of your workforce</u>*

How to Prepare for ICE Raids (Continued)

- **Step 2: Identify a Greeter**
  - The greeter serves as the first point of contact for agents
  - Their task is to greet the agents, immediately contact the ICE Visit Manager, communicate cooperation, and stay with the agents
  - **They are not authorized to give consent to enter the premises or respond to questions**

How to Prepare for ICE Raids (Continued)

- **Step 3: Identify an ICE Visit Manager**
  - This is the person whom the greeter will call if a Special Agent arrives.
  - Once the ICE Visit Manager arrives, that person's first role is to confirm the identity of the government agency.
  - The ICE Visit Manager should communicate cooperation, inquire about the scope of the visit, and check for official documents.

Other Enforcement Actions

Other Enforcement Actions

- **Detainers ("ICE Holds"):**
  - ICE may request that local law enforcement hold individuals in custody for transfer to federal immigration authorities
- **Interrogations and Questioning:**
  - ICE agents may question individuals about their immigration status, though individuals retain the right to remain silent
- **Surveillance and Investigations:**
  - ICE conducts workplace and community-based investigations using surveillance, tips, and informants

Other Enforcement Actions (Continued)

- **Subpoenas and Document Requests:**
  - ICE may issue subpoenas or requests for employment records beyond I-9 forms as part of investigations.
- **Worksite Inspections**
  - ICE may visit workplaces to observe operations and assess compliance, short of a formal raid.
- **Coordination with Local Law Enforcement:**
  - ICE may partner with state and local agencies to identify and detain individuals.
- **Enforcement actions often operate alongside audits and raids and can lead to broader investigations.**

How to Prepare for ICE Raids: Best Practices

- **Hold an open discussion with staff about possible immigration enforcement activities:**
  - Communicate the organization's immigration-enforcement response policy at a high level
  - Reiterate that only the ICE Visit Manager may consent to law enforcement activities on the organization's property absent a judicial warrant
  - ICE employees should be treated like any other visitor

It All Comes Back to Immigration Privacy

- **Immigration privacy ties together I-9 compliance, enforcement readiness, employee rights, and risk mitigation.**
  - Limits knowledge of immigration status to what is legally required.
  - Protects employee and client privacy.
  - Maintains clear boundaries.
  - Reduces risk of legal exposure to compliance and harboring issues.
  - Redirects to qualified legal resources.
- Immigration privacy paired with readiness allows you to support people, follow the law, and protect your organization.

Sources for Current and Legitimate News

- American Association of Immigration Lawyers' (AILA) website
- NBC News
- The Associated Press

Registration Questions

Live Q&A

Thank You!

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