



Jonathan Mintz
Commissioner

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February 22, 2013

BY E-MAIL

(email response to ██████████)

Attn: ██████████

RE: Nanny and Babysitter Referral Agency

Dear ██████████,

This is in response to your letter seeking to clarify whether your agency, ██████████, must be licensed by the Department of Consumer Affairs (“Department”). As you have described it, your business places applicants in positions as nannies and babysitters in families’ homes. A review of your website, ██████████, also revealed that your agency charges fees for your referrals.

The answer to your inquiry is that you must obtain an Employment Agency License from the Department for your business.

Article 11 of the New York General Business Law (“GBL”) Section 171(2)(a) defines an employment agency as “any person...who, for a fee procures or attempts to procure: (1) employment or engagements for persons seeking employment or engagements...or (2) employees for employers seeking the services of employees.” Since your agency “refers” applicants to employers for the purpose of procuring employment for the applicants and services for the employers, your agency is engaging in employment agency activity. Additionally, although certain employment agencies in which the employer, rather than the job applicant, pays the fee are exempt from the license requirement, your business would not fall within this exemption because you place applicants in “Class A” employment, which is defined by GBL Section 185 to include “domestics” and “household employees,” and which is not exempted from the licensing requirement.

Visit the Department’s website at nyc.gov/consumers to apply for a license online.

Thank you for your inquiry.

Sincerely,

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██████████

Staff Attorney