

FAQ on ICE Activity at Food Distribution Sites

This document is for informational purposes only and not for the purpose of providing legal advice or operational mandates. The goal of this document is to share information that can help organizations better understand how to operate legally and respectfully while caring for our neighbors in our communities. You should contact your own legal counsel to obtain advice with respect to any particular issue or problem.

- **Can U.S. Immigration and Customs Enforcement (ICE) take action at sites such as food pantries, schools, hospitals and places of worship? Yes.**
 - The special policy providing protection for “**sensitive locations**,” such as food pantries, social service locations, schools, hospitals, and places of worship has been revoked by a recent Executive Order. ICE may now carry out enforcement actions such as arrests, interviews or searches in these locations.
- **Can ICE agents enter food distribution sites or other nonprofits? Open, public areas - yes. Private areas, no, unless they have the proper warrant.**
 - ICE agents can enter areas open to the general **public**, such as a parking lot or public reception area, without a search warrant or consent. ICE agents must observe the same rules that any member of the public would. For example, ICE agents operating without a warrant would not have the right to disrupt the nonprofit’s activities or mission. Note that ICE agents may take photographs in public spaces.
 - If ICE agents want to enter **private** areas, they must have a valid judicial search warrant issued by a court or receive consent from the organization. An area is considered private if the individual reasonably expects it to be private, such as a locked or otherwise restricted area.
 - To eliminate confusion for all visitors organizations can take these steps to clearly define public and private areas: 1) placing locks on doors to restricted areas; 2) posting signage identifying areas as private/restricted/employees only; and 3) establishing a written policy to identify which areas of the organization are open to the public and the circumstances when non-employees may enter restricted areas, including a policy that does not allow anyone into private areas without manager/director approval.
- **Under what circumstances can ICE take data or documents from food banks or partnering agencies or enter private/restricted areas? Only if they have the proper warrant as described below.**
 - ICE agents need a warrant to seize data or documents or enter a private area unless the organization consents to the search.
 - 3 types of warrants to be mindful of are:
 - **Arrest warrants** authorize law enforcement to arrest an individual. Arrest warrants do not give government officials rights to search your facility or remove information.
 - **Judicial warrants.** To be valid, a judicial search warrant must, among other things, be signed by a judge or magistrate no more than 14 calendar days before the ICE agents use it and must identify specific areas to be searched. In other words, a judicial warrant is valid only (a) if signed by a judge or magistrate, (b) for the areas identified in the warrant, and (c) on or before the date indicated as being the date by which it must be used, which will be no more than 14 days after it was signed. If an officer has a judicial warrant, ask to see it. The warrant will list where officers are allowed to search and what can be seized. You can verbally object if officers go in unspecified nonpublic locations or take items not on the warrant or in plain view, do not attempt to interfere with any officer action.
 - An **ICE administrative warrant** (sometimes called a “removal warrant”) will be signed by an immigration officer rather than a judge. Administrative warrants are not court orders. ICE administrative warrants do not grant agents a right of entry into a private area or the right to take documents or data. These can be used in public spaces to detain the person named in the warrant.

- **Can ICE stop and question individuals regarding their immigration status? Generally, yes.**
 - ICE agents can question any person they believe to be an alien to determine whether he or she is legally present in the United States. A person's ethnicity or race is never, by itself, sufficient to stop that person for questioning, but may be considered along with other factors, such as inability to speak English, nervous or evasive behavior, or information from a reliable informant. Noncitizens should always carry immigration papers and produce them to an ICE agent if requested. Failure to produce immigration papers can result in detention.
- **What can staff or volunteers tell clients and others during an immigration enforcement action? Staff members can tell clients and others that they have the rights to: ask for an attorney, remain silent if ICE agents ask questions, or say "I do not want to answer any questions."**
 - Staff should encourage such individuals to remain calm and respectful and not attempt to leave while ICE agents are present.
 - Staff should not hide or conceal any person on the premises.
 - Staff and volunteers should remain calm and respectful and avoid any situation where they feel threatened or in harm's way.
- **What should staff members or volunteers do if ICE agents question them about specific individuals or activities? Staff should explain that they are not authorized to respond and should consult with their supervisor and legal counsel.**
 - Staff should never make a false statement but instead refer agents to their supervisor or legal counsel. (e.g., if ICE agents ask about an individual who is in the building, staff should not say the person is not there) Staff members should ask ICE agents if they are free to go. If the agent says "yes," the person is free to leave. If the agent says "no," the person can ask to consult with an attorney and otherwise remain silent.
- **What if a person is detained in or near my organization or food distribution? Staff have the right to observe from a reasonable distance but should not interfere with the actions of ICE agents.**
 - Staff has the right to observe from a reasonable distance but should not interfere with the actions of ICE agents. Staff may ask for the names of ICE agents. If agents are in plainclothes, staff may ask to see credentials and make note of agents' names and badge numbers. Staff may lawfully take video to make a record of the action.
 - Staff may ask ICE agents' permission to obtain from a detained person the contact information of anyone who should be informed of the person's detention (e.g., a family member, friend or attorney). Staff may also ask where the person will be detained. If the person being detained authorizes them to do so, staff may provide all information obtained from ICE agents to the friend or family member so identified.
- **What steps can my organization take?**
 - Develop a written response policy and preparedness plans in advance.
 - Designate an authorized person to review warrants and subpoenas.
 - Understand the distinctions between public and private areas and take steps to identify them as such.
 - Train non-authorized staff and volunteers on how to respond to ICE requests.
 - Connect with immigration response networks in your area for additional support for your organization and your neighbors. These organizations can be resources in this regard:
 - Latin American Association: <https://thelaa.org/community-resources/>
 - Georgia Legal Aid: www.georgialegalaid.org/issues/immigrant-rights-immigration