



**Office of the New York State
Attorney General**

Letitia James | Attorney General

**Office of the New York
Governor**



Kathy Hochul | Governor

Joint Office of the Governor and Office of the New York State Attorney General Guidance to Private and Non-Profit Organizations and Entities

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Introduction

This guidance document is intended to provide information to private and nonprofit entities like social services agencies and providers (including homeless shelters, domestic violence shelters, and other residential facilities as well as non-residential and drop-in sites for social services); houses of worship such as churches, synagogues, mosques, and temples; medical and healthcare facilities; and other entities that provide community services and spaces, in evaluating how to respond to requests from federal immigration authorities while protecting the rights of their residents, clients, patients, members, and staff.

This guidance does not constitute legal advice, nor does it cover every potential scenario in detail, or address variations in local law and policy. There may be laws, regulations, policies, contract terms, and other considerations that govern an entity's behavior. If you have additional questions or wish to establish policies tailored to your situation, we urge you to consult your organization's counsel. Please note that this guidance applies to private or nonprofit facilities and not to city or state-owned or leased buildings. State properties are subject to Executive Order 170.1. There is also separate guidance for school districts, which is linked with other resources at the end of this document in addition to the Executive Order.

This brief guidance has been prepared following a sharp increase in the number of questions and requests our offices have received following the Department of Homeland Security directive rescinding prior guidance protecting "sensitive places" from federal civil immigration enforcement activity. The purpose of this guidance is to prepare and educate organizations and institutions so they can focus on the people and communities they serve, their mission, and their essential work.

Q: Will immigration enforcement actions occur at my location?

A: Previously, U.S. Department of Homeland Security policy generally prohibited immigration enforcement authorities, such as agents from Immigrations and Customs Enforcement (ICE), from conducting arrests for civil immigration violations or engaging in other civil immigration enforcement activity at “sensitive locations” including but not limited to schools (from daycares through colleges and universities); medical treatment and healthcare facilities; places of worship such as churches, synagogues, mosques, and temples; places where children gather like childcare centers or foster care facilities; “social services establishments such as a crisis center, domestic violence shelter, victims services center, child advocacy center, supervised visitation center, family justice center, community-based organization, facility that serves disabled persons, homeless shelter, drug or alcohol counseling and treatment facility, or food bank or pantry or other establishment distributing food or other essentials of life to people in need;” and others. These areas were protected to allow all community members—including individuals without legal authorization to be in the United States—to safely access services and spaces that they rely on, and these policies supported the health and well-being of a community.

The Department of Homeland Security recently rescinded these policies and has stated that it has entrusted the decisions on enforcement to individual officers.

This means that immigration officials may seek to conduct arrests in or near sensitive locations. It remains to be seen how frequently and aggressively these officials will use this authority in our communities. Keep in mind that immigration officials may also seek information in your institution’s possession through various means (e.g., requests by phone or email, subpoenas, or warrants) to assist with enforcement.

Q: Does my organization or entity now have to comply with immigration enforcement?

A: The rescission of the “sensitive locations” policy does not affect otherwise existing limits on immigration enforcement authority, and does not mean that you must necessarily allow immigration agents into your facility or comply with requests related to immigration enforcement. Private and nonprofit entities retain the ability to decline to cooperate under certain circumstances, as is explained further in this guidance. As a general matter, private property remains protected under the Fourth Amendment, which limits immigration agents’ conduct and protects against “unreasonable searches and seizures.” Individuals also have the right to remain silent under the Fifth Amendment. Additionally, your clients, patients, residents, etc. may have rights under local, state and federal law that apply specifically to your situation. For example, even when immigration officials could generally obtain information, the specific information they seek from you may be protected by HIPAA, FERPA, or attorney-client privilege.

Q: Does my organization or entity have to permit entry to an immigration official seeking access to an individual in the facility?

A: It is important to distinguish between public and private areas of your facility. If your location has areas open to the general public (like a reception area or lobby, or a parking lot), immigration agents may enter those areas to the same extent as the general public. The same rules that apply to the general public in those areas would apply to such officials—if immigration agents are being disruptive or intimidating people who are present, agency staff can document that conduct, including officers' names and badge numbers, and the impacts on your agency's ability to do its work. Agency staff can also inform the agents that they are disrupting the work at the site and ask them to leave.

If your location has private areas that are closed to the general public (like offices, patient exam rooms, dormitory space, residents' rooms, caseworkers' offices, client meeting rooms, or any areas kept closed or marked "private" and maintained as private), staff members do not have to permit immigration officials to enter those private areas unless the official shows a valid judicial warrant. A judicial warrant is signed by a federal judge and is distinct from an administrative warrant that bears the seal of the Department of Homeland Security, Immigration and Customs Enforcement, or the Department of Justice and is signed by an immigration official. (Samples of these documents are included at the end of this guidance.)

Keep in mind that immigration enforcement can be conducted by ICE officers, or other kinds of agents, and they may not clearly identify themselves. They may or may not be forthcoming or clear about their purposes in seeking access to your facility or information that you hold.

In any situation, staff should not conceal or hide anyone, should not make misrepresentations to immigration enforcement agents, and should not attempt to physically interfere with or obstruct immigration agents. If the officials force their way into areas closed to the general public, staff should stay calm and document what happened.

Q: What should my organization or entity do to prepare for immigration authorities seeking access to facilities?

A: Consider establishing a policy on how to handle such requests, that is tailored to your institution. As part of that policy, you may wish to designate a particular administrator to be a point of contact for front-line staff (receptionists, security staff, custodians, and others) should immigration agents arrive at your site or contact your agency for information. That point person can then evaluate the agents' requests and the validity of any paperwork they present (warrants or subpoenas) and promptly consult with counsel for further instruction. Private and nonprofit organizations are encouraged to regularly train their staff on the policies in place, the distinction between public and private spaces, and judicial versus administrative warrants.

Q: Can immigration agents question the staff of my organization or entity in a public area?

A: Yes, but individuals should know they have a right to remain silent and not to answer questions. If questioning is being done in person, staff can ask if they are free to leave. If the answer is yes, they can leave and need not answer questions. If they are told they are not free to leave, staff should know that they can ask to speak with a lawyer and otherwise remain silent. Above all, if agency staff choose to answer questions from immigration agents, they must be careful to avoid any misrepresentation.

Q: How should staff respond to requests for information about agency clients or residents?

A: Requests for information can take different forms, from phone calls or emails to formal subpoenas of different kinds.

Organizations and entities are encouraged to train all staff who monitor phones and email accounts that they should refer any requests for information (including whether a given person is a resident, patient, client, etc.) to designated administrators who can then consult with counsel. This will prevent any unauthorized or unlawful disclosure of private information about an individual. If an entity receives a voluntary request for information, the designated administrator is encouraged to assess whether it is possible to comply with the request without violating state or federal privacy laws and whether providing the requested information would impact the agency's core mission of providing services or support to people in need. Staff should make copies of documents presented by immigration agents. If the request was made verbally, agency staff should document the request.

If an entity receives a subpoena or other demand for information, this demand should be forwarded to your organization's legal counsel, who can evaluate how to respond. In some instances, counsel may advise responding to the subpoena, while in others, counsel may determine that the subpoena is deficient in some respect. For this reason, it is important to refer the subpoena to your organization's counsel before attempting to respond.

Additional Materials

- » **Executive Order 170.1:** https://www.governor.ny.gov/sites/default/files/atoms/files/EO_170.1.pdf
- » **Archived Biden Administration DHS Memorandum:** <https://www.dhs.gov/archive/news/2021/10/27/secretary-mayorkas-issues-new-guidance-enforcement-action-protected-areas>
- » **Trump Administration DHS Directive:** <https://www.dhs.gov/news/2025/01/21/statement-dhs-spokesperson-directives-expanding-law-enforcement-and-ending-abuse>
- » **Office of the New York Governor, Office of the New York State Attorney General, and New York State Department of Education guidance:** <https://www.nysed.gov/sites/default/files/oag-go-sed-immigration-students.pdf>
- » **National Immigration Law Center Factsheet:** <https://www.nilc.org/resources/factsheet-trumps-rescission-of-protected-areas-policies-undermines-safety-for-all>
- » **Model protocol for nonprofits from New York Lawyers for the Public Interest and Lawyers Alliance for New York:** <https://www.nyipi.org/wp-content/uploads/2025/01/Guidance-to-Nonprofits-Regarding-Immigration-Enforcement-1.pdf>