**Appendix A[[1]](#footnote-1)**

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**SAMPLE PROTOCOL REGARDING INTERACTIONS WITH IMMIGRATION AGENCIES**

***Note****: This template is a generic protocol. We encourage each agency to consult with counsel to evaluate and provide advice as to appropriate policies and procedures.*

**POLICY**

It is the policy of [Nonprofit] to ensure that our clients are safe and protected when they use our facilities and services. [Nonprofit] will take steps to the greatest extent possible under the law to protect our clients and their information. It is the policy of [Nonprofit] not to allow agents or employees of U.S. Immigration and Customs Enforcement (ICE) or Customs and Border Protection (CBP) access to our facilities, records or information unless this is required by law or a valid judicial warrant. The same policies and procedures apply to police officers who may act with ICE to enforce the immigration laws.

**PROCEDURES**

Procedures regarding access to [Nonprofit] facilities/buildings:

If any agents or employees from ICE should attempt to enter [Agency]’s buildings or facilities, staff will follow this protocol:

1. Staff [*or insert front-line staff title*] should inform ICE agents that they do NOT have consent to enter the nonpublic areas of the facility unless they have a valid judicial warrant.

2. If ICE agents claim to have a warrant to enter the facility/building, reception staff should ask for a copy of the warrant, ask agents to wait at a specified location, and immediately contact a supervisor for assistance. [*include information on supervisor(s) to be contacted and how*]

4. Supervisor should review the warrant to ensure that a) it is signed by a judge or magistrate, b) it describes [Nonprofit]’s building as the place to be searched, c) it has the correct date and was issued within the past 14 days, and d) the search does not exceed the scope of the items authorized to be searched. Administrative warrants signed by an immigration officer, not a judge, do not require ICE be allowed to enter non-public areas of the facility.

5. Staff should be aware of common ICE statements to gain access without a warrant, such as, “We are investigating a crime. Can you help us identify this person?” and “Is [name] here? We just need them to step into the hallway to talk to them.”

6. If the ICE agents do not have a warrant, supervisor should say, “I do not want to answer any questions, please leave your contact information.”

7. Supervisors should be advised as soon as possible about ICE presence in the building, and to immediately contact legal counsel. [*include information on who should be contacted and how*]

8. Staff may advise clients that they have the right to remain silent, but *should not direct* clients not to answer questions. Staff may not assist clients in escaping or hiding.

9. Staff should not answer questions posed by agents without consulting a supervisor. In particular, staff should not answer questions about whether a particular person (client or staff) is currently in the facility, but instead state that they are not authorized to answer questions.

10. Staff should document the name/contact information of the ICE agents seeking access to the facility. This can be done by asking for a business card, or name and badge number.

11. Staff may record any interactions with the agents, but they must announce that they are doing so. Staff should remain a reasonable distance from such incidents so as not to interfere.

12. Staff and clients should know (or be informed) that if they are engaged in questioning by immigration agents, they can ask the agents if they are free to go. If the agent says yes, they are free to leave. If the agent says the person is not free to go, they should explain that they would like the opportunity to consult with an attorney and otherwise remain silent.

Procedures regarding immigration agents’ request for access to [Nonprofit] records/files:

If any ICE agent should request access to records or documents regarding [Nonprofit]’s clients or staff:

1. Staff—preferably a supervisor—should inform agents that [Nonprofit]’s policy is not to release information without a client’s consent, unless disclosure is required by judicial order or subpoena specifically requiring the release of the information, or otherwise required by law.

2. If agents claim to have a warrant or subpoena, staff should not release information without consulting with a supervisor. Staff—preferably a supervisor— should request a copy of the warrant or subpoena, ask for the agents’ contact information and consult with a supervisor.

3. If such information is requested, a supervisor should immediately contact counsel, as above.

Procedures regarding completing a report after an ICE enforcement action:

1. Immediately after an enforcement action has concluded, a supervisor must complete a report on the enforcement action in order to collect the information identified below.

**INFORMATION TO BE COLLECTED BY EMPLOYEES AFTER AN ICE ENFORCEMENT ACTION**

Date of enforcement action?

Time action began and ended?

Describe the enforcement action:

• How many agents?

• What agency conducted the action (*i.e.*, ICE, local police or state police)?

• Names and/or badge numbers of the agents:

• How did their uniforms identify them?

• Why did they say they were there?

• Did you ask to see a warrant?

• Did the agents present a warrant?

• If not, did you deny them consent to enter? What did you say?

• How did they react if you denied them consent to enter?

• If the agents presented a warrant, was a supervisor alerted? Who?

• Was the warrant an administrative warrant, signed by an immigration official?

• If it was an administrative warrant, did you tell the agents that your organization has a policy of denying access to nonpublic areas in the absence of a judicial warrant? What did you say?

• How did the agents react if you denied them consent to enter based on an administrative warrant?

• Did the agents present a judicial warrant, signed by a judge?

• If so, please describe the warrant:

o What was the date of the warrant?

o What items or persons were the subjects of the search?

o What areas were identified to be searched?

o Which judge signed the warrant?

• Did you allow the agents entry based on a judicial warrant?

• If so, did you or another staff member accompany them on their search? Who?

• Did the agents stay within the areas they were authorized to search by the warrant? If not, what other areas did they enter? Did they look in closed closets, cabinets, or drawers? Did they ask permission first?

• Did they keep anyone from moving around freely? Who?

• Did they arrest anyone? Who?

• Did they seize any items? What?

• Did they take pictures of documents? If so, whose? How did they get the documents?

• Did they take fingerprints? If so, whose?

• Were there children present? If so, whose? How many?

• Did the agents yell at anyone? Who? Why? Which agents (if known)?

• Did the agents have guns drawn or were they touching their weapons?

• Is there anything else to add about the enforcement action?

1. [[1]](https://nylpi1.sharepoint.com/sites/staff/Shared%20Documents/General/Clearinghouse/Guides%20for%20Nonprofits/ICE%202024/Appendix%20A%20-%20Editable.docx#_ftnref1) *See* Lowenstein Sandler LLP, *Advisory to Nonprofit Organizations and Social Service Providers Regarding Immigration Enforcement*, Appendices C and D (2017), available at:<https://www.lowenstein.com/files/upload/Advisory%20for%20Nonprofits%20on%20Immigration%20Enforcement.PDF;> Northwest Immigrant Rights Project, *Advisory to Nonprofit Organizations and Social Service Providers Regarding Immigration Enforcement*, Appendix A (April 3, 2017), available at: [http://nwirp.org/nonprofit-org-advisory.pdf.](http://nwirp.org/nonprofit-org-advisory.pdf) [↑](#footnote-ref-1)