

Tips for Responding to ICE Inquiries at Head Start Centers

Preparation is crucial when it comes to an unannounced visit by U.S. Immigration and Customs Enforcement (ICE) to your Head Start center. Below are a few tips for responding to immigration officials who show up at your organization's offices asking to speak to employees or families, or seeking the agency's records pertaining to employees, children, or caregivers.



1. Call a lawyer and designate a representative

If ICE shows up at your agency, call your organization's attorney as soon as possible. The receptionist or agency representative should tell the officers that your organization's policy is to call your lawyer. The organization's attorney may be able to come to the agency to assist with your response, or speak to ICE officers over the phone. Your agency should also designate a specific person, such as the Head Start Director, to speak to ICE officials. Train staff members to inform the officials that only designated individuals are authorized to review a warrant or consent to their entry into private areas, and to decline to answer further questions. Employees should not give any statements to ICE agents or allow themselves to be interrogated before consulting with an attorney.



2. Public vs. private spaces

In general, immigration agents are free to enter into the public areas of your agency's workplace to question people or observe what is going on, without a warrant or your agency's consent. However, agents must have a signed warrant or obtain consent from an authorized person at your agency to enter into non-public or private areas. There is no bright line rule distinguishing "public" and "private" spaces. The standard is whether there is a reasonable expectation of privacy in that area. Generally, lobbies and waiting areas are more likely to be considered open to the public, while individual offices, conference rooms, records areas, and other areas with restricted access are more likely to be considered private and open only to employees, children, and their caregivers.



3. Head Start centers are sensitive locations

In a [2011 memorandum](#),¹ ICE stated that its policy is generally *not* to conduct enforcement actions at spaces ICE deems to be "sensitive locations," which include preschools, child care centers, and school bus stops. This means ICE should not conduct arrests, interviews, searches, or surveillance at Head Start centers unless exigent circumstances exist or prior approval is obtained, and even then, a warrant is required. Exigent circumstances include threats to national security, terrorism, public safety, or an ongoing criminal case. ICE has stated in [an FAQ](#)² that this policy is still in effect, but because it is not based on a statute or regulation, it could change at any time. Educate your staff about the sensitive locations policies and report potential violations to immigration advocates.



4. Review the warrant

The designated employee or the organization's attorney should review all of the paperwork presented by ICE officials to be sure it is valid. This individual should confirm that the warrant is signed and dated by a judge, that the premises to be searched indicated in a warrant properly describes the Head Start center's facilities, that the search is executed during the time frame indicated in the warrant, and that the warrant lists items to be searched for and seized (e.g., payroll records, employee identification forms, I-9 forms, child records, etc.). If immigration officials ask permission or attempt to enter a private area, the designated employee should explicitly state that he/she does not consent to entry without a warrant. Your agency can later challenge the search if there are grounds to do so.



5. Know your rights to remain silent and to an attorney

Provide educational materials and posters advising employees and families that they have the right not to answer questions from immigration agents and to ask that a lawyer be present if they are questioned. This right exists even if law enforcement officials are executing a valid search warrant – individual employees, children, and caregivers should state out loud that they wish to remain silent. Neither your employees nor the families you serve need to answer questions about their immigration status, where they were born, or how they entered the United States, and they may also refuse to show identity documents that disclose their country of nationality or citizenship.



6. Monitor the search process

The designated representative at your agency (and an attorney, if possible) should be present for any search executed pursuant to a warrant. Write down the name of the supervising ICE agent. At least one employee should accompany each agent around the center and take notes to document the search process. If immigration officials insist on walking through a private area despite not having a warrant, employees should not block their access. Rather, employees should object to the search and document in writing anything that happens outside the scope of the search or without consent, and note the objection in writing. It is important to prepare staff for the possibility of a search that exceeds the scope of a warrant and to train them to document the search process in writing, to be able to later challenge the results of an illegal search.



7. Develop safe space policies

Even if ICE never comes to your Head Start center, many immigrant families are afraid to enroll or allow their children to attend your programs. Families are worried about sharing their personal information, how their participation in Head Start could jeopardize their long-term immigration status, and the possibility of ICE showing up at or near the Head Start center. Programs can develop and implement “safe space” policies to help prepare for possible enforcement actions at or near their facilities. These policies also communicate that immigrant families are welcome and safe, and demonstrate that your program is taking steps to protect their safety and privacy. For a template “safe space” policy designed specifically for early childhood education programs, see CLASP’s [Guide to Creating “Safe Space” Policies for Early Childhood Programs](#).³



8. Prepare staff and families for immigration enforcement

Consider preparing a directory of resources, including immigration attorneys and other local advocates, whom the organization and/or individual families may call for additional guidance on responding to an immigration raid. Consider training employees on their rights when interacting with immigration officials in different places, such as the home, workplace, car, and in public, by providing the Catholic Legal Immigration Network’s [Know Your Rights Guide](#)⁴ (available in multiple languages). The National Immigration Law Center has also developed a number of other [Know Your Rights resources](#).⁵ Support mixed status families by helping them develop family preparedness plans in case caregivers are detained. See the Immigrant Legal Resource Center’s [Family Preparedness Plan Guide](#)⁶ (available in multiple languages) for an action plan.

Links:

- ¹ <https://www.ice.gov/doclib/ero-outreach/pdf/10029.2-policy.pdf>
- ² <https://www.ice.gov/ero/enforcement/sensitive-loc>
- ³ <https://www.clasp.org/publications/report/brief/guide-creating-safe-space-policies-early-childhood-programs>
- ⁴ <https://cliniclegal.org/resources/know-your-rights-law-enforcement>
- ⁵ <https://www.nilc.org/get-involved/community-education-resources/know-your-rights/>
- ⁶ <https://www.ilrc.org/family-preparedness-plan>
- ⁷ <https://www.nilc.org/issues/workersrights/employer-guide-workplace-imm-enforcement/>

For more information about your rights and responsibilities as an employer, see the National Immigration Law Center’s guide, [What to Do If Immigration Comes to Your Workplace](#).⁷

© 2019 Community Action Program Legal Services, Inc. (CAPLAW)
CAPLAW is a national nonprofit providing legal services to member organizations tackling poverty in their local communities. www.caplaw.org