

Sensitive Locations FAQ for Houses of Worship

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NOTE: This is not legal advice and does not substitute consultation with a lawyer.

What has changed and what has remained the same regarding immigration enforcement in houses of worship?

Houses of worship have Fourth Amendment rights to protect private spaces in their building from entry by immigration enforcement officers and any other law enforcement. These rights have not changed. On the first day of the Trump administration, the Department of Homeland Security withdrew a memo setting guidelines that restricted enforcement action in certain locations, including places of worship. So the policy and restraint of the agency has changed, but the rights of the houses of worship themselves have not.

What are “Sensitive Locations” in the context of immigration enforcement?

In 2011, Immigration Customs and Enforcement (ICE) created [guidance](#) for agents to avoid enforcement actions in or near houses of worship, schools, hospitals and public demonstrations. In 2021, the Biden administration expanded the guidance by issuing a [new memo](#), instructing officers to refrain from taking enforcement actions at or near “Protected Areas,” and establishing as a “bedrock” principle that ICE should avoid enforcement actions that would prevent people from receiving essential services or engaging in essential activities (see [FAQ](#)). This has now been withdrawn with no replacement.

What is the impact of the Trump administration rescinding the “Sensitive Locations” and “Protected Areas” policy?

Immigrant communities may face a chilling effect – becoming fearful to attend worship, go to a congregation to receive services, seek medical care, take their kids to school, or share their stories at public events and rallies. For this reason, it is important that faith communities take steps to exercise their own rights to make their buildings more protected and inform immigrant members of their own rights.

What does this mean for the Sanctuary Movement?

Faith communities in the U.S. have been doing Sanctuary work to provide shelter, safety, and needed services to people seeking refuge from persecution since the 1980s, long before the 2011 “Sensitive Locations” memo and they will continue to do the work of Sanctuary according to the needs of the community. Faith leaders must continue to demand that houses of worship, schools, hospitals, public demonstrations and places that provide essential services, should continue to be safe places.

Faith Communities should push back against criminalization and dehumanization

As in all things, faith communities should be guided by their values. The language used by a DHS spokesperson in a [press release](#) rescinding “Sensitive Locations” attempts to criminalize all immigrants in a dehumanizing way. We know that people fighting to stay united with their families have inherent and infinite worth and value, and we will work to honor our divine obligation to treat immigrants with full respect and dignity.

Can congregations still serve immigrants?

Yes. Congregations should continue to do their day to day ministries, understanding that serving immigrants does not need to be a legal risk and there are ways to steer clear of legal liability issues, like including that work as part of larger efforts for all people in their communities. See the [ACLU Sanctuary Congregation Legal FAQ](#) for additional examples. It's important to listen to impacted community members and adjust to the needs expressed which may call for current ministries to adapt to the increased climate of fear.

Know Your Rights: The Fourth Amendment Allows Congregations to Refuse Entry to ICE

Faith communities must do the work to ensure ICE is not allowed to enter private spaces of houses of worship, and to let impacted congregants know their rights. The 4th Amendment of the U.S. Constitution protects individuals and places of worship from unreasonable search and seizures, which means ICE or any law enforcement may not enter private areas of a church without a judicial warrant signed by a judge, except in certain extenuating circumstances, unless there is expressed consent. See the [ACLU Sanctuary Congregation Legal FAQ](#). Consider hosting educational workshops for your community and adopting resolutions in your congregation to ensure ICE is not allowed on your campus. It is important to have a plan in place in advance, and that leaders in places of worship understand these rights and are prepared to not mistakenly provide consent.

Will there be litigation and an injunction?

The first litigation regarding the rescission of the memo came from a faith community, and different stakeholders from the formerly protected space may seek intervention from the Courts to stop the government from reversing this policy. Even without action by the courts, though, congregations can still exercise their existing rights.

What does the Religious Freedom Restoration Act (RFRA) have to do with immigration?

The Religious Freedom Restoration Act of 1993 (RFRA) provides broad protection for individuals performing religiously motivated actions. RFRA prohibits the government from substantially burdening the sincere exercise of religion unless doing so is necessary to advance a compelling government interest. In several recent cases, courts have held that RFRA protected the right of people of faith to serve migrants without government interference or prosecution. These cases included humanitarian aid workers who left food and water in the desert for migrants and a pastor who ministered at the Southern border.

Additional Resources

- CLASP [Protected Areas Toolkit](#)
- National Immigration Law Center: [Fact Sheet](#) on DHS Rescission of “Sensitive Locations”
- ACLU Sanctuary Congregation [Legal FAQ](#)
- BYU Law Review on [RFRA and Immigration](#)
- For questions related to RFRA: [The Law, Rights, and Religion Project](#)