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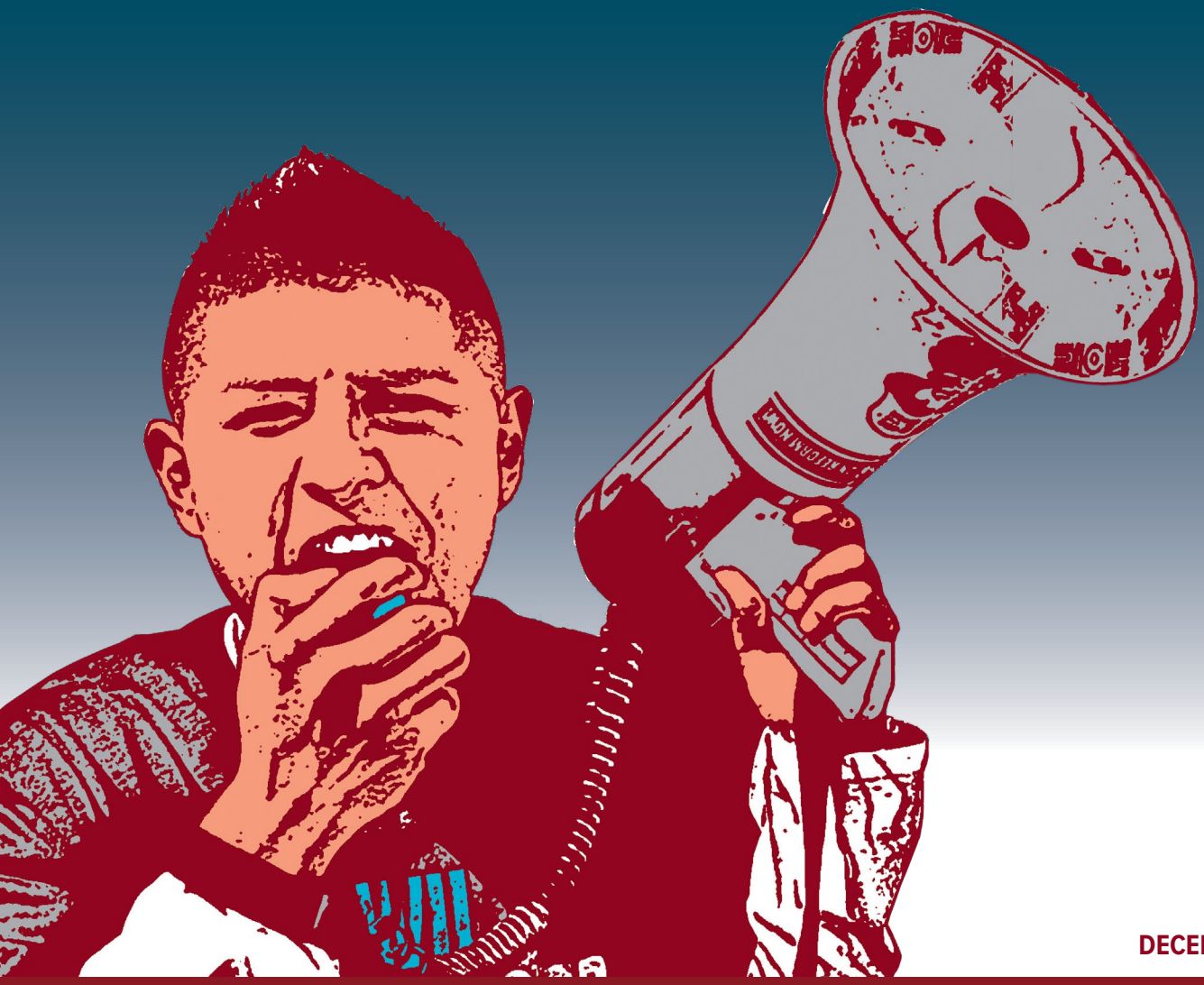

DECEMBER 2024

FRONTLINE SOLIDARITY

A MASS DEPORTATION FIGHT-BACK TOOLKIT FOR UNION ACTIVISTS AND ORGANIZERS

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I. INTRODUCTION

This toolkit seeks to equip labor and community organizers and advocates with the necessary information to navigate escalating attacks on immigrant workers and their families. It includes general materials to help unions and workers prepare, as well as specific guidance related to a range of policy changes and enforcement actions we must expect as part of the mass deportation agenda.

We have confronted enforcement strategies that target workers before, and the tips and tools provided here reflect our best efforts to distill the lessons learned from decades of organizing and advocacy by unions and our worker center allies. As such, this toolkit will:

- explain the processes and players involved in worksite immigration enforcement;
- recommend steps to help defend members of our unions and our communities;
- provide concrete tools to prepare workers, such as Know Your Rights cards;
- support active union engagement through sample materials, such as immigration-related contract language and letters to employers; and
- outline upstander strategies and ways to build movement solidarity.

It must be noted that the immigration enforcement and policy landscape will shift quickly and often in the Trump administration. This toolkit provides only general information; you should consult legal counsel about any specific issues or questions that may arise. The AFL-CIO will work to update this information as new developments unfold, and will stay in active communication with advocates and organizers on the ground in order to understand how we can be most effective in defending workers' rights in the context of evolving worksite enforcement practices. We are proud to partner with Organized Power In Numbers in the development and implementation of these tools, and know that their expertise will make our ground game more effective and expand our ability to get information and support to the people who need it most.

By providing these resources in a single toolkit, we hope labor organizers and advocates may be better prepared to tackle the many challenges that arise in their efforts to help immigrant workers assert their labor rights and gain or retain a voice on the job.

If you have questions or requests, please contact frontlinesolidarity@aflcio.org.

Immigration is a Workers' Issue:

What unions need to know about the mass deportation agenda

President Trump has promised to pursue an aggressive agenda of mass deportations, and often suggests that such an approach will help U.S. workers. It is time to set the record straight on that.

One in five workers in our country wasn't born here. One in four kids has an immigrant parent. Immigrants *are* U.S. workers, vital to the fabric of our communities, our economy, and our labor movement.

So when the Trump administration talks about arresting millions of immigrants, rounding them up into camps and deporting them, they are talking about targeting workers, many of whom are union members. An attack on them is an attack on all of us.

The agenda of mass deportations is a deeply anti-worker agenda that the AFL-CIO is committed to fighting back against. Here's why:

Immigrants are vital members of our workforce and our unions. Immigrants work in every sector of our economy, and every part of the nation. Mass deportation plans would not only cost billions in taxpayer money, but would have a devastating economic impact. The resulting labor shortage would cause a massive drop in GDP and cripple key industries that rely heavily on immigrant labor, such as construction, hospitality, agriculture, and food processing. Rather than benefitting the remaining workforce, mass deportations amidst an already tight labor market will shutter businesses, which will disrupt supply chains, increase prices and put jobs at risk.

Without immigrants, our workforce is shrinking. Current demographic trends illustrate that without immigration, the size of our nation's workforce will decline, causing serious economic and social consequences.[1] A shrinking workforce is bad for the economy, resulting in lower productivity, slower economic growth, decreased tax revenue, and higher inflation. Deporting millions of workers will accelerate these negative trends and drive up costs for food, housing, and many basic services, because there will be an insufficient supply of workers in these industries to produce sufficient supply of goods and services to meet demand.

Immigrants pay taxes on which federal, state and local budgets rely. In addition to expanding the workforce, immigrants promote economic growth through their consumer spending and tax revenues. Immigrant households contribute hundreds of billions of dollars in federal, state and local taxes annually and hold a tremendous amount of spending power. In 2021, immigrants paid $524.7 billion in taxes.[2] Losing contributions of this magnitude would devastate the budgets needed to fund our public schools, hospitals, emergency response services, highways and other essential services.

Immigrants support our social safety net. Despite political attempts to portray them as a drain on resources, undocumented immigrants are taxpayers who also make substantial contributions to our social safety net, with estimates that they paid $22.6 billion into the Social Security fund in 2016 and $5.7 billion to Medicare.[3] Notably, many immigrant workers are unable to access the very benefits they help keep afloat.

1 United States Census Bureau, "U.S. Population Projected to Begin Declining in Second Half of Century," Press Release Number CB23-189, November 9, 2023.
2 U.S. Immigration Statistics (americanimmigrationcouncil.org)
3 www.americanimmigrationcouncil.org/research/mass-deportation

The cost of mass deportation drains resources from key labor priorities. Our government already spends an astonishing 14 times more to arrest immigrants than it does to enforce the laws meant to protect more than 165 million workers at nearly 11 million jobsites around the country.[4] This has created an environment in which too many employers feel like they can violate worker rights with impunity, and further ramping up immigration enforcement will make employer threats of immigration-based retaliation even more potent.

A climate of fear makes our workplaces and communities less safe. Mass deportation policies threaten civil liberties, encourage racial profiling, separate families and cause massive economic and emotional hardship for millions of working people across the country. The terror instilled by raids and targeting means that fewer people report crimes, visit a doctor, or send their kids to school—all of which undermines the health, wellbeing and safety of our communities.

The real threat workers face is corporate greed, not immigrants. President Trump wants working people to focus on the border and immigration so we'll be too distracted to notice as his administration rolls out massive corporate tax cuts, slashes our benefits, starves our public schools, and tramples on our labor and voting rights. It is a classic political maneuver meant to keep us divided and poor, and we see right through it. Unity is the source of our strength, and the only path we have to prevent the corporate capture of our economy and our democracy.

For these reasons and many more, the mass deportation agenda is not just bad for immigrants, but for every worker in this country. And that's why this is a union fight.

Our labor movement is committed to taking action to ensure that all workers, regardless of status, are protected at work and at home. We will hold employers and the politicians who do their bidding accountable by doing what we do best—organizing. Frontline solidarity helps us build power and prevent division as we keep up the long-term fight to secure a future where all people can live and work with dignity.

4 *The U.S. benefits from immigration but policy reforms needed to maximize gains*, Economic Policy Institute, https://www.epi.org/publication/u-s-benefits-from-immigration; *Threatening Migrants and Shortchanging Workers*, Economic Policy Institute, https://www.epi.org/publication/immigration-labor-standards-enforcement/.

II. UNION READINESS

Unions will be on the frontlines for the fight against the mass deportation agenda, and the materials provided in this section are intended to help you get ready. In anticipation of ramped up immigration enforcement actions, including workplace and community raids, there are important steps that unions and worker advocates and organizers can take, including:

- ☐ **Distribute Know Your Rights materials.** The flyers and palm cards provided in this section provide basic Know Your Rights information for engaging with immigration enforcement officials.[5] All workers and staff, not just immigrants, should commit to carry and use them. The union could make an announcement that they have these materials available, conduct a distribution event, and maintain a constant supply at key locations. Ideally, the union can also provide workers with the phone number of an emergency hot line or direct line to your legal advocate to carry with them, along with the palm card.
- ☐ **Engage with employers.** As unions, we must think proactively about how to protect our members on the job. One simple but symbolically important step is to do an action asking the employer to post the Safe Workplace poster[5] in breakrooms or other relevant locations. More substantively, the sample contract language outlined in this section provides a range of provisions that could be formally negotiated in collective bargaining agreements, or otherwise discussed in labor-management tables. These proactive steps can help to decrease the likelihood that ICE will be permitted into a worksite or that workers will suffer adverse consequences from immigration enforcement actions.
- ☐ **Form a rapid response team and plan.** The Trump administration is actively preparing its mass deportation strategy, so we must actively prepare as well, and we can't do that alone. Unions should assess who their key community partners and allies are, and consider convening a mass deportation fight back strategy meeting. The goal should be to get commitments for a rapid response team and to make a plan of action. There is a planning worksheet provided in this section to help you assemble and prepare your team.
- ☐ **Conduct trainings.** The labor movement should help educate members of our unions, community and staff on immigration issues, and be sure that they know their rights and are prepared in the event of an immigration enforcement action. Readiness training is often best conducted in cooperation with community partners.
- ☐ **Take steps to protect your union.** The mass deportation agenda will involve attacks not just on immigrants, but on all those who seek to assist or defend them. The Union Dos and Don'ts guide seeks to provide best practices for union staff in educating and supporting immigrant members without taking undue legal risks. Union staff and officers should read and adhere to this guidance.
- ☐ **Help workers prepare personal and family plans.** Before a potential arrest or raid, workers should talk with their families and gather important documents to keep in a safe place. A checklist of key documents and readiness steps for workers is included in the next section of this toolkit. Unions should help get these materials to workers, and potentially work with allies to host family planning and readiness clinics. Unions may also want to collect emergency contact information from members so they will know who to reach out to in the event of a raid.

5 Downloadable versions of these materials can be found at aflcio.org/immigrationresources

Know Your Rights Flyers

KNOW YOUR RIGHTS

Whether you are at work, home or in your community, the labor movement wants you to know your rights and be prepared when interacting with law enforcement, including immigration agents. Post this information on the back of your door so your family will have ready access.

1. You have the right to **REMAIN SILENT**. You have the right not to answer any questions, including questions about your family, where you were born, whether you are a citizen, how you entered the United States, or your immigration status. When interacting with a law enforcement agent, stay calm, don't run and say, "I choose to remain silent," or hand a rights card to a law enforcement agent.

2. You have the right **NOT TO SIGN** any documents without first speaking with an attorney, no matter what an agent says. Anything you say or sign could be used against you later in any legal proceeding, including removal proceedings.

3. If you have valid federal immigration **DOCUMENTS**, carry them with you. For example, if you have a green card or a work permit that is not expired, always carry it with you. Don't carry a foreign passport or papers from another country, as these could be used against you in deportation proceedings. Never carry false documents or lie about your immigration status.

4. If law enforcement agents come to your home, you don't need to let them in unless they have a proper **WARRANT** signed by a judge. You don't need to open the door to see the warrant. You can slide a card under the door, and, if they have a warrant, law enforcement agents can slide it under the door or hold it in the window to show it to you. ICE warrants for removal don't give immigration agents the right to enter your home unless you give them permission. Don't give them permission!

   NOTE: Judicial warrants are signed by judges and have the name of the court on them.ICE rarely has a judicial warrant. They might show you an immigration warrant instead—these usually say Department of Homeland Security on them and are usually signed by immigration officers. Do not accept an immigration warrant.

5. Do your best to document the details of any interaction with law enforcement. Take note of the types of uniforms they are wearing. If possible to do safely, record any interaction with video or audio.

NOTE: This information is not meant to serve as legal advice..

For more information and resources to know and defend your rights, please visit go.aflcio.org/immigrationresources.

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Conozca Sus Derechos

CONOZCA SUS DERECHOS

Independientemente de donde se encuentre, ya sea en el trabajo, en el hogar o en su comunidad, el movimiento laboral quiere que conozca sus derechos y esté preparado para cualquier encuentro con las autoridades, incluyendo la policía y los agentes de inmigracion. Coloque esta información en la parte posterior de su puerta para que su familia tenga acceso fácil.

1. Usted tiene derecho a **GUARDAR SILENCIO**. Tiene el derecho de no contestar ninguna pregunta, incluyendo preguntas acerca de su lugar de nacimiento, si es ciudadano, cómo llegó a los Estados Unidos, su situación migratoria o preguntas sobre su familia. Al interactuar con un agente de la ley, mantenga la calma, no corra y diga: "Elijo permanecer en silencio" (en inglés: "I choose to remain silent") o entregue una tarjeta al agente.

2. Usted tiene el derecho de **NO FIRMAR** ningún documento sin consultar a un abogado; no importa lo que diga el agente. Cualquier cosa que usted diga o firme puede ser usada en su contra en cualquier trámite legal, incluyendo un procedimiento de deportación.

3. Si tiene **DOCUMENTOS** federales de inmigracion vigentes, llévelos siempre consigo. Por ejemplo, si tiene su tarjeta de residencia permanente (Green Card) o su permiso de trabajo vigente, siempre llévelos con usted. No cargue un pasaporte extranjero o papeles de otros países, pues estos podrían ser usados en su contra en un procedimiento de deportación. Nunca cargue documentos falsos ni mienta acerca de su situación migratoria.

4. Si un agente viene a su casa, no necesita dejarlo entrar a menos que tengan una **ORDEN JUDICIAL** firmada por un juez. No necesita abrir la puerta para ver la orden. Puede deslizar una tarjeta debajo de la puerta y, si tienen una orden judicial, los agentes pueden pasarla por debajo de la puerta o sostenerla en la ventana para mostrársela. Las órdenes de deportación de ICE no les dan a los agentes de inmigración el derecho de entrar a su casa a menos que usted les dé permiso. ¡No les dé permiso!

   NOTA: Las órdenes judiciales están firmadas por jueces y llevan el nombre del tribunal. ICE rara vez tiene una orden judicial. Es posible que le muestren una orden de inmigración en su lugar; estas suelen decir "Department of Homeland Security" y suelen estar firmadas por oficiales de inmigración. No acepte una orden de inmigración.

5. Haga todo lo posible por documentar los detalles de cualquier interacción con las autoridades. Tome nota de los tipos de uniformes que llevan. Si es posible hacerlo de manera segura, grabe cualquier interacción en video o audio.

Esta información no debe ser considerada como consejo legal.

Para obtener más información y recursos, incluidas las tarjetas sobre sus derechos, visite go.aflcio.org/immigrationresources.

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Know Your Rights Cards

(*Know Your Rights Cards are available in many other languages at go.aflcio.org/immigrationresources*)

Whether you are at work, home, or in your community The labor movement wants you to

KNOW YOUR RIGHTS

And be prepared when interacting with law enforcement, including immigration agents

1. Stay calm, don't run, and just say "I choose to remain silent."
2. Do **NOT** sign anything! You have the right to consult with an attorney before answering any questions or signing any documents.
3. If you have valid U.S. immigration **DOCUMENTS**, carry them with you. Don't carry a foreign passport or papers from another country, as these could be used against you in deportation proceedings. Never carry false documents or lie about your immigration status.
4. No law enforcement agent has the right to enter your home without a proper warrant from a court signed by a judge. Do NOT open the door without having them first show you a signed warrant, and do not accept a warrant from DHS.

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EXERCISE YOUR RIGHTS!

- If you are stopped by law enforcement, hand this card to the officer and remain silent.
- If law enforcement knocks on your door, slide this card under the door and remain silent until the officer shows you a warrant from a court signed by a judge – immigration warrants from DHS do not count.

NOTE: This information is not meant to serve as legal advice.

DETACH HERE

I am exercising my right to remain silent, my right to refuse to answer your questions and my right to refuse to sign anything, until I consult an attorney.

Unless you have a signed judicial warrant, I do **NOT** consent to your search of my home, vehicle, or property. If I am detained, I request to contact this attorney/organization immediately.

Phone # _____

Thank You

Independientemente de donde se encuentre, ya sea en el trabajo, en el hogar o en su comunidad, el movimiento laboral quiere que

CONOZCA SUS DERECHOS

y esté preparado para cualquier encuentro con las autoridades, incluyendo la policía y los agentes de inmigracion.

1. Guarde la calma, no corra, solo responda: "I choose to remain silent."
2. **¡NO FIRME NADA!** Usted tiene el derecho de consultar con un abogado antes de contestar cualquier pregunta o de firmar cualquier documento.
3. Si tiene **DOCUMENTOS** de inmigración válidos de EE. UU., llévelos consigo. No cargue un pasaporte extranjero ni documentos de otro país, ya que podrían usarse en su contra en un proceso de deportación. Nunca lleve consigo documentos falsos ni mienta sobre su estatus migratorio.
4. Ningún agente de la ley tiene derecho a entrar en su casa sin una orden judicial firmada por un juez. **NO** abra la puerta sin que le muestren primero una orden judicial firmada y no acepte una orden judicial del DHS.

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¡EJERZA SUS DERECHOS!

- Si usted es detenido por algún oficial o agente de la ley, entregue esta tarjeta y guarde silencio.
- Si un agente de la ley llama a tu puerta, deslice esta tarjeta por debajo de la puerta y guarde silencio hasta que el agente le muestre una orden judicial firmada por un juez; las órdenes de inmigración del DHS no cuentan.

Nota: Esta información no debe ser considerada como consejo legal.

CORTE AQUÍ

Estoy ejerciendo mi derecho a guardar silencio, mi derecho a negarme a contestar sus preguntas y mi derecho a negarme a firmar cualquier documento, hasta que consulte con un abogado.

A menos que tenga una orden judicial firmada, **NO** doy mi consentimiento para que registren mi casa, vehículo o propiedad.

Si me detienen, solicito que me comunique con este abogado/organización de inmediato.

Número de teléfono: _____

Thank You

Safe Workplace Posters

LUGAR DE TRABAJO SEGURO

NO TOLERAREMOS:

RACISMO
SEXISMO
XENOFOBIA
ISLAMOFOBIA
HOMOFOBIA
TRANSFOBIA

APOYAMOS A TODOS LOS TRABAJADORES

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Employer Engagement

When it comes to loss of status, audits, raids, and other immigration enforcement practices that may target a specific worksite, employers may be unlikely allies for workers and their unions. Engaging employers before a crisis is a key union readiness strategy.

Employers may not be familiar with the threats to workers' temporary status or how to respond to raids, audits, and other immigration enforcement proceedings. It is up to us to make sure that they are aware of their rights and responsibilities as employers as well as ways in which you can collaborate to support workers and prevent disruption of the workforce and production. Consider the following:

- **Bargaining strong contract provisions.** A collective bargaining agreement is one of the best tools we have to protect workers, and over time unions have negotiated many provisions that strengthen protections for immigrant workers in particular. A compilation of those provisions is on the following page, and unions may want to push for inclusion of relevant language in their CBA or side agreements.
- **Developing a joint plan.** Work with management to prepare a response plan for possible immigration enforcement actions.
  - Post and distribute KYR materials to all workers, regardless of status.
  - Ensure management does not single out any worker based on status.
  - Ask that managers inform the union immediately about any contact from ICE or DHS.
- **Training managers.** All managerial staff should be trained on how to respond to likely immigration enforcement actions, including audits and raids. Ensure all managers are ready, in the case of a visit from ICE, to check for court-issued warrants, signed by a judge, and to tell law enforcement officials that they do not have permission to enter the worksite without one. To promote accountability, employers' raids readiness plan should include assigning specific manager(s) to be the person or people who are contacted should ICE arrive to determine whether ICE has a proper warrant and to deny entry without one. The employer should advise the union and the workforce as a whole who the designated manager is and provide his or her contact information.
- **Clearly delineating private spaces.** ICE officers cannot enter private areas of a workplace without permission, so it is important to clarify what those spaces are. Possible actions include:
  - Clearly marking private areas with a "Private" or "Employees Only" sign. (Consider spaces like break rooms, offices, meeting rooms, restrooms, employee-only cafeterias, etc.)
  - Requiring key-card access to the worksite and mandating that doors be kept closed and locked at all times.
  - Requiring permission for the general public and visitors to enter private areas.
- **Activating employers to advocate for temporary status protections.** In workplaces with high concentrations of unions with temporary protections such as TPS or DACA, the union should urge employers to advocate publicly for the maintenance and extension of those protections.

Sample Immigration-Specific Contract Provisions

In order to strengthen worker protections and clarify procedures, unions may bargain with employers over potential responses to irregularities in immigration status, and other related issues. Federal immigration law requires employers to verify that all of their employees are lawfully authorized to work in the U.S. and the goal of the sample contract language is to ensure that workers' rights are protected during these immigration-related processes. In the event of an upcoming contract negotiation or labor management session, union representatives may want to push for inclusion of some of the following immigration-related provisions in the collective bargaining agreement or relevant side agreements.

Sample Contract Language

General Principles: The union and the employer have a mutual interest in avoiding the termination of trained employees. Accordingly, to the extent not addressed by this agreement, the union and the employer will negotiate over issues related to compliance with the Immigration Reform and Control Act and any other current or future legislation, government rules, regulations, or policies related to the employment of noncitizens.

Protection of Rights During Workplace Immigration Enforcement: The employer will promptly notify the shop steward and union if the company is contacted by the Department of Homeland Security (DHS); Immigration and Customs Enforcement (ICE); the Department of Justice, or any other federal, state or local law enforcement for any purpose. If law enforcement authorities issue a search and/or arrest warrant, administrative subpoena, or other request for documents including but not limited to a notice to inspect I-9 forms, it must be shared with the union to permit the union to take steps to protect the rights of its members. Further, the employer will:

1. Refuse admittance of any agents of DHS or ICE who do not possess a valid criminal warrant signed by a federal judge or magistrate.
2. Not reveal any employee's personal information to DHS,including but not limited to: employees' names, addresses or immigration status, except pursuant to a valid warrant or subpoena signed by a federal judge, magistrate or immigration officer designated by the DHS or as otherwise required by law.
3. Provide the union the name, contact information, and detention location of any employee detained for immigration-related reasons by law enforcement or immigration officials.
4. Permit inspection of I-9 Forms by any federal enforcement agency, including DHS, only after a minimum of three written days' notice to the employer. The employer shall provide no documents other than the I-9 forms to the DHS for inspection in the absence of a valid DHS administrative subpoena, or a search warrant or subpoenas signed by a federal judge or magistrate. Unless otherwise required by federal law, the Employer agrees not to permit the inspection to occur in a location where the DHS or other immigration officials may likely interact with bargaining unit employees. The Employer will inform the Union when the inspection of I-9 Forms takes place.
5. Provide the union with a copy of any employee-related government agency documentation, including but not limited to a Notice of Inspection, a Notice of Suspect Documents, and any other government agency document that identifies or relates to employees and any alleged deficiencies with their work authorization and similar documents.
6. Provide the name, contact information, and detention location of any employee detained for immigration-related reasons by law enforcement or immigration officials.
7. Provide the employees with a reasonable opportunity of not less than two weeks to present other documents as listed on Form I-9 to establish their employment authorization when DHS notifies the employer that certain employees do not appear to be authorized for continued employment.

8. Will not penalize an employee for an absence related to attendance of any immigration-related appointment, interview, or proceeding. Upon request, employees will be released for a total of five (5) unpaid working days during the term of this Agreement in order to attend such immigration-related matters for the employee only. If an extended leave of absence is necessary, the Employer will reinstate any employee who is absent from work due to court or agency proceedings relating to immigration matters and who returns to work within six (6) months of commencement of an extended absence. The Employer will not withhold a reasonable extension of the initial period of absence if the request is made within the six (6) month period. The Employer may require documentation of appearance at such proceedings. The employee will not be entitled to benefit accrual during the above leave period.

Receipt Rule: Nothing in this provision shall be interpreted to limit the employee's rights to continued employment under the "receipt rule," which grants employees ninety (90) days to present to the company a replacement document of a previously issued but expired employment authorization.

IRCA: Through participation in this contract, the parties confirm their desire to abide by relevant immigration and labor law, including the prohibition on knowingly hiring or continuing to employ any person not authorized to work in the United States as prohibited by IRCA 8 U.S.C. 1324a(a)(1)(A)(2).

Employer Self-Audits: Absent a requirement from a federal, state, or local enforcement agency, the employer will not conduct an audit or any other type of immigration-related inspection of its I-9 forms or personnel records, and will not allow any other private or public entity to conduct such an audit or inspection.

I-9 Forms: The employer will maintain employee I-9 forms in a file separate from personnel records, as required by law. The employer will not duplicate, either by photocopy, electronically or any other method, the documents provided by the employee in connection with the I-9 process, and will not retain any copies, however obtained, in any files. The employer will notify and bargain with the union before implementing any change to the retention of I-9 forms, including but not limited to retention on microfilm or microfiche.

Verification and Re-Verification of Work Authorization: The employer will not require or demand proof of immigration status, except as may be required by 8 U.S.C. 1324A(B) and listed on the back of the I-9 form. Further, the employer will not require that an employee re-verify his or her authorization to work unless the employer obtains actual or constructive knowledge that the employee is not authorized to work in the United States. "Actual or constructive knowledge" means such knowledge that would subject the employer to liability under the "employer sanctions" provisions of the immigration laws, 8 U.S.C. 1324a. Further, the employer will not require employees engaged in "continuing employment" to provide proof of work authorization, including Social Security numbers.

"Re-verification" means requesting that an employee show documents that purport to prove their authorization to work in the United States, and includes a request to provide proof of a valid Social Security number. In the event that the employer determines it has the requisite "actual or constructive knowledge" that requires it re-verify an employee's authorization to work, the employer will:

- Prior to notifying the employee, notify the union and provide the union with the factual basis for that determination;
- Afford the employee a reasonable period of time of not less than 120 days to establish work authorization; and
- Not take any adverse employment action against the employee unless the employer has complied with sections (1) and (2) above, and is required to do so by law.

Transfer of I-9 Forms: No employee shall be required to re-verify status in circumstances constituting "continuing employment." In the event of a sale of the business or its assets, or other business reorganization that transfers the employees to a different entity, the employer shall transfer the I-9 forms of its employees to the new employer, and shall condition such sale on the successor employer's written agreement to use transferred I-9 forms to satisfy obligations with respect to I-9 forms. [*This obligation also should be incorporated specifically into the owner and operators' successorship obligations.*]

Inquiries Into Immigration Status: The employer will not ask any employee, either orally or in writing, to respond to questions or provide documentation of immigration status, except as required by law. If the employer determines that such a request is required by law, the employer will provide the employee(s) and the union a detailed explanation for the request, in writing, citing the factual and legal basis for the request. The union will have two weeks to reply to the request. The employee will not be required to respond to questions or provide the requested documentation while the union and the employer attempt to resolve a dispute under this section.

Employer Participation in E-Verify: The employer will not participate in E-Verify, nor a similar federal, state, or local program, except as required by law. If the employer's participation is required by law, the Employer will provide the union a copy of its E-Verify or other Memorandum of Agreement with the relevant government agency as well as all notices of "Tentative Nonconfirmation" issued to employees. The employer will not misuse E-Verify, including but not limited to verifying employment status before making an offer of employment and before hire and will provide any affected employee *[Insert time]* months leave to correct a final nonconfirmation or similar determination of lack of work authorization. In the event an employee is terminated as a result of the lawful application of E-Verify or similar program, the Employer shall pay the replacement employee the same wage rate and benefit eligibility levels as the terminated employee.

Corrections to Records: An employee may notify the employer of a change in name or Social Security number and the employer will modify its records to reflect such changes. Such employees shall not have their seniority of employment status affected, or suffer any loss of benefits as a result of notifying the employer of such changes.

The employer may not discharge or in any manner discriminate, retaliate or take any adverse action against an employee because the employee updates or attempts to update his/her personnel records to reflect change to his/her lawful name or valid Social Security number.

Social Security No-Match Letters: In the event that the employer receives notice, either by correspondence or otherwise, from the Social Security Administration (SSA) indicating Social Security number (SSN) discrepancies:

- The employer will notify the union upon receipt of any such notice and will provide a copy of the notice to all employees listed on the notice and to the union.
- The employer will not take any adverse action against any employee listed on the notice, including firing, laying off, suspending, retaliating or discriminating against any such employee.
- The employer will not require that employees listed on the notice bring in a copy of their Social Security card for the employer to review, complete a new I-9 form, or provide new or additional proof of work authorization or immigration status.
- The employer will not contact the SSA or any other governmental agency after receiving notice of a No-Match from the SSA.
- The employer will not interrogate any employee about his/her Social Security number (see section "Inquiries into Immigration Status").
- The employer will not voluntarily participate in the Social Security No Match Verification System.

ACA and IRS No-Match Letters: In the event that the employer receives notice, either by correspondence or otherwise, from the Internal Revenue Service ("IRS") indicating a Social Security Number (SSN) discrepancy related to an employer's reporting requirements under the Affordable Care Act (ACA) or related statutes:

- The employer will notify the union upon receipt of any such notice and will provide a copy of the notice to all employees listed on the notice and to the union.
- After advising the union, the employer may request that any employee named on such notice provide or update their SSN. In the event that an employee does not update their SSN, the employer shall take no further action except that which is provided for in IRS regulations, which is to submit a date of birth in lieu of a SSN.
- The employer will not take any adverse action against any employee listed on the notice, including firing, laying off, suspending, retaliating or discriminating against any such employee.
- The employer will not contact DHS, the SSA, or any other governmental agency after receiving notice of a "no match" from the IRS.
- The employer will not require that employees listed on the notice bring in a copy of their Social Security card for the employer to review, complete a new I-9 form, or provide new or additional proof of work authorization or immigration status.
- The employer will comply with all applicable IRS regulations, including the regulations that permit the employer to submit an employee's date of birth instead of a SSN for an employee.

Expiration of Documents: The employer agrees to treat an employee's period of removal from employment due to the expiration of the employee's work authorization document as a leave of absence without pay, and reinstate the employee to the job without loss of seniority upon receipt of the renewal work authorization document if the employee provides appropriate documentation.

Translation: The employer agrees that a mutually agreeable translator will, at the employer's cost, translate the parties' collective bargaining agreement into the principal languages its employees read. The English version of the bargaining agreement shall govern should there be any discrepancies with the translated versions.

The employer also agrees, at the employer's cost, to translate all employment-related documents, including handbooks, disciplinary notices, policies, procedures and other notices into languages its employees read, using a mutually agreeable translator. The employer agrees to pay for a mutually agreeable translator to translate during all company meetings that employees not fluent in English attend.

Nondiscrimination: The employer shall not discipline, discharge or in any other form discriminate against any employee because of his/her national origin or immigration status, or because immigration hearings and/or deportation hearings are initiated or are pending. An employee subject to immigration or deportation proceedings shall retain employment so long as the employee is authorized to work in the United States.

No employee covered by this agreement shall suffer any loss of seniority, compensation or benefits due to any changes in the employee's name or Social Security number, provided that the new Social Security number is valid and the employee is authorized to work in the United States.

Remedies: If the employer violates any provision of this article and such violation directly or indirectly leads to the termination or resignation of any employee, the employer shall, in addition to any other remedies awarded by the arbitrator, reinstate and make the employee whole. If a reinstatement and/or make whole remedy is not permitted due to the employee's immigration status, the employer shall make an equivalent payment to. [*e.g., a labor management fund, an employee assistance fund (so long as it is not controlled by the union), a nonprofit, etc. The money cannot be paid directly to the union.*]

Immigration and Citizenship-Related Leave: Upon request, employees shall be released for up to five unpaid working days during the term of this agreement in order to attend U.S. Citizenship and Immigration Services and/or Executive Office of Immigration Review proceedings and any related matters for the employee and/or the employee's direct family members, including spouses, children, siblings, and parents.

On the day an employee becomes a U.S. citizen, the employer will compensate the employee with a one-time paid personal holiday in recognition of his or her citizenship.

Leaves of Absence for Immigration-Related Issues: In the event that an employee has a problem with his or her right to work in the United States, after completing his or her introductory or probationary period, the employer shall notify the union in writing, and upon the union's request, agrees to meet with the union to discuss the nature of the problem to see whether a resolution can be reached. Whenever possible, this meeting shall take place before any action by the employer is taken.

The union and the employer have an interest in avoiding the necessity of terminating trained employees due to the employee losing his/her authorization to work in the United States. In order to assist employees in a timely manner to take advantage of the prepaid legal services plan and/or other assistance provided by the union regarding immigration matters, the employer agrees to share with the union, upon request, authorizations that are going to expire in the 60-day period following the request.

In the event that an employee does not provide adequate proof that he/she is authorized to work in the United States after his/her probationary or introductory period, and his/her employment is terminated for this reason, the employer agrees to immediately reinstate the employee to his/her former position, without loss of prior seniority upon the employee providing proper work authorization documentation within 12 months from the date of termination.

If the employee needs additional time, the employer will rehire the employee into the next available opening in the employee's former classification, as a new hire without seniority, upon the employee providing proper work authorization within a maximum of 12 additional months.

The employer will furnish to any employee terminated because he/she has not provided adequate proof he/she is authorized to work in the United States a personalized letter stating the employee's rights and obligations under this section.

Limited-English Proficient Workers: While English is the language of the workplace, the employer recognizes the right of employees to use the language of their choice among themselves.

The employer shall work with the union to provide English as a Second Language (ESL) and literacy classes to employees at the worksite, either directly or in partnership with not-for-profit ESL providers.

The employer agrees that any employee who is disciplined or discharged must be provided with notice in the language in which he/she is most fluent, and any meetings that may lead to or concern discipline or discharge must be conducted in the language in which the employee is most fluent.

Legal Services: The parties agree to jointly establish and participate in a fund, known as the _____ Fund, for the purpose of providing legal assistance to bargaining unit employees in connection with immigration and naturalization proceedings before both EOIR and USCIS. The fund shall at all times meet the criteria of § 302(c)(8) of the Labor-Management Relations Act of 1947, and contributions thereto shall be tax deductible by the employer. The employer shall contribute $X per hour for each hour worked effective (date). As used in this section, "hours worked" shall mean all hours for which an employee may be compensated, including paid time off hours.

Contributions to the fund shall be delinquent after the fifteenth (15th) day of each month for hours worked the previous month. Reporting procedures and interest on delinquent contributions shall be established by the trustees of the fund. By execution of this agreement, the employer hereto agrees to accept and be fully bound by the terms of the fund's Trust Agreement and Plan, and any subsequent amendments thereto. Any disputes or differences of opinion concerning the initial terms of the Trust Agreement and Plan shall be subject to arbitration under this agreement.

Federal Contracts: If the employer submits a bid for a federal contract that requires the employer to use E-Verify, the employer will promptly provide the union a copy of that bid.

If the employer enters into a federal contract that requires the employer to use E-Verify, the employer will provide the union with a copy of that contract within five (5) days of the award date of the contract.

If the employer bids on or enters into a federal contract that requires the employer to use E-Verify, the employer will meet with a representative of the union to discuss the E-Verify requirement and comply with any reasonable request by the union that the employer object to inclusion of the E-Verify clause in the federal contract.

The employer will not agree to modify any federal contracts entered into before Sept. 8, 2009, to include a requirement that the employer participate in E-Verify.

If the employer enters into a federal contract that requires the employer to use E-Verify, the employer will use E-Verify only for (a) new hires; and (b) existing employees who work on the federal contract; and will not use E-Verify for existing employees (a) who do not work on the federal contract; or (b) who normally perform support work, such as indirect or overhead functions, and who do not perform any substantial duties under the federal contract. Before using E-Verify, the employer will meet with the union and reach agreement on which employees are working on the federal contract and must be verified. Upon request, existing employees may request to be reassigned to work assignments that are not related to the federal contract.

The employer will not verify any existing employees in E-Verify until 120 days after the award date of a federal contract that requires the employer to use E-Verify.

Before verifying any existing employees in E-Verify, the employer will give employees 90 days advance notice. Any employee who decides to resign in lieu of being checked in E-Verify will be given a severance payment of $__.

Management Training: The employer shall train all managers and supervisors on the immigration components of this contract within one (1) month of agreement to its terms, and thereafter within six months of hiring any new manager or supervisor.

Support for Immigrant Students and Families:

1. A joint [SCHOOL DISTRICT] - [UNION] Immigrant Support Committee shall be formed and meet quarterly for the duration of the [xx] school years. The committee shall be comprised of three (3) members from the District, three (3) members from [UNION], and two (2) parents (one (1) appointed by the District and one (1) appointed by [UNION]. The committee shall review the changing needs of immigrant students and families and make recommendations on ways to expand resources for students and families including but not limited to providing indigenous language resources for immigrant students in the form of curriculum, translators, tutoring and other community engagement efforts.
2. [SCHOOL DISTRICT] shall seek opportunities to secure additional funding in order to create comprehensive, one-stop cradle-to-career (C2C) hubs. C2C Hubs shall consult with Dream Centers located throughout the district for guidance on services offered to immigrant and newcomer families. [SCHOOL DISTRICT] teams assigned to these hubs, would serve students and work with neighboring schools in the community to promote prevention and early intervention wellness efforts across the regions. These hubs would provide adult education programs, health and human services, and career paths. In addition, the district will collaborate with external partners, including Federally Qualified Health Centers and other community partners, to combat negative health and wellness influencers affecting students and their families. These services will support the post-pandemic recovery by developing resilient school communities with protective factors against academic barriers.
3. [SCHOOL DISTRICT] shall make every effort to expand existing partnerships and develop new partnerships with legal clinics, legal organizations and law firms to facilitate the provision of low cost or no cost services to immigrant students and their families.
4. [SCHOOL DISTRICT] shall provide [UNION] bargaining unit members with professional development related to the needs of immigrant students and their families.
5. [SCHOOL DISTRICT] shall make every effort to develop partnerships with philanthropic organizations with the goal of providing additional supports for newly arrived immigrant students and their families.

We took information for this section from the Immigration A-Z curriculum of the Bonnie Ladin Union Skills Training Program, held June 20–24, 2016.

Forming a Labor-Community Rapid Response Team

Fighting back against the mass deportation agenda will require strong coalitions and intentional planning. Workers are members of a larger community. We belong to religious, social, civic and other organizations outside of work. By teaming with community partners, unions expand the expertise, reach, and capacity of a rapid response team. In particular, it is helpful to partner with organizations who understand our labor movement and share our values, which is why AFL-CIO is proud to partner with Organized Power in Numbers on this effort.

Union

Core support for the workers will come from the union and the organizers anchoring the rapid response team.

Key roles:

- Help workers prepare
- Liaise with the employer
- Respond to immigration enforcement actions
- Mobilize rapid response team
- Bargain immigrant worker protections into the union contract

Allies

Community partners help to raise awareness, provide expertise, and increase impact.

Key roles:

- Help to bridge between union and community
- Broaden stakeholders and messaging
- Build political support and strategic alignment
- Diversify voices and perspectives

Workers

are the heart of any campaign.

The rapid response strategy will be centered around directly-affected workers and their families.

Lawyers

In addition to sound advice from labor lawyers, immigration attorneys will be pivotal to supporting workers through the mass deportation agenda. Few unions have ready access to immigration counsel, so this should be secured early in the campaign.

Key roles:

- Advise workers on their cases
- Prepare petitions or requests to USCIS or ICE
- Screen workers for potential immigration relief
- File legal challenges

AFL-CIO

The AFL-CIO will serve as a centralized point of contact for the national rapid response strategy, and federated bodies will help support the work at city and state level.

Key roles:

- Build network of unions and federations working on rapid response
- Provide technical and strategic support
- Coordinate policy and political advocacy
- For more information, reach out to frontlinesolidarity@aflcio.org

Rapid Response Action Plan

We urge unions and labor councils to convene or join meetings to prepare for raids and other enforcement actions. The goal of these meetings should be the creation of rapid response teams that will be poised for action when the need arises. To ensure a range of contributions and expertise, it is helpful to engage a diverse array of stakeholders, including:

- ☐ **Unions**
- ☐ **Federated Bodies**
- ☐ **Constituency Groups**
- ☐ **United Way**
- ☐ **Worker Centers**
- ☐ **Immigrant Rights Organizations**
- ☐ **Faith-Based Organizations**
- ☐ **Legal Service Providers**
- ☐ **Community Service Organizations**
- ☐ **Civil Rights Organizations**
- ☐ **Student and Youth Groups**
- ☐ **Consular Offices**
- ☐ **Friendly Politicians/Elected Officials**
- ☐ **Law Schools or Clinics**
- ☐ **Retiree Networks**

What should we do at our first meeting?

Our goals during the planning period should be to:

- ☐ **Get to know each other and develop a shared vision.**
- ☐ **Distribute copies of this toolkit and discuss its contents.**
- ☐ **Identify roles everyone on the Rapid Response Team will be willing to play.**
- ☐ **Map likely enforcement targets.**
- ☐ **Develop a list of key offices, including:**
  - Local Enforcement and Removal Operations Field Offices—look up the name and contact information for acting director of your regional office: www.ice.gov/contact/ero
  - Local detention facilities: www.ice.gov/detention-facilities
  - In case of labor dispute:
    - Your local NLRB: www.nlrb.gov/who-we-are/regional-offices
    - Your local DOL: www.dol.gov/agencies/ebsa/about-ebsa/about-us/regional-offices
    - Your local EEOC: www.eeoc.gov/field/
  - Your local consulates (Mexico, El Salvador, Honduras, Philippines, etc.)

- ☐ **Establish clear channels of communication among the team:**
  - A contact sheet for team members, including name, email address and phone number.
  - A preferred means for internal communication. The "Signal" app, for example, is relatively secure and allows the creation of a team channel for instant communication.
  - A worker emergency hot line that all workers should know and have written on the blank line of their Know Your Rights palm card.
- ☐ **Make a plan for next steps and emergency activation.**
- ☐ **Build trust and confidence among our team and our members so we can act decisively and collectively to protect workers in the event of a raid.**

What type of actions might our rapid response team need to take?

Effective rapid response work will require comprehensive support for affected workers and their families in a rapidly evolving enforcement context. Try to identify team members who are willing to take on the following roles:

- ☐ **Train workers to know their rights**
- ☐ **Support worker and family readiness planning**
- ☐ **Host family readiness clinics with notaries on hand**
- ☐ **Mobilize to observe and document enforcement actions**
- ☐ **Provide interpretation**
- ☐ **Outreach to families to assess immediate needs**
- ☐ **Conduct legal screening and defense**
- ☐ **Collect donations**
- ☐ **Help identify and locate workers arrested in any enforcement action**
- ☐ **Track where workers are detained**
- ☐ **Distribute food and other necessities**
- ☐ **Draft and issue press statements**
- ☐ **Build support on social media**
- ☐ **Hold public events**
- ☐ **Accompany immigrants in vulnerable settings**
- ☐ **Interface with various stakeholders to obtain and convey information:**
  - Police Department
  - ICE public Advocate
  - Political Officials
- ☐ **Create a bond fund**

Union Do's and Don'ts in Assisting Immigrant Workers: Safely Fulfilling Unions' Duty to Fairly Represent All Members, Regardless of Immigration Status

All workers in this country—regardless of immigration status—have the right to organize and have their labor rights respected under the law—regardless of whether they are U.S.-born citizens or immigrants, have legal status or are undocumented. Our union movement is strongest when we make sure that *all* workers have a voice in the workplace, no matter where they were born. And beyond that, union representatives are legally obligated to represent all workers in their bargaining unit based on their duty of fair representation.

At the same time, federal immigration law (8 U.S.C. § 1324) makes it a federal crime for an individual who knows (or recklessly disregards) that an immigrant is unauthorized to attempt to "conceal," "harbor," or "shield" the immigrant from detection, or to aid or abet someone else in doing so.

It is very important to understand that the law does **not** prohibit *helping* unauthorized immigrants in ways that do **not** involve an attempt to avoid detection. The vast majority of union activities that would involve immigrant members, as described below, do **not** fall within the prohibitions of the statute.

NOTE: This guide seeks to provide best practices for union staff in educating and supporting immigrant members. As always, particularly in a rapidly-changing context around immigration, this is meant to serve as general guidance only. Staff should consult with union attorneys before undertaking the activities below.

1. Unions need not (and should not) verify their members' employment authorization status

Under the immigration law, there is absolutely **no** requirement that Unions verify, ask about, or maintain records on their members' employment eligibility. Through the I-9 verification process (and, where applicable, E-Verify), employers bear 100% of the responsibility for documenting their employees' eligibility to work. There is no legal process by which unions can "verify" employment, and our staff are not experts in doing so. Any penalties for hiring unauthorized workers affect the employer alone, and do not affect the union.

This means:

- If a worker has been hired by an employer, the union can rely on the employer's I-9 screening process and accept that worker into membership without making any inquiries into immigration status.
- If a union operates a hiring hall, it can refer workers to employment opportunities without "pre-screening" them, because it will be the employer's responsibility to do I-9 verification.[6]

Simply put, there is **no** need for union staff to ask workers about their immigration status, and union staff should discourage workers from voluntarily disclosing or sharing such information as it does not pertain to the union's representational duties.

Furthermore, if a union staff member does know or suspect that a member is undocumented, he or she has no duty to share that information with the employer (or law enforcement). However, union staff members must never actively lie about or misrepresent a member's immigration status.

In general, unions should avoid maintaining any records that reveal or imply members' immigration status.

6 However, it is extremely important that unions not *misrepresent* the employment authorization status of workers they are referring to employers.

2. Unions CAN (and MUST) represent their immigrant members without discrimination

A union **can** represent a worker, even one it believes to be undocumented, under the grievance and arbitration procedure in the collective bargaining agreement. Indeed, the union has a legal obligation to fairly represent all workers whether they are documented or not.

In addition, a union can and should seek reinstatement for such a worker who has been wrongfully terminated, so long as the union does not play any role in the presentation of documents to the employer. However, in the event that a worker cannot produce proper documentation, the union should not pursue reinstatement any further

3. Unions CAN provide Know-Your-Rights information and train workers about interactions with law enforcement

Workers have constitutional rights in their interactions with federal and local law enforcement. These include the right to remain silent when being questioned, the right to refuse officers entry into their home if they lack a valid warrant, and the right to insist on legal counsel and translation before signing any documents that affect their legal status.

It can never be a crime to accurately advise someone about their rights under the law. Unions **can** and **should** provide Know-Your-Rights information and training that educates workers and encourages them to assert these rights if they encounter law enforcement. Immigration officers are required to act lawfully in making any kind of immigration arrest, and a union could never be found to be "shielding" immigrants from detection by encouraging its members to insist on their rights.

Where possible, such a training should be offered to the workforce generally and not targeted only to workers that are suspected of having documentation problems. It should be offered in a private space where the union controls entry. It should provide general and accurate rights information under immigration law and the U.S. Constitution. The training should avoid advising individual workers as to what they should specifically do in response to an ICE raid or I-9 audit. Instead, all workers, regardless of documentation or citizenship status, should be trained to exercise their rights.

Of course, it is important that the content of any Know-Your-Rights training be accurate. Workers do not have the right to misrepresent their identity or immigration status, present false documents, or resist arrest. Union staff should never engage in such conduct themselves or encourage workers to do so.

5. Unions CAN provide immigration-related legal assistance to workers

Unions **can** provide legal assistance to workers relating to immigration issues, whether through legal defense funds, referrals to private attorneys or immigration non-profit organizations, or the sponsoring of *pro se* clinics.

While immigration law prohibits actions that "conceal," "harbor", or "shield" unauthorized immigrants from detection, helping immigrants apply for a status they may be eligible for is the exact *opposite* of "concealing" an immigrant from detection, because it involves affirmatively coming forward and filing an application with the immigration authorities. And providing legal advice on a worker's immigration options or representing a worker in deportation proceedings are merely defending the rights that a worker has under the law.[7]

In providing legal assistance, the best practice is to rely on outside counsel or organizations, such that union staff do not acquire knowledge of workers' immigration status in the course of preparing any application or document. In the event that union staff volunteers participate in a *pro se* clinic and assist with applications, any application materials should be maintained by the organization that is assisting with the clinic, not the union itself.

7 Unrelated to immigration law, special concerns may arise around providing legal services (whether immigration-related or not) in the "critical period" before a Board election under the NLRA. Union staff should consult with counsel if they find themselves in this situation.

6. Unions CAN bargain to protect their immigrant members

As we describe elsewhere in this toolkit in greater detail, unions **can** and **should** use their status as collective bargaining representatives to protect their immigrant members' rights.

First, the manner in which an employer verifies its employees' work authorization affects the terms and conditions of employment in the bargaining unit and is a mandatory subject of bargaining. Accordingly, even absent specific Collective Bargaining Agreement (CBA) language, a union has the right to bargain over an employer's decision to join E-Verify, the manner of the employer's response to an I-9 audit, the employer's desire to re-verify employees when not required by law, and other issues.

Second, unions can push for contract language[8] that protects its immigrant members. Such language can include requirements:

- Not to join E-Verify, except as required by law;
- To refrain from re-verifications of existing employees or self-audits;
- To notify and involve the Union in the event of an I-9 audit;
- To require a warrant before admitting ICE to the workplace; or
- To allow workers to update documentation or correct discrepancies without penalty.

7. Unions CAN support their members if they are detained by ICE or placed into removal proceedings

In the event that union members are targeted by ICE and arrested, detained, or placed into removal proceedings, the union can support them through all lawful means. In addition to connecting them with legal services, the union can wage public campaigns on their behalf, lobby elected officials, and provide support for their workers' families.

This is because such members have already been "detected" by immigration authorities, and all the union is doing is advocating for a certain outcome in their legal process, not "concealing" them in any way.

8. Unions CANNOT Directly Obstruct ICE Raids Or Engage In Dishonest Activities

As described above, unions can support their immigrant members in many ways, including representing them under their CBAs, providing them with legal support and Know-Your-Rights trainings, and invoking the employer's duty to bargain over any changes to verification requirements and its responses to immigration enforcement. There are, however, some activities that unions **CANNOT** undertake.

The first basic rule is that unions cannot act in dishonest ways relating to immigration status or encourage or assist workers to do so. This means that unions **CANNOT**:

1. Misrepresent a member's employment authorization or immigration status to an employer or to law enforcement, or tell the member to do so;
2. Assist a member in procuring false documentation or suggest that they should do so;

To reiterate, a union has **no** duty to inquire into its members' immigration status, or to disclose any belief it may have that certain members are undocumented or lack employment authorization. And the easiest way for union staff to keep out of sticky situations is to avoid knowing their members' status in the first place. But if they do have such knowledge, staff cannot lie about it.

8 For a complete list of potential immigration-related CBA provisions, see page 12

The second basic rule is that unions cannot directly obstruct ICE raids or assist workers with evading immigration enforcement. While union staff **can** and **should** encourage workers to assert their constitutional rights via trainings delivered to the membership, they should never attempt to "shield" or "conceal" members from ICE by hiding them or providing transportation away from the site of a raid, interfering with ICE questioning, or providing advice about how to avoid detection.

Union staff who have knowledge or a belief that an ICE raid or other enforcement is imminent should **contact their counsel immediately** and consult them about how to proceed. They should not tell workers directly or post information broadly.

Union staff witnessing an ICE raid should take careful notes of all enforcement proceedings. In general, it is also permitted to take video and photos of ICE enforcement activity, but union staff should take care to be non-confrontational and ensure that they are not interfering with or obstructing the ICE officers in documenting their activities.

III. WORKER AND FAMILY READINESS

The Trump administration has promised to revoke status from workers and pursue an agenda of mass deportations. Your union will be with you in this fight, and urges you to take these steps now to be empowered and prepared:

Talk with your family

- ☐ Discuss what to do in the event of loss of status, arrest, detention or deportation
- ☐ Put a plan in writing and be sure everyone knows where to find it
- ☐ Post a Know Your Rights flier on the back of your door

Talk with your union rep

- ☐ Ask for a referral for a reputable immigration attorney
- ☐ Ask if they have negotiated protections in your contract
- ☐ Offer to help with education and advocacy on immigration issues

Talk with an attorney—Beware Notarios!

- ☐ Determine whether you have any options for status adjustment
- ☐ Prepare a power of attorney for the caretaking of your children
- ☐ Complete a privacy waiver and DHS Form G-28 to designate attorney

Have your documents ready and in a safe place

- ☐ Passports
- ☐ Birth certificates
- ☐ Medical records
- ☐ School records
- ☐ Bank records
- ☐ Tax records
- ☐ Property deeds
- ☐ Add alternative names to car titles, home deeds, etc.

Know Your Rights!

- ☐ Stay calm, don't run and remain silent when interacting with law enforcement, including immigration agents
- ☐ Keep a rights card in your wallet and hand it to the officer
- ☐ Do not open the door to law enforcement unless they show you a warrant signed by a judge. An immigration warrant, signed only by an immigration official, does *not* authorize immigration agents to enter your home.

Carry a list of important phone numbers, or better yet, memorize them

- ☐ Attorney or Emergency Hotline
- ☐ Union rep
- ☐ Consulate

Get involved in the fight for justice

- ☐ Join the local rapid response team
- ☐ Volunteer with your union

Know Your Rights: Be Place Aware

In order to keep workers and families safe, it is important to understand how where we are in the country and the community affects our risks of encountering immigration enforcement.

What does it mean to live within the border zone?

DHS has asserted broad discretion to conduct warrantless searches of vehicles, trains, and buses in the area within 100 miles of the border, which technically applies to both land and sea borders, including most cities on the East and West Coasts of the United States and the Upper Midwest. Although certain constitutional protections still apply, these areas are considered high risk. Notably, nearly two out of three people in our country live within the border zone.[9]

Even in this area, however, DHS requires a warrant to enter areas where there is a reasonable expectation of privacy, most notably workers' homes and workplaces. However, caution needs to be exercised in transit.

What places have been considered safe from immigration enforcement?

DHS has historically signalled that, barring extraordinary circumstances, they will not conduct immigration enforcement actions in locations that provide essential services or activities such as schools, hospitals, or churches. However, President Trump has indicated an intent to rescind this policy guidance, so we must proceed with caution and stay up to date on any changes to protected areas.

Where does ICE need a warrant?

Officially, ICE needs a warrant signed by a judge to enter or search any private location, including:

- Your workplace
- Your home
- Your vehicle (outside the border zone)

Where does local law enforcement cooperate with ICE?

To increase their enforcement capacity, DHS pressures local law enforcement to cooperate with them, creating high risk zones. It is important to understand what relationship your community has with federal immigration agencies. 287(g) is a program for allowing state and local agencies to act as immigration enforcement agents—this map[10] tracks those agreements, but you should also do research locally.

What can we do to promote more safe places?

Although our strategies will be tested, steps we can take to strengthen the security of our spaces include:

- Train family members not to permit law enforcement to enter the home without a warrant.
- Keep your doors locked, and if you have a gate, secure it with a lock as well.
- Bargain for commitments that your employer will not permit ICE entry into the workplace without a warrant.
- Post signs on breakrooms and other work spaces at work that say EMPLOYEES ONLY and limit access via key or keycard.
- Advocate to enact or strengthen community trust or sanctuary policies.

9 https://www.aclu.org/know-your-rights/border-zone
10 https://www.ilrc.org/resources/national-map-287g-agreements

List of Important Documents

As you and your family prepare, we recommend that you gather the following documents and store them in a safe place where your family will be able to find them.

- ☐ **City or State ID**
- ☐ **Valid Passport**
- ☐ **Any and all U.S. immigration paperwork**
- ☐ **Records showing past payment of taxes**
- ☐ **Certificate of Disposition for any arrest or criminal conviction**
- ☐ **Birth certificates for any U.S. citizen or lawful permanent resident children, spouse, or parent**
- ☐ **Marriage certificate for U.S. citizen or lawful permanent residence spouse, if any**
- ☐ **Medical documentation of health conditions, including health conditions of any dependents**
- ☐ **If you have children:**
  - ☐ **Copy of school transcripts of each child**
  - ☐ **Consider speaking to a family law attorney about the need to sign a power of attorney for the caretaking of your children**
- ☐ **Signed DHS Form G-28 (also leave with immigration attorney, if you have one)**
- ☐ **Signed ICE "Privacy Waiver Authorizing Disclosure to a Third Party" (leave with union)**

  NOTE: Privacy Waivers are very helpful to facilitate communication in the event the person is detained, because immigration officials generally refuse to share information about a person's case without one.

- ☐ **Bank records**
- ☐ **Tax records**
- ☐ **Property deeds**
- ☐ **Passwords for important accounts**

For more detailed information, see this sample family preparedness guide: https://www.ilrc.org/resources/step-step-family-preparedness-plan

Sample G-28 Form

Notice of Entry of Appearance as Attorney or Accredited Representative

Department of Homeland Security

DHS Form G-28
OMB No. 1615-0105
Expires 05/31/2021

Part 1. Information About Attorney or Accredited Representative

1. USCIS Online Account Number (if any) ▶

Name of Attorney or Accredited Representative

2.a. Family Name (Last Name)

2.b. Given Name (First Name)

2.c. Middle Name

Address of Attorney or Accredited Representative

3.a. Street Number and Name

3.b. ☐ Apt. ☐ Ste. ☐ Flr.

3.c. City or Town

3.d. State 3.e. ZIP Code *(USPS ZIP Code Lookup)*

3.f. Province

3.g. Postal Code

3.h. Country

Contact Information of Attorney or Accredited Representative

4. Daytime Telephone Number

5. Mobile Telephone Number (if any)

6. Email Address (if any)

7. Fax Number (if any)

Part 2. Eligibility Information for Attorney or Accredited Representative

Select **all applicable** items.

1.a. ☐ I am an attorney eligible to practice law in, and a member in good standing of, the bar of the highest courts of the following states, possessions, territories, commonwealths, or the District of Columbia. If you need extra space to complete this section, use the space provided in **Part 6. Additional Information**.

Licensing Authority

1.b. Bar Number (if applicable)

1.c. I (select **only one** box) ☐ am not ☐ am subject to any order suspending, enjoining, restraining, disbarring, or otherwise restricting me in the practice of law. If you are subject to any orders, use the space provided in **Part 6. Additional Information** to provide an explanation.

1.d. Name of Law Firm or Organization (if applicable)

2.a. ☐ I am an accredited representative of the following qualified nonprofit religious, charitable, social service, or similar organization established in the United States and recognized by the Department of Justice in accordance with 8 CFR part 1292.

2.b. Name of Recognized Organization

2.c. Date of Accreditation (mm/dd/yyyy)

3. ☐ I am associated with _____, the attorney or accredited representative of record who previously filed Form G-28 in this case, and my appearance as an attorney or accredited representative for a limited purpose is at his or her request.

4.a. ☐ I am a law student or law graduate working under the direct supervision of the attorney or accredited representative of record on this form in accordance with the requirements in 8 CFR 292.1(a)(2).

4.b. Name of Law Student or Law Graduate

Part 3. Notice of Appearance as Attorney or Accredited Representative

If you need extra space to complete this section, use the space provided in **Part 6. Additional Information**.

This appearance relates to immigration matters before (select **only one** box):

1.a. ☐ U.S. Citizenship and Immigration Services (USCIS)

1.b. List the form numbers or specific matter in which appearance is entered.

2.a. ☐ U.S. Immigration and Customs Enforcement (ICE)

2.b. List the specific matter in which appearance is entered.

3.a. ☐ U.S. Customs and Border Protection (CBP)

3.b. List the specific matter in which appearance is entered.

4. Receipt Number (if any)

▶

5. I enter my appearance as an attorney or accredited representative at the request of the (select **only one** box):

☐ Applicant ☐ Petitioner ☐ Requestor

☐ Beneficiary/Derivative ☐ Respondent (ICE, CBP)

Information About Client (Applicant, Petitioner, Requestor, Beneficiary or Derivative, Respondent, or Authorized Signatory for an Entity)

6.a. Family Name (Last Name)

6.b. Given Name (First Name)

6.c. Middle Name

7.a. Name of Entity (if applicable)

7.b. Title of Authorized Signatory for Entity (if applicable)

8. Client's USCIS Online Account Number (if any)

▶

9. Client's Alien Registration Number (A-Number) (if any)

▶ **A-**

Client's Contact Information

10. Daytime Telephone Number

11. Mobile Telephone Number (if any)

12. Email Address (if any)

Mailing Address of Client

NOTE: Provide the client's mailing address. **Do not** provide the business mailing address of the attorney or accredited representative **unless** it serves as the safe mailing address on the application or petition being filed with this Form G-28.

13.a. Street Number and Name

13.b. ☐ Apt. ☐ Ste. ☐ Flr.

13.c. City or Town

13.d. State **13.e.** ZIP Code

13.f. Province

13.g. Postal Code

13.h. Country

Part 4. Client's Consent to Representation and Signature

Consent to Representation and Release of Information

I have requested the representation of and consented to being represented by the attorney or accredited representative named in **Part 1.** of this form. According to the Privacy Act of 1974 and U.S. Department of Homeland Security (DHS) policy, I also consent to the disclosure to the named attorney or accredited representative of any records pertaining to me that appear in any system of records of USCIS, ICE, or CBP.

Part 4. Client's Consent to Representation and Signature (continued)

Options Regarding Receipt of USCIS Notices and Documents

USCIS will send notices to both a represented party (the client) and his, her, or its attorney or accredited representative either through mail or electronic delivery. USCIS will send all secure identity documents and Travel Documents to the client's U.S. mailing address.

If you want to have notices and/or secure identity documents sent to your attorney or accredited representative of record rather than to you, please select **all applicable** items below. You may change these elections through written notice to USCIS.

1.a. ☐ I request that USCIS send original notices on an application or petition to the business address of my attorney or accredited representative as listed in this form.

1.b. ☐ I request that USCIS send any secure identity document (Permanent Resident Card, Employment Authorization Document, or Travel Document) that I receive to the U.S. business address of my attorney or accredited representative (or to a designated military or diplomatic address in a foreign country (if permitted)).

NOTE: If your notice contains Form I-94, Arrival-Departure Record, USCIS will send the notice to the U.S. business address of your attorney or accredited representative. If you would rather have your Form I-94 sent directly to you, select **Item Number 1.c.**

1.c. ☐ I request that USCIS send my notice containing Form I-94 to me at my U.S. mailing address.

Signature of Client or Authorized Signatory for an Entity

2.a. Signature of Client or Authorized Signatory for an Entity

➡ _____

2.b. Date of Signature (mm/dd/yyyy) _____

Part 5. Signature of Attorney or Accredited Representative

I have read and understand the regulations and conditions contained in 8 CFR 103.2 and 292 governing appearances and representation before DHS. I declare under penalty of perjury under the laws of the United States that the information I have provided on this form is true and correct.

1. a. Signature of Attorney or Accredited Representative

_____

1.b. Date of Signature (mm/dd/yyyy) _____

2.a. Signature of Law Student or Law Graduate

_____

2.b. Date of Signature (mm/dd/yyyy) _____

Part 6. Additional Information

If you need extra space to provide any additional information within this form, use the space below. If you need more space than what is provided, you may make copies of this page to complete and file with this form or attach a separate sheet of paper. Type or print your name at the top of each sheet; indicate the **Page Number**, **Part Number**, and **Item Number** to which your answer refers; and sign and date each sheet.

1.a Family Name (Last Name)

1.b. Given Name (First Name)

1.c. Middle Name

2.a. Page Number **2.b.** Part Number **2.c.** Item Number

2.d.

3.a. Page Number **3.b.** Part Number **3.c.** Item Number

3.d.

4.a. Page Number **4.b.** Part Number **4.c.** Item Number

4.d.

5.a. Page Number **5.b.** Part Number **5.c.** Item Number

5.d.

6.a. Page Number **6.b.** Part Number **6.c.** Item Number

6.d.

Sample Privacy Waiver

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

PRIVACY WAIVER AUTHORIZING DISCLOSURE TO A THIRD PARTY

Use this form to authorize the U.S. Department of Homeland Security ("DHS") to disclose information and/or records about you to a third party. Taking this action is entirely voluntary; you are under no obligation to consent to the release of your information to any third party. **Authority:** Privacy Act of 1974 (5 U.S.C. § 552a); DHS Privacy Act Regulations (6 C.F.R. § 5.21(d)).

STEP 1 — Provide information about yourself and identify the third party that you intend to receive your information and/or records (the "Recipient").

Your Full Name:	Your Alien Registration Number (if applicable):
Your Current Address:	Date of Birth: Country of Birth:
Recipient's Name:	Recipient's Phone Number:
Recipient's Mailing Address (required if requesting disclosure by mail):	
Recipient's Organization, if the waiver will apply to it (e.g. news media, congressional office, law firm):	

STEP 2 — Specify what information and/or records DHS is authorized to share with the Recipient.

- ☐ Identifying Data (Date of Birth, etc.)
- ☐ Family Data
- ☐ Travel/Border Crossing
- ☐ Immigration Case
- ☐ Detention Information
- ☐ Medical Information
- ☐ Alien File (A-File)
- ☐ Criminal History
- ☐ Criminal Case

AND/OR

☐ The following information/records (describe): _____

OR

☐ ALL information and/or Records Requested by the Recipient

If you have applied for or received any of the immigration benefits below, you are legally entitled to confidentiality. (See reverse for more information.) If you want DHS to share information about these benefits with the Recipient, you must waive your confidentiality rights by checking the appropriate boxes below. Waiver of these rights is not required; however, if you do not waive these rights DHS may be unable to disclose to the Recipient some or all of the information you identified above.

I waive my right to confidentiality and authorize disclosure to the Recipient regarding these immigration benefits:

- ☐ Temporary Protected Status (TPS)
- ☐ T Visa (for trafficking victims)
- ☐ U Visa (for victims of certain crimes)
- ☐ Asylum (confidentially applies even if petition is denied)
- ☐ Battered Spouse/Child Seeking Hardship Waiver
- ☐ Violence Against Women Act (VAWA)

STEP 3 — Sign the statement below authorizing DHS to disclose your information and/or records to the Recipient.

I certify under penalty of perjury that the information above is accurate. I authorize DHS, its components, offices, employees, contractors, agents, and assignees, to disclose the information or records specified above to the Recipient. I understand this may include and is not limited to reports, evaluations, and notes of any kind, contained in any record keeping system maintained by or on behalf of DHS; that DHS retains the discretion to decide if particular records or information are within the scope of this Waiver; and that DHS has no control over how the Recipient will use or disseminate my information. I agree to release and hold harmless DHS, its components, offices, employees, contractors, agents, and assignees, from any and all claims of action or damages of any kind arising from, or in any way connected to, the release or use of any information or records pursuant to this Waiver.

Your Signature:	Witness Signature:
Date:	Witness Name:

*Privacy Waiver is valid for 90 days from date of signature

*Witness may not be the Recipient or employed by Recipient's employer

ICE Form 60-001 (12/22) Page 1 of 2

Explanation of Immigrant Benefits

If you have applied for or received any of the immigration benefits below, you may be legally entitled to confidentiality regarding these benefits. An explanation of these benefits is provided below to help you identify whether you have applied for such benefits. If you have applied for or received these benefits and you want DHS to share information about these benefits with the Recipient, you must waive your confidentiality rights by checking the appropriate boxes in Step 2 of this form (reverse). You are not required to waive confidentiality regarding these benefits; however, if you do not waive these rights DHS may be unable to disclose to the Recipient some or all of the information you identified above.

Temporary Protected Status (TPS) - 8 U.S.C. § 1254a(c)(6). TPS is for foreign nationals currently residing in the U.S. whose homeland conditions are recognized by the U.S. government as being temporarily unsafe or overly dangerous to return to (e.g., war, earthquake, flood, drought, or other extraordinary and temporary conditions). ICE may disclose information related to TPS to a third party with the consent of the alien.

T Visas and U Visas - Public Law 106-386, Section 701(c)(1)(C). A T visa allows certain victims of human trafficking to remain in the United States for a period of time. A U visa allows certain victims of crimes to remain in the United States for a period of time. ICE may disclose information related to T and U visas to third parties with the consent of the alien.

Battered Spouse or Child Information - 8 U.S.C. § 1186a(c)(4)(C). This provision applies to a battered alien or child who has applied for a hardship waiver from removal under the INA. ICE may disclose information the alien provided to ICE in support his or her request for waiver to a third party with consent of the alien.

Information Relating to Violence Against Women Act (VAWA) Claimants - 8 U.S.C. § 1367(a)(2). This provision applies to a person who has filed a claim under the VAWA. ICE may disclose information related to a person's claim to a third party with the consent of the person.

Asylum Information - 8 C.F.R. § 208.6. This provision applies to individuals who have applied for asylum, and confidentiality regarding the asylum claim applies even if the claim is ultimately denied. ICE may disclose information related to an individual's asylum claim to a third party with the consent of the person.

Revocation of Privacy Waiver

This Privacy Waiver is valid for 90 days from the date of signature unless you have otherwise specified on this form. You may revoke this Privacy Waiver at any time by contacting the ICE Privacy Office (202-732-3300 or ICEPrivacy@dhs.gov) or the relevant ICE office handling this matter or case. Certain information about you may be requested to confirm your identity and you may be asked to revoke the waiver in writing.

IV. POTENTIAL LOSS OF STATUS

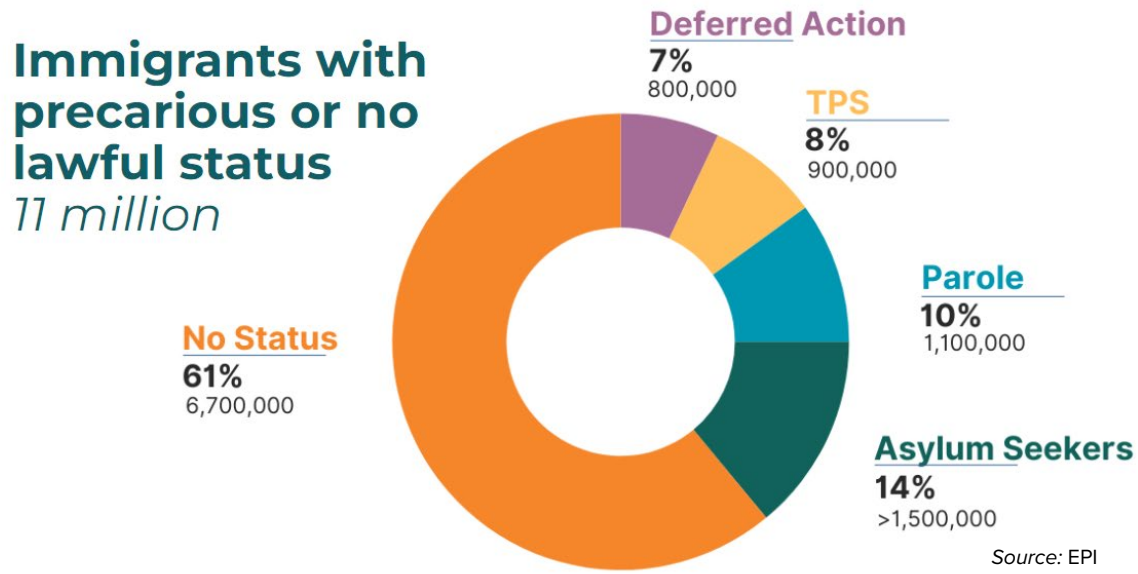
FAQ

Q. What types of status protections are at greatest risk of being lost?

A The Trump administration and Project 2025 have announced intentions to end forms of immigration status protections that workers have relied upon for decades. The categories most at risk are those that are controlled by the executive branch, so they can be withdrawn without Congressional action. These include:

- **Temporary Protected Status—**TPS is granted on a country-by-country basis when conditions make it unsafe to return. People who arrive in the United States before the date of a TPS announcement for their country are eligible to apply for TPS and a work permit, which will last 6-18 months and is often renewed. Working people from the following countries currently have TPS: Afghanistan, Burma, Cameroon, El Salvador, Ethiopia, Haiti, Honduras, Nepal, Nicaragua, Somalia, South Sudan, Sudan, Syria, Ukraine, Venezuela, and Yemen.
- **Deferred Action**—The Executive branch also has broad authority to defer immigration enforcement action against individuals who are low priorities for removal, and to grant those individuals temporary work authorization. The two most prominent uses of this authority are DACA, Deferred Action for Childhood Arrivals and DALE, Deferred Action for Labor Enforcement.
- **Parole**—Using parole authority, the administration can allow individuals to enter or stay in the United States for a limited time for urgent humanitarian reasons or for significant public benefit. The Biden administration used parole authority to extend protections to people from: Afghanistan, Cuba, Haiti, Nicaragua, Ukraine, and Venezuela, as well as to promote family unity for people from: Colombia, Cuba, Ecuador, El Salvador, Guatemala, Haiti, or Honduras.

Q. How many people could this affect?



Source: EPI

Q. What are the possible scenarios for loss of status?

A As you can see, there are many different forms of temporary protection that are now under threat. In the first Trump administration, when he announced the termination of DACA and TPS for many countries, he allowed the status of individuals with those protections to wind down according to the timing of relief they had already been granted. This approach allowed workers time to prepare, and also to challenge the terminations in the courts.

Although there is no historic precedent for this, it is possible that the second Trump administration will pursue a much more aggressive approach and attempt to more quickly revoke these temporary protections that millions of people have been granted, including deferred action for workers. In that event, the administration may opt to issue public announcements, and potentially send workers with these protections a Notice to Appear (NTA). Such actions could be subject to legal challenge. More information on a Notice to Appear is available on the following page.

Q. How will asylum seekers be affected under the new policies?

A Unlike TPS, Deferred Action, and parole, asylum is provided for by law and not by executive action. That means that the Trump Administration cannot simply rescind grants of asylum from those workers who have already won it or refuse to hear asylum cases from workers who have properly filed for asylum.

Indeed, depending on each worker's situation, applying for asylum could be a crucial protection for individuals who lose status like TPS, deferred action, or parole. In general, an immigrant must file for asylum within their first year of arriving in the United States; however, if they have been in lawful status for most or all of that time, an exception may apply and they may be eligible to apply for asylum even after having lived here longer. Consulting with an immigration attorney will be crucial to determining whether a worker has a potential asylum claim and whether it would be timely.

While the Trump Administration cannot "shut down" the asylum claim, it can make it much more difficult to win asylum, by pressuring USCIS asylum officers and Immigration Judges to deny asylum at higher rates and promoting restrictive interpretations of the law that limit the basis on which asylum can be granted. It could also try to shorten the period of time that asylum seekers receive EADs (currently granted in 5-year intervals), fast-track certain cases such that it is difficult for asylum-seekers to find an attorney, or try to put up other roadblocks to asylum.

Q. What will happen if I've already applied for an immigration benefit, but have not yet gotten a response?

A Under the Biden Administration, USCIS would not typically refer unsuccessful applications over to ICE for enforcement, unless the applicant presented severe negative factors (mostly, serious criminal history or national security risks).

It is likely that the Trump Administration will change this practice, and, at some point, institute a policy of referring unsuccessful benefits applicants over to ICE for removal proceedings. This means that individuals who have applied for certain benefits should consult with their immigration attorneys to determine whether it makes sense to continue with their case.

This does not mean that all applicants should withdraw their applications. USCIS will continue to approve many categories of cases, and some categories of cases–such as family or employment petitions without significant criminal history–present very little risk and provide a pathway to long-term status. As in all cases, an immigration attorney will be able to assess each person's individual situation.

Q. Am I at risk if I am working in the U.S. with a temporary work visa?

A It is unlikely that the Trump Administration will target individuals with valid temporary work visas. They may, however, make it more difficult to obtain or renew work visas, change employers while on a work visa, or change from one visa category to another, all of which may render visa holders more vulnerable to exploitation by their employers. Individuals should consult with an immigration attorney about their specific situation and visa category.

Q. Is there any risk for naturalized citizens?

A The Trump team has talked about a "denaturalization taskforce," but naturalized citizens have extremely strong protections under the law. The vast majority of naturalized citizens should not have anything to fear unless they committed fraud in applying for citizenship or their Green Card or failed to disclose serious criminal history or terrorist activity that occurred before they were a U.S. Citizen. If an individual worker has concerns, they should consult an immigration attorney, as this can be a highly complicated area of law.

Q. What can my union do?

A Until we know more about the approach the administration will take, it is difficult to provide concrete advice. One step unions can take now to help lessen the blow of any potential loss of status is to negotiate provisions in the collective bargaining agreement that allow for leaves of absence, rather than termination, upon the expiration of documents. For a more complete list of potential bargaining provisions, see p. 12. In addition, the union may be able to direct workers to reputable immigration attorneys who can help to screen them for potential other forms of relief.

Q. How can we fight back against loss of status?

A Tireless and courageous advocacy is the way that we one these protections in the first place, and it is the way we will continue to fight to preserve them now. Unions and allies are preparing for legal challenges in the court, and workers will again need to serve as named plaintiffs in those cases. In addition, we need to activate friendly employers to push back against the precipitous revocation of work authorization for large swaths of our workforce. This is not only unjust and inhumane, but also bad for business, particularly at a time when many industries are already claiming they face a labor shortage.

DHS Notice to Appear: What Workers Need to Know

Q. What is a Notice to Appear?

A An NTA is a document issued by DHS that instructs an individual to appear before an immigration judge. This is the first step in starting removal proceedings against them.

Q. Does a Notice to Appear mean I will be deported?

A Not necessarily. If someone is charged with an offense in criminal court, that doesn't mean that they will be convicted!

Much like a criminal complaint, an NTA states DHS's "charges" against the individual (usually either that their visa is expired or that they entered unlawfully), and is only the beginning of the immigration court process. Once that process begins, individuals will have the opportunity to apply for any form of relief for which they qualify, and appeal any negative decision to the Board of Immigration Appeals and the courts. Millions of people across the country currently have received NTAs and are attending their immigration court proceedings right now.

Q. How does an NTA affect my work permit?

A In general, an NTA has no effect on your Employment Authorization Document (EAD). If DHS takes the position that an individual has lost their employment eligibility, they have to take additional steps and send additional notice that the EAD is being revoked. Thus, unless an immigration attorney advises otherwise, workers who receive an NTA can continue to work at their current job using their current EAD.

Q. Do I have to go to immigration court? What happens if I don't?

A **YES.** It is very important that workers not miss the immigration court date on the NTA. Immigration Judges are instructed to issue a removal order immediately if a worker misses a court date without explanation. This means that ICE could pick up the worker and deport them without any other process.

Workers may understandably be afraid of going to immigration court. They must understand that **NOT** going is a lot riskier than going. There is no chance that they will receive a deportation order if they attend their hearing until they are scheduled for a final hearing and heard on their claim for relief. If they fail to attend, the chance that they will receive a deportation order is almost 100%.

Q. Should I go to immigration court even if I don't yet have a lawyer?

A **YES.** Workers are often especially fearful of going to immigration court if they don't have an attorney. You cannot be deported for not having an attorney in immigration court, and an Immigration Judge cannot force a worker to get an attorney when they don't have the funds available. Especially if the hearing is the initial hearing, the most likely scenario is that the Judge will simply give the worker more time to hire an attorney for their next hearing.

Of course, it is very difficult to win any immigration case without an attorney, so overall, workers should be strongly encouraged to hire counsel. But not having an attorney is no excuse for missing a hearing.

Q. Where can I find my immigration court date?

A The first immigration court date is usually at the bottom of the NTA. However, due to scheduling issues, court dates often change. Using the worker's "A number," which can be found at the top-right corner of the NTA, you can find the appropriate court date at https://acis.eoir.justice.gov/en/caseinformation/. This website is updated in real-time and usually accurate. If the date on the website is different from the date on the NTA, the worker can call the Immigration Court and ask, but usually the date on the website will be the correct one.

Q. If I receive an NTA, what should I do?

A Receiving an NTA can be alarming, but you should remain calm and take the following steps:

- Complete the Worker and Family Readiness Checklist (p.27).
- Consult an immigration attorney to explore other forms of relief, if you do not have an attorney, as your union for a referral.
- Be careful who you share this news with. Do NOT notify your employer or discuss in the workplace.

Sample Notice to Appear (NTA)

U.S. Department of Homeland Security — **Notice to Appear**

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: **FINS:**

File No:_____

DOB: Event No:

In the Matter of:

Respondent: _____ currently residing at:

_____

(Number, street, city and ZIP code) (Area code and phone number)

☐ 1. You are an arriving alien.

☐ 2. You are an alien present in the United States who has not been admitted or paroled.

☐ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐8CFR 208.30(f)(2) ☐8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

_____

(Complete Address of Immigration Court, including Room Number, if any)

on _____ at _____ to show why you should not be removed from the United States based on the

(Date) *(Time)*

charge(s) set forth above.

_____

(Signature and Title of Issuing Officer)

Date: _____

_____

(City and State)

See reverse for important information

Form I-862 (Rev. 08/01/07)

Lessons from Trump 1.0:
Workers Save TPS in the Courts

Between 2017 and 2018, the first Trump Administration announced the termination of TPS for six countries: El Salvador, Haiti, Honduras, Nepal, Nicaragua and Sudan. Had the terminations gone into effect, more than 400,000 people–many of whom had lived in the U.S. for decades–would have lost their lawful immigration status and faced deportation. But, in the end, *not a single TPS holder lost status.* Instead, TPS holders organized, challenged the terminations in court–and won.

Unions played a key role in the fight to save TPS. Union members with TPS status, including Donaldo Posadas Caceras, a member of the International Union of Painters and Allied Trades (IUPAT), served as plaintiffs in the litigation. Donaldo came to the US from Honduras in 1998. He was accepted into an IUPAT apprenticeship program and worked long hours as a bridge painter to support his family. He often slept in the construction trailer so he could begin work at 4am. Donaldo painted the Chesapeake Bay Bridge and placed the American flag on top of bridges he worked on. Today, he and his wife own a home in Baltimore, where they live with their two U.S. citizen daughters.

Union leaders also worked alongside their members to protect TPS. Working Families United, a coalition of unions, advocated for TPS holders in the halls of Congress and on the streets. They called attention to the contributions TPS holders made, and the harm their deportation would cause not just to TPS holders and their families, but to workers and unions as a whole: "Laying off TPS workers would cost employers $967 million in turnover costs. It would cost $164 billion in lost GDP, plus $6.9 billion in lost Social Security and Medicare payments over a decade. 60,000 TPS families would be forced to drop mortgages. Mass TPS deportations would cost taxpayers $3 billion dollars."[11]

In the federal court case *Ramos v. Mayorkas*, a district judge found that the TPS terminations were likely unlawful and issued a preliminary injunction preventing them from going into effect. The court cited evidence that the terminations were motivated by racism and that DHS failed to follow proper procedures in making termination decisions. The injunction remained in place as the case continued on appeal–lasting through the end of the first Trump Administration. After unions mobilized to help elect President Biden, his Administration issued new TPS decisions preserving TPS status for all those who had been at risk.

11 https://www.workingfamiliesunited.org/

V. SOCIAL SECURITY NO-MATCH LETTERS

FAQ

Q. What is a No-Match letter?

A Social Security Administration (SSA) No-Match letters indicate that the Social Security number provided by an employee does not match the SSA's records, and thus the employee is not receiving the benefit of Social Security withholdings. SSA always sends no-match letters to employees, but the practice of sending those letters to employers varies by administration and will likely resume under Trump.

Q. What happens when my employer receives a no-match letter?

A The letters issued by the SSA are not intended to serve as constructive knowledge to employers that an employee is not authorized to work in the United States (they are not intended to cause an employer to re-verify a worker's immigration status). However, when conducting I-9 audits, ICE agents frequently request copies of No-Match letters received by employers. The No-Match letter itself states that the notice alone cannot provide the basis for adverse action against an employee. Instead, the employer is instructed to provide the employee with a "reasonable" amount of time to resolve the discrepancy with the SSA. The Department of Justice's Immigrant and Employee Rights Section suggests that 120 days is an appropriate amount of time. However, the Trump administration may revise the language in the letter and interpret related policies differently. For a list of resources on this matter, visit www.justice.gov/crt/ssa-no-match-guidance-page.

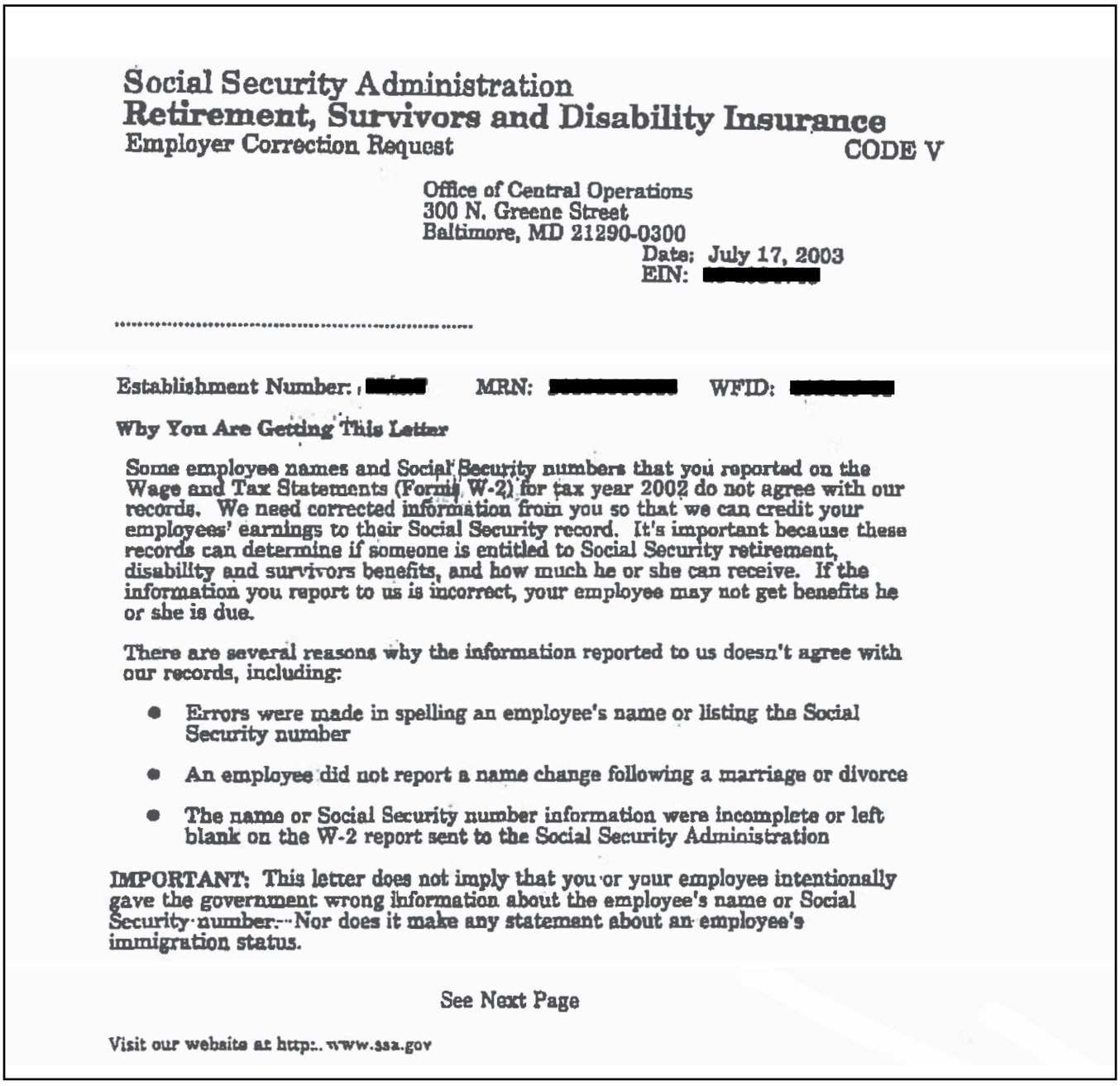
Q. Can my employer initiate verification of my Social Security Number?

A Yes. Employers also may verify a worker's Social Security number assignment through the SSA database and generate a No-Match letter. Employers verify through the SSA's internet-based systems: the Social Security Number Verification Services or the Consent-Based Social Security Number Verification, which is when the employer has a third party check the SSN.

Q. What can my union do?

A The union can send letters to the employer regarding these issues, using the samples provided in this section. In addition, the National Labor Relations Board has ruled that an employer is required to bargain with the union regarding its SSA No-Match policy. Addressing these issues formally in a collective bargaining agreement before a letter is received from SSA will put the union and the workers in the best possible position when it occurs. Consider negotiation for provisions that: require union notification, clarify that a no-match letter itself will not constitute a basis for taking adverse employment action, and prevent the employer from requiring additional documentation in response to a no-match letter. For specific model contract language, see p. 12.

Sample SSA No-Match Letter



Social Security Administration
Retirement, Survivors and Disability Insurance
Employer Correction Request CODE V

Office of Central Operations
300 N. Greene Street
Baltimore, MD 21290-0300

Date: July 17, 2003
EIN: [redacted]

Establishment Number: [redacted] MRN: [redacted] WFID: [redacted]

Why You Are Getting This Letter

Some employee names and Social Security numbers that you reported on the Wage and Tax Statements (Form(s) W-2) for tax year 2002 do not agree with our records. We need corrected information from you so that we can credit your employees' earnings to their Social Security record. It's important because these records can determine if someone is entitled to Social Security retirement, disability and survivors benefits, and how much he or she can receive. If the information you report to us is incorrect, your employee may not get benefits he or she is due.

There are several reasons why the information reported to us doesn't agree with our records, including:

- Errors were made in spelling an employee's name or listing the Social Security number
- An employee did not report a name change following a marriage or divorce
- The name or Social Security number information were incomplete or left blank on the W-2 report sent to the Social Security Administration

IMPORTANT: This letter does not imply that you or your employee intentionally gave the government wrong information about the employee's name or Social Security number. Nor does it make any statement about an employee's immigration status.

See Next Page

Visit our website at http:..www.ssa.gov

You should not use this letter to take any adverse action against an employee just because his or her Social Security number appears on the list, such as laying off, suspending, firing, or discriminating against that individual. Doing so could, in fact, violate state or federal law and subject you to legal consequences.

For Spanish-speaking individuals: Esta carta y los documentos adjuntos proveen información sobre las acciones que debe tomar para corregir algunos de los nombres y números de Seguro Social que usted informó en la Declaración de Retención de Salarios (formulario W-2, "Wage and Tax Statement", en inglés) de sus empleados. Si usted necesita una traducción de esta carta, por favor, llámenos al número de teléfono gratis, 1-800-772-1213, de 7:00 a.m. a 7:00 p.m. hora del este.

Esta carta no implica que usted ni su empleado intencionadamente proveyó información incorrecta sobre el nombre o número de Seguro Social del empleado. Esto no es una razón, de por sí, para que usted tome ninguna acción adversa en contra del empleado, tal como supensión, despedida o discriminación del individuo que aparece en la lista. Cualquier empleador que usa la información en esta carta para justificar una acción adversa en contra de un empleado puede violar la ley estatal o federal y estar sujeto a consecuencias legales. Además, esta carta no hace ninguna declaración sobre el estado de inmigración de su empleado.

What You Should Do

It would be a great help to us if you could respond within 60 days with the information that you are able to correct so that the Social Security Administration can maintain an accurate earnings record for each employee and make sure your employees get the benefits they are due.

We have attached some materials to help you:

- A list of the Social Security numbers that do not match our records. (If the list shows you have "MORE" Social Security numbers to correct than listed, please call us at 1-800-772-6270 for assistance.)
- Instructions on "How To Correct Social Security Numbers".
- Tips on "Annual Wage Report Filing" for the future.

[redacted] Page 3 of 8

If You Have Any Questions

If you have any questions, please call us toll-free at 1-800-772-6270 between 7:00 a.m. and 7:00 p.m., Eastern time, Monday through Friday. We can answer most questions over the phone. You can also write us at the address shown on the first page of this letter. If you do call, please have this letter with you. It will help us answer your questions. Also, general program information is available from our website at http://www.ssa.gov/employer.

[redacted]
Associate Commissioner for
Central Operations

[redacted] Page 4 of 8

SOCIAL SECURITY NUMBERS THAT DO NOT MATCH OUR RECORDS

[redacted]

[redacted] Page 5 of 8

How To Correct SSNs

Complete Forms W-2c (Corrected Wage and Tax Statement) for each of the SSNs listed that you are able to correct. You also need to file a Form W-3c (Transmittal of Corrected Wage and Tax Statements) whenever you file Forms W-2c. You don't need to prepare Forms W-2c for all the SSNs that you reported. If an employee does not provide corrected information or no longer works for you and you are unable to contact him/her, document your records with the information you relied on in completing the W-2 or the efforts you made to contact your former employee. Retain this information in your files; do not send it to SSA. You should provide all corrections as soon as possible. Please follow the guidelines below before preparing Forms W-2c.

You also need to file a Form W-3c (Transmittal of Corrected Wage and Tax Statements) whenever you file Forms W-2c.

- Compare your employment records to the Forms W-2 you reported for the SSNs included on the attached list.
- If your employment records and Forms W-2 do not match, prepare Forms W-2c with the corrected information from your employment records. (Do not send copies of proofs of identity or other documents in addition to, or in place of, the Forms W-2c.)
- If your employment records and Forms W-2 match, ask your employee to check his/her Social Security card and to inform you of any name or SSN difference between your records and his/her card. If your employment records are incorrect, correct your records.
- If your records match the information on the employee's Social Security card, have the employee contact any Social Security office to resolve the issue. Tell the employee that once he/she has visited the Social Security office he/she should inform you of any changes and correct your records accordingly.
- SSA may also send the employee a notice regarding this issue. You should discuss with the employee any changes you make to your employment records.
- If you wish to file your Form W-2c corrections electronically or on magnetic media, call SSA at 1-800-772-6270 to request a copy of the "Magnetic Media Reporting and Electronic Filing of W-2c Information (MMREF-2)".
- We suggest using AccuW2C to identify possible "Magnetic Media Reporting and Electronic Filing of W-2c Information (MMREF-2)" formatting errors. You can download AccuW2C from the Internet at:

  http://www.ssa.gov/employer/accuwage

Sample Union Letter to Employer Regarding No-Match

[Employer name and contact information]

[Re: Social Security No-Match]

Dear [Employer Representative]:

[Union] represents workers employed by [Employer]. The Union understands that you have received a no-match letter from the Social Security Administration (SSA) concerning one or more of the Union's members. We are writing to provide you with information pertaining to the purpose of a No-Match letter, an employer's obligations with respect to no-match letters and your obligations under the National Labor Relations Act and the collective bargaining agreement.

As an initial matter, an employer is required to bargain with the Union regarding the employer's response to No-Match letters. See Aramark Educational Services and UNITE HERE Local 26, 355 NLRB No. 11 (2010). The Union, therefore, requests that you provide the Union a copy of any No-Match letter(s) you have received and bargain with the Union over your response to those letters.

Next, we want to advise you that a no-match letter from the SSA is not a notice about problems with a workers' employment authorization or immigration status. SSA's No-Match letter is intended only to help SSA make sure its records are accurate and to ensure that the agency properly credits employees' earnings. The No-Match letter itself explicitly advises employers not to take adverse actions against workers because of a No-Match letter and advises that the no-match letter is not a statement about a worker's immigration status. See Aramark Facility Services v. Service Employees International Union, Local 1877, AFL-CIO, 530 F.3d 817 (9th Cir. 2008) (holding that a No-Match letter does not provide an employer with "constructive knowledge" that a worker is not authorized to work).

Because a no-match letter is not a notice about problems with a person's work authorization or immigration status, you should not seek to re-verify any employees' work authorization documents. Should you do so, you would be running afoul of federal law and could be subject to potential liability for violating anti-discrimination laws.

Finally, the Union advises you not to take any adverse action against any of the workers who have received a no-match letter. Several arbitrators have held that it is a violation of the just cause standard to discipline, terminate or take any adverse action against employees based on receipt of a No-Match letter. See Aramark Facility Services & SEIU Local 1877, George Marshall (December 2005) aff'd Aramark Facility Services v. SEIU Local 1877, 533 F.3d 817 (9th Cir. 2008); Laborers' Local Union No. 25 & Utility Concrete Products, Steven M. Bierig (October 31, 2008); Sodexo, Inc. v. UNITE HERE Local 17 (J. Flaglor 2010).

Please contact [Union Representative] and provide the Union with a copy of any and all No-Match letters you have received from the SSA within five days. Furthermore, the Union demands that you bargain with the Union prior to taking any actions in response to the No-Match letter(s).

Sincerely,

[Advocate]

Sample Union Letter to Employer Regarding SSN Verification or Background Checks

[Employer name and contact information]

[Re: Social Security Number Verification or Background Check]

Dear [Employer Representative]:

[Union] represents the workers employed by [Employer name]. It has come to the Union's attention that [Employer name] is requesting that employees sign forms authorizing [Employer name] to verify their social security numbers with the Social Security Administration (SSA). We are writing to request that you provide the Union with a copy of any and all documents or forms you have received from the SSA, and any and all documents or forms that you have provided to the workers for purposes of verifying their social security number. We are also writing to inform you of your obligations under existing law.

As a preliminary matter, [Employer name] is obligated to bargain with the Union regarding terms and conditions of employment of its bargaining unit members, including matters involving alleged discrepancies with workers' social security numbers. See Aramark Educational Services and UNITE HERE Local 26, 355 NLRB No. 11 2010.

Next, workers are not required by any state or federal law to sign such Social Security number verification [or background check] forms. Likewise, no state or federal law requires an employer to verify its workers' Social Security numbers (SSN) and no law provides that an employer may require its workers to authorize verification of their SSN. In addition, Arbitrators have held that self-SSN verifications by an employer do not constitute just cause for termination because neither state or federal law require employers to verify their workers' SSNs with the SSA. See Service Performance Corp. v. SEIU Local 1877, (G. McKay 2005).

Furthermore, SSA's verification of an SSN does not provide proof or confirmation of identity, nor does it verify employment eligibility. The only information such verification would provide is whether the SSN information provided matches SSA's records. It is well established that a no-match from the SSA does not constitute just cause for termination. See Aramark Facility Services & SEIU Local 1877, George Marshall (December 2005) aff'd Aramark Facility Services v. SEIU Local 1877, 533 F.3d 817 (9th Cir. 2008); Laborers' Local Union No. 25 & Utility Concrete Products, Steven M. Bierig (October 31, 2008); Sodexo, Inc. v. UNITE HERE Local 17 (J. Flaglor 2010).

Please contact [Union Representative] and provide the Union with a copy of the documents requested within five days.

Sincerely,

[Advocate]

VI. AUDITS

FAQ

Q: What is an I-9 audit or a "paper raid"?

A Federal law requires employers to complete the I-9, Employment Eligibility Verification, form for every employee to confirm those employees have permission to work in the United States. Violation of these laws can mean thousands of dollars in civil fines or criminal penalties for employers. A "paper raid" occurs when Immigration and Customs Enforcement (ICE) investigates a workplace by reviewing employment records and questioning employees about their status. While audits most commonly result in employer fines and termination of workers with paperwork discrepancies, ICE also can detain workers or put them into deportation proceedings. Though this has not commonly been the practice, we should prepare for the possibility that it will become a strategy of the Trump administration.

Q: What is the process when ICE decides to audit an employer?

A ICE audits are a formal process in which employers are required to submit their employment authorization records for verification by the agency. Generally, ICE audits begin with a Notice of Inspection that usually gives employers three business days to produce all I-9 records, along with supporting documents such as payroll lists. Audits surged in the first Trump administration, hitting 5,981 in fiscal year 2018— a four-fold increase from the previous year. Audits climbed to 6,450 in fiscal 2019 before the Covid-19 pandemic curtailed enforcement.[12]

Q: What is an employer "self audit"?

A Employer "self-audits" are reviews of I-9 records initiated by the employer, purportedly for the purpose of verifying compliance with the employer's obligations under law. Employers sometimes conduct self-audits in an attempt to disrupt organizing efforts by immigrant workers. Employers control all aspects of the process and timeline of a self-audit or re-verification process.

Q: What does an I-9 audit mean to labor?

A The implications of an I-9 audit for organizers and union leaders are important. Employers routinely attempt to disrupt or undermine an organizing campaign or labor dispute by calling ICE with tips intended to trigger an audit, or by conducting a strategically timed "self-audit" or re-verification process. Either type of audit can result in termination of workers who are unable to produce required valid documents. Effective advocacy during I-9 audits must respond to specific situations, and be grounded in a clear understanding of legal parameters, so advocates should familiarize themselves with the legal and regulatory background of I-9 audits in order to create the most effective response.

Q: How can we address audits in our union contract?

A Negotiating with the employer before an I-9 audit process to formally improve protections within a collective bargaining agreement will put the union and the workers in the best possible position when an audit occurs. Unions have previously won clauses that require employers to: hold a meeting once they receive a Notice of Inspection from ICE to inform workers about the process and their rights; notify the union and workers in writing of discrepancies found by ICE during the I-9 audit; or allow workers a reasonable amount of time to correct discrepancies in work authorization documents. For more details, see p. 12.

12 https://news.bloomberglaw.com/daily-labor-report/punching-in-employers-brace-for-trump-immigration-raids-audits-28

Q. What happens if an I-9 audit occurs while workers are exercising their rights?

A There are a number of government agencies that have a role to play in ensuring that I-9 audits are conducted in a manner that respects workers' rights.

- The **Department of Homeland Security's U.S. Immigration and Customs Enforcement Division (ICE)** is responsible for the enforcement of U.S. immigration law. Homeland Security Investigations is the sub-agency within ICE that conducts the I-9 audit process.
- The **Department of Labor (DOL)**, through its various departments, is responsible for enforcing labor standards.
- The **Department of Justice's Immigrant and Employee Rights Section** (formerly known as the "Office of Special Counsel for Immigration-Related Unfair Employment Practices") is responsible for enforcing the anti-discrimination and document abuse provisions of the Immigration Reform and Control Act.
- The **National Labor Relations Board (NLRB)** is responsible for enforcing the National Labor Relations Act and ensuring that workers have the right to join together to seek better pay or working conditions from their employer through collective bargaining or other lawful means.
- The **Equal Employment Opportunity Commission (EEOC)** is responsible for enforcing Title VII of the Civil Rights Act prohibiting discrimination based on race, color, gender, national origin and religion, and other federal antidiscrimination laws.

These agencies frequently overlap in their roles and their mandates can be competing, particularly in instances when management initiates immigration enforcement actions to stymie organizing and bargaining campaigns. Resolution of these conflicting interests is governed by the current Memorandum of Understanding between ICE, DOL, NLRB and EEOC, which indicates that ICE should refrain from engaging in immigration enforcement practices at a worksite that is currently the subject of a labor dispute investigation.[13]

Under current protocols, ICE must check with DOL in advance of conducting any worksite investigation to be sure there is not a labor dispute in progress. DOL then confers with NLRB and EEOC to determine whether any of the labor and employment agencies are conducting active investigations of the employer. In the event of a live labor dispute, DOL instructs ICE not to initiate immigration enforcement actions that could interfere with the exercise of protected worker rights.

Despite upfront agency efforts, the presence of a labor dispute often is discovered only after an audit has begun. ICE can suspend an audit that is under way, but has done so very rarely.

Organizers should note that the MOU defines labor disputes broadly, and asserts that immigration enforcement should not be used as a tool to prevent the exercise of protected rights, including the right to:

- Form, join or assist a union or labor organizations;
- Bargain collectively;
- Be paid minimum or contractually stipulated wages and/or overtime;
- Have a safe workplace;
- Receive compensation for work-related injuries;
- Be free from discrimination based on race, gender, age, national origin, religion, disability or sexual orientation;
- Advocate publicly for better working conditions or for other rights relating to employment; or
- Be free from retaliation for seeking to vindicate these rights.

If ICE or an employer initiates an I-9 audit during an ongoing labor dispute, organizers should contact the relevant labor agency immediately and also contact ICE officials to emphasize the requirements of the MOU.

13 https://www.dol.gov/sites/dolgov/files/ofccp/regs/compliance/directives/files/DHSICE-DOLMOU-Final3-31-2011ESQA508c.pdf

Steps of an I-9 Audit

1. Notice of Inspection

The administrative inspection process begins when a Notice of Inspection is served upon an employer requiring the production of I-9 forms. By law, employers are given at least three business days to produce the forms. Often, ICE will request the employer provide supporting documentation, which may include a copy of the payroll, list of current employees, Articles of Incorporation and business licenses. The following pages contain a sample Notice of Inspection and sample letter of union response to Notice of Inspection.

2. Inspection of Forms

ICE agents or auditors then conduct an inspection of the I-9 forms for compliance. ICE agents may find either technical or substantive violations in the records.

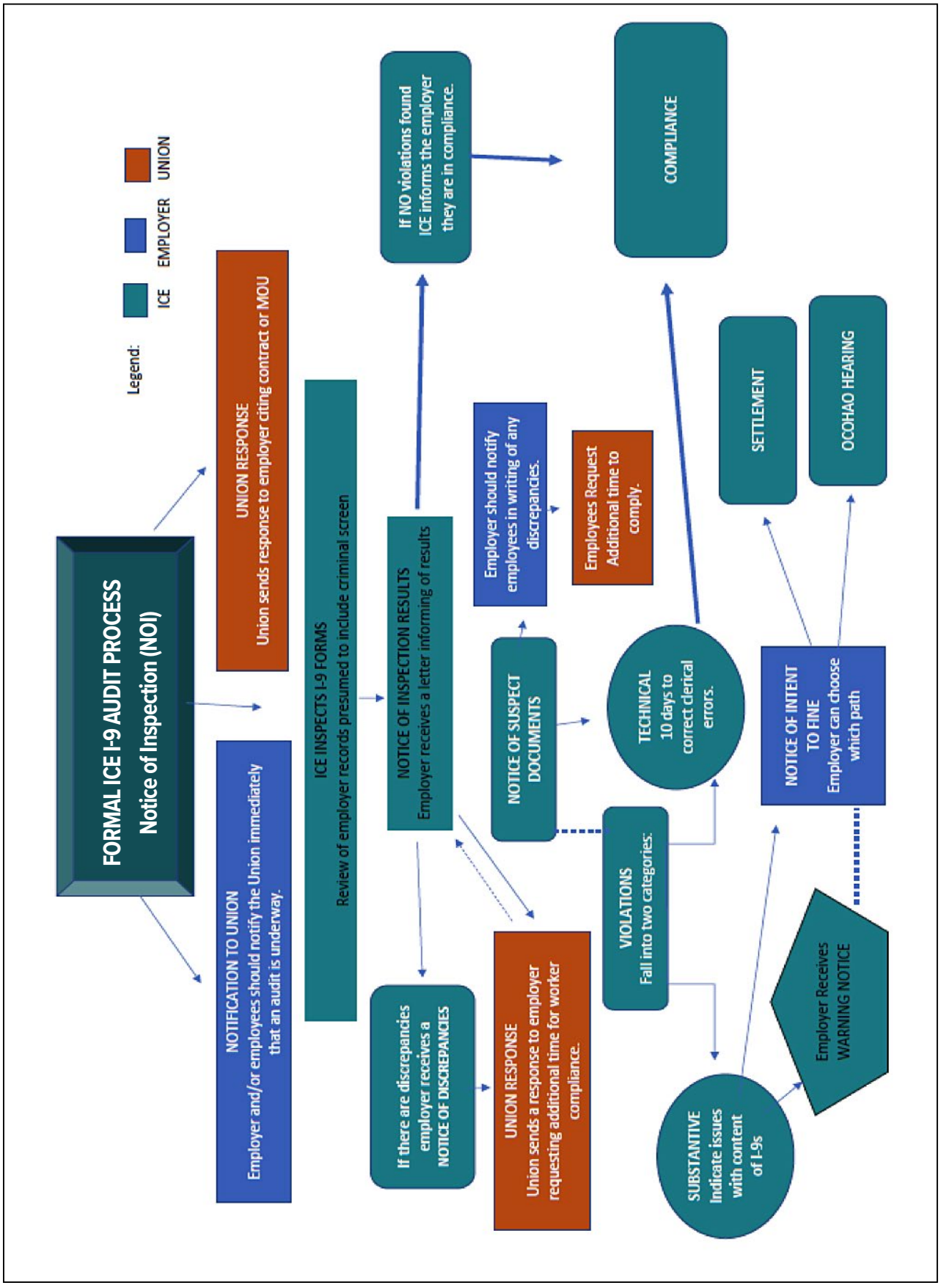
3. Violations

When technical or procedural violations are found, an employer is given 10 business days to make corrections. An employer may receive a monetary fine for all substantive and uncorrected technical violations. Employers found to have knowingly hired or continued to employ unauthorized workers will be required to stop the unlawful activity, may be fined, and in certain rare situations may be criminally prosecuted. Additionally, an employer found to have knowingly hired or continued to employ unauthorized workers may be debarred by ICE, meaning that the employer will be prevented from participating in future federal contracts and from receiving other government benefits. Fines range from $375 to $16,000 per violation, with repeat offenders receiving penalties at the higher end. In determining penalty amounts, ICE considers five factors: 1) the size of the business, 2) the employer's good faith effort to comply, 3) seriousness of violation, 4) whether the violation involved unauthorized workers, and 5) the employer's history of previous violations. ICE will notify the audited party, in writing, of the results of the inspection, once completed. The following are the most common notices:

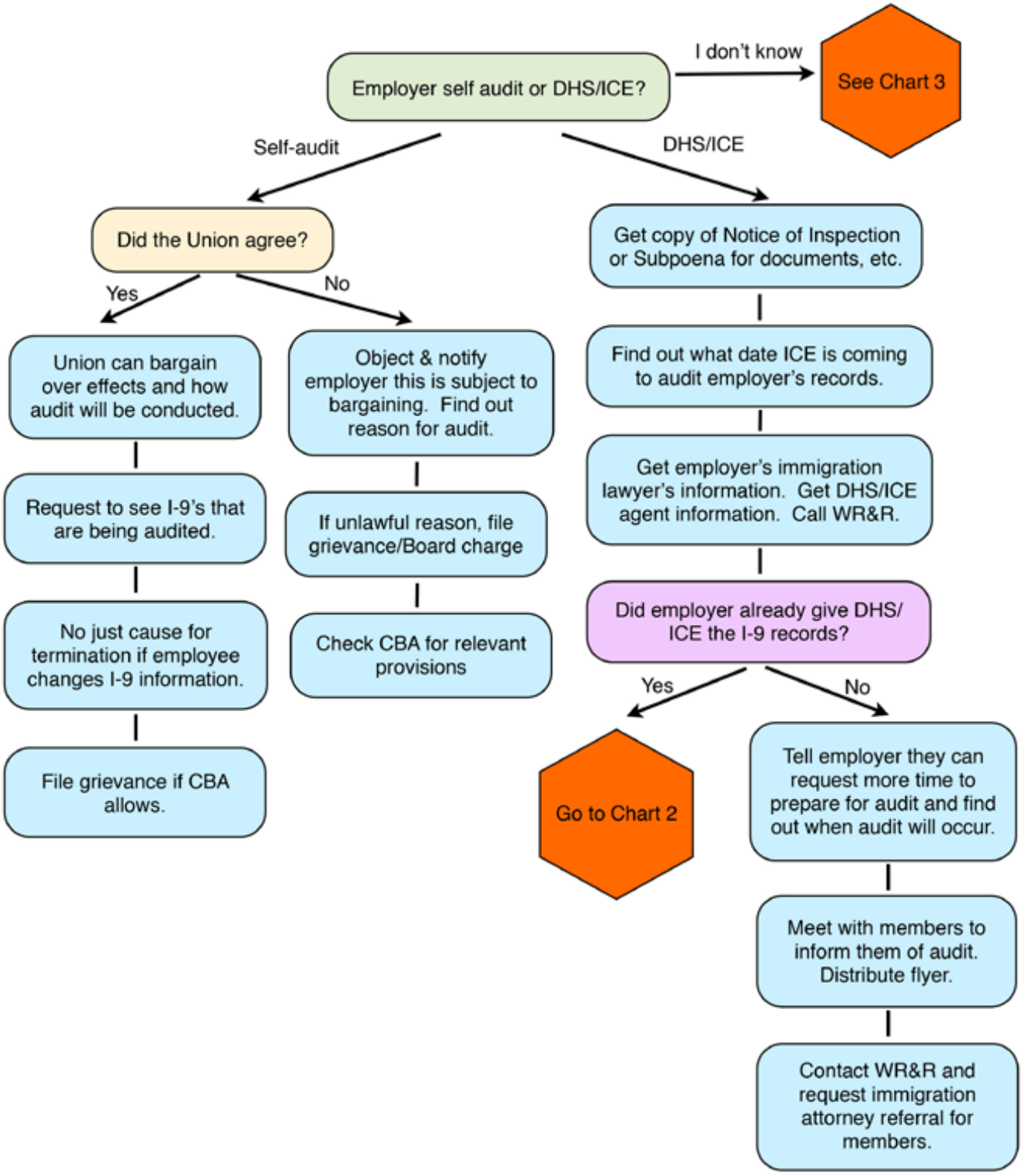
- **Notice of Inspection Results**—also known as a "compliance letter," used to notify a business that they were found to be in compliance with I-9 requirements.
- **Notice of Suspect Documents**—advises the employer that, after reviewing the forms and documentation, ICE has determined that an employee is unauthorized to work and notifies the employer of the possible criminal and civil penalties for continuing to employ that individual. ICE provides the employer and employee with an opportunity to present additional documentation to demonstrate work authorization if they think the finding is in error. The following pages contain a sample Notice of Suspect Documents.
- **Notice of Discrepancies**—advises the employer that, based on a review of the I-9 forms and documentation submitted by the employee, ICE is unable to determine their work eligibility. The employer should provide the employee with a copy of the notice, and give the employee an opportunity to present ICE with additional documentation to establish their employment eligibility.
- **Notice of Technical or Procedural Failures**—identifies technical violations and gives the employer 10 business days to correct the forms. After 10 business days, uncorrected technical and procedural failures will become substantive violations.
- **Warning Notice**—issued when substantive verification violations were found, but circumstances do not warrant a monetary penalty and there is the expectation of future compliance by the employer.

- **Notice of Intent to Fine**—may be issued for substantive violations, uncorrected technical or procedural failures, "knowingly hire" violations, and/or "continuing to employ" violations. NIF notices are provided with charging documents that identify the employer violations. The employer either may negotiate a settlement with ICE or request a hearing before the Office of the Chief Administrative Hearing Officer within 30 days of receipt of the NIF. If a hearing is requested, the case will be assigned to an Administrative Law Judge (ALJ) and all parties will be sent a copy of a Notice of Hearing and the government's complaint, thus setting the adjudicative process in motion.
- **Notice of Hearing**—spells out the procedural requirements for answering the complaint and the potential consequences of failure to file a timely response. Many cases never reach the evidentiary hearing stage because the parties either reach a settlement, subject to the approval of the ALJ, or the ALJ reaches a decision on the merits through dispositive prehearing rulings. If the employer takes no action after receiving an NIF, ICE will issue a Final Order. For the official ICE flow chart, visit www.ice.gov/factsheets/i9-inspection.

I-9 AUDIT CHARTS

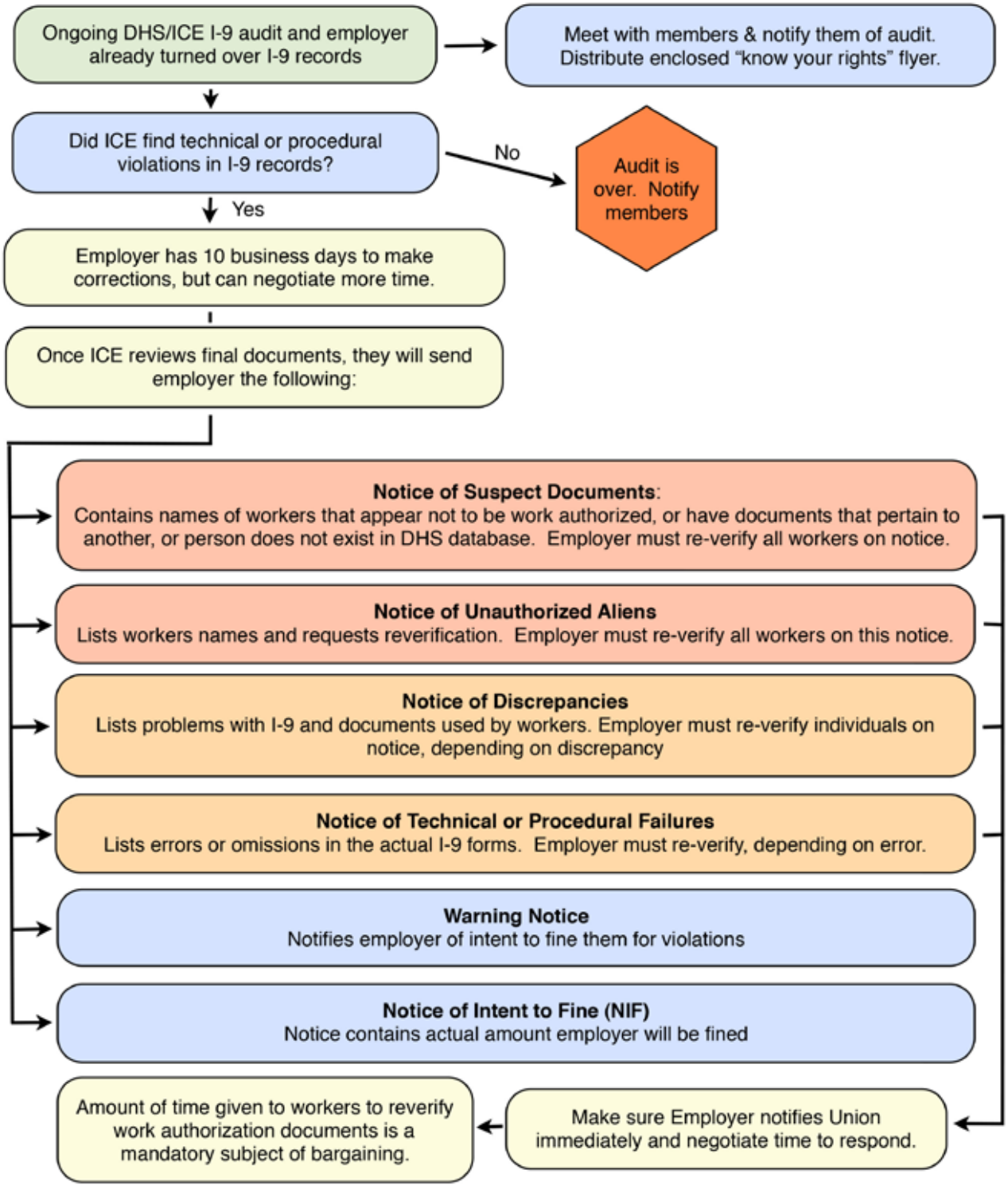


I-9 Audit Chart



Source: Chart provided by Weinberg, Roger & Rosenfeld, http://www.unioncounsel.net.

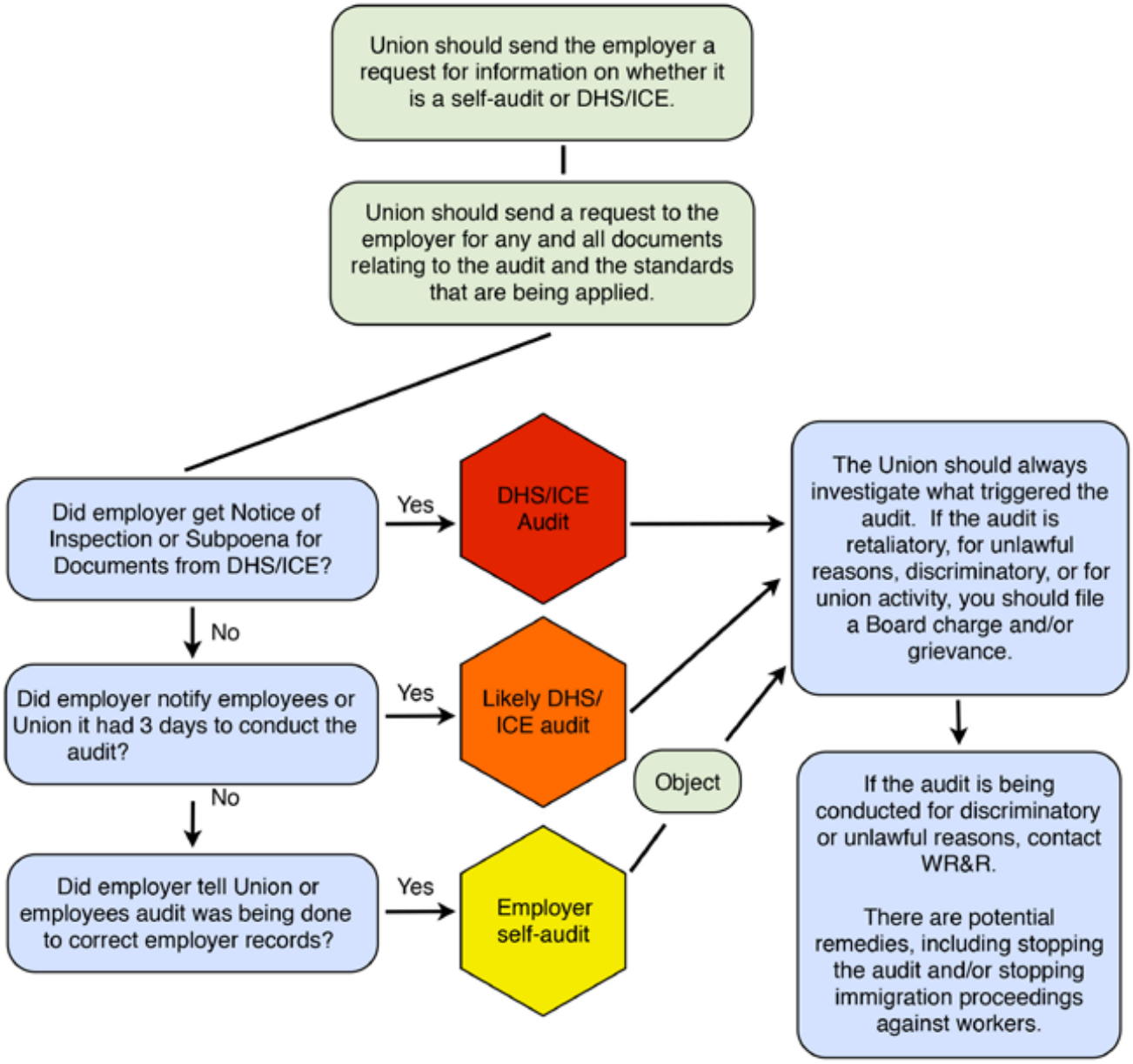
DHS/ICE I-9 Audit



Source: Chart provided by Weinberg, Roger & Rosenfeld, http://www.unioncounsel.net.

I-9 Audits

Is the I-9 Form audit an employer self-audit or a DHS/ICE audit?



Source: Chart provided by Weinberg, Roger & Rosenfeld, http://www.unioncounsel.net

Talking to Workers About Audits

The I-9 audit process often creates a lot of fear and uncertainty within a workplace or community. In large part, this is due to intimidating practices on the part of the employer during the audit process, or due to a lack of information about the process. Therefore, it is important for labor organizers and advocates to stress the need for transparency and communication at each stage of the I-9 audit process. Below is a list of issues that advocates should address with workers facing an I-9 audit:

1. Remind workers not to panic. If workers have concerns about the I-9 audit, they should immediately contact a union representative or a workers' rights organization.
2. Remind workers they have the right to remain silent. Workers have the right to choose not to speak with their employer about their immigration status. Workers who are nervous about speaking with their employer should request that a union representative or workers' rights advocate be present at any meetings regarding work authorization status.
3. Workers who are informed that ICE has found a discrepancy in their work authorization documents should request notification of the basis for the discrepancy in writing and request as much time as possible to resolve the issue.
4. If workers have valid documents that could help resolve the issue, they should present updated documents to their employer.
5. It is important to inform workers that the employer will then send those updated documents to ICE and ICE may ask to interview the worker. If agents discover during the interview that the worker is unauthorized to work, they can arrest the worker at the interview. If ICE finds a problem with a worker's documents and that worker decides not to present new documents, the worker can be terminated.
6. Workers should be aware that criminal penalties may apply for the use of false documents or documents belonging to others. For this reason, workers should never present a false or improper document in the context of an I-9 audit.

Talking to Employers About Audits

There also are certain things advocates should be sure to address with employers undergoing an I-9 audit. These key points are listed below:

1. Communicate: Employers should meet with union members and representatives to let them know about the process. Employers should inform all workers with a union representative present at this meeting. In this meeting, the employer should inform all workers they are undergoing an ICE audit and they should provide proof of the initiation of an I-9 audit. Employers should inform workers about how the process works and what they can expect if ICE officials detect problems. Employers should inform individual workers promptly and in writing of any issues that ICE identifies.

NOTE: We suggest the union send a letter to the employer at the outset of an ICE audit to clarify expectations. If an audit is initiated by the employer, rather than ICE, workers may consider filing grievances or other collective strategies to get the employer to stop the re-verification process.

2. Treat Workers Equally: Employers should implement the same timeline and requirements for all employees to update documents. All employees should be subject to the same I-9 audit regardless of immigration status, national origin, race, color, sex or religion. Employers cannot force workers to discuss their immigration status. Employers cannot require that employees use certain documents to re-verify their work authorization status. This practice is called “document abuse” and will subject the employer to charges of discrimination.

3. Provide a Reasonable Amount of Time for Re-verification: Employers should provide workers a reasonable amount of time to correct work authorization problems identified during the I-9 audit.

4. Compensate: If an employee chooses not to provide updated documents, employers still should compensate workers for any outstanding back pay, vacation time accrued or bonuses that they otherwise would be entitled to receive. If an employee does provide corrected documentation, that worker should be permitted to maintain his or her former position without suffering any loss in seniority.

Sample Notice of Inspection

Homeland Security Investigations

U.S. Department of Homeland Security
1000 2nd Avenue, Suite 2300
Seattle, Washington 98104

U.S. Immigration and Customs Enforcement

NOTICE OF INSPECTION

August 23, 2013

Dear Sir/Madam:

Section 274A of the Immigration and Nationality Act, as amended by the Immigration Reform and Control Act of 1986, requires employers to hire only United States citizens and aliens who are authorized to work in the United States. Employers must verify the employment eligibility of persons hired after November 6, 1986 using the Employment Eligibility Verification Form I-9.

Federal regulations require the provision of three days notice prior to conducting a review of an employer's Forms I-9. This letter serves as advance notice that U.S. Immigration and Customs Enforcement Homeland Security Investigations (HSI) has scheduled a review of your forms for August 29, 2013 However, you may waive the three-day period, should you wish to do so, by annotating and signing page two of this letter and advising this office of your decision.

During the review, . Auditor, will discuss the requirements of the law with you and inspect your Forms I-9. In addition to the presentation of your Forms I-9, you will need to present any documents copied as part of the employment eligibility verification process. If your business utilizes software for the electronic generation and storage of Forms I-9, you will need to present: the name of the software and vendor utilized; the internal business practices/protocols related to the generation of, use of, storage of, security of, and inspection and quality assurance programs your electronically generated Forms I-9; the indexing system identifying how the electronic information contained in the Form I-9 is linked to each employee; documentation of the system used to capture the electronic signature, including the identity and attestation of the individual signing the Form I-9; and the audit trail. Further, pursuant to 8 CFR 274a.2(e)(8)(ii) Auditor, may contact you in the future to schedule a live demonstration of the creation and maintenance of an electronically generated Form I-9.

B2

IMMIGRATION WORKPLACE RAIDS AND AUDITS

SUBJECT: Notice of Inspection
Page 2
The purpose of this review is to assess your compliance with the provisions of the law. HSI will make every effort to conduct the review of records in a timely manner so as not to impede your normal business routine. For more information on the Form I-9 inspection process please visit http://www.ice.gov/news/library/factsheets/i9-inspection.htm.

Sincerely,

Assistant Special Agent-in-Charge

Waiver of the Three-Day Period

I wish to waive the three day notice to which I am entitled by regulation.

(Printed Name) (Signature) (Date)

Certificate of Service

This Notice of Inspection was served upon the employer by me on 8/23/2013 (Date), in the following manner:

☐ In person

(Signature of Agent/Auditor) (Signature of Employer if personally served)

1. To (Name, Address, City, State, Zip Code)	DEPARTMENT OF HOMELAND SECURITY **IMMIGRATION ENFORCEMENT SUBPOENA** **to Appear and/or Produce Records** 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To Request for Documents and Forms I-9 (Title of Proceeding) (File Number, if Applicable)	

By the service of this subpoena upon you, **YOU ARE HEREBY SUMMONED AND REQUIRED TO:**

(A) ☐ **APPEAR** before the U.S. Customs and Border Protection (CBP), U.S. Immigration and Customs Enforcement (ICE), or U.S. Citizenship and Immigration Services (USCIS) Official named in Block 3 at the place, date, and time specified, to testify and give information relating to the matter indicated in Block 2.

(B) ☒ **PRODUCE** the records (books, papers, or other documents) indicated in Block 4, to the CBP, ICE, or USCIS Official named in Block 3 at the place, date, and time specified.

Your testimony and/or production of the indicated records is required in connection with an investigation or inquiry relating to the enforcement of U.S. immigration laws. Failure to comply with this subpoena may subject you to an order of contempt by a federal District Court, as provided by 8 U.S.C. § 1225(d)(4)(B).

3. (A) CBP, ICE or USCIS Official before whom you are required to appear Name Title Auditor Address Telephone Number (206) 442-2218	(B) Date 08/29/2013 (C) Time 11:00 ☒ a.m. ☐ p.m.

4. Records required to be produced for inspection

1) Original I-9 Forms, (Employment Eligibility Verification Forms) and any copies of attached documents presented at time of I-9 completion for all current employees.

Items 2) - 12) are listed on continuation sheet.

If you have any questions regarding this subpoena, contact the CBP, ICE, or USCIS Official identified in Block 3.

5. Authorized Official

(Signature)

(Printed Name)

Assistant Special Agent-in-Charge

(Title)

(Date)

DHS Form I-138 (6/09)

B4

IMMIGRATION WORKPLACE RAIDS AND AUDITS

1. To (Name, Address, City, State, Zip Code)	DEPARTMENT OF HOMELAND SECURITY **IMMIGRATION ENFORCEMENT SUBPOENA** **to Appear and/or Produce Records** 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To Request for Documents and Forms I-9 (Title of Proceeding) (File Number, if Applicable)	

4. Records required to be produced for inspection continued

2) Employee roster or payroll report listing employees employed from August 1, 2012 to present containing the following information:
- Full employee name (First Name, Middle Initial, Last Name) and date of birth
- Social security number
- Date of hire and date of termination (if applicable). If employee has multiple dates of hire, provide all dates of hire and all dates of termination occurring from August 1, 2012 to present.

3) A current employee weekly or monthly work schedule and any prior work schedules maintained for the last year.

4) Monthly Payroll Reports for July 2012 to July 2013 with wage detail by employee.

5) Copies of the 4 most recent Washington State Unemployment Insurance Quarterly Tax Reports (Form 5208 A) and Quarterly Wage Detail Reports (Form 5208 B).

6) Independent contractor roster listing the dates of hire and termination (if applicable) for all independent contractors employed from August 1, 2012 to present.

7) A current listing of all paid on-call individuals you employ on a sporadic, irregular, or intermittent basis and not deemed to be an employee.

8) Copies of any Citizenship and Immigration Services (CIS) forms I-129 or I-140 petitions and Department of Labor (DOL) ETA-750 certifications submitted or received from 2012 to present.

9) Copy of articles of incorporation, business license and most recent annual report.

10) Employer Identification Number (EIC) and Taxpayer Identification Number (TIN) documentation. Names of all Managers, Supervisors and Legal Owners.

11) If available, copy of company procedures or policies regarding Form I-9 preparation.

12) Yes or No response to the following questions:
- Participate in E-Verify program?
- Previously received an I-9 Inspection by the Department of Labor?
- Obtain employees from a temporary staffing agency? If yes provide the names of the temporary staffing agencies used from August 2012 to the present.

DHS Form I-138 (6/09)

1. To (Name, Address, City, State, Zip Code)	DEPARTMENT OF HOMELAND SECURITY **IMMIGRATION ENFORCEMENT SUBPOENA** **to Appear and/or Produce Records** 8 U.S.C. § 1225(d), 8 C.F.R. § 287.4
Subpoena Number	
2. In Reference To Request for Documents and Forms I-9 (Title of Proceeding) (File Number, if Applicable)	

4. Records required to be produced for inspection continued

Supplemental Disclosure Information

ICE often makes its files available to other governmental agencies, particularly United States Attorneys and state prosecutors. There is a likelihood that information supplied by you will be made available to such agencies where appropriate. Whether or not ICE makes its files available to other governmental agencies is, in general, a confidential matter between ICE and such other governmental agencies.

Information you give may be used against you in any federal, state, local or foreign administrative civil or criminal proceeding.

DHS Form I-138 (6/09)

B6

Sample Union Letter to Employer Regarding Notice of Inspection

[Date]

[Employer name and contact information]

Re: DHS/ICE I-9 Audit

Dear [Employer Representative]:

[Union] represents the workers employed by [Company]. The union has learned that the Department of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE) has notified [Employer] of its intent to audit your company's employee I-9 forms and other employment records. While the union understands your obligations to comply with federal immigration law, we are writing to remind you of your bargaining obligations under the National Labor Relations Act and the existing collective bargaining agreement.

First, notwithstanding the government audit of your company's I-9 forms, all workers are entitled to representation. For this reason, we are demanding to meet with you to negotiate the type of documentation needed and the timing of [Company's] activities in connection with the audit. Among the matters we wish to address is the length of time provided to employees to establish that they are authorized to work. Such topic is a term and condition of employment and as such constitutes a mandatory subject of bargaining. See Washington Beef, Inc., 328 NLRB 612 (1999) (employer violated Section 8(a)(5) by refusing to bargain over time period for workers to provide new documents).

In order to comply with your bargaining obligations, the union recommends that you request an extension of time from the DHS/ICE special agent in charge to respond to the government's request for inspection of your company's I-9 forms.

Second, prior to meeting with any worker, we request that you provide the union with a list of every worker who is a subject of the audit and specifically identify any alleged deficiency in their I-9 form or work authorization or identity documents. See, for eg., The Ruprecht Company and UNITE HERE Local 1, 366 NLRB No. 179 (2018)(employer violated the Act by refusing to provide the Union with unredacted copies of letters from ICE identifying the individual bargaining unit employees that the government suspected to have improper employment authorization documents.) ICE should understand that workers have the right to union representation and legal representation concerning immigration issues. Such representation cannot be effectively provided if the specific subject matter of the audit is not shared with them.

Please let me know at your earliest convenience if you will be producing the documents requested and allowing the parties to bargain as requested in this letter.

Sincerely,

[Advocate]

Sample Notice of Suspect Documents

Homeland Security Investigations
Special Agent in Charge

U.S. Department of Homeland Security
10 Causeway Street Room 722
Boston, MA 02222

[redacted]

U.S. Immigration and Customs Enforcement

NOTICE OF SUSPECT DOCUMENTS

[redacted]

Dear [redacted]:

On [redacted] Special Agents of U.S. Immigration and Customs Enforcement (ICE) Homeland Security Investigations (HSI) conducted an inspection of [redacted] to determine compliance with Section 274A of the Immigration and Nationality Act (INA). During that inspection, the requirements of the law were discussed and Forms I-9 were inspected.

This letter is to inform you that, according to the records checked by HSI, the following individual(s) appear, at the present time, not to be authorized to work in the United States (see attachment). The documents submitted to you were found to pertain to other individuals, or there was no record of the alien registration numbers being issued, or the documents pertain to the individuals, but the individuals are not employment authorized or their employment authorization has expired. Accordingly, the documentation previously provided to you for these employees does not satisfy the Form I-9 employment eligibility verification requirements of the INA.

Unless the employees listed in the attachment present valid identification and employment eligibility documentation acceptable for completing the Form I-9, other than the documentation previously submitted to you, they are considered by HSI to be unauthorized to work in the United States. Continued employment of individuals who are not authorized to work in the United States may result in civil penalties ranging from $375 to $3,200 per unauthorized alien for a first violation. Higher penalties can be imposed for a second or subsequent violation. Further, criminal charges may be brought against any person or entity which engages in a pattern or practice of knowingly hiring or continuing to employ unauthorized aliens. This is a very serious matter that requires your immediate attention.

Section 274A(2) of the Immigration and Nationality Act (INA) makes it unlawful for a person or other entity, after hiring an alien for employment, to continue to employ the alien knowing that the alien is, or has become, unauthorized for employment. By regulation, knowingly includes not only actual knowledge, but also knowledge which may be fairly inferred through a notice of certain facts and circumstances that would lead a person, through the exercise of reasonable care, to know about an individual's unlawful employment status.

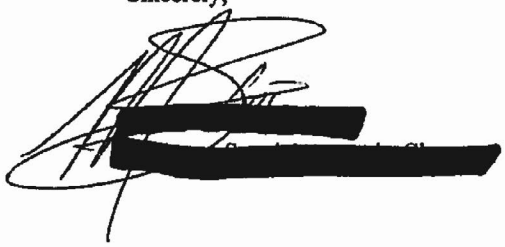
Once HSI notifies an employer that an employee may have presented documents that appear to be suspect or invalid as proof of employment eligibility, it is incumbent on the employer to take reasonable actions to verify the employment eligibility of the employee. Verification of employment eligibility must be conducted in the time reasonably necessary to determine the employment eligibility status of the individual concerned. The law does not allow for any period of continued employment of an unlawful employee, nor authorize any delay in the verification of the employment status of an employee for the purpose of replacing terminated employees.

HSI presumes that employers who, within 10 business days of receiving a Notice of Suspect Documents letter, verify the work authorization of suspect employees or take other appropriate actions to resolve the apparent employment of unauthorized workers to have demonstrated reasonable care under the INA. In all other cases, reasonable care will depend upon the specific facts present and how the facts affect an employer's ability to verify the status of suspect employees. An employer who fails to exercise reasonable care in verifying an employee's work authorization after being issued a Notice of Suspect Documents letter may be subject to civil penalties under the INA.

In the event that you or an employee challenges the finding of suspect documents, please contact Auditor [redacted] HSI will verify the documents presented and notify the employer of our findings by a Confirmation of Notice of Inspection Results or Change to Notice of Inspection Results letter. During the pendency of the verification, the employer should not terminate the employment of the individual.

If you or the employees have any other questions, please call the HSI contact noted above.

Sincerely,



FAQ on E-Verify

Q: What is E-Verify?

A E-Verify is an online system that allows employers to check the work documents of employees against government databases to verify authorization to work. E-Verify is a voluntary program, although it has been mandated for public and/or private employers in some states and for federal contractors. In the context of increased I-9 audits, employers may be more tempted to enroll in E-Verify.

Q: How would mandating E-Verify nationwide affect the economy?

A In 2017, the Trump administration called for all employers to use E-Verify to check work authorization of all new hires as part of its immigration policy priorities. Mandatory E-Verify would drive more workers into the underground economy, which hurts workers, employers and the economy. One report found that over a 10-year period, a mandatory E-Verify requirement would increase the federal deficit by $30 billion and reduce payroll taxes by $88 billion.[14]

Q: How would mandating E-Verify nationwide affect worker rights?

A Driving more workers in the underground economy where they are subjected to increased exploitation and workplace abuses will lower standards for all workers. In many industries, employers avoid E-Verify by misclassifying employees as independent contractors, thus reducing any obligation to treat or pay them fairly, or to ensure their safety on the job. Expanding E-Verify mandates will fuel even greater use of these exploitative models.

Q: What are the concerns with employers voluntarily joining E-Verify?

A Implementing E-Verify can be costly for employers, especially for small businesses, that will shoulder the costs and burdens implementing the system. Employers will need equipment, high speed internet, and staff time to comply with the system. The E-Verify system is also riddled with errors and racial bias. Workers lose hours and wages as they take time off while errors are corrected and employers will lose production time while workers sit idle waiting for errors to be corrected. In addition, some employers may preemptively fire workers rather than fix errors in the system.

Q: Does my employer have to bargain over the use of E-Verify?

A Yes. Employment authorization systems are a mandatory subject of bargaining. Should the employer unilaterally begin using E-Verify, the union can file an Unfair Labor Practice charge. If the employer faces a requirement to use E-Verify, for example, as a condition of receiving a federal contract, then the union should insist that it only be used for new hires and not re-verify the employment eligibility of the current workforce. For a complete list of potential CBA provisions related to E-Verify, see p. 12.

14 Congressional Budget Office. (2013, December 17) H.R. 1772, Legal Workforce Act Cost Estimate. Available at https://www.cbo.gov/publication/44980.

VII. WORKPLACE RAIDS

FAQ

Q: What is a workplace immigration raid?

A A "raid" is a term commonly used to describe an immigration enforcement operation where officers arrive unannounced at a home, workplace or other locations to arrest, detain and remove people. Officers conducting a raid usually arrive with armed weapons and may or may not be dressed "undercover." An immigration raid at a workplace usually is conducted as part of an investigation of employer violations, such as the hiring of undocumented immigrants, the use of false documents, or in some cases human trafficking. During a workplace raid, immigration enforcement agents often confiscate workers' documents, question workers about their immigration status, detain workers and take them into custody for further questioning or investigation, which can lead to deportation.

Q: Is ICE supposed to respect union negotiations and worker organizing?

A Yes. There are standing agreements between DHS and federal labor and employment agencies that provide guidance to prevent ICE interference in labor rights disputes. However, it is possible that *the Trump Administration may rescind these agreements at any time***.** This toolkit will be updated as policies change.

As of January 2024, there is also standing ICE guidance stating that "[w]hen information is received concerning the unauthorized employment of aliens, consideration should be given to whether the information is being provided for the purpose of interfering with a genuine labor organizing campaign or employment dispute between workers and the management or ownership of the business or organization."

Although the guidance does not prohibit ICE from conducting raids in places where there are labor disputes in all circumstances, it does require ICE to comply with its agreed-upon deconfliction policy with federal labor and employment agencies, and stipulates that ICE should cooperate in making workers who are detained available for interviews with those agencies, and should comply with all ICE policies regarding the treatment of victims and witnesses to crimes.

Worker advocates and labor agencies have had some success in convincing ICE to restrict workplace actions during organizing or bargaining campaigns, but ensuring that these protocols are honored requires effective advocacy and engagement. ICE guidance has recognized that witnesses or victims of labor violations, as well as those engaged in labor disputes, should be considered for prosecutorial discretion, which is a form of relief from deportation.

Often referred to as the "Victims Memo," this guidance may continue to offer opportunities for relief for workers who have been detained in a workplace raid where there is an existing labor dispute.

Q: Are there ways to make our workplace safer from raids?

A It is important to remember that ICE officers can only enter private areas of a work place if they have a warrant signed by a judge OR if they have gotten consent from the employer. Warrants **must** come from a court and be signed by a judge, DHS administrative warrants DO NOT allow agents to enter private areas without permission. Here are a few things you can do[15] to make the workplace more safe:

- If the union has a good relationship with the employer, talk to them about a plan for potential raids. If not, work with the worker leaders at the worksite to make a plan and practice that plan with workers.
- Ask all workers—regardless of immigration status—to carry KYR cards in their wallets or pockets to ensure no worker will be singled out.
- Develop a clear plan of which managers will deal with ICE and inform the union and the employees who those managers will be.
- Train those managers to ask for judicial warrants, signed by a judge, and to deny ICE entry and ask them to leave if they cannot produce such a warrant.
- Tell workers they should say "I can't give you permission to enter. You must speak with my employer" if approached by an officer trying to enter a worksite or private space, and ensure managers are trained to do the same.
- Make sure workers know they have the right to remain silent and should not speak to ICE officers who enter the workplace.
- Work with the employers to formalize policies that require permission for the general public and visitors to enter private areas.
- Clearly mark private areas with a "Private" or "Employees Only"sign. (Consider spaces like break rooms, offices, meeting rooms, restrooms, employee-only cafeterias, etc.)
- Make a practice to keep doors closed and locked at all times. Install locks on doors that do not have them.

Q: How can we address raids in our union contract?

A Negotiating with the employer before a raid takes place to formally improve the protections within a collective bargaining agreement will put the union and the workers in the best possible position when immigration agents show up at the workplace. Unions have previously won clauses that require that employers require a signed warrant before admitting ICE to the workplace, notify the union immediately in the event of a raid, and allow workers a leave of absence in the event of immigration issues. For more details, see p. 12.

Q: Which workers are most likely to be targeted for deportation?

A Regardless of the initial scope of an investigation, DHS has a practice of questioning a wide range of workers during an audit or raid. DHS has the discretion to focus on detaining only those workers they consider priority for deportation; however, President Trump and his appointees have made clear that their priorities for removal will be extremely broad. In his first term, President Trump instructed DHS to prioritize all those who:

- Have been convicted of any criminal offense;
- Have been charged with any criminal offense, where such charge has not been resolved;
- Have committed acts that constitute a chargeable criminal offense;
- Have engaged in fraud or willful misrepresentation in connection with any official matter or application before a governmental agency;

15 List adapted from https://www.nilc.org/wp-content/uploads/2017/07/EmployerGuide-NELP-NILC-2017-07.pdf

- Have abused any program related to receipt of public benefits;
- Are subject to a final order of removal, but who have not complied with their legal obligation to depart the United States; or
- In the judgment of an immigration officer, otherwise pose a risk to public safety or national security.

DHS further interpreted these instructions to mean that *no* category of potentially deportable immigrants should be "exempt" from deportation. This resulted in "collateral" arrests of many individuals who did not fall into any priority category. Despite the alarming breadth of these priorities, ICE is supposed to consider the "totality of the circumstances" in a particular case, not just the qualities that may mark an individual as a "priority." As we track and respond to the priorities in Trump's second term, community advocacy and public support will be critical to defend workers and influence ICE's decision to deport or detain specific individuals.

Q: Is a worker's family or home at risk during an ICE workplace operation or raid?

A During a workplace raid or operation, ICE also may visit the homes of workers, in particular workers whose records are found at the company but who are not at work at the time. If ICE agents visit a worker's home, families are under no obligation to answer questions. In fact, they should **not** open the door unless the agents have a warrant signed by a judge, which ICE only very rarely has. ICE is known to routinely question people who are present during operations—even if they have no relation to the investigation. If ICE is able to identify family members or other members of the household whom they deem deportable, there is a risk that they also could be detained and taken into immigration custody, sometimes referred to as "collateral arrests."

Q: How does involvement in a labor or civil rights issue affect an individual's deportation case or detention?

A Historically, DHS guidelines have called for special consideration for people who are victims and witnesses to crimes, particularly victims of domestic violence and human trafficking. Known as the Victims Memo, this guidance protected "plaintiffs of non-frivolous lawsuits regarding civil rights or civil liberties violations" and "individuals engaging in a protected activity related to civil or other rights (for example, union organizing or complaining to authorities about employment discrimination or housing conditions)" in a dispute with an employer, landlord or contractor.[16] If ICE is responsible for interfering in such a dispute or activity by conducting a raid or arresting or detaining a worker, this guidance may serve as precedent and potentially offer opportunities for relief for workers. It is the role of advocates and organizers to make sure that immigration agents are aware of an individual's participation in a labor or civil rights case, and to hold ICE accountable for preventing or rectifying any interference in labor organizing or disputes.

As noted previously, the "Victims Memo" may be rescinded by the Trump Administration, and we will advise if this occurs.

16 https://www.ice.gov/doclib/foia/prosecutorial-discretion/certain-victims-witnesses-plaintiffs.pdf

Executing Your Rapid Response Action Plan During a Workplace Raid

When the moment arrives, you will put into practice the plans you prepared with workers, advocates and allies. The following is a quick list of immediate actions to take after you have confirmed a workplace raid is under way. The most reliable way to confirm a raid is through direct contact with workers, their family members or community members who have been caught in or witnessed it.

1. Activate your Rapid Response Team and instruct team members to begin to coordinate and execute their action plan.
2. Send off a Rapid Response squad to the worksite. IF we have knowledge the raid still is taking place and there is activity at the shop, this Rapid Response squad has two goals:

- Make sure to document what they see happening at the worksite with photos, audio or video recording, or written notes.
- Triage needs based on what the live situation looks like.

3. Identify any workers who have been detained, obtaining their full name, date of birth, and Alien ("A") number, if available.
4. Send a legal team of at least two attorneys to the nearby ICE holding facility or detention center. The attorneys should be ready to demand to see the detained workers and begin interviewing them for additional information about the raid.

After A Raid Takes Place...

Local labor leaders need to collaborate with and activate the larger community to mobilize and attempt to get all detained workers released. The following are some recommended steps local unions may take:

- Establish communication with family members of impacted workers.
- Allied attorneys that are part of the Rapid Response Team/network should demand to see all workers being detained immediately and conduct a thorough intake.
- Call for an emergency meeting between the local Rapid Response Team/network and other local stakeholders. The goal of this meeting is to bring everyone up to speed based on the situation and strategize together about your next steps, and create a local campaign to get all workers released as soon as possible. The best chance you have in this moment is to make the workers' stories as public as possible with the support of local elected leaders, faith, allied employers and community leaders taking visible action to demand all workers be released. Work closely with local immigration attorneys to come up with the best possible legal strategy toward that goal.
- Local labor leaders should make the following calls:
  - **National AFL-CIO**: explain the situation and request any specific forms of assistance or support needed. If you need a point of contact, send an email labeled URGENT to frontlinesolidarity@aflcio.org.
  - **Director of ICE Field Office of Enforcement and Removal:** inquire about the workplace raid that took place. The goal is to make sure the ICE office knows we are aware, concerned and watching their every step, as well as to gather as much intelligence as we can about their operations. For example, was this the only location raided, or were there others? How many workers do their records show were arrested? Where were those workers taken? In addition, was there collaboration with local law enforcement? Find contact info for your local ICE Field Office of Enforcement and Removal and the name of the director at this website: www.ice.gov/contact/ero.

- **Local county sheriff's office:** ask to speak to the sheriff or his/her community outreach staff to inquire about the workplace raid that took place. The goal here is to make sure the sheriff's office knows we are aware and concerned, as well as to gather as much intelligence as we can about the operation. Most importantly with this call, we want to collect any intelligence to confirm and prove if there was any collaboration between ICE and the sheriff's office. In friendlier jurisdictions, they may be willing to share whether ICE gave them notice in advance of the enforcement operation, which is a common practice.
- **Local police department:** ask to speak to the chief or his/her community outreach staff to inquire about the workplace raid that took place. The goal here is to make sure the police department knows we are aware and concerned, as well as to gather as much intelligence as we can about the operation. Most importantly with this call, we want to collect intelligence to determine whether there was any collaboration between ICE and the local police department.
- **Local elected officials:** inform them of the situation and activate them to do two things:
  - Call the local or national ICE Office of Enforcement and Removal to request that stay of removals be granted to all workers immediately; and
  - Join the labor movement in a public statement or press conference demanding all workers be released and be granted stay of removals.

- Assess whether the workplace raid that occurred in your community was an isolated operation by ICE or if it was part of a series of workplace raids that took place that day or even that week. This also will help determine whether your local campaign can be connected to a national effort and collectively can put more pressure on ICE to release all workers.
- Talk to family members of workers detained to make sure that: a) they know what happened and where their loved ones are; b) they put their family emergency plan into action; and c) you find out what other support they need at that moment to feel safe. Work with local labor, community and faith groups, and United Way labor liaisons, to coordinate support for these families.
- Organize and mobilize for a vigil outside the facility where workers are detained on that first evening after the workplace raid took place. If possible, this also can be the press event where local elected officials show their support and stand together with the families of those workers affected to demand the release of all workers and grant them stays of removal. Be aware that under the first Trump administration, we saw immediate retaliation against individuals who were publicly outspoken about deportation cases; therefore, make sure to have immigration attorneys at the vigil in case of enforcement activity that may take place at the vigil itself. Family members must be made aware of the risks, but ultimately it is their decision if they want to be public and come forward.
- Launch an online petition in support of these workers.
- Create and fundraise for a bond fund.
- Collect as many letters of support for these workers as possible from community- and labor-based organizations, clergy and elected officials, local business owners and perhaps even the local Chamber of Commerce.
- From here, the Rapid Response Team should consider every possible tactic and manner of escalation that could be effective in getting all workers released. As organized labor, we have a duty to represent every single member of a union, and therefore we should consider every option we may have to get our members released and back at work without facing retaliation.

Post-Workplace Raid Questionnaire for Observers

It is important to document the details observed during the raid quickly after the event.

1. Date: _____

2. Time: _____

3. Address: _____

4. Please describe the location (i.e., the business, building facility, workplace, etc.):

_____

5. Are workers outside or inside at the time of your arrival? Document the time.

_____

6. What agencies conducted the raid? (e.g., ICE, local police, HSI, etc. *NOTE: There may be multiple law enforcement agencies working together in a task force, etc.)

_____

7. How many officers were there? How many were male and female?

Female: _____ Male: _____

8. Please describe their vehicles (were they marked as police, DHS, etc.?):

_____

9. Did the officers have their weapons drawn or were they visible?

_____

10. What were the officers wearing?

Color _____ Labels _____ Badges _____

Location of ICE Detention Facility where worker was taken:

Name: _____

Address: _____

Phone: _____

ICE Special Agent in Charge:

Name: _____

Address: _____

Phone: _____

VIII. DEPORTATION DEFENSE

FAQ

Q. Who is at risk of deportation?

A *Any non-citizen present in the United States without permission is subject to deportation*. This includes people who entered "without inspection," meaning by crossing the border without being detected, no matter how long ago and even if they now have U.S. citizen children or spouses or have other strong ties to the U.S.

People with temporary permission to be in the United States can be deported if their permission expires. This includes people whose deferred action under the DACA or DALE program has expired or been revoked, and people with Temporary Protected Status (TPS) upon termination of their country's TPS designation.

Finally, people who had permission to be in the United States but violated a condition of that permission or committed certain crimes are also subject to deportation. This includes non-citizens who entered on tourist visas and "overstayed" and lawful permanent residents convicted of certain criminal offenses, including some low-level drug and property offenses.

The Biden Administration generally exercised "prosecutorial discretion" to decline to deport people who posed no threat to public safety, border security, or national security, and had long standing ties to the U.S. In contrast, the Trump Administration has indicated that it will pursue the indiscriminate deportation of ALL deportable non-citizens.

Q. What are common ways people come to the attention of immigration officials?

A Immigration officials conduct traffic stops, question people at bus and train stations, detain workers during worksite raids, and arrest people in their homes. Immigration officials also identify people in the custody of local police and sheriff departments and arrest people at the border attempting to enter the U.S.

Immigration officers cannot make an arrest unless they have probable cause that a person is a non-citizen subject to deportation. Immigration officers often rely on people to voluntarily provide this information. That is why it is so important to know and exercise the right to remain silent and demand to see a judicial warrant–signed by a judge, not an immigration officer–before opening the door to immigration officials.

People may also be identified for deportation as a result of applying for an immigration benefit; if the application is denied (and even in some cases while the application is being processed), the applicant may be referred for removal.

Q. Does everyone get a hearing in immigration court before they can be deported?

A No. While due process generally requires a hearing before deportation, several large categories of people can be deported without a hearing.

Non-citizens arrested at or near the border at or shortly after entry, and certain non-citizens who enter by sea, can be deported without seeing a judge, in a process called "expedited removal." Expedited removal takes no more than a few hours.

The first Trump Administration attempted to expand expedited removal to cover non-citizens who entered the U.S. without inspection or by using fraudulent documents and could not prove they had been present for more than two years. The expansion was challenged in court, but may be resurrected during a second Trump Administration.

With limited exceptions, anyone who has previously been deported and has not since received permission to be in the United States can also be deported without a hearing. Some people with prior deportation orders may not be aware that they have them. For example, people who were ordered removed "in absentia" after failing to appear for an immigration court hearing or were subject to expedited removal (a quick and confusing process) may not realize they have a deportation order.

While there are legal strategies to fight deportation even in cases where there is no right to a hearing, they are very limited. Securing prompt legal assistance is especially important in these cases. Informing DHS about any fear of harm is also essential, as even people subject to removal without a hearing have the right to seek relief if they would be subject to torture or persecution upon their return.

Q. What happens in immigration court?

A Most other non-citizens facing deportation have the right to a hearing in immigration court. Deportation proceedings (technically called "removal proceedings") consist of one or more "Master Calendar Hearings," where an immigration judge sets the schedule for the case and determines what relief may be available, and one or more "Individual" or "Merits" Hearings, where the judge determines whether to issue a deportation order or grant relief. The immigration judge's decision can be appealed to the Board of Immigration Appeals and then to a Federal Circuit Court of Appeal.

If you know a person's "Alien Number" or "A Number," which is generally included on any immigration paperwork, you can help them check the status of their pending immigration court case online at https://acis.eoir.justice.gov/en/.

In immigration court, it is the government's burden to prove that a person is not a U.S. citizen. If that burden is met, the person may try to show that they are eligible for relief from removal. Common forms of relief include:

- *Asylum*–for individuals with a "well-founded fear" of future persecution who, with limited exceptions, apply within one year of arriving in the U.S.
- *Cancellation of removal for non-lawful permanent residents*–available to non-citizens who have lived in the United States at least 10 years, establish "good moral character," and show that their deportation would cause "exceptional and extremely unusual hardship" to their U.S. citizen or lawful permanent resident child, spouse, or parent.
- *Adjustment of status*–for individuals who are eligible to apply for lawful permanent residence because they have been lawfully admitted to the country and have a qualifying relative or employer who can request an immigrant visa for them.

Unlike in criminal proceedings, there is no right to legal representation at government expense in immigration court. If a person cannot afford an attorney, they must represent themselves. Having an attorney has a profound impact on a person's likelihood of success in immigration court. Detained immigrants with counsel are *twice as likely to obtain relief* as unrepresented immigrants. Non-detained immigrants with counsel are *five times as likely to win* as their counterparts without representation.[17] Helping someone find (and, if necessary, pay for) a good immigration attorney is often the best way to help them fight their deportation.

17 https://www.americanimmigrationcouncil.org/research/access-counsel-immigration-court

Q. How long does an immigration court case take?

A It depends on whether a person is detained during the proceedings. Overall, the average immigration court case lasts more than two years.[18] This does not include the time it takes to appeal an immigration court decision, which can take several more years. But detained cases are "fast tracked." The average case for a detained person lasts only 46 days[19] (although if a detained person applies for relief and pursues all available appeals, their case may take much longer).

This is a critical difference for workers. A worker subject to proceedings in detention, in addition to being separated from their loved ones and held in carceral conditions, could be deported in a matter of months. A worker subject to non-detained proceedings can potentially expect years and years of proceedings that they can pursue while free–indeed, proceedings that could last longer than the four years of the next Trump term!

Q. Who is subject to detention during immigration court proceedings?

A People with certain criminal convictions are subject to mandatory detention. For everyone else, ICE generally has discretion to detain or release on bond, "parole," or own recognizance. If ICE denies bond or sets a bond higher than the person can pay, the person may request a bond hearing before the Immigration Court.

Q. How do you find someone in immigration detention?

A If a person is in ICE custody, you can search for them using the ICE Detainee Locator.[20] You can also contact the embassy or consulate of the person's country of birth; they may be able to help because immigration officials are required to notify the consulate when someone from their country is detained.

If you believe a person may be in Border Patrol custody, you should contact their embassy or consulate for assistance locating them. Generally, people should not remain in Border Patrol custody more than a few days.

If a minor is detained, they will be put in the custody of the Office of Refugee Resettlement. Parents seeking to locate detained children can call the ORR hotline at 1-800-203-7001 seven days a week from 9am to 9pm Eastern Time.

Q. How does being detained affect a case?

A Being detained makes it harder to fight deportation in multiple ways. There is less time to prepare a strong case. It is harder to secure legal representation and gather important documents. It is also harder to find the strength to fight while being separated from family and community.

Simply put, being detained is often the difference between getting deported in a couple of months or ultimately securing immigration relief. Getting workers out of detention should be advocates' number one priority. For more on this, see *Spotlight: Helping Workers Obtain and Post Bond*, on the following page.

Q. How do you help someone find an immigration attorney?

A The Immigration Advocates Network and Pro Bono Net have compiled a National Immigration Legal Services Directory[21] of non-profit organizations that provide free or low cost immigration legal services. The Department of Justice also maintains a list[22] of pro bono legal services providers. And the Asylum Seeker Advocacy Project maintains a list of private attorneys[23] who have been recommended by local non-profits. Trusted community partners and organizations may also be able to refer you to quality local legal services.

18 https://trac.syr.edu/phptools/immigration/court_backlog/apprep_backlog_avgdays.php
19 https://www.americanimmigrationcouncil.org/sites/default/files/research/immigration_detention_in_the_united_states_by_agency.pdf
20 https://locator.ice.gov/odls/#/
21 https://www.immigrationadvocates.org/nonprofit/legaldirectory/
22 https://www.justice.gov/eoir/list-pro-bono-legal-service-providers
23 https://help.asylumadvocacy.org/private-attorneys/

Spotlight: Helping Workers Obtain and Post Bond

Being detained makes it much harder to fight deportation. That's why one of the most important things advocates can do is to help secure a person's release.

Bonds Granted by ICE: After a person is arrested, ICE processes them and–unless they are subject to mandatory detention– decides within a few days whether to release them, grant bond, or detain them without bond. This decision is discretionary, so it presents an opportunity to advocate with ICE. Advocates can work with the person's immigration attorney to prepare and submit evidence showing that the person is a valued member of the community and presents no danger or flight risk. Advocates can also demonstrate community support by holding vigils outside the detention center, securing support from elected officials, and using social and traditional media. See Components of a Successful Deportation Campaign, below, for more ideas and suggestions.

Bonds Granted by Immigration Courts: If ICE denies bond, or sets bond higher than the person can pay, there is still an opportunity to request a bond hearing in immigration court. The hearing is not automatic–it only happens if the person requests it. At the hearing, the person will have another chance to submit evidence showing why they should be released. This is another opportunity for advocates to make a strong case for release. Letters from elected officials, clergy, and labor and community leaders can attest to the person's strong community ties. Organizing a group of supporters to attend the bond hearing–maybe with matching shirts or other outward signs of support–can also make a big difference. If you plan to attend the hearing, work with the immigration attorney to make sure you understand and account for applicable court rules.

If bond is granted, advocates can play an important role in helping to raise funds. The Community Justice Exchange has compiled a list of existing bond funds[24] that accept applications from community members. Advocates may also want to consider setting up a GoFundMe or holding fundraisers to raise money for bond.

24 https://www.communityjusticeexchange.org/en/immigration-directory

Components of Successful Deportation Defense Campaigns

Team Roles and Responsibilities

In the event that workers are detained and facing removal, it is critical that everyone involved understands what it means to organize against a deportation, and what their roles and responsibilities are, including the individual, family and community members, legal representatives and advocates. Below is the recommended separation of labor and responsibilities:

Advocates. The main role of advocates is to support the individual facing deportation and their family by providing guidance, connection to resources and institutional support. Responsibilities could include:

- Coordinate a strategy between the individual and their family, community members and advocates, and legal representatives (when available).
- Support an individual and their family in understanding the immigration process and the status of their case, and connect them to social and legal services.
- Help individuals and their families gather information about their case, as well as documents that support the stopping of their deportation.
- Prepare individuals and/or their families to speak publicly about the case using agreed-upon framing, and answer difficult questions.
- Organize public events, including press conferences, public meetings or direct actions.
- Reach out to legislators and community leaders to gather support for the individual and, when necessary, put pressure on these leaders to secure their support.
- Find a reliable immigration attorney to do an initial consultation or take on the case, ideally pro bono.
- Reach out to the ICE public advocate or other law enforcement agencies to show support and communicate public pressure.
- Gather signatures and phone calls by reaching out to their networks and other allies.

Workers Directly Impacted. It is important that the persons who may face a deportation proceedings and their family know both the possibilities and the limitations of community advocacy, and that they will have to take an active role in the campaign, including the following:

- Participate in the campaign. Being involved in a successful deportation defense campaign requires that the individuals affected by the situation take part in decision making and advocacy.
- Attend selected public gatherings, media conferences, meetings with legislators and other community meetings for people from whom you are seeking support.
- Make final decisions about their case, based on information from community advocates and legal representatives. Even if others are involved in the campaign, final say of what strategies go forward and what information gets released publicly is up to the individual facing deportation.
- Understand that involvement in a public campaign does not guarantee that a deportation will be stopped, or that the individual will be released from detention.
- Provide information about the case that is accurate.
- Gather signatures, make calls and get support from legislators.
- Give permission and guidance of what information about the case can be shared with the public, media and other organizations.

Lawyers. Formal legal proceedings are a critical part of deportation defense, but successful campaigns involve a range of strategies that must be carefully coordinated, so lawyers should see themselves as part of the team and not as independent actors. Their role is to:

- Provide the individual with options about potential forms of relief and possibilities of obtaining prosecutorial discretion.
- Work with the workers, union representatives and community to coordinate the legal strategy with public advocacy.
- Be open to organizing strategies that are different from the usual legal process, especially if the individual facing deportation chooses to participate in a campaign.
- Participate in strategy meetings to inform campaign strategy with legal context of the case and agencies involved, with the consent of the individual.
- Provide legal information about the case to elected officials, with the consent of the worker(s) affected.

Components of the Campaign:

Campaign narrative. At the start of your campaign, you may want to decide on a campaign narrative that communicates why the case is so important and why deportation would be so harmful to the worker and the community more broadly. The narrative might address the person's role as a worker leader, their family ties, the length of time they've lived in the United States, any medical conditions they or their family members may have, and how their deportation would affect their family and their community. You should also consider any criminal history or other negative factors that ICE might raise against them, and have a plan to respond to or head off that line of attack.

Campaign plan. Your campaign plan and target will vary depending on the expected timing of the person's case and where they are in the deportation process. If you are organizing to stop the deportation of someone who does not have the right to a hearing in immigration court, you will need to act very quickly, and your immediate target may be your local ICE Field Office Director, who has discretion to stop the deportation. If you are supporting someone who has an immigration court case pending, your targets will likely include the ICE attorney, who has discretion to drop the case, and the Immigration Judge, who has authority to grant relief. Secondary targets may include elected officials who you are urging to take some action, like writing a letter or attending a public event. If you are organizing to raise money for bond, your primary focus will be fundraising.

Social and traditional media. Media can be a powerful tool to raise awareness and build public support. Include pictures and videos to draw attention and humanize the story. Be sure to clear any press releases, op-eds, or social media posts with the directly affected worker and/or their family as well as with their immigration attorney. When speaking with the press, make sure you confirm they are from a trusted media outlet.

Petitions and Phone Actions. You can use petitions and phone actions to call on your targets to take needed steps. Contact information for local ICE Field Offices is available at https://www.ice.gov/contact/field-offices.

Public Actions. Consider organizing vigils, press conferences, or protests. Invite allied organizations and respected community leaders. Make sure that potential undocumented speakers understand the risks involved, including that participating may bring them to DHS's attention.

IX. BUILDING MOVEMENT SOLIDARITY

As we prepare the defensive strategies that are vital to protecting workers around the country, unions must also center offensive strategies to build solidarity and maintain unity between workers. Powering up internal and external organizing will be essential to prevent divisions that may threaten our ultimate goal—delivering for working people.

Historically, unions have been a trusted source of community, information, and stability in trying times. Now, more than ever, we must harness the power of solidarity to show all working people that the union is for all of us, without exclusions.

Conversation, Education, and Action

There is no question that the consequences of a mass deportation strategy will affect *all* working people—immigrant or otherwise. Instead of waiting for questions about the role of unions in the fight for immigrant justice, unions should proactively address the issue within their structure, including with members and staff.

- **Educating members and staff**: The AFL-CIO has developed an Immigration CommonSense Economics[25] module that focuses on immigrants' contributions to the U.S. economy, and how employers use the unjust immigration system to divide workers and drive up their profits.

- **Unions as community hubs:** Proactively show workers and the broader community where unions stand on this fight. Volunteer the union hall as a safe gathering space for all.
  - **Make our solidarity visible.** Participate in local rallies, post on social media, distribute solidarity materials—working families and allies should know where unions stand on immigrant rights.
  - **Hold citizenship clinics.** Helping immigrant workers and their families through the naturalization process is a powerful way to build power, protect workers, promote democracy, and help diversify the electorate—and it's easy! For a step-by-step guide on how to do this, write to frontlinesolidarity@aflcio.org to request a copy of our National Citizenship Campaign Toolkit.
  - **Host Know Your Rights trainings.** All workers, immigrant or otherwise, should know what to do in case of immigration enforcement. Invite workers and their families to join union-led KYR trainings in person or online. Take steps to safeguard privacy of those involved by requiring registration and hold events in private locations where the union controls access.
  - **Ensure union halls are safe spaces.** Have zero-tolerance for hateful language or discrimination of any kind. All workers should feel safe and comfortable in union spaces.
  - **Become trusted sources of information.** Equip your staff with the information needed to respond to workers who may have questions or to point them in the right direction. Build credibility with the community by showing up and stepping up.
  - **Open union halls to the community.** Volunteer your space for community events and open your doors to allied groups. Showing the broader community that immigrants have a home in the labor movement is essential to building trust and growing our movement.
- **From Bystander to Upstander:** There are no bystanders in this fight, and there are many ways in which workers who may not be personally affected by the mass deportation strategy can pro-actively support their immigrant siblings at the workplace and in their community.
  - **Carry a KYR card in your wallet.** Even if you are not an immigrant, carry a KYR card in your wallet and become familiar with what to do in the case of an encounter with immigration authorities. When you decline to

25 https://docs.google.com/forms/d/e/1FAIpQLSenpyvZmOazF3WEF1y97rrWkP2MPIwPWxiygOAXtSSNLe7EKw/viewform

speak with ICE or to show documentation, this will mean immigrant workers are less likely to be singled out.

- **Enforce the AFL-CIO Code of Conduct.**[26] Discrimination or harassment of any kind has no room in our workplace or our movement. Serve as an example to others, and proactively enforce the code of conduct in every setting.
- **Speak up.** If you see injustice at the workplace or in your community, use your privilege to speak up in defense of your immigrant siblings who may not feel safe speaking up.
- **Document and witness.** If you see immigration enforcement—whether in public or at work—make sure to pay detailed attention. If you feel safe to do so, take video or audio recordings, and take careful notes after the encounter. This information may prove useful in the future.
- **Accompany immigrants in settings where they may feel vulnerable.** Whether it's a meeting with the boss, a court hearing, a notice to appear for an immigration proceeding, or anything in between, immigrant workers may be fearful or intimidated in certain settings. Show your solidarity accompanying them through the process.
- **Volunteer for clinics and trainings.** Unions and community groups will need support from workers as they stand up defensive strategies. Volunteer at immigration clinics, food banks, trainings or other events that support immigrant workers in your community.
- **Show off your solidarity.** Wear t-shirts and buttons, put up posters and stickers, and proudly show your support for immigrants!

26 https://aflcio.org/sites/default/files/2018-02/Code%20of%20Conduct.pdf

Advocacy Strategies

Depending on the makeup of each state's or local jurisdiction's legislative body, a proactive or defensive strategy may be warranted on issues impacting immigrant workers. In states with anti-immigrant legislative majorities, unions should support efforts to block bills that criminalize undocumented persons or that require cooperation with federal immigration authorities. In progressive states, we can be part of the push to enact immigrant protection legislation. (See examples below.) In other states, legislation and freedom of information inquiries requiring data and transparency regarding the activities relating to, and treatment of, detained immigrants by local and state criminal justice entities may even garner bipartisan support. For this or any other new legislative approaches, please consult the State Team at the AFL-CIO for feedback, review and discussion.

- **Banning local collaboration with ICE:** policies that separate state or local law enforcement functions from immigration enforcement functions.
  - *Oregon example*: https://olis.oregonlegislature.gov/liz/2021R1/Downloads/MeasureDocument/HB3265/Enrolled
- **Banning immigration-related retaliation**: policies that bar employers from taking against immigrant workers who exercise their rights under state labor laws and punish unfair immigration-related practices taken in retaliation for the exercise of a workplace right.
  - *California example:* http://leginfo.legislature.ca.gov/faces/billNavClient.xhtml?bill_id=201320140AB2751
- **Access to driver's licenses:** expanded access to driver's licenses for immigrants
  - *Illinois example:* http://icirr.org/content/what-new-driver%E2%80%99s-license-law-means-sb-957
- **In-state public college and university tuition:** Efforts to protect existing in-state tuition for undocumented students will be required in states that currently provide it. But states can still propose access to in-state rates and financial aid benefits for certain undocumented immigrants who attended state high schools and meet other conditions.
  - *South Carolina example*: https://www.scstatehouse.gov/sess126_2025-2026/prever/3271_20241205.htm
- **Public defenders for immigration court:** Individuals going before an immigration court have no recognized right to appointed legal counsel. However, states and cities can allocate resources to ensure that local immigrants have representation through these complex legal proceedings.
  - *New York City example:* http://www.usnews.com/news/us/articles/2014/06/27/nyc-creates-public-defender-system-for-immigrants
  - *Illinois example*: https://ilga.gov/legislation/BillStatus.asp?GA=103&SessionID=112&DocTypeID=SB&DocNum=2379
- **Expansion of access to medical benefits:** State states can pass laws that allow undocumented immigrants to enroll in health insurance programs that are paid for by state funds, including subsidies for the ACA.
  - *California example*: http://laborcenter.berkeley.edu/pdf/2014/DACA_health_coverage.pdf
- **Domestic Workers Bill of Rights:** provisions that guarantee domestic workers basic rights like minimum wage, overtime pay, rest breaks, and safe working conditions
  - *New Mexico example:* https://www.nmlegis.gov/Sessions/19%20Regular/final/SB0085.pdf
- **Immigrant Worker Bill of Rights:** States or cities can codify the rights that immigrant workers have, regardless of immigration status, and can require that workers and employers be made aware of those rights.
  - *New York City example:* https://www.nycclc.org/news/2023-11/new-york-city-council-passes-landmark-bill-

rights-immigrant-workers

- **Expansion of rights for Farmworkers**: States can expand labor rights and protections for farmworkers, including allowing freedom of association and collective bargaining rights.
  - *Hawaii Example*: https://www.farmworkerjustice.org/hawaii/
  - *Maine Example:* https://legislature.maine.gov/LawMakerWeb/summary.asp?ID=280086030
- **Access to professional licensure**: Expand access to professional licensure and prohibit the denial of a license based on immigration or citizenship status
  - *Nevada example:* https://www.leg.state.nv.us/App/NELIS/REL/80th2019/Bill/6498/Overview
- **Expansion of rental assistance:** Access to rental subsidy or assistance programs for immigrants who are unable to access other forms of federal and state rental relief.
  - *Michigan Example:* https://www.michigan.gov/ogm/services/newcomer-rental-subsidy?utm_medium=email&utm_source=govdelivery

Lessons from Trump 1.0:
Workers Stand Up Against the Muslim Ban

Immediately following the first Trump Administration's announcement of the travel ban for people from predominantly Muslim countries, spontaneous protests broke out in airports across the country. Union members and activists became upstanders in many ways:

- Airport workers activated their unions, including UNITE HERE, who mobilized to demonstrate their resistance and solidarity;
- New York City taxi drivers withheld their labor and stopped offering rides to the airport;
- The Chicago Federation of Labor held a love vigil outside the local mosque to welcome and applaud worshipers as they arrived to the service; and
- A member of the United Auto Workers at the University of Washington, who happened to be from Tehran, became a named-plaintiff in litigation challenging the constitutionality of the travel ban.

X. APPENDICES

RESOLUTION 22
IMMIGRATION ENFORCEMENT: BUILDING COMMUNITY TRUST

Immigrants and refugees have always played a vital role in building our country and our labor movement, and today is no different. However, politicians attempting to distract from the real issues facing our nation have elevated efforts to criminalize and target immigrants to a level that puts our core democratic values and institutions at risk.

Cities and states around the country are taking steps to establish clear limits on immigration enforcement because they refuse to undermine other essential functions of government. The role of our public schools is to educate our population. The role of our courts is to resolve disputes and interpret the laws. The role of our labor agencies is to enforce minimum workplace standards. The role of our hospitals is to heal the sick. The role of local police is to ensure community safety. These public institutions should never be forced to compromise their vital purposes by becoming an arm of the ever-expanding deportation machinery.

Forcing immigration enforcement presence into all aspects of public life will make our country less safe and less just. It also will lead us to see more illness and more exploitation in our communities. Evidence of this is everywhere. School attendance is down. Workers are running away from labor inspectors at job sites. Women are not reporting domestic violence incidents. People are refusing to seek needed medical care. Hurricane evacuees are even afraid to enter shelters.

The heightened fear in our workplaces and communities directly undermines the common good and erodes our freedom to join together and fight to lift working and living standards for all. Working people understand this, which is why we have been at the forefront of efforts to ensure sensible legal protections in communities across the country.

Community trust policies increase well-being and safety by strengthening the trust between immigrant community members and local government, particularly law enforcement. Strong policies prevent racial profiling and questioning people about their immigration status; stop detention without a warrant; create clear boundaries for immigration enforcement in public spaces; and otherwise limit local government cooperation and information sharing with federal immigration agencies. Importantly, these reforms make it harder for unscrupulous employers to retaliate against worker organizing and use the threat of deportation as a weapon to keep workers from exercising their rights or enforcing standards on the job.

As federal and state agencies threaten to punish and withhold funds from jurisdictions that commit to serve and protect all members of the community, working people are the ones who will suffer. These threats put jobs and vital community programs at risk, and continue to divert attention and resources from the real efforts we need to rebuild our crumbling infrastructure and get people back to work.

THEREFORE, BE IT RESOLVED, that the AFL-CIO shall continue to demand clear separation of immigration enforcement from local law enforcement and other functions of government because we want safe workplaces, campuses and communities. We call on our elected officials at all levels of government to reject the criminalization of immigrants and engage in policies that protect privacy and due process, and restore trust in our vital public institutions.

RESOLUTION 12
ENSURING THAT PUBLIC EDUCATION REMAINS A BEACON OF DEMOCRACY

Public education is how we help our children have a bright future. It is an economic necessity, an anchor of democracy, a moral imperative and a fundamental civil right.

The COVID-19 pandemic has made clear the importance of in-person schooling and underscored that public schools are the bedrock of every community. As educators, we constantly strive to help all schools provide the highest standards for teaching and learning. Public schools may be the last institution that, on a local level, is overwhelmingly trusted by families and communities.

Providing public schools that are safe, healthy and welcoming spaces to teach and learn in, and where students' academic and social emotional learning needs are met, is an essential building block to giving all students an equal opportunity to succeed, and to having an educated citizenry that will protect and participate in our democratic government.

Public school staff—along with many other front-line workers—have been heroes during the pandemic. They have continued to keep children fed, looked after their considerable mental health and social emotional needs, and kept kids engaged during a time of great uncertainty. Public school staff deserve the resources they need to do their jobs safely, with appropriate working conditions, and the supports they need to recruit and retain a diverse workforce where all employees receive a living wage.

Instead of helping educators help kids recover and thrive, the right wing is exploiting anxiety to engage in culture wars and attacking public education to win elections. They are building on their traditional attacks against public education—including underfunding, private school vouchers and charters—to scare communities with debates about masks and the teaching of honest history to undermine our most valuable institutions. This includes refusing to address the crisis of gun violence in schools that keeps students and educators from the safety they need and deserve to learn and teach.

There are real issues in public education that must be addressed, including educator shortages, mental health challenges, and the effects on students of disruption and missed instructional time. However, we know what needs to be done and what works: expanding community schools and wraparound services; creating new pathways for students, including career and technical education; and ensuring a greater focus on teaching and learning, not testing.

The AFL-CIO will continue our work with Congress and state and local school boards and governments to ensure the following for educators, school employees, communities and parents:

- A voice to work together, not only to protect and defend our public schools from these attacks, but also to ensure our public schools continue to be a beacon of hope and democracy.
- The shared goals of equitable education for all students, freedom to teach honest history, diversity and bringing students together around common values.
- Resources to expand community schools and wraparound services.
- New pathways for students, including career and technical education, so that all students can succeed and have bright futures.
- A safe, welcoming environment where students, teachers, paraprofessionals and other school employees can feel secure.

RESOLUTION 11
ADVANCING A HUMANE PRO-WORKER IMMIGRATION AGENDA

The AFL-CIO is committed to building a bold, dynamic and inclusive labor movement that brings good jobs and a secure future to all workers, regardless of where we were born. Real immigration reform is an essential part of the larger structural change we need to dismantle systemic racism, and create an economy that protects working people and promotes democracy in the workplace and the community.

Our unions will never accept policies that relegate millions of workers to an exploitable subclass with severely constrained rights. That is why we remain steadfast in the fight to win a path to citizenship for every undocumented worker in our country, and why we reject the model of work visa programs that gives employers control over the status and fate of workers.

The pandemic laid bare the need for sweeping changes to fix the economic and political systems that are failing workers. Our global labor movement has responded with a call for a new social contract, with no exclusions. In the context of rapidly escalating mass human displacement, that includes an imperative to expand humanitarian migration pathways for working families driven from their homes by conflicts, persecution, disasters or climate change.

Our immigration system must be designed to meet the real needs of people, rather than the purported needs of employers. As we strive to welcome more refugees, asylum seekers and other forced migrants, we also must have a vision for integrating them into the workforce with good union jobs. Our Workers First Agenda embeds immigration policies that will promote shared prosperity and a new growth paradigm that closes racialized and gendered gaps in income and opportunity, rather than continued growth in the concentration of wealth and power in the hands of the few.

Our unyielding solidarity and commitment to building worker power animates our demand for a more just immigration system that protects those in need, and ensures full and enforceable labor rights for all. Workers with all types of immigration status will continue to organize and mobilize to win transformative changes that protect our rights to a ballot, a union, a good job, a livable planet, a just path to migrate and a truly inclusive society. To reverse structural injustices and meet the humanitarian imperatives of our time, we must rebalance power in our economy and advance immigration policies that remove barriers to organizing and put people over profit.

The AFL-CIO resolves to:

- Redouble our efforts to win a long-overdue path to citizenship for all those whose labor helps our country to prosper and comprehensive, pro-worker reforms to our unjust immigration system.
- Relentlessly defend all workers whose rights are under attack, including those with temporary protected status (TPS) and Deferred Action for Childhood Arrivals, and those without formal status.
- Play an active role in the workforce integration of new immigrants and refugees so that they will have representation at work, the added protection of a collective bargaining agreement, increased training opportunities and a means to promote social cohesion with the existing workforce.
- Deepen our labor citizenship and naturalization efforts to help build worker power and expand and diversify the electorate.
- Organize all workers, regardless of status, and pursue concrete protections and work permits for immigrants who seek to form or join a union, bargain a contract or otherwise take collective action to make our workplaces safe and fair.

- Elevate our call for enhanced humanitarian commitments, including:
  - Increases in the refugee resettlement cap.
  - Appropriate treatment of unaccompanied children, ensuring that their educational, safety and legal needs are met.
  - Meaningful due process for asylum seekers and expanded criteria for eligibility.
  - New, permanent pathways for climate migrants.
  - TPS designations for all countries destabilized by conflict and disasters.
- Reject efforts to misdirect forced migrants into abusive temporary work visa programs and continue to insist that guestworker programs be fundamentally reformed to lift worker rights and labor standards, rather than expanded.
- Demand enforceable environmental and labor standards in trade deals and investment strategies, and an end to extractive, neocolonial foreign policy approaches that enrich multinational corporations and fuel poverty, exploitation, environmental degradation, violent suppression of rights and other factors that drive working families from their homelands.

XI. ACKNOWLEDGEMENTS

We extend deep gratitude to the courageous immigrant workers who defy the risks every day to stand up for fairness and dignity at work and a voice on the job. We commit to working together to continue to build power, wherever the fight takes us next. Through unity and collective action, we will persist until we finally achieve our goal of a pathway to citizenship for all.

This toolkit is a compilation of guidance and best practices born out of decades of experience in our labor movement with organizing, representing and defending immigrant workers. We thank all the unions, organizations and individuals who have helped lead the way on this work, through good times and bad. And we are particularly grateful to the AFL-CIO Immigration Committee for its tireless leadership in shaping our policy and programmatic priorities.

We thank Organized Power In Numbers for showing us true solidarity and providing technical support in the development of this toolkit. We are proud of our partnership in this effort to ensure that these tools reach the people who need them most.

Organized Power In Numbers[27] works at the intersection of worker power and modern digital and data-driven organizing to help our movements reach millions of people, invite them into movement, and level up campaigns that win for workers, their families, and their communities.

Our advocacy has always been strengthened through collaboration with organizations working toward a shared goal. We are committed to continuing to stand strong in the fight for justice alongside all workers in this country, regardless of immigration status.

Onward in the Struggle!

ORGANIZED POWER IN NUMBERS

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AMERICA'S UNIONS

27 http://powerinnumbers.us

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