

Contract

Employment Agency Information

Name of Employment Agency _____

Name of Agency Staff or Salesperson _____

Telephone Number _____ DCA License Number _____

Address _____

E-mail Address, if available _____

Applicant Information

Name of Job Applicant _____

Telephone Number _____ E-mail Address, if available _____

Address _____

Employer Information

Name of Employer _____

Address _____

Mailing Address (if different) _____

Telephone Number _____ E-mail Address, if available _____

Name of Contact Person at Employer _____

Telephone Number _____

Address/Addresses of Employment (if different from the Employer's Address)

E-mail Address, if available _____

Name of Person Authorizing Hiring of Applicant (if different from contact person)

Telephone Number _____

Employment Information

Anticipated Rate of Wages or Compensation \$ _____

Anticipated Hours/Day _____

Anticipated Weekly Schedule (*check all that apply*)

Employment Status (*check all that apply*)

- Permanent
- Temporary
- Full-Time
- Part-Time

- Monday
- Tuesday
- Wednesday
- Thursday
- Friday
- Saturday
- Sunday

Anticipated period of employment _____

Anticipated Cost of Transportation
(*if employer is outside of New York City*)

\$ _____

Type of Work

- Domestic/household work and unskilled/untrained manual work (**Class A**)
- Trained or skilled industrial workers or mechanics (non-professional) (**Class A1**)
- Nursing (**Class D**)
- All other work, including commercial, clerical, executive, administrative and professional employment and employment outside the continental United States (**Class B**)

Benefits Provided to Employee and Cost to Employee for Such Benefits (if applicable)

Check all that apply and provide details.

- Housing _____
- Health Insurance _____
- Health care _____
- Holidays _____
- Sick Leave _____
- Retirement Benefits _____
- Other _____

Fees

IMPORTANT: It is against the law for the employment agency to charge an advance or deposit fee, including registration and application fees. This means the Agency can only charge you a fee *after* it gets you a job.

Agency CANNOT charge you a fee for:

- setting up interviews
- reviewing resumes
- trainings
- photographs
- any services besides placing Applicant in a job

Fees (continued)

Fee for Job Placement

(See attached Sections 185 and 186 for maximum fees Agency can charge by law.)

- Check box if employer will pay the fee.
- Flat Placement Fee; Total Amount \$ _____
- Percent of Salary _____% of _____ Months or Weeks (*circle one*)

Fee Payment Schedule

The fee shall be paid:

- in 10 equal weekly installments payable at the end of each of the first 10 weeks
- in five (5) equal installments payable at the end of each of the first five (5) pay periods
- Other _____

Note: By law, the Agency cannot require the Applicant to pay the fee any faster. Any other payment plan must give the Applicant MORE time to pay.

Important Terms and Requirements

Receipts: The Agency will provide Applicant with a separate, written receipt for every deposit, fee, or other charge collected by it.

Fee Amounts: The maximum fees that the Agency can charge are limited by law depending on the job. The Agency shall not charge fees inconsistent with Sections 185 and 185-a of the General Business Law.

Refund of Fees: Agency must RETURN any payment made above the amount permitted by law within seven (7) days of receiving a demand.

Fee when Applicant Fails to Appear for Work or is Terminated: The Agency shall not charge any fees inconsistent with Sections 185 and 186 of the General Business Law in the event that the Applicant fails to report to work or is terminated, regardless of the circumstances.

Statement of Applicant's Rights: The Agency will provide a Household or Domestic Applicant with a "Statement of Employee Rights."

Legitimate Employment: The Agency will only send the Applicant to legitimate job listings obtained from the employer that reflect current job openings. The Agency will contact the employer and verify the availability of the job before referring the Applicant.

Work Conditions: The Agency will provide the following information prior to placement:

- 1) the hours per week the Applicant is expected to work;
- 2) whether the Applicant will be paid on a weekly, biweekly, or monthly basis; and
- 3) whether there are any health and/or safety risks involved and what steps may be taken to prevent or control those risks.

NOTICE TO JOB APPLICANT – READ BEFORE SIGNING

Do not sign this contract before you have read it or if any spaces are left blank. The employment agency must give you a signed copy of this contract at the time you sign it.

AN EMPLOYMENT AGENCY MAY NOT CHARGE YOU, THE JOB APPLICANT, A FEE BEFORE REFERRING YOU TO A JOB THAT YOU ACCEPT. IF YOU PAY A FEE BEFORE ACCEPTING A JOB OR PAY A FEE THAT OTHERWISE VIOLATES THE LAW, YOU MAY DEMAND A REFUND, WHICH SHALL BE REPAID WITHIN SEVEN DAYS. IF YOU HAVE A COMPLAINT OR NEED MORE INFORMATION, CALL 3-1-1.

Applicant Signature

Date

Employment Agency Representative Signature

Date

EMPLOYMENT AGENCY LAW

§ 185. FEES

1. CIRCUMSTANCES PERMITTING FEE.

An employment agency shall not charge or accept a fee or other consideration unless in accordance with the terms of a written contract with a job applicant and after such agency has been responsible for referring such job applicant to an employer or such employer to a job applicant and where as a result thereof such job applicant has been employed by such employer, except for class "C" employment: (a) after an agency has been responsible for referring an artist to an employer or such employer to an artist and where as a result thereof such artist has been employed by such employer; or (b) after an agency represents an artist in the negotiation or renegotiation of an original or pre-existing employment contract and where as a result thereof the artist enters into a negotiated or renegotiated employment contract. For class "C" employment pursuant to this paragraph, an employment agency shall provide an artist with a statement setting forth in a clear and concise manner the provisions of this section and section one hundred eighty-six of this article.

The maximum fees provided for herein for all types of placements or employment may be charged to the job applicant and a similar fee may be charged to the employer provided, however, that with regard to placements in class "B" employment, a fee of up to one and one-half times the fee charged to the job applicant may be charged to the employer. By agreement with an employment agency, the employer may voluntarily assume payment of the job applicant's fee. The fees charged to employers by any licensed person conducting an employment agency for rendering services in connection with, or for providing employment in classes "A", "A-1" and "B", as hereinafter defined in subdivision four of this section

where the applicant is not charged a fee shall be determined by agreement between the employer and the employment agency. No fee shall be charged or accepted for the registration of applicants for employees or employment.

2. SIZE OF FEE; PAYMENT SCHEDULE.

The gross fee charged to the job applicant and the gross fee charged to the employer each shall not exceed the amounts enumerated in the schedules set forth in this section, for any single employment or engagement, except as hereinabove provided; and such fees shall be subject to the provisions of section one hundred eighty-six of this article. Except as otherwise provided herein, and except for class "C" employment, an employment agency shall not require an applicant while employed in the continental United States, and paid weekly to pay any fee at a rate greater than in ten equal weekly installments each of which shall be payable at the end of each of the first ten weeks of employment, or if paid less frequently, in five equal installments, each of which shall be payable at the end of the first five pay periods following his employment, or within a period of ten weeks, whichever period is longer. An employer's fee shall be due and payable at the time the applicant begins employment, unless otherwise determined by agreement between the employer and the agency.

3. DEPOSITS, ADVANCE FEES.

An employment agency shall not require or accept a deposit or advance fee from any applicant.

4. TYPES OF EMPLOYMENT.

For the purpose of placing a ceiling over the fees charged by persons conducting employment agencies, types of employment shall be classified as follows:

Class "A"--domestics, household employees, unskilled or untrained manual workers and laborers, including agricultural workers;

(See § 184 for requirements concerning out-of-state domestic workers.)

Class "A1"--non-professional trained or skilled industrial workers or mechanics;

Class "B"--commercial, clerical, executive, administrative and professional employment, all employment outside the continental United States, and all other employment not included in classes "A", "A1", "C" and "D";

Class "C"--theatrical engagements;

Class "D"--nursing engagements as defined in article one hundred thirty-nine of the education law.

5. FEE CEILING: For a placement in class "A" employment the gross fee, including the deposit if any, shall not exceed, in percentage of the first full month's salary or wages, the following:

- Where no meals or lodging are provided 10%
- Where one meal per working day is provided 12%
- Where two meals per working day are provided 14%
- Where three meals and lodging per working day are provided 18%

Where all parties to the employment agreement understand or agree at the time the employment is entered into that it shall be for a period shorter than one month, the gross fee shall not exceed ten per cent, twelve per cent, fourteen per cent or eighteen per cent respectively of the salary or wages actually paid.

6. FEE CEILING: For a placement in Class "A1" employment the gross fee shall not exceed one week's wages where all parties to the employment agreement understand or agree at the time the employment is entered into that it shall be for a period for ten weeks or more. Where all parties to the employment contract agree and understand at the time the employment contract is entered into that it shall be for a period shorter than ten weeks, the gross fee shall not exceed ten per cent of the wages or salary actually received.

7. FEE CEILING: For a placement in Class "B" employment the gross fee shall not exceed, in percentage of

the first full month's salary or wages, the following:

- Less than \$750 25%
- At least \$750 but less than \$950 35%
- At least \$950 but less than \$1150 40%
- At least \$1150 but less than \$1350 45%
- At least \$1350 but less than \$1500 50%
- At least \$1500 but less than \$1650 55%
- At least \$1650 or more 60%

Provided however, that where the placement is for employment in which the applicant will be paid on a straight commission basis or on the basis of a drawing account plus commissions, the gross fee shall be based on percentages in the above schedule applied to an amount equivalent to one-twelfth of the estimated first year's earnings, as estimated by the employer.

Where all parties to the employment contract agree and understand at the time the employment contract is entered into that it shall be for a period shorter than four months the gross fee shall not exceed fifty percent of the fee prescribed in the schedule in this subdivision or ten percent of the wages or salary actually received, whichever is less.

8. FEE CEILING: For a placement in class "C" employment the gross fee shall not exceed, for a single engagement, ten per cent of the compensation payable to the applicant, except that for employment or engagements for orchestras and for employment or engagements in the opera and concert fields such fees shall not exceed twenty per cent of the compensation.

9. FEE CEILING: For a placement in class "D" employment the gross fee shall not exceed, for a single engagement, the following:

(1) for private nursing duty, five

per cent of the salary or wages received each week through the first ten weeks of that engagement only, and such fee shall be due and payable at the end of each such week;

(2) for any other nursing duty, the amount of the first week's salary or wages unless the first year's computed salary or wages to be derived for at least one year's employment is twenty-five hundred dollars or more, in which event the gross fee shall not exceed, in percentage of such salary or wages, the following:

where such first year's salary or wages is

- At least \$2500 but less than \$3000 2 ½%
- At least \$3000 but less than \$3500 3%
- At least \$3500 but less than \$4000 3 ½%
- At least \$4000 but less than \$4500 4%
- At least \$4500 but less than \$5050 4 ½%
- \$5000 or more 5%

10. Notwithstanding any other provision of law to the contrary, no fee may be charged or collected for services rendered by an employment agency not licensed pursuant to section one hundred seventy-two of this article at the time such services were rendered. In an action to collect a fee, the court shall void all or any part of an agreement or contract with an employment agency that did not have a valid license at the time the contract was entered into or services were rendered; however, such contract shall not be considered void if a court finds a good faith effort by an employment agency to maintain its license despite clerical error or delay by the department of labor or the New York city department of consumer affairs.

§ 186. RETURN OF FEES

1. EXCESSIVE FEE: Any employment agency which collects, receives or retains a fee or other payment contrary to or in excess of the provisions of this article, shall return the fee or the excess portion thereof within seven days after receiving a demand therefor.

2. FAILURE TO REPORT: If a job applicant accepts employment and thereafter fails to report for work, the gross fee charged to such applicant shall not exceed twenty-five per cent of the maximum fee allowed by section one hundred eighty-five of this article. If a job applicant accepts employment and fails to report for work, no fee shall be charged to the employer.

3. TERMINATION WITHOUT EMPLOYEE'S FAULT. If a job applicant accepts employment and reports for work, and thereafter such employment is terminated without fault of the employee, the gross fee charged to such employee and to the employer each shall not exceed ten percent of the salary or wages received by such employee, and in no event shall such fee exceed the maximum fee allowed by section one hundred eighty-five of this article. However, if such employee is a domestic or household employee recruited from a state outside of this state the fee of the employer shall not exceed thirty-three and one-third percent of the wages or salary actually earned.

4. TERMINATION UNDER ALL OTHER CIRCUMSTANCES: If a job applicant accepts employment and reports for work, and thereafter such employment is terminated under any other circumstances, the gross fee charged to such employee and the employer each shall not exceed fifty per cent of the salary or wages received by such employee, and in no event shall such fee exceed the maximum fee allowed by section one hundred eighty-five of this article.

**For more information or to file a complaint,
call 3-1-1 or visit us as www.nyc.gov/dca**