



Ann Lee

Partner
303.295.8025
Denver
ahlee@hollandhart.com



Chris L. Thomas

Partner
303.290.1611
Denver
clthomas@hollandhart.com

New USCIS Enforcement Powers Take Effect - Critical Changes Every Employer Must Know

Insight — September 4, 2025

USCIS officers will now possess full law enforcement powers, including authority to carry firearms, execute warrants, make arrests, and investigate civil and criminal violations of immigration law within USCIS jurisdiction. See <https://www.federalregister.gov/public-inspection/2025-16978/codification-of-certain-us-citizenship-and-immigration-services-law-enforcement-authorities>.

This marks a departure from USCIS's longstanding role as a non-enforcement adjudicatory agency, which had been handled by Homeland Security Investigations (HSI) and Immigration and Customs Enforcement (ICE); it can now operate more like other DHS law enforcement entities, such as ICE and CBP, opening a new universe of potential exposure for employers (and their lawyers) who fail to comply with federal immigration law.

The Director of USCIS and any designated officer in that agency will now have authority to investigate and pursue criminal charges against employers (e.g., fraudulent or misleading petitions, situations in which workers were improperly brought into the US under false pretenses, scenarios in which workers were coached on how to mislead immigration officials to secure entry into the country, etc.). They also have the authority to arrest people for *any* felony if the special agent is performing immigration enforcement duties at the time of the arrest.

Going back to guidance earlier this year, such an enforcement environment will place federal prosecutors in a position in which they “shall” accept criminal cases that are referred to them and treat immigration-related offenses as the “investigative and charging priorities of the United States.” See <https://www.justice.gov/ag/media/1388541/dl>.

Risk Implications for Employers

- Onsite inspections and fraud investigations may increase, potentially leading to more intrusions into workplace operations.
- Employee arrests or detainment could occur at the workplace, which for some could potentially be in their homes where remote work is permitted, or during employer-facilitated immigration processes.
- Employers who encourage individuals to enter the United States for unauthorized reasons (e.g., submitting documentation that does not accurately reflect the intended purposes of the foreign national's

visit, including fraud and misrepresentation) will be especially vulnerable.

- Fraud Detection & National Security (FDNS) is likely to expand onsite visits to assess concerns of adjudicators reviewing problematic petitions.
- Liability and reputational exposure in scenarios involving noncompliance or perceived document fraud.

Recommended Employer Actions

- **Revisit Internal Global Mobility Policies**
Ensure information is carefully vetted, particularly with regard to USCIS filings, including Public Access Files, PERM audit files, etc., to ensure only accurate information is submitted.
- **Preparation for FDNS Visits**
While it may take some time as USCIS develops appropriate training plans, recruits, etc., the Employer should take immediate action to implement protocols for handling potential on-site USCIS interactions, such as:
 - a. Identify a designated escort for any visiting agents.
 - b. Reconfirm documentation without coercing employees.
 - c. Have legal counsel on standby for urgent advice.
- **Enhance Employee Communication**
Educate employees who have obtained or are pursuing immigration-related benefits about potential USCIS interactions. Town halls, weekly updates on adjudication trends, and other resources will help educate employees and prepare them for possible high-stakes encounters.
- **Monitor Consulting Services Companies**
Ensure that onsite contractors (e.g., onsite tech support workers in H-1B status) are in strict compliance with applicable law and under the exclusive control of the consulting services entity.
- **Engage Legal Counsel Early**
If notified of any USCIS visit or investigation, consult counsel immediately to minimize disruptions and shield operational and legal exposure.

Why It Matters Now

- **Increase in Enforcement:** National media confirms the recruitment of USCIS special agents with full authority, including arrests, firearms, and warrants, effective September 4, 2025. See <https://www.wsj.com/politics/policy/agency-that-issues-visas-and-green-cards-is-hiring-armed-agents-c71c89a6?mod=mhp>.
- **Historic shift:** This changes the dynamic between employers, immigrant employees, and federal immigration authorities by raising both compliance stakes and employee-employer tensions. In the past, employers worried about USCIS adjudicators denying borderline petitions. Now, they may need to worry about allegations of potential fraud, placement of beneficiaries in removal

proceedings, etc.

Conclusion

- USCIS is transitioning into a dual-role agency with the benefits of adjudication and enforcement powers.
- Employers may see more direct enforcement activity in workplaces.
- Proactive document protocols, employee-informed policies, and legal preparedness will be critical.

The attorneys in Holland & Hart's immigration practice stand ready to help employers navigate these significant developments. The old "visa factory" approach to processing employment-based petitions, which was never a great idea when it came to such a politically charged and legally complicated area, will no longer be an acceptable practice in this enforcement-heavy environment.

Subscribe to get our Insights delivered to your inbox.

This publication is designed to provide general information on pertinent legal topics. The statements made are provided for educational purposes only. They do not constitute legal or financial advice nor do they necessarily reflect the views of Holland & Hart LLP or any of its attorneys other than the author(s). This publication is not intended to create an attorney-client relationship between you and Holland & Hart LLP. Substantive changes in the law subsequent to the date of this publication might affect the analysis or commentary. Similarly, the analysis may differ depending on the jurisdiction or circumstances. If you have specific questions as to the application of the law to your activities, you should seek the advice of your legal counsel.