



# GUIDANCE TO NONPROFITS REGARDING IMMIGRATION ENFORCEMENT

December 23, 2024

The incoming federal administration has promised a set of actions focused on mass deportations as well as aggressive and harsh immigration policies. If implemented, the human cost to immigrant New Yorkers will be staggering. Community-based organizations and nonprofits provide mission-driven services to hundreds of thousands of immigrants in the state. Many in the sector have asked for guidance on how they can conduct their work in a lawful manner that will best permit their clients and members to participate safely. In response, New York Lawyers for the Public Interest and Lawyers Alliance for New York issue this Guidance to Nonprofits Regarding Immigration Enforcement. Our unique positions allow us to be nimble and responsive to the needs and growing concerns of the nonprofit sector. We've mobilized resources quickly to issue one of the first comprehensive documents outlining best practices for New York nonprofits when assisting and protecting immigrant clients amidst heightened immigration enforcement. We have developed this guide to outline nonprofits' rights and establish best practices.

This guidance reflects information known at the time of writing. Much of the guidance reflects rights grounded in the United States Constitution, particularly the Fourth Amendment, that should remain relatively stable unless they are challenged in new litigation that reaches the United States Supreme Court. Other guidance, however, reflects policies and practices at the federal, state, and local levels that are far more susceptible to sudden change. Accordingly, we intend to further update this guidance as enforcement practices and relevant laws, regulations, policies, and practices change.

This alert is meant to provide general information only, not legal advice. If you have any questions about this guide, please contact Heidi Kim, Deputy Director, Pro Bono Programs at NYLPI at [hkim@nylpi.org](mailto:hkim@nylpi.org) or Lawyers Alliance Senior Policy Counsel Laura Abel at [label@lawyersalliance.org](mailto:label@lawyersalliance.org). For information about our organizations visit [www.nylpi.org](http://www.nylpi.org) and [www.lawyersalliance.org](http://www.lawyersalliance.org).

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### **How likely is it that immigration agents might come to a nonprofit service provider?**

No one can be sure given the anticipated shifting in immigration enforcement priorities. However, as of the issuance of this document we have not seen any pattern of enforcement actions by Immigration and Customs Enforcement (ICE) at or near nonprofit service providers. Given the promised increase in immigration enforcement, including, as described below, enforcement in and around “protected areas”—sometimes referred to as “sensitive locations”—nonprofits serving immigrant communities should establish policies to ensure that their staff, clients, members, and others are protected to the fullest extent of the law when using their facilities and services (see model policies in Appendix A).

### **How likely is it that New York law enforcement might come to a nonprofit service provider?**

Local law enforcement involvement in enforcement actions at your facility is unlikely because enforcement of civil immigration laws is primarily a federal law enforcement responsibility.

New York City and New York State also have “sanctuary” protections that restrict what kinds of assistance state and city law enforcement can give to federal immigration enforcement, and where immigration enforcement actions can take place. However, there are no laws that we are aware of that would prevent local law enforcement from working with federal immigration authorities on enforcement actions occurring outside of the specifically legislated areas.

**New York City** law prohibits the New York Police Department (NYPD), the New York City Department of Correction (DOC), and New York City Department of Probation (DOP) from honoring requests by ICE to detain individuals suspected of violating civil immigration law unless ICE presents a judicial warrant and the individual (i) has been convicted of a “violent or serious crime” as defined by law or (ii) is on the terrorist watch list.<sup>1</sup> Note: it is not the practice of federal immigration authorities to obtain judicial warrants for detaining such individuals.

As described below, New York City Administrative Code § 4-210 creates additional protections from ICE enforcement operations on city property and as to certain private contractors doing business with the city.<sup>2</sup>

**New York State** law prohibits federal immigration officials from making civil arrests in state and municipal courts.<sup>3</sup> Additionally, New York law does not authorize warrantless arrests for civil immigration law violations.<sup>4</sup>

“Sanctuary” policies are subject to change. Given the shifting legal and political landscape, nonprofit entities should remain informed about news developments relating to state and local immigration enforcement.

### **Can a nonprofit deny immigration agents entry into its facility?**

Whether ICE agents can enter into a particular location, including locations within nonprofit facilities, is largely a Fourth Amendment question. Fourth Amendment protections are greatest in nonpublic spaces and where no judicial warrant has been obtained.<sup>5</sup>

Areas open to the general public (*i.e.*, public space—such as a reception area or a library reading room) are open to immigration agents, and agents may enter those public spaces without a warrant. When operating in public spaces, however, 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. ICE agents must have a valid **judicial** search or arrest warrant to lawfully access nonpublic areas (*i.e.*, areas not open to the public—such as private offices or areas in a shelter where people sleep).<sup>6</sup>

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 to try to obtain access, and must identify specific areas to be searched (see example of a judicial search warrant at Appendix B).<sup>7</sup> 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.

Instead of having a valid judicial warrant, ICE agents may have “administrative” warrants signed by an immigration officer, not signed by a judge or magistrate. Administrative warrants, unlike judicial search warrants, do **not** authorize ICE entry to nonpublic areas (see excerpt of an administrative warrant at Appendix C). If agents seek entry into nonpublic areas with an administrative warrant, not a judicial warrant, it is lawful to deny entry—so a nonprofit can instruct staff not to consent to entry in such circumstances.

Nonprofits should consider expressly demarcating nonpublic spaces, for example, by affixing signs reading “Private” or similar wording, on doors leading to nonpublic areas. Nonprofits should additionally consider designating specific employees as persons authorized to consent to entry into nonpublic spaces and instruct all other staff to refer anyone seeking admittance to nonpublic space to those authorized individuals.<sup>8</sup>

Note that ICE agents sometimes wear uniforms that say “Police,” even though they are not police officers. ICE agents may also say things to gain entry 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.” Staff may ask whether those seeking entry are police or ICE agents. No matter the agency involved, the same judicial warrant requirement applies—meaning that both police and ICE agents must have a judicial search warrant to enter nonpublic areas. If ICE agents do not have a judicial warrant, staff should ask the agents to wait to enter any nonpublic areas until the staff contacts counsel, and staff may ask the agents to leave the premises. If ICE agents do have a judicial warrant, staff may ask the agents to wait to enter any nonpublic area until staff contacts counsel, but the agents need not wait if the judicial warrant authorizes them to enter nonpublic areas.

Nonprofits should not provide information about clients without consulting legal counsel unless ICE agents have a judicial warrant, or the client consents to the release of the requested information. Where ICE agents have a valid judicial search warrant, staff should provide access only to the areas specified in the warrant. Staff should promptly notify senior staff and counsel that ICE agents have entered private areas pursuant to a judicial warrant. If ICE enters with a subpoena rather than a judicial warrant, staff should contact counsel before complying with the subpoena. As is also discussed below, however, nonprofits may be prohibited from releasing certain information as a matter of law. ICE agents may not require access to information contained on a personal phone or email account without a judicial warrant. However, any information saved on a publicly accessible computer (e.g., in a library reading room) can be accessed without a warrant.

New York City laws applicable to business conducted on city property and to some city contractors impose additional restrictions on ICE agents' access. For example, as of 2018, New York City law requires "any contractor having regular contact with the public in the daily administration of human services at any location, whether or not on city property, where such services are provided under a City contract," to refuse access to nonpublic areas by immigration agents in most circumstances.<sup>9</sup> This requirement is subject to several limited exceptions, including when immigration agents present a judicial warrant, or are working in cooperation with city and state officials on joint enforcement actions.

### **What can staff tell clients and others during an immigration enforcement action?**

Staff members should 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 also encourage any such individuals to remain calm and not attempt to leave while ICE agents are present. Staff should not, however, hide or conceal any person on the premises. This does not mean that staff is obligated to produce a client for ICE agents, unless the agents have a judicial arrest warrant (*i.e.*, a warrant signed by a judge authorizing the arrest of a specific individual).

### **What should staff members do if ICE agents question them?**

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 should ask to consult with an attorney and otherwise remain silent. Staff should **never** make a false statement (*e.g.*, if ICE agents ask about an individual who is in the building, staff should not say the person is not there). Staff should instead explain that they can’t respond until they consult with their supervisor and legal counsel.

### **Are there special protections for certain nonprofits based on the nature of service provided?**

The same general rule applies to all nonprofits: ICE agents may enter any space open to the public and must have a judicial arrest or search warrant to enter space not open to the public. However, “protected areas” policies adopted by ICE discourage enforcement actions at certain locations and require agents go through supervisory review if actions are undertaken in such area (except in certain exigent circumstances).<sup>10</sup> The list of “protected areas” includes, but is not limited to, schools, hospitals, and institutions of worship. Additionally, ICE agents have been instructed to use particular care with organizations that assist children, pregnant women, victims of crime or abuse, or individuals with significant mental or physical disabilities. Note that this general “protected areas” policy is subject to change or termination by ICE at any time, and the incoming administration has indicated that it may quickly rescind the policy.<sup>11</sup>

### **What if a person is detained in or near the nonprofit facility?**

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.<sup>12</sup> 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.

### **May nonprofits provide clients and others with “Know Your Rights” resources?**

Yes. Nonprofits may offer written materials or presentations for clients. Note that many civil rights and immigrants’ rights organizations have prepared informative “Know Your Rights” guides.<sup>13</sup>



### **How can a nonprofit service provider proactively prepare for potential immigration enforcement?**

Create an internal plan on what to do if law enforcement shows up at the office. See Appendix A for guidance. Ensure all staff are trained on this internal plan. In addition, nonprofit service providers should prepare for an I-9 audit by ICE/Homeland Security Investigations (HSI). If an organization receives a Notice of Inspection indicating that there will be an I-9 audit, the organization has only 3 days to produce their I-9s. Employers who commit severe I-9 violations can be debarred from federal contracts and other government benefits. Ideally, nonprofit service providers should contract outside counsel experienced in compliance and immigration to conduct an internal I-9 audit. Attorney-client confidentiality applies when an audit is conducted by counsel instead of non-attorney compliance officer(s). Nonprofit service providers should draft holistic internal policies including but not limited to policies regarding sending reminders to employees with expiring work permits and how the organization approaches gaps in work authorization. Ideally, an employment attorney should review these policies, as there are employment laws in each state around temporary employee suspension if employment authorization documents (“EADs”) are expired. This is particularly important as we anticipate a slowdown in EAD production under the incoming administration, allowing for more frequent and longer EAD gaps.

### **What is the appropriate way to handle a “subpoena” related to ICE enforcement activities?**

A subpoena is a written request for information. A subpoena is not a court order, is typically not signed by a judge, and always gives a certain amount of time to comply. Failure to respond to a valid subpoena may result in a contempt of court finding. Upon receipt of a subpoena, nonprofits should take note of the date it was served, method of service, and deadline for responding. Nonprofits should then promptly engage counsel and instruct staff to preserve potentially relevant documents. If a nonprofit in receipt of a subpoena related to ICE enforcement does not have counsel, reach out to NYLPI and we will attempt to make an appropriate referral.

## **Can a nonprofit avoid disclosure of information in response to a subpoena?**

Federal law protects certain personal information from a subpoena. For instance, the Health Insurance Portability and Accountability Act (“HIPAA”) protects individually identifiable health information, which generally can only be disclosed in response to a subpoena after the nonprofit holding the requested information has taken certain steps, including notifying the patient or obtaining the patient’s authorization. The Family Educational Rights and Privacy Act (often called “FERPA”) protects students’ education records, which schools generally may not produce without taking certain steps to notify the student or parent. Other protections may apply depending on circumstances.

When responding to a subpoena, nonprofits, preferably acting through their attorneys, are only required to turn over the specific documents requested, and only if those documents are not privileged or protected by a federal statute. A subpoena does not require a nonprofit to volunteer other information. Nonprofits will likely be most concerned about subpoenas that request clients’ confidential information like names, addresses, phone numbers, Social Security numbers, and other personal identifying information.

As a general matter, nonprofits that receive a subpoena requesting clients’ personal information should consult counsel to determine if the subpoena must be complied with or can be blocked or “quashed” in whole or in part. Moreover, in order to ensure maximum privacy for clients and others, nonprofits should consider what information about an individual’s immigration status is actually necessary to provide and document services consistent with legal requirements. Nonprofits should then consult with counsel concerning appropriate document retention policies and practices for documents that do contain immigration status information.

**What if a subpoena is issued to nonprofit legal services providers?**

Nonprofits should consult counsel when a subpoena is received. Note in particular that legal services providers and other nonprofits must be careful not to produce privileged documents. Documents containing communications with an attorney for the purpose of obtaining/rendering legal advice are protected by the “attorney-client privilege” and should not be produced. Documents prepared for purposes of litigation by counsel, or prepared by a client at the direction of counsel, are protected by the “attorney work-product doctrine” and should not be produced. Instead, counsel for a nonprofit will produce a “privilege log” cataloging all such protected documents.

DATED: December 23, 2024

## APPENDIX A<sup>14</sup>

### **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 non public areas of the facility unless they have a valid judicial warrant.
2. *[If applicable because Nonprofit qualifies as a "protected area"]* Staff should inform ICE agents that [Nonprofit] is as a "protected area" under ICE policy and explain why.
3. 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.

## APPENDIX A (continued)

### PROCEDURES (cont.)

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?

**SAMPLE PROTOCOL REGARDING INTERACTIONS WITH IMMIGRATION AGENCIES (cont.)**

- 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?

## APPENDIX B

AO 93 (Rev. 11/13) Search and Seizure Warrant

**UNITED STATES DISTRICT COURT**  
for the  
District of New Jersey

In the Matter of the Search of \_\_\_\_\_ )  
(Briefly describe the property to be searched )  
or identify the person by name and address ) Case No. 17-1234  
123 Broad Street, Newark, NJ, Apt. 4 )  
)

**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 \_\_\_\_\_ New Jersey  
(Identify the person or describe the property to be searched and give its location):  
123 Broad Street, Newark, NJ: Apt. 4 and all common hallways and lobby of building

I find that the affidavit(s), or any recorded testimony, establish probable cause to search and seize the person or property described above, and that such search will reveal (Identify the person or describe the property to be seized):  
John Doe, A-123-456-789, a deportable alien with convictions for crimes involving moral turpitude;  
Goods stolen from XYZ Retail at 123 Commerce Street, Newark, NJ, on April 1, 2017, in a robbery allegedly involving John Doe.

**YOU ARE COMMANDED** to execute this warrant on or before April 24, 2017 (not to exceed 14 days)  
☒ in the daytime 6:00 a.m. to 10:00 p.m. ☐ at any time in the day or night because good cause has been established.

Unless delayed notice is authorized below, you must give a copy of the warrant and a receipt for the property taken to the person from whom, or from whose premises, the property was taken, or leave the copy and receipt at the place where the property was taken.

The officer executing this warrant, or an officer present during the execution of the warrant, must prepare an inventory as required by law and promptly return this warrant and inventory to Jane Smith, U.S.M.J.  
(United States Magistrate Judge)

☐ Pursuant to 18 U.S.C. § 3103a(b), I find that immediate notification may have an adverse result listed in 18 U.S.C. § 2705 (except for delay of trial), and authorize the officer executing this warrant to delay notice to the person who, or whose property, will be searched or seized (check the appropriate box)  
☐ for \_\_\_\_\_ days (not to exceed 30) ☐ until, the facts justifying, the later specific date of \_\_\_\_\_.

Date and time issued: 04/10/2017 10:00 am \_\_\_\_\_  
City and state: Newark, NJ \_\_\_\_\_  
\_\_\_\_\_  
Judge's signature  
Jane Smith, United States Magistrate Judge  
Printed name and title

This judicial search and seizure warrant is legally sufficient to allow agents into homes and other non-public places.

## APPENDIX C

DEPARTMENT OF HOMELAND SECURITY U.S. Immigration and Customs Enforcement <b>WARRANT OF REMOVAL/DEPORTATION</b>	
	File No: _____ Date: _____
To any immigration officer of the United States Department of Homeland Security: <hr style="border: 0; border-top: 1px solid black; margin: 5px 0;"/> <div style="text-align: center; font-size: small;">(Full name of alien)</div>	
who entered the United States at _____ on _____ <div style="display: flex; justify-content: space-around; font-size: x-small;"> <span>(Place of entry)</span> <span>(Date of entry)</span> </div>	
is subject to removal/deportation from the United States, based upon a final order by: <div style="margin-left: 20px;"> <input type="checkbox"/> an immigration judge in exclusion, deportation, or removal proceedings  <input type="checkbox"/> a designated official  <input type="checkbox"/> the Board of Immigration Appeals  <input type="checkbox"/> a United States District or Magistrate Court Judge         </div>	
and pursuant to the following provisions of the Immigration and Nationality Act:	
I, the undersigned officer of the United States, by virtue of the power and authority vested in the Secretary of Homeland Security under the laws of the United States and by his or her direction, command you to take into custody and remove from the United States the above-named alien, pursuant to law, at the expense of:	
<div style="background-color: #ffffcc; padding: 10px; border: 1px solid black;"> <p>This ICE Warrant is <u>NOT</u> legally sufficient to allow immigration agents into homes or the <u>non-public</u> areas of facilities, buildings, organizations, businesses, or other premises.</p> </div>	<div style="border-top: 1px solid black; margin-bottom: 5px;">(Signature of immigration officer)</div> <div style="border-top: 1px solid black; margin-bottom: 5px;">(Title of immigration officer)</div> <div style="border-top: 1px solid black; margin-bottom: 5px;">(Date and office location)</div>
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## Endnotes

1. The NYPD may detain an individual for up to forty-eight hours if a search indicates that individual has been convicted of a violent or serious crime, or is on the terrorist watchlist. If ICE does not present a judicial warrant within that time period, NYPD is required to release the individual and cannot notify federal immigration authorities of the person's release. N.Y.C. Admin. Code § 14-154(b)(2).
2. Local Law 246 of 2017, N.Y.C. Admin. Code § 4-210.
3. N.Y. Civ. Rts. Law § 28; N.Y. Jud. L. §§ 4-a, 212(2)(aa)
4. *People ex rel. Wells v. DeMarco*, 168 A.D.3d 31, 43 (2d Dep't 2018).
5. Whether a space be considered "public" or "private" under Fourth Amendment standards depends on whether a person or entity has a "reasonable expectation of privacy" in the object of the challenged search. *Katz v. United States*, 389 U.S. 347, 360 (1967) (Harlan, J., concurring). This is a highly fact-specific inquiry that would be unique to a particular nonprofit facility.
6. While a warrant is generally required, in certain circumstances law enforcement may enter non-public areas without a warrant and/or make an arrest without a warrant. Typically those limited exceptions to the warrant requirement are triggered by some urgency related to an investigation of specific criminal activity (e.g., an "exigency"). However, a warrant is required for immigration enforcement actions as described here, which target individuals simply based on their undocumented status.
7. See Fed. R. Crim. P. 41(e).
8. See *Make the Road New York, ICE AND THE WORKPLACE*, available at <https://tinyurl.com/y5jayzv3> (last visited Dec. 13, 2024).
9. Local Law 246 of 2017, N.Y.C. Admin. Code § 4-210.
10. U.S. Dep't of Homeland Security, *Guidelines for Enforcement Actions in or Near Protected Areas* (2021), available at <https://tinyurl.com/muz3zkah> (last visited December 12, 2024).
11. On December 11, 2024, NBC News reported that the new administration intends to rescind the long-standing "sensitive locations" policy as early as the first day in office. See <https://www.nbcnews.com/investigations/trump-scrap-restriction-ice-arrests-churches-schools-rcna183688>.
12. Nonprofits may elect to advise employees to first announce their intent to video—not because doing so is legally required in this context—but in order to prevent a dispute with ICE agents who may not understand the relevant legal protections.
13. Among others, the Immigrant Defense Project's "Know Your Rights" guides are available at <https://www.immigrantdefenseproject.org/know-your-rights-with-ice/>; *Make the Road New York's* "Know Your Rights" guides are available at <https://maketheroadny.org/immigration-know-your-rights/>, and the New York Immigration Coalition "Know Your Rights" guides are available at <https://www.nyic.org/resources-training/kyr/#2>.
14. 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>.

If you have any questions about this guide, please contact Heidi Kim, Deputy Director, Pro Bono Programs at NYLPI at [hkim@nylpi.org](mailto:hkim@nylpi.org) or Lawyers Alliance Senior Policy Counsel Laura Abel at [label@lawyersalliance.org](mailto:label@lawyersalliance.org).

For information about our organizations, visit [www.nylpi.org](http://www.nylpi.org) and [www.lawyersalliance.org](http://www.lawyersalliance.org).

### **About New York Lawyers for the Public Interest (NYLPI)**

Founded nearly 50 years ago by leaders of the bar, New York Lawyers for the Public Interest (NYLPI) pursues equality and justice for all New Yorkers. NYLPI works toward a New York where all people can safely thrive in their communities, with quality healthcare and housing, good schools, and environmentally sound neighborhoods. NYLPI's community-driven approach powers its commitments to civil rights and to disability, health, immigrant, and environmental justice. NYLPI seeks lasting change through litigation, community organizing, policy advocacy, pro bono service, and education.

NYLPI's Pro Bono Clearinghouse connects innovative and impactful nonprofit organizations with free legal services by drawing on volunteer lawyers from New York's most prestigious law firms and corporate law departments. Legal projects placed through the Clearinghouse provide high-quality legal solutions to organizations that strengthen communities, serve underrepresented New Yorkers, and combat systemic inequalities. It helps nonprofits and community groups thrive by providing resources that help organizations overcome legal obstacles, build capacity, and develop stronger and more effective programs. Through educational workshops, trainings for nonprofit leaders, individual counseling and a series of publications, the Clearinghouse is at the forefront of helping nonprofits maximize their performance and their impact on our community.

**About Lawyers Alliance for New York**

Lawyers Alliance for New York is the leading provider of business and transactional legal services for nonprofit organizations and social enterprises that are improving the quality of life in New York City neighborhoods. Our network of pro bono lawyers from law firms and corporations and staff of experienced attorneys collaborate to deliver expert corporate, tax, real estate, employment, intellectual property, and other legal services to community organizations. By connecting lawyers, nonprofits, and communities, Lawyers Alliance for New York helps nonprofits to provide housing, stimulate economic opportunity, improve urban health and education, promote community arts, and operate and advocate for vital programs that benefit low-income New Yorkers of all ages.

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