

Employment Law Corner

Monthly Report



FOLEY & FOLEY^{PC}
ATTORNEYS AT LAW

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April Updates

It's Up to You New
York*—Expanded
Severance Protections

NLRB Back in Business!
What That Means for
Your Workplace

Employment Law Corner: I9s and ICE Raids

Employment Authorization

Since 1986, the ever-intimidating I-9 form requires employers to verify that their employees are authorized to work in the United States. It is well established law, but compliance often feels like you are narrowly escaping a room, crisscrossed with lasers, waiting to trigger any mistake. To add to the pressure, ICE raids have increased under the new Trump Administration, which adds another level of stress for business owners.

As always, we are here to bring calm to the chaos, so let's dive in.

I-9 Forms:

To be compliant with the requirements of the law, all employers should have employees fill out an I9 form and examine the documents the employee presents to prove they are authorized to work in the United States.

The employee's responsibility is to fill out section one of the I-9 Form. You cannot force employees to fill out the optional fields and can only require they provide their Social Security Number if you use E-Verify. You want to make sure that they check one of the respective boxes stating what their immigration status is, and if they check box three or four, they include the respective document numbers.

Section two is the employer's responsibility. You must evaluate the List A document the employee provides or List B and List C documents. You cannot tell the employee to bring specific documents. In this part of the process, you are to evaluate the documents they provide and determine if they are valid. If so, then you sign at the bottom of section two. This must be done within three business days of the employee's start date. This does put a lot of pressure on the employer to know how to read government documents, if you aren't comfortable with that then there is E-Verify.

E-Verify: YES!

E-Verify is a government site that allows you to validate I-9 information and documents. E-Verify will compare that information against the Social Security Administration and Department of Homeland Security site to confirm its validity. If you do choose to use E-Verify, you must do it for all employees going forward.

This is a great step to ensure you are reviewing the documents appropriately and taking the necessary actions if you are presented with incorrect information. It also helps in the event ICE came knocking on your door.

ICE Raids:

ICE can come in one of two ways: an audit or a raid. The best practice is to have an **ICE Raid Response Plan** that key employees know how to implement.

For an audit, you will receive a Notice of Inspection (NOI) which compels you to provide your I9s and any other relevant documents. You have three days to provide the information. We recommend calling Foley & Foley in the event you get an NOI. **DO NOT waive the three-day notice period.** You want to gather all the information requested and provide it to ICE.

A raid is where ICE will provide a warrant to come on to the property. Remember, only a judicial warrant, signed by a judge, forces the employer to grant access. You can request to inspect the warrant and should. If it is a judicial warrant, then you must allow them on to the property, but only in the areas listed on the warrant.

Be calm, do not interfere or obstruct their search to avoid civil and criminal penalties. Avoid any actions that could be perceived as harboring. Document anything removed from the property. Also be sure to have a plan in place so you have a designated representative and know how to appropriately respond.

WE CAN HELP!

We have so many services to assist you in navigating what is to come in 2025:

I-9 Audit Services: We have two great services that can assist you with reviewing your I9s, one service that will look at your process, policies, and procedures and make any needed corrections. The second will review your policies and procedures and will look at each individual I-9 and let you know of the needed corrections.

ICE Raid Response Plan: Don't have plan yet? Don't worry, we got you covered. Our ICE Raid Response plan will have you ready in the event you are selected for an audit or a raid and ensures that you will know what to do when the time comes.

E-Verify Training and Guide: We also provide a comprehensive training program and training guide to assist you and your authorized employees who use E-Verify. The training provides a thorough list of dos and don'ts for filing out an I-9 and what to do if you get a Tentative Non-Confirmation through E-Verify. The guide is a great companion to the training, providing screenshots and process flow for every part of using E-Verify.

Do You Have Questions?

We can help! Our **Employment Counsel On-Call Triage Service** is a perfect resource for employers of all sizes looking to receive guidance on employment law and HR-related questions. We work with clients day in, day out to help them navigate complex legal issues and implement best practices. We receive unique questions every day through the **On-Call Service** and are ready to tackle any issue where you need help!

Who We Are:

- We represent employers exclusively from coast to coast in all facets of employment law and litigation. Our mission is solving problems and anticipating issues so you can concentrate on your business.
- We are constantly searching for the trends and upcoming issues in the law that will impact our clients. We want our clients to be informed and ready. Our familiarity with the workplace and our approach sets us apart from other law firms, making us well equipped to handle your unique needs.
- We are not like other firms: Anyone can tell you what the law states and its limits. That is easy. We find creative solutions within those restrictions that move your business forward. We seek to minimize your risk so you can get back to business. Learn how we can help your business: **Foley & Foley PC attorneys specialize in Employment and Labor Law in the Public and Private Sectors (foleylawpractice.com).**

Meet Wendy Hansen

Wendy brings a broad range of employment law skills to our team. She is the Practice Leader of the Employment Counsel On-Call Triage Service which services thousands of clients across the country. She has experience in handling a variety of questions and claims in employment law, including: FMLA, ADA, FLSA, criminal background checks, medical marijuana, wrongful termination, and harassment.

Wendy is the firm's Organizational Restructure and Reduction in Force Practice Leader and the FMLA and State-Specific Leave Law subject matter expert. She is also the lead for the firm's Education and Training Practice and has hosted and conducted hundreds of webinars for clients, covering topics and trainings for HR personnel, supervisors and mid-level managers; and standard employees.

For more info, check out her bio **here!**



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