



REQUIRED EMPLOYMENT DOCUMENTS AND POSTERS FOR NEW YORK CITY HOSPITALITY EMPLOYERS

New Hires

Paperwork to Complete

- Employment application (signed and dated; include resume, if provided)
 - Do not accept photos/headshots
 - Do not inquire about wage or salary history
 - Do not request credit history (unless, for example, position is non-clerical with regular access to trade secrets—consultation with counsel is recommended)
 - Do not inquire about arrest/conviction record until after conditional offer has been made and only in compliance with law
- IRS Form W-4 (Employee's Withholding Allowance Certificate) (signed and dated)
 - Available at: <https://www.irs.gov/forms-pubs/about-form-w-4>
- NYS Department of Taxation and Finance Form IT-2104 (Employee's Withholding Allowance Certificate) (signed and dated)
 - Available at: https://www.tax.ny.gov/forms/withholding_cur_forms.htm
- USCIS Form I-9 (Employment Eligibility Verification)
 - Should be completed on first day of employment by employee and manager—may not be completed any earlier than first day of employment
 - Available at: <https://www.irs.gov/i-9>
- 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: https://www.eeoc.gov/employers/eeo1survey/sample_self_identification.cfm
 - Only for employers with 100+ employees
- Alcohol awareness policy (if applicable)
- Commuter Benefits Participation Form
 - Available at: <https://www1.nyc.gov/assets/dca/downloads/pdf/about/CommuterBenefits-EmployerComplianceForm.pdf>
 - Applicable to employers with 20 or more full-time non-union employees
 - Form must be retained for two years

- Employee Opt-Out of Paid Family Leave Benefits Form (if applicable)
 - Available at: <https://paidfamilyleave.ny.gov/pfl-waiver-form>

Notices to Provide to Employees*

- New York State Notice and Acknowledgement of Pay Rate and Payday (LS 54, LS 55, LS 57)
 - Available at: <https://labor.ny.gov/formsdocs/wp/ellsformsandpublications.shtm>
 - There are different versions for hourly rate employees (LS 54), multiple hourly rate employees (LS 55) and exempt/salaried employees (LS 57)
 - Notice must be provided at time of hire to every employee and at any time there is a change in pay rate, payday or allowances taken
 - Notice must be provided in English and the employee's primary language, provided that the New York State Department of Labor has made it available in that language (consider providing the English/Spanish version to all employees)
 - Notice must be retained for six years
- New York City Pregnancy and Employment Rights Notice
 - Available at: <https://www1.nyc.gov/site/cchr/media/posters/pregnancy-employment-rights.page>
 - Notice should be provided in English and the employee's primary language if made available by the New York City Commission on Human Rights in that language
- New York City Earned Safe and Sick Time Act Notice of Employee Rights
 - English version available at: <http://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeave-MandatoryNotice-English.pdf>
 - Available in other languages at: <https://www1.nyc.gov/site/dca/about/paid-sick-leave-law.page>
 - Notice must be provided in English and the employee's primary language, provided that the New York City Department of Consumer Affairs has made it available in that language
- New York City Stop Sexual Harassment Act Information Sheet
 - English version available at: https://www1.nyc.gov/assets/cchr/downloads/pdf/materials/SexHarass_Factsheet.pdf
 - Spanish version available at: https://www1.nyc.gov/assets/cchr/downloads/pdf/materials/SexHarass_Notice8.5x11_spa-US_FINALVERSION.pdf
- New York Corrections Law Article 23-A (if performing background check)
 - Available at: <https://labor.ny.gov/formsdocs/wp/correction-law-article-23a.pdf>

- 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
 - New York City Fair Chance Act Notice and Procedures (if performing background check)
 - Available at: <https://www1.nyc.gov/site/cchr/media/fair-chance-act-campaign.page>
 - New York State Paid Family Leave
 - Employers must notify employees of their right to Paid Family Leave
 - Statement of Rights available in multiple languages at: <https://paidfamilyleave.ny.gov/pfl-271s-form-2019>
 - Model Language for Employee Materials available at: <http://www.wcb.ny.gov/content/main/forms/PFLDocs/Downloadable/Employer/pfl-model-language-for-employee-materials-2019.pdf>
 - Employers should notify employees before collecting any payroll contributions
 - Notice of Paid Family Leave Payroll Deduction Form available at: <http://www.wcb.ny.gov/content/main/forms/PFLDocs/Downloadable/Employer/pfl-pay-deduction-notice-2019.pdf>
 - Sexual Harassment Prevention Policy
 - Policy must be provided in English and the employee's primary language (if the New York Labor Commissioner provides a model policy in that language) at time of hire and at every annual sexual harassment prevention training
 - Model materials are available at: <https://www.ny.gov/combat-sexual-harassment-workplace/employers>
 - Children's Health Insurance Program (CHIP)
 - Employer CHIP Notice regarding premium assistance opportunities must be provided to employees upon hire and annually
 - Do not staple or bind together with other documents
 - Model notice available in English and Spanish at: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/chipra>
- * This list is not exhaustive and does not include all required notices to participants and beneficiaries of employee benefit plans.

Optional Documents to Provide Employees

- Offer letter
- Confidentiality/Non-Disclosure agreement
- Non-Solicitation agreement
- Non-Compete agreement
- Employee handbook (highly suggested – some policies are required by law)

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 policy/credit 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
- Voluntary early departure forms
- 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 of employment and termination of benefits as required by New York State)
- Garnishments

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

- Family and Medical Leave Act forms/documentation
- New York City Earned Safe and Sick Time Act forms/documentation
- New York State Paid Family Leave 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 stored in one centralized file for all employees)
- Health insurance enrollment and related documents

Key Employment Policies

Employee Handbook

- I. Employment Policies
 - a. Employment-At-Will
 - b. Equal Employment and Anti-Discrimination Policy
 - c. Anti-Harassment Policy
 - i. Sexual Harassment
 - ii. Stop Sexual Harassment Act Factsheet
 - iii. Sexual Harassment Complaint Form
 - d. Reporting Violations/Open-Door Policy
 - e. Anti-Retaliation Policy
 - f. Reasonable Accommodation (Disabilities, Pregnancy, Religious Beliefs, Gender Identity/Expression)
 - g. Non-Discrimination and Harassment Towards Guests and Other Third Parties
 - h. Accommodating Guests
 - i. Accessibility
 - ii. Special Dietary Needs
 - iii. Service Animals
 - i. Immigration Compliance
 - j. Personnel Records
 - k. Personal Belongings
 - l. Removal of Property
 - m. Phone Usage
 - n. Solicitation and Distribution
 - o. Smoking Policy
 - p. Alcohol and Drug Abuse Policy
 - q. Minimum Age Requirements for Alcohol Service
 - r. Cash Handling

- II. Safety and Health
 - a. Work-Related Injuries, Illnesses and Accidents
 - b. Safety and Health Policies and Testing
 - c. Safety Precautions
 - d. Food Safety
 - e. Workplace Searches
 - f. Video Monitoring
 - g. Workplace Security
 - h. Firearms and Other Weapons
- III. Payroll, Time and Attendance Policies
 - a. Employee Classifications
 - b. Work Schedules and Attendance
 - c. Time and Attendance Records
 - d. Rest and Meal Periods
 - e. Overtime
 - f. Paycheck
 - g. Direct Deposit
 - h. Payroll Deductions
 - i. Safe Harbor Policy for Exempt Employees
 - j. Pay Notice
 - k. Notice of Wage Rates and Tip Credit for “Food Service Employees” and “Service Employees”
 - l. Gratuities
 - i. Tip Reporting
 - ii. Tip Pooling/Sharing
 - iii. Tip Credit Notice
 - iv. Credit Card Fees
 - m. Pay Adjustments
- IV. Employee Benefits and Leaves of Absence
 - a. Paid Time Off/Paid Safe and Sick Leave
 - b. Holidays
 - c. Health Benefits (if offered)
 - d. Commuter Benefits
 - e. Workers’ Compensation
 - f. Short Term Disability
 - g. Unemployment Benefits
 - h. Family and Medical Leave
 - i. Paid Family Leave
 - j. Lactation Breaks/Lactation Room Policy
 - k. Time Off for Voting
 - l. Military Leave
 - m. Bereavement Leave (if offered)
 - n. Jury Duty
 - o. Crime Victims and Criminal Proceeding Leave
 - p. Blood and Bone Marrow Donation Leave
 - q. Family Military Leave
 - r. Volunteer Emergency Responder Leave
- V. Use of Computers and Related Technologies
 - a. Computer and E-Mail Usage
 - b. Internet Usage
 - c. Employee Blogging and Social Network Use
- VI. Confidentiality and Media Inquiries
 - a. Confidentiality
 - b. Media Policy

- VII. Standards of Conduct and Personal Appearance
 - a. Standards of Conduct
 - b. Fraternalization and Employment of Family Members
 - c. Personal Appearance
 - d. Bullying
- VIII. Separation of Employment
 - a. Termination/Resignation
 - b. Return of Property
- IX. Acknowledgement of Receipt

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: <https://www1.eeoc.gov/employers/poster.cfm>
- Fair Labor Standards Act Minimum Wage Poster
 - English version available at: <https://www.dol.gov/whd/regs/compliance/posters/flsa.htm>
 - Spanish version available at: <https://www.dol.gov/whd/regs/compliance/posters/flspan.htm>
- Employee Rights and Responsibilities Under the Family and Medical Leave Act (for employers with 50 or more employees)
 - English version available at: <https://www.dol.gov/whd/regs/compliance/posters/fmla.htm>
 - Spanish version available at: <https://www.dol.gov/whd/regs/compliance/posters/fmlspan.htm>
- Your Rights Under the Uniformed Services Employment and Reemployment Rights Act
 - Available at: https://www.dol.gov/sites/dolgov/files/VETS/legacy_files/USERRA_Private.pdf
- Employee Polygraph Protection Act Poster
 - English version available at: <https://www.dol.gov/whd/regs/compliance/posters/eppa.htm>
 - Spanish version available at: <https://www.dol.gov/whd/regs/compliance/posters/eppaspan.htm>

New York State

- Minimum Wage/New York State Labor Law
 - Attention Miscellaneous Industry Employees: Minimum Wage Poster
 - Available at: <https://www.labor.ny.gov/formsdocs/wp/LS207.pdf>
 - Attention Hospitality Industry Employees: Minimum Wage Poster
 - Available at: <https://www.labor.ny.gov/formsdocs/wp/LS207.3.pdf>
 - Deductions from Wages
 - Available at: <https://www.labor.ny.gov/formsdocs/wp/ls605.pdf>
 - Tip Appropriation
 - Available at: <https://www.labor.ny.gov/formsdocs/wp/ls204.pdf>
 - Equal Pay
 - Available at: <https://labor.ny.gov/formsdocs/wp/LS603.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

This document is intended for general information purposes only. It does not constitute legal advice or create an attorney-client relationship. This document is based on the most current information at the time that it was prepared and is subject to change without notice. Laws and/or other circumstances may have changed since the publication of this document.

- ❑ 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: <https://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
 - Available at: <https://labor.ny.gov/formsdocs/wp/LS171.pdf>
 - ❑ 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
 - Details available at: <https://www.labor.ny.gov/formsdocs/wp/LS606.pdf>
 - ❑ 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
 - Details available at: <https://www.health.ny.gov/publications/3402/>
 - Printable signs available at: https://www.health.ny.gov/prevention/tobacco_control/clean_indoor_air_act/
 - ❑ 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: <https://labor.ny.gov/formsdocs/wp/ls702.pdf>
 - Alternatively, the notice can be provided individually to each employee
 - ❑ Sexual Harassment Prevention Policy Notice
 - Poster is optional but recommended
 - English version available at: https://www.ny.gov/sites/ny.gov/files/atoms/files/sexualharassmentpreventionposter_English_handfill.pdf
 - Available in other languages at: <https://www.ny.gov/combatting-sexual-harassment-workplace/combat-harassment-translations>
- ## New York City
- ❑ New York City Pregnancy and Employment Rights/New York City Human Rights Law
 - Available at: <https://www1.nyc.gov/site/cchr/media/posters/pregnancy-employment-rights.page>
 - ❑ New York City Temporary Schedule Change Law Notice of Rights
 - Notice must be printed on 11" x 17" paper and posted in English and in any language that is the primary language of at least 5 percent of the employees
 - English version available at: <https://www1.nyc.gov/assets/dca/downloads/pdf/workers/TemporaryScheduleChange-Notice-English.pdf>

- Versions in other languages to become available at: <https://www1.nyc.gov/site/dca/workers/workersrights/temporary-schedule-change-law-employees.page>
- ❑ New York City Earned Safe and Sick Time Act Notice of Employee Rights
 - English version available at: <https://www1.nyc.gov/assets/dca/downloads/pdf/about/PaidSickLeave-MandatoryNotice-English.pdf>
 - Available in other languages at: <https://www1.nyc.gov/site/dca/about/paid-sick-leave-law.page>
- ❑ Stop Sexual Harassment Act Notice
 - Notice must be posted in English and Spanish
 - English version available at: https://www1.nyc.gov/assets/cchr/downloads/pdf/materials/SexHarass_Notice-8.5x11.pdf
 - Spanish version available at: https://www1.nyc.gov/assets/cchr/downloads/pdf/materials/SexHarass_Notice8.5x11_spa-US_FINALVERSION.pdf

Termination/Resignation

- New York employers must 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
- 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 WARN notice to:
 - All affected employees
 - Any employee representative(s) (*i.e.*, labor union)
 - 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 WARN notice to:
 - Employees or their representatives
 - The state dislocated worker unit
 - The chief elected official of local government



Fox Rothschild LLP
ATTORNEYS AT LAW
www.foxrothschild.com

NYC | HOSPITALITY
ALLIANCE
www.thencyalliance.org