



## New Hires

### Paperwork to Complete

- Employment application (signed and dated; include resume, if provided) (Do not accept photo)
- IRS Form W-4 (Employee's Withholding Allowance Certificate) (signed and dated)
  - Available at: <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employment-Tax-Forms>
- NYS Department of Taxation and Finance Form IT-2104 (Employee's Withholding Allowance Certificate) (signed and dated)
  - Available at: [http://www.tax.ny.gov/forms/withholding\\_cur\\_forms.htm](http://www.tax.ny.gov/forms/withholding_cur_forms.htm)
- USCIS Form I-9 (Employment Eligibility Verification) (completed on first day of employment by employee and manager—may not be completed any earlier than first day of employment)
  - Available at: <http://www.irs.gov/Businesses/Small-Businesses-&Self-Employed/Employment-Tax-Forms>
- Employee Handbook Acknowledgement of Receipt (containing at-will disclaimer) (signed and dated)
- Direct deposit form (if applicable)
- Employee uniform receipt (if applicable)
- Tip policy/credit acknowledgement (if applicable)
- Diversity/Harassment training acknowledgement (if applicable)
- EEO-1 Survey Form
  - Sample available at: [http://www.eeoc.gov/employers/eo1survey/sample\\_self\\_identification.cfm](http://www.eeoc.gov/employers/eo1survey/sample_self_identification.cfm)
  - Only for those employers with 100+ employees
- Alcohol awareness policy (if applicable)



## Notices to Provide to Employees

- New York State Notice and Acknowledgement of Pay Rate and Payday (for hourly rate employees, multiple hourly rates employees, and exempt/salaried employees employees)
  - Available at: <http://labor.ny.gov/formsdocs/wpellsformsandpublications.shtm>
  - Notice must be provided at time of hire to every employee and at any time there is a pay change.
  - This notice must be provided in an employee's native language, provided that the New York State Department of Labor has made it available in that language.
- New York City Pregnancy and Employment Rights Notice
  - Available at: <http://www.nyc.gov/html/cchr/html/publications/pregnancy-employment-poster.shtm>
- New York City Earned Sick Time Act Notice of Employee Rights (provide to employee)
  - Available at: [http://www.nyc.gov/html/dca/html/law/PaidSickLeave\\_EmployersEnglish.shtml](http://www.nyc.gov/html/dca/html/law/PaidSickLeave_EmployersEnglish.shtml)
  - This notice must be provided in an employee's native language, provided that the New York City Department of Consumer Affairs has made it available in that language.
- New York Corrections Law Article 23-a (if performing background check)
  - Available at: <http://labor.ny.gov/workerprotection/laborstandards/employer/posters.shtm>
- Fair Credit Reporting Act (if performing background check)
  - Summary of Rights
    - Available at: <https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>
  - Disclosure and Authorization Form



## Optional Documents to Provide Employees

- Offer Letter
- Confidentiality Agreement
- Non-Solicitation Agreement
- Non-Compete Agreement
- Employee Handbook (Highly Suggested)

## Personnel Files

### What documentation should an employer keep in an employee's personnel file?

- Employment application
- Offer of employment letter (if given)
- New York rate of pay form
- Tip acknowledgement form
- Handbook acknowledgement
- Applicable Job description
- IRS Form W-4
- NYS Department of Taxation and Finance Form IT-2104
- Performance evaluations
- Complaints from guests/co-workers
- Disciplinary forms/actions
- Awards or citations for excellent performance
- Notes on attendance
- Any contracts between the employee and company (non-compete agreement, non-solicitation agreement, confidentiality agreement, etc.)
- Benefit enrollment documents (other than health insurance)
- Termination forms (letter to employee confirming termination and termination of benefits as required by New York State)
- Garnishments

### What documentation should an employer keep separate from an employee's personnel file?

- Family and Medical Leave Act forms/documentation
- Workers' compensation forms/documentation
- Any medical records or documents (all medical records must have limited access)
- I-9 forms and documentation should be kept separate from an employee's personnel file and should be stored in one centralized file for all employees
- Health insurance enrollment and related documents

## Key Employment Policies

### Employee Handbook

- Employment-at-Will
- Equal Employment Opportunity
- Anti-Harassment and Anti-Discrimination
- Sexual Harassment
- Reporting Violations/Open-Door Policy
- Anti-Retaliation
- Reasonable Accommodation
- Non-Discrimination Toward Guests/ Accommodating Guests
- Non-Smoking
- Drug and Alcohol Abuse
- Time and Attendance Records
- Overtime
- Rest and Meal Periods
- Paycheck, Payroll Deductions, Pay Notice
- Gratuities
  - i. Tip Reporting
  - ii. Tip Pooling/Sharing
  - iii. Tip Credit
  - iv. Credit Card Fees
- Immigration Compliance
- Personal Belongings
- Removal of Property
- Solicitation and Distribution
- Electronic Workplace
  - i. Computers
  - ii. Email and Other Communications
  - iii. Internet and Blogging
  - iv. Social Network Use
- Personal Appearance and Grooming Standards
- Confidentiality
- Standards of Conduct and Progressive Discipline
- Termination and Return of Property
- Unemployment Insurance
- Workers' Compensation
- Safety, Work-Related Accidents, Injuries, and Illnesses
- Food Safety



- Workplace Security and Video Monitoring
- Health Benefits (if offered)
- Paid Time Off (e.g. Vacation, Sick Days, Personal Days)
- Holidays
- Short Term Disability
- Family and Medical Leave Act
- Lactation Breaks
- Time off for Voting and Jury Duty
- Bereavement Leave (if offered)
- Military Leave and Family Military Leave
- Crime Victims and Criminal Proceeding Leave
- Blood and Bone Marrow Donation Leave

## Posting Requirements

### Federal

- OSHA Job Safety and Health: It's the Law
  - Available at: <https://www.osha.gov/Publications/poster.html>
- EEO is the Law
  - Available at: <http://www1.eeoc.gov/employers/poster.cfm>
- Fair Labor Standards Act Minimum Wage Poster
  - Available at: <http://www.dol.gov/whd/regs/compliance/posters/flsa.htm>
- Employee Rights and Responsibilities Under the Family and Medical Leave Act (for employers with 50 or more employees)
  - Available at: <http://www.dol.gov/whd/regs/compliance/posters/fmla.htm>
- Your Rights Under the Uniformed Services Employment and Reemployment Rights Act
  - Available at: <http://www.dol.gov/vets/programs/userra/>
- Employee Rights: Employee Polygraph Protection Act
  - Available at: <http://www.dol.gov/whd/regs/compliance/posters/eppa.htm>

### New York State

- Minimum Wage/New York State Labor Law
  - Attention Employees: Minimum Wage Information
    - a. Available at: [www.labor.ny.gov/formsdocs/wp/LS207.pdf](http://www.labor.ny.gov/formsdocs/wp/LS207.pdf)
  - Deductions from Wages
    - a. Available at: [www.labor.ny.gov/formsdocs/wp/ls605.pdf](http://www.labor.ny.gov/formsdocs/wp/ls605.pdf)

- Tip Appropriation
  - a. Available at: <https://labor.ny.gov/formsdocs/wp/LS204.PDF>
- Unemployment Insurance/New York State Unemployment Insurance Law
  - Details for obtaining poster available at: <https://labor.ny.gov/formsdocs/ui/IA132.pdf>
- Workers' Compensation Notice of Compliance/ New York State Workers' Compensation Law
  - Supplied by employer's insurance carrier
- Disability Benefits Notice of Compliance/New York State Workers' Compensation Law
  - Supplied by employer's insurance carrier
- Discrimination Notice/New York State Human Rights Law
  - Available at: <http://www.dhr.ny.gov/posters>
- Time Off to Vote/New York State Election Law
  - Available at: <http://www.elections.ny.gov/NYSBOE/elections/AttentionEmployees.pdf>
- Child Labor Law Summary of Work Hours/New York State Labor Law
  - Required to post schedule of hours of work for minors under 18 years of age
  - Recommended to post Permitted Working Hours for Minors Under 18 Years of Age
    - a. Available at: <https://www.labor.state.ny.us/workerprotection/laborstandards/workprot/lschlhrs.shtm>
- Notice of Fringe Benefits and Hours/New York State Labor Law
  - Employers must notify their employees in writing or by publicly posting the employer's policy on sick leave, vacation, personal leave, holidays and hours
    - a. Details available at: <http://labor.ny.gov/workerprotection/laborstandards/employer/notice.shtm>
- No Smoking/New York State Clean Indoor Air Act
  - Employers must post No Smoking signs or the international No Smoking symbol in every place where the act prohibits or restricts smoking
    - a. Details available at: <http://www.health.ny.gov/publications/3403/>
- Blood Donation Leave/New York State Labor Law
  - Available at: <https://labor.ny.gov/formsdocs/wp/LS703.pdf>
- Criminal Conviction Records/New York Correction Law
  - Available at: <https://www.labor.ny.gov/formsdocs/wp/correction-law-article-23a.pdf>

- ❑ Right of Nursing Mothers to Express Breast Milk/  
New York State Labor Law
  - Available at: [www.labor.ny.gov/formsdocs/wp/ls702.pdf](http://www.labor.ny.gov/formsdocs/wp/ls702.pdf)
  - Alternatively, can be provided individually to each employee
- ❑ New York State Election Law
  - Available at: [www.elections.ny.gov/nysboe/elections/attentionemployees.pdf](http://www.elections.ny.gov/nysboe/elections/attentionemployees.pdf)

### New York City

- ❑ New York City Pregnancy and Employment Rights/  
New York City Human Rights Law
  - Available at: <http://www.nyc.gov/html/cchr/html/publications/pregnancy-employment-poster.shtml>

## Termination

- Provide written notice of termination within five business days of termination of employment
- Notice must include exact date of termination and exact date of cancellation of employee benefits
- Applies not only to those employees whose employment is terminated by the employer, but also to those employees who leave the employer because they resign, quit, retire or are laid off
- Provide COBRA/New York State Insurance Law election notice describing employee's rights to continuation coverage and how to make an election within 14 days after the termination
- New York State Worker Adjustment and Retraining Notification (WARN)
  - Applicable ONLY to closure of business or establishment that has 50 or more employees and results in employment loss of 25 or more full-time employees during any 30-day period OR if there is a mass layoff of full-time employees that affects 33 percent of the workforce and at least 25 employees.

- Provide required notice to:
  - All affected employees
  - Any employee representative(s)
  - The New York State Department of Labor (DOL)
  - The Local Workforce Investment Board (LWIB)
- Federal Worker Adjustment and Retraining Notification (WARN)
  - Applicable ONLY to closure of business or establishment that has 100 or more employees and results in employment loss of 50 or more full-time employees during any 30-day period OR if there is a mass layoff of full-time employees that affects 33 percent of the workforce and at least 50 employees.
- Provide required notice to:
  - Employees or their representatives
  - The state dislocated worker unit
  - The chief elected official of local government



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