

Policy Matters – The Immigration Lens, Episode 3: Sensitive Locations

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Dani Mayer

Hello and welcome to our podcast, The Immigration Lens. My name is Dani Mayer. I'm an attorney here at Seyfarth on the Global Immigration and Mobility team, and today I'll be your host. Our practice specializes in helping multinational organizations develop and manage comprehensive global mobility programs. To learn about our practice and our team, please visit [Seyfarth.com](https://www.seyfarth.com) or check out our blog. I'm thrilled to speak with Leon Rodriguez today, a partner here at Seyfarth, to discuss sensitive locations. Leon, could you give an introduction to yourself and your practice here at Seyfarth?

Leon Rodriguez

Sure. My name is Leon Rodriguez. I'm a partner in Seyfarth's Washington, DC office, and I'm one of the co-chairs of our firm's Immigration Compliance and Enforcement Team. I'm also a member of the firm's White Collar Defense Group. So, as a result, my practice is involved in the full range of issues related to immigration enforcement, which needless to say, life's been a little busy the last few weeks.

Dani Mayer

Absolutely. So, today we wanted to talk about sensitive locations, if you could give us a bit of a background on what a sensitive location is and why it's important for immigration.

Leon Rodriguez

Over a number of years, Immigration and Customs Enforcement, which is the agency within the Department of Homeland Security that investigates and takes enforcement action with respect to violations of the immigration laws, either criminally or through civil deportation processes, has had a policy that has gone through Republican administrations, Democratic administrations that had a presumption against immigration enforcement action being taken in what were described as sensitive locations. Sensitive locations primarily meant health care facilities, above all, hospitals, educational facilities, which could include anything from an elementary school all the way up to a university or vocational school, or something like that, in houses of worship. And that policy was in effect through the Bush administration, the Obama administration, the first Trump administration, the Biden administration, and was recently rescinded. In the rescission memo, the Department of Homeland Security nonetheless suggested that common sense would be applied, with respect to these types of locations, but it no longer was going to institutionalize a presumption that those locations would be off limits for immigration enforcement.

Dani Mayer

And so, how can employers and employees prepare for this change, and has this change taken effect?

Leon Rodriguez

I think the best way to prepare for it is, first, to understand what your actual risk is of immigration enforcement. And so, you know, depending on your industry, the activities that go on, the kind of immigration enforcement that you may experience, will be different. So, on the whole say, let's talk about hospitals as one example: the probability that a hospital would be the site of what you've been hearing people call "a raid," which you would picture a raid as one of your buildings, one of your facilities, being entered by a significant number of agents, there being all kinds of vehicles outside, including busses to take people away. Those are the kinds of things that probably won't be happening in a hospital environment. But with that said, it is possible that you could see immigration agents as a result of this change in the sensitive locations policy, coming to any of -- a school, a hospital, house of worship -- for the purpose of effectuating an arrest. For example, going back to the example of a hospital, there's a patient there. They're in the hospital. They're there. They're an inpatient. They're going to be there for a few days. It is now very possible that immigration agents, as any other law enforcement agents might, may come to effectuate an arrest or otherwise engage with that patient, and there could even be instances where they're engaging with multiple, multiple, people. So, and those scenarios can apply to an educational environment, including a public educational environment, and they can apply to houses of worship as well. The other thing that I think is important for all these kinds of settings to be mindful about, is that in addition to whether it's your patients, your students, your congregants, there are other, and your employees, there are also other kinds of people that can be in your building that may end up being of interest to immigration enforcement agents. Key among these are vendors. So, while you may know, or you may take steps to know the immigration status or the, at least the work authorization of your employees, you probably don't know what your vendors and their employees immigration status is. So, it's possible that some of these actions may not focus on your own employees, but on your vendors. What that means in terms of what you do, is you have to have a plan, and that plan needs to be based on an understanding of what might happen, what the legal authority is for that to happen, and then how you will respond as an organization, and in particular, who in your organization is going to respond when these events occur.

Dani Mayer

Absolutely. So, it sounds like now is the moment to take a pause and to make a plan with your team and prepare for increased inquiry into the population on all worksites.

Leon Rodriguez

That's correct, and the elements of the plan are, as I always say, the key issues are, one, proper escalation within the organization, and two, protecting the rights of the organization, and in particular, protecting the rights of the organization over its property. And therefore understanding the kinds of legal processes that the agents might be using, whether it's a subpoena, an administrative warrant, a criminal warrant, a court issued warrant. Those things give that agent access to different items and spaces, and so having some basic understanding of what those are is important to then having an appropriate response to visits by those agents.

Dani Mayer

Absolutely, well, this has been an informative discussion. Thank you for joining to talk about sensitive locations and how companies can prepare. If you're interested in learning more and joining the conversation, follow our blog at bigimmigrationlawblog.com or check out our practice group page on

Seyfarth.com. Thank you for joining today, Leon.

Leon Rodriguez

Thank you.