

AFSCME IMMIGRATION TOOLKIT

AFSCME affiliates have requested guidance on navigating immigration enforcement issues that may affect AFSCME members and their workplaces. This toolkit provides broad answers to common questions affiliates and members may have and the legal rights and responsibilities unions and their members may have concerning immigration enforcement actions.



Contents

1	<i>The administration says its focus is only on dangerous criminals. Can these policies affect law-abiding AFSCME members?.....</i>	<i>1</i>
2	<i>How does U.S. Immigration and Customs Enforcement (ICE) typically conduct immigration enforcement actions? What is its role?.....</i>	<i>2</i>
3	<i>What legal rights do members have when confronted by ICE at their homes or worksites, including when working for public employers?</i>	<i>5</i>
4	<i>What can members do if asked to disclose someone's immigration status to a third party in the course of their job duties? What legal and professional obligations must members consider in these cases?.....</i>	<i>9</i>
5	<i>What are unions allowed to do to prepare members for interactions with immigration enforcement?.....</i>	<i>13</i>
6	<i>What kind of things can unions bargain over or encourage employers to do?.....</i>	<i>15</i>

Q1. The administration says its focus is only on dangerous criminals. Can these policies affect law-abiding AFSCME members?

A1. Yes, they can. When nearly 1 in 5 U.S. workers is an immigrant, not only can these policies affect AFSCME members and their families and communities, but these policies can also weaken union density and power by restricting the rights of workers currently able to work lawfully. People with lawful immigration statuses may be affected by:

- **Threats to Time-Limited Immigration Programs** - The administration has taken steps to end or limit programs for workers who have temporary work authorizations, including:
 - Ending Temporary Protected Status (TPS) for Venezuelan nationals in April 2025.
 - Ending Humanitarian Parole programs that offered temporary protections for some Cuban, Haitian, Nicaraguan, Venezuelan, Ukrainian and Afghan nationals.
 - The administration also plans to review and potentially terminate TPS status for other groups, including Salvadorans and other Haitians.
- **Restricted Access to Citizenship** –
 - A recent executive order attempts to end birthright citizenship, a right that is guaranteed in the U.S. Constitution. The executive order claims that U.S.-born children of undocumented immigrants have no right to U.S. citizenship. The executive order has not taken effect due to legal challenges that argue the move is unconstitutional, but this is nevertheless a threat to the citizenship status of many working people.
 - Trump’s executive orders also suggest that the administration may seek to revoke an immigrant’s U.S. citizenship in certain circumstances, raising concerns for naturalized U.S. citizens. Ordinarily, revocation of citizenship is lawful only if the citizen committed fraud in obtaining naturalization.
 - Pathways to lawful permanent resident status and to naturalization may be restricted or eliminated.
- **Collateral Arrests that Could Affect Documented Individuals** - Administration officials like Border Czar Tom Homan have indicated that new immigration policies will go beyond “violent criminals” to include “collateral arrests.”
 - **Example of Potential Impact of Collateral Arrests:** In a hospital emergency room, a “targeted” immigration arrest of a single patient could expand to include other patients, family members, and possibly employees (see

Discussion of Raids and Border Zones in Question 2). Those arrested could then be deported if they cannot prove continuous residency in the U.S. for the previous two years. The same is true of schools, universities, child care facilities, nursing homes, social service agencies, public works facilities, libraries, museums and many other places where AFSCME members and their families work or receive services.

- These examples are likely to occur more frequently where the administration has also instituted ICE arrest quotas, put pressure on top ICE officials to increase arrests further and eliminated limits on ICE's authority to arrest people in "sensitive locations" like schools, child care facilities, courts, hospitals and places of worship.
- Additional Work Duties to Facilitate Immigration Enforcement – As the administration places pressure on state and local governments to adopt policies that facilitate or increase immigration enforcement efforts, there is a possibility that AFSCME members may also have their job duties expanded to assist immigration enforcement (see Question 4). The administration has brought lawsuits against cities that have non-cooperation policies (so-called sanctuary cities), has brought actions against individual officials who have refused to cooperate with ICE, and has raised the possibility of cutting off federal funding for states or cities that do not cooperate with the administration's immigration enforcement policies.
 - Where workers are facing additional job duties or potential discipline for noncompliance, there is an opportunity for affiliates to bargain proactively to clarify the scope of their members' duties and responsibilities (see Question 6).
 - In addition, when workers face conflicting demands from supervisors and federal officials regarding the level of cooperation, the union should become involved to clarify job duties and requirements.

Q2. How does Immigration and Customs Enforcement (ICE) typically conduct immigration enforcement actions? What is its role?

A2. The federal government, through its agents in ICE and Customs and Border Protection (CBP), is responsible for immigration enforcement. ICE enforces immigration laws within U.S. borders, while CBP enforces the laws at the borders. Immigration enforcement can take several different forms, so it is important to be aware of what ICE may demand when they show up at a workplace or while commuting to work. Note that agents may arrive in plain clothing or alongside local law enforcement like a police officer or sheriff deputy. An immigration enforcement action may involve non-ICE officers, and it may not be immediately

clear that individuals have arrived in an official capacity.

- **Raids** – ICE officers may arrive unannounced in a “raid.” Agents conduct raids with the intent of arresting, detaining and removing undocumented people. Immigration raids can be related to the investigation of employer violations, like the hiring of undocumented immigrants; the use of false documents; and investigations into human trafficking. During a raid, immigration enforcement agents may:
 - Question employees about their immigration status or that of their colleagues.
 - Demand proof of immigration or lawful permanent status.
 - Confiscate any documents workers have on them.
 - Take workers into custody with probable cause that they are violating an immigration or federal law, which can begin the deportation process for an individual.

Note that this is not an exhaustive list (see Question 3).

- **I-9 Audits** – An I-9 audit occurs when ICE investigates a workplace and reviews the employment records of employees on file. Employers may also initiate their own “self-audit,” even when they are not required to do so. Under federal law, **employers are required to confirm that their employees are authorized to work using the I-9 Employment Eligibility Verification form**, but only when an employee is first hired. However, where an individual is a non-citizen permitted to work in the U.S. and their employment authorization documents (EADs) are time-limited (e.g., DACA, TPS or temporary visa), employers are required to reverify work authorization documents. Discrepancies in paperwork can result in fines to the employer, termination of employees and detention of employees for deportation proceedings.

There are two different types of audits:

- **ICE Audits** – Department of Homeland Security (DHS), of which ICE is a subagency, also includes the Homeland Security Investigations Unit, which initiates audits that generally start with an employer receiving a “Notice of Inspection.” The audit involves an inspection of the employer’s I-9 verifications.
 - If ICE identifies employees who are not authorized to work, ICE will give an employer 10 days to provide valid work authorization for the affected employees. If an employer cannot provide EADs by that time, ICE will instruct the employer to terminate the workers.
 - Employers may consider asking ICE for more time to provide updated EADs, which would give affected workers more time to talk to an immigration lawyer. Note that ICE is not required to give

- more time, but they do have the discretion to do so.
- Unions can receive unredacted copies of audit documents and work with the employer about how to respond to the audit.
- **Employer Self-Audits** – Employer “self-audits” are when employers self-determine that they will review I-9 records, allegedly to confirm that they are in compliance with federal law. Self-audits are not legally required. Employers only have to verify an employee’s work authorization when that employee is first hired. That means they fully control the self-audit process.
- Employers cannot selectively reverify the employment eligibility of certain employees based on their country of origin, citizenship or type of immigration status, as that may constitute unlawful discrimination. Employers also should not reject genuine-looking, I-9 compliant employment documents because they prefer another I-9 compliant document.
 - Employers sometimes try to use a self-audit reverification process to interfere with organizing efforts within immigrant workforces, which could violate employee rights that are federally protected. In cases of unnecessary reverification, affiliates may want to bargain with the employer (see Question 6) or direct members towards resources (see Questions 3 and 4).
 - **Reverification may be necessary** where a non-citizen employee noted that their EAD expires on a specific date. **An individual does not have authorization to work after their work permit expires**, and if an employer allows the employee to perform work past the expiration date of the EAD, the employer may be subject to fines in the event of a DHS audit. Certain non-citizen classifications carry automatic renewals of EADs, which could authorize some employees to work with expired EADs, but those are very limited circumstances and subject to change at any point. For example, TPS carries auto-renewal in certain circumstances, but the administration may work to eliminate certain TPS categories. Work authorization through Deferred Action for Childhood Arrivals (DACA), by comparison, does not automatically extend, and an employee will be ineligible to work once their EAD expires, even where they have a pending application. **Given the varying requirements depending on the type of EAD, both employees and employers should consider their respective obligations regarding EAD expirations.**
- **What can an employer do if work authorization expires?**
- Employers are obligated to terminate employees once their legal authorization to work expires. **If a worker loses their job, they may be entitled to receive pay for unused vacation and sick leave**

balances, but that will depend on applicable state laws, a collective bargaining agreement or some other employment contract. Employers may also consider severance payments in the event of a termination, and they can also commit to providing a reference to future employers. An employer may need to notify an employee's union about a termination for expired EADs, but that will depend on particular CBA provisions.

- If the employer is willing, a worker may be placed on a leave of absence until they can show they are authorized to work again. During that leave of absence, a worker would not be allowed to perform work for the employer or receive pay, and the employer may limit the length of the time they are willing to wait for the worker to provide new EADs. Note that an employer is not obligated to do this.
- Notes that **employers have a duty to bargain with the union over terms that impact job tenure and discharge, which includes use of post-employment verification tools, like E-Verify.**
- **Warrantless Stops Within 100 Miles of Any U.S. Border (“Border Zones”) –** Immigration enforcement agents can and do enter and conduct warrantless searches on vehicles, trains and buses (including public transportation, Amtrak, Greyhound buses, etc.) anywhere within 100 miles from any U.S. boundary, including land borders and coastlines. This 100-mile “border-zone” covers many U.S. cities and makes it possible that union staff and members could encounter agents while commuting to work or performing their normal job duties.
 - In “border zones,” agents are only allowed to enforce immigration violations and federal criminal laws. Their ability to act without a warrant is limited to searching for people without immigration documentation.

Immigration enforcement agents must not violate a person's Fifth Amendment right to remain silent or their Fourth Amendment right against unreasonable searches and seizures. Agents must have a “reasonable suspicion” that someone has committed or is committing an immigration law violation in order to detain them and “probable cause” to search their person.

Q3. What legal rights do members have when confronted by ICE at their homes or worksites, including when working for public employers?

A3. Just as civilians are supposed to follow federal immigration laws, immigration enforcement agents must also comply with federal requirements to ensure the rights of individuals, and employees who encounter ICE in their communities or

in their workplaces can ask that ICE agents follow the law, even if they are in “border zones.”

- **Impact of Public v. Private Space on ICE Access** - There are limitations on the level of access immigration authorities have depending on whether they arrive in a public or private location or worksite.
 - If employees work in a **private** location:
 - Particularly where members are working out of private homes or other private facilities (e.g., child care and home care), staff may refuse access to unauthorized individuals, including ICE agents, and request to see a warrant. (See an example of an administrative and judicial warrant below in Attachment 3)
 - Individuals may ask that ICE pass whatever warrant they have under the door or press it against a window. There is no duty to open the door until you have confirmed ICE has the correct type of warrant that applies to the specific location.
 - If employees work in a **public** location:
 - Anyone — including ICE agents — can enter public areas of a workplace without any specific permission. Fully public areas include, for example, emergency room waiting areas, bus stops, parking lots, sidewalks and publicly accessible lobbies.
 - The fact that an area is public does not mean that ICE automatically has the authority to stop, question or arrest individuals. As discussed below, immigration authorities must have reasonable suspicion or probable cause to escalate an immigration enforcement action when acting without a warrant, even in public places.
 - Even if employees work in a publicly accessible location (e.g., a city government building or a public hospital), consider whether there are “private” areas that are only accessible to employees within a facility. Those may still be considered “private,” and ICE will need a judicial warrant to access those spaces.
 - **Affiliates may want to request clarification about which areas are private, that private areas in otherwise public buildings be marked “private,” that doors to those areas remain closed and locked and that employers have a policy that visitors and the public cannot enter those areas without permission.**
 - Individuals can ask that ICE leave unless they have a valid judicial warrant, but if the location is public ICE can ignore the request. Even in a fully public space, individuals are entitled to the rights and protections outlined below.
 - If the presence of ICE agents — whether in the workplace or

outside your jobsite — is in any way disruptive or intimidating, individuals may document agents' names and badge numbers and take pictures or record the encounter, if no work rule limiting doing so exists. If you work in a federal building, for example, there are limitations on taking pictures and recording on the job, but employees can still note an officer's name and badge number. Be aware of any workplace rules or building policies that restrict the taking of pictures or recording at the worksite of a public employer, as violating such a policy could result in discipline.

- **SOMETHING TO CONSIDER** - Updated entry and access protocols can ensure that employees know where they are permitted to grant or must refuse access to a location. For example, a process where only trained managers can allow third parties onto a property can be negotiated.
- **Rights and Obligations that Cover All Individuals Within the United States:**
 - **Not Required to Open the Door.** ICE needs a warrant that is **signed by a criminal court judge** to (1) enter or (2) search any **private** location, which includes a person's home, their vehicle or private spaces within their workplace. Administrative warrants are from immigration courts and are **not** the same as judicial warrants. They do not give ICE the right to enter private property. Individuals can refuse access to private locations and can request that agents pass the warrant they have under the door or put it up to a window or screen.
 - **May Remain Silent.** ICE can use statements against individuals in immigration proceedings. Therefore, individuals can tell ICE that they are choosing to remain silent, a right that is guaranteed under the Fifth Amendment of the U.S. Constitution.
 - **Protected from Unreasonable Searches.** The Fourth Amendment to the U.S. Constitution protects against arbitrary searches and seizures of people and their property, and those protections continue to exist even in "border zones." Without a warrant, immigration enforcement must have "probable cause" if they want to search someone.
 - **Not Required to Sign.** An individual is not required to sign anything ICE instructs them to without talking to an attorney. Individuals have the right to call an attorney.
 - **May Report and Record.** Unless there is a limitation, like on federal government property, individuals are allowed to document interactions with ICE, even if they are just bystanders. This can include taking pictures, noting the badge numbers of ICE officers, the number of agents and the make and model of their vehicles, and generally documenting ICE conduct. Individuals may not interfere with ICE enforcement, but documenting an

ICE encounter is not generally considered interference.

- **Cannot Conceal Undocumented Immigrants.** Under federal immigration law, it is a federal crime for an individual to “conceal,” “harbor” or “shield” undocumented immigrants from detection, or to aid and abet someone else in doing so. The law prohibits obstructing or lying to law enforcement officers, or to fail to comply with a properly executed judicial warrant or subpoena. Individuals and unions, however, are not required to independently confirm someone’s immigration status. Further, providing generalized information about community resources or “know your rights materials” is lawful.
 - **Should Not Carry False Documents.** Providing false documents to ICE agents during a workplace raid may result in criminal charges. This is **not** advisable.
 - **Should Not Run.** ICE can rely on an individual running as an admission of guilt and use that to justify searching or detaining someone.
 - In the workplace, an individual may have different responsibilities than in other settings, so it is **important to know whether and what laws or policies exist that require that ICE receive access to a facility or that employees facilitate ICE’s immigration enforcement actions** (see also Question 4).
- **Requirements Immigration Agents Must Follow When Acting Without a Judicial Warrant:**
 - These obligations can come into play when, for example, agents are doing raids or when entering and conducting warrantless searches on vehicles, trains and buses in “border zones,” within 100 miles of any U.S. border or coastline.
 - CBP agents **cannot stop someone for questioning unless they can establish “reasonable suspicion”** to believe that someone has committed or is committing an immigration law violation or federal crime, based on specific facts about that person.
 - If an agent detains someone, that person can ask for the agent’s basis for reasonable suspicion. The agent is supposed to provide it when asked.
 - If stopped while driving to work, note that reasonable suspicion to stop a car does not automatically confer authority to search the vehicle.
 - Immigration enforcement agents **cannot search whomever they want unless they can establish “probable cause.”** That is, they must think it is “probable” that someone is committing or has committed a violation

of immigration or federal law. This requires specific facts that can be articulated, not just a mere hunch.

- Note that someone's race or ethnicity, or their act of speaking a foreign language or remaining silent are not enough, alone, to establish reasonable suspicion to detain someone or probable cause to search their person or belongings.
- If agents ask for information regarding someone's immigration status, that person's obligation to provide documents will depend on their immigration status. For example, U.S. citizens are not required to carry proof of citizenship, but someone on a nonimmigrant visa may be asked to produce information regarding their immigration status. Depending on their status, an individual may consider refusing to provide an ID or other documentation when asked by ICE, but this comes at a personal risk.
- Individuals should inform themselves of their obligations to provide documentation when questioned by agents, ideally with the help of an immigration attorney.

Q4. What can members do if asked to disclose someone's immigration status to a third party in the course of their job duties? What legal and professional obligations must members consider in these cases?

A4. When immigration authorities enter a worksite, they may ask for private information regarding people's immigration status. Individuals and unions have no duty to independently inquire about or confirm anyone's immigration status, but some members may encounter immigration data while performing their normal job duties, particularly with public service jobs that involve verifying private information. Immigration enforcement agents, as a third party, can only access work-related immigration data records in very limited circumstances — generally only if the agents have a judicial warrant or subpoena, and, in some cases, where a state or local agency has an agreement of cooperation with an immigration enforcement agency. State and local laws, as well as professional or ethical obligations, may also come into play and add further possible limitations on providing private immigration data to immigration enforcement. It is important, therefore, to fully understand the legal and professional obligations members face when handling sensitive immigration information while on duty, which they may need to maintain confidential even from immigration enforcement agents.

- **Employers Can Have Agreements that Require Disclosure of Immigration Data.**
 - There is no affirmative obligation under federal law for state or local

employees to help ICE. Generally, the federal government is responsible for immigration laws and enforcement. In fact, state and local governments have limited ability to enact their own laws regulating immigration and have no responsibility to enforce federal immigration laws. However, many state and local agencies voluntarily work with ICE. It is important to know if there are agreements between ICE and an employer, because that agreement will likely determine the level of information-sharing required.

- Some agencies may have formal agreements with ICE. You often see these in the law enforcement context with **287(g) agreements**, which are formal agreements between the federal government and local law enforcement agencies that deputize local officers to assist with ICE's enforcement efforts.
- **With No Data Disclosure Agreements in Place, Immigration Enforcement Officers Must Have the Right Kind of Warrant or Order: a Judicial One.**
 - If there is no agreement in place between an employer and ICE, or some other legal obligation, ICE must have a judicial warrant, subpoena, or court order to get records or data from a state or local government. **A judicial warrant is an official court order** signed by a judge or magistrate that authorizes a search of private property, seizure or arrest based on probable cause that a crime is being committed or has been committed.
 - To be an enforceable **judicial warrant**, confirm that:
 - It is signed by a judge or a magistrate judge, not an immigration officer or judge.
 - It states the address of the specified premises to be searched.
 - It is being executed during the time period specified on the warrant, if any.
 - The information the agents are asking for is within the scope and object indicated on the warrant.
 - To be an enforceable **subpoena**, confirm that:
 - It is labeled “subpoena” (e.g., SUBPOENA IN A CIVIL CASE).
 - It was issued by a court (e.g., United States District Court of ...).
 - It includes the name, address and contact information of the attorney who initiated the subpoena.
 - It commands that specific records be provided to the court, and those records are within the scope of what ICE is seeking.
 - ICE agents can arrive at a worksite in either a uniform or in plain clothes, so if an unknown person begins requesting sensitive records, ask them to identify themselves, contact a supervisor and ask to see a warrant or subpoena before providing anything. Affiliates may consider negotiating an entry and access protocol for handling ICE interactions, where, for

example, a trained manager is the only person who can authorize the disclosure of personal data or entry into a private area of the workplace.

- Remember that employees may *not* obstruct the federal government in law enforcement or entering public spaces. Obstructing or interfering with certain ICE activity can be a crime.
- **Legal and Professional Obligations Can Limit Disclosure of Private and Confidential Immigration Information to Third Parties, Like Immigration Authorities.**
 - Private citizens are generally under no obligation to report undocumented immigrants and are not responsible for asking individuals about their immigration status, unless it is necessary to, for example, meet federal requirements for access to local social services. Consider what jobs members perform that could cause them to encounter sensitive immigration status information, including (not an exhaustive list):
 - State payroll processors.
 - Workers who perform eligibility determinations, like Temporary Assistance for Needy Families (TANF), subsidized school lunch, school enrollment, etc.
 - Medical and mental health personnel in corrections.
 - Child Protective Service workers.
 - Motor vehicle agency workers.
 - While employees may need to confirm a person’s immigration status as part of their job functions, privacy laws and policies may exist that limit what information can be shared with ICE, or when. Affiliates **should** consider working with employers to shift to managers the responsibility for deciding what may or may not be shared with ICE. **FERPA and HIPAA are two examples of laws limiting disclosure of sensitive private information to third parties, but others may exist in your jurisdiction.**
 - **The Family Educational Rights and Privacy Act (FERPA)** protects a student’s education records from being disclosed without parental consent.
 - There is no general exception to FERPA that grants ICE officials unfettered access to student information.
 - FERPA-covered information, however, may be disclosed with a judicially issued subpoena or warrant, or in an emergency.
 - FERPA supersedes any conflicting state laws that attempt to require the release of protected student data.
 - **The Health Insurance Portability and Accountability Act (HIPAA)** protects sensitive health information from being disclosed by a

- medical provider or insurer without a patient's consent.
- Under HIPAA, health care providers are generally not obligated to share a patient's immigration status with ICE.
 - HIPAA may permit disclosure in certain circumstances, but it is generally not required, except when the request for information is pursuant to a warrant issued by a judge or magistrate.
- Consider other professional obligations concerning patient care and confidentiality.
- **Workplace-Specific or Agency Rules and Guidance May Further Require the Confidentiality of Work-Related Information, Including Immigration Data.**
 - Employers may have rules and regulations that mandate the confidentiality of all work-related data, which would require that employees protect the confidentiality of sensitive and private information. Employers may also have employee handbook rules that dictate strict confidentiality.
 - **Members should abide by their workplace confidentiality obligations as failure to do so could result in discipline.** If there is a conflict between a worker's usual duties and responsibilities and directives, they should seek clarity from their supervisor and contact their union representative.
 - **State and Local Laws Are Also at Play and May Require More or Less Cooperation with Immigration Enforcement or Other Third-Party Agencies.**
 - Some states, often referred to as “sanctuary states,” have policies limiting the extent to which local or state governments will assist in immigration enforcement. Sanctuary state laws may limit how much local or state governments may share with ICE.
 - The U.S. Department of Justice recently sued the city of Chicago, Cook County and the state of Illinois and for their use of “sanctuary laws” that have limited cooperation with immigration enforcement agencies, so the legal landscape could change even in so-called “sanctuary states.”
 - Other states may have explicit provisions in local or state law requiring some agencies to work in conjunction with federal immigration authorities.
 - Recent examples include a rule adopted by the Oklahoma State Board of Education that requires parents enrolling their children to provide proof of citizenship and school districts to report the number of students for whom proof of citizenship was not provided to the Oklahoma State Department of Education.
 - If a member is collecting immigration status information in the course of their

work, they should ask their supervisors for guidance about the confidentiality of this information. Finally, members should be reminded that it is best practice not to ask individuals about their immigration status, unless it is required for a specific service they provide.

Q5. What are unions allowed to do to prepare members for interactions with immigration enforcement?

A5. Below is a general summary of what unions typically CAN and CANNOT do regarding immigration enforcement.

- **What Unions CAN Do:**
 - **Unions have a duty to fairly represent all their members, including immigrant members.** This means they can and should represent them without discrimination in the grievance and arbitration process. Unions should seek reinstatement for wrongfully discharged employees, unless a union or its staff has knowledge that an individual is ineligible to work.
 - There is no duty to inquire about an individual's immigration status or independently verify their employment authorization. That is an employer's legal obligation through the I-9 process at the point of initial hiring.
 - Unions can provide **Know Your Rights Training** to their members that covers their constitutional right to remain silent and right against unreasonable search and seizure when interacting with law enforcement. Do not advise individual workers on their individual circumstances.
 - **Unions can provide immigration-related legal assistance** to members through legal defense funds, refer members to private attorneys or immigration nonprofits, or sponsor immigration clinics for members. **Helping workers apply for status or informing them of their rights is permissible under the law.**
 - Affiliates can suggest general readiness planning to members. If immigration enforcement and deportation efforts escalate, individuals should consider developing a plan of action to ensure immigration compliance and a response to any deportations. To facilitate readiness planning, affiliates can direct individuals to trusted local legal counsel so they can talk with an attorney about their specific case and what options they may have to potentially adjust their status, drafting a power of attorney for the caretaking of their dependents, or any other concerns they may have. **Affiliate recommendations may help members avoid "notarios,"** individuals who represent themselves as qualified lawyers but

who actually victimize immigrant communities.

- Unions can bargain regarding changes to employee terms and conditions of employment or for improved contract language.
 - Unions can provide general information about community resources available to all members, including rapid response teams, to expand the support available to members in and just after a moment of crisis.
 - Affiliates and members can engage in other advocacy for immigrant communities and their rights in lobbying, rallies, and other public actions, but on-the-clock political speech may be more limited in some worksites such as K-12 schools.
 - **If a union member has already been detained by ICE, affiliates may also engage in support campaigns to lawfully advocate for a more favorable outcome.**
- What Unions and Their Staff **CANNOT** Do:
 - Obstruct ICE enforcement actions or engage in dishonest activities such as misrepresenting a member’s employment authorization or immigration status or assisting a member in procuring false documentation.
 - Instead, unions can direct members to outside legal counsel and community partners to offer individualized support to members.
 - What Factors Unions Should Consider:
 - Affiliates can develop an assessment of their employers, local political legal environment and potential allies. This may require some research, member and local leader engagement to start sketching out:
 - What state and local laws govern the behavior of local law enforcement and the employer with respect to immigration enforcement (e.g. sanctuary laws, professional obligations of privacy like FERPA and HIPPA, 287(g) law enforcement partnerships, E-Verify, location relative to the 100-mile border zone, etc.).
 - What state or local immigration advocacy organizations the union could collaborate with and what services they offer (e.g. trainings, family readiness planning, legal aid, mobilization to observe enforcement actions, etc.).

Q6. What kind of things can unions bargain over or encourage employers to do?

A6. Individual employers may have a range of views about the administration's policies. Regardless, it is in the union's and employer's best interest to have a joint plan or agreement in place for responding to immigration matters that impact employment and the workplace.

Key Issues Unions Might Address With Employers Include:

- **General Protocols:** This includes steps like the posting of know your rights and antidiscrimination posters.
- **Immigration-specific contract provisions:** Contracts could address a range of issues, including:
 - Limits on the frequency and extent of employer work authorization verification and re-verification efforts, including prohibiting asking workers about their immigration status or implementing E-Verify except as required by law, procedures for notifying workers and the union about contact with federal agencies concerning employee documents, Social Security numbers or the like.
 - Employer conduct during workplace immigration enforcement — designating a trained immigration liaison.
 - Limits on unnecessary employee record sharing with third parties like ICE.
 - Leave for immigration-related appointments, interviews or proceedings.
 - Procedures for workers to modify or update their documents, Social Security numbers or the like with the employer.
 - Establishing a legal services fund for bargaining-unit employees.
 - Training of managers and remedies for violations of these articles.

Note that **policies affecting terms and conditions of employment are generally mandatory subjects of bargaining**, including the implementation of post-employment verification tools like E-Verify.

Consider negotiating for the development of **entry and access protocols**, so that individual employees are not tasked with using independent judgment to evaluate warrants. There can be, for example, a chain of command where employees know that only trained managers can allow unknown third parties persons onto a property. In general, affiliates should also **consider the language access needs** of their membership and consider negotiating for translations of the contract and other employment-related documents like employee handbooks and disciplinary policies. Members with limited English proficiency may be among the most vulnerable to immigration enforcement actions and may find it harder to prove their status on the spot.

ATTACHMENTS:

Attachment 1: Printable AFL-CIO Know Your Rights Flyer

<https://aflcio.org/reports/know-your-rights-conozca-sus-derechos>

Attachment 2: Printable AFL-CIO Know Your Rights Palm Cards (multiple languages)

<https://aflcio.org/about/programs/adelante-we-rise/immigration-resources>

Attachment 3: Immigration Legal Resource Center's Family Preparedness Checklist

<https://www.ilrc.org/resources/step-step-family-preparedness-plan>

