

THEATRICAL EMPLOYMENT AGENCY SELF-CERTIFICATION

Compliance with Theatrical Employment Agency Laws

This Self-Certification includes four parts:

- PART I (general information)
- PART II (information about Employment Agency Manager)
- PART III (relevant laws and rules and checklists)
- PART IV (signature and penalty for false statements)

Note: This Self-Certification is for agencies that place or attempt to place Artists in theatrical engagements only. If you place or attempt to place job applicants in any other type of employment, you must complete the “Employment Agency Self-Certification” instead.

The owner (e.g., sole proprietor, general partner, director, corporate officer, or shareholder owning 10% or more of company stock) of your agency must complete this form.

If the owner is not also the Employment Agency Manager, then the Employment Agency Manager must complete and certify PART II.

PART I

Legal Name of Business:	
DCA License Number, if applicable: <i>Applicants for a new license do not need to complete this field.</i>	
Business’s Trade or Doing- Business-As (DBA) Name, if applicable:	
Employment Agency Address <i>(Building Number, Street Name, Unit, e.g., Floor, Suite):</i>	

Name of Owner <i>(e.g. sole proprietor, general partner, director, corporate officer, or shareholder owning 10% or more of company stock):</i>	
Name of Employment Agency Manager:	
Employment Agency Manager Home Address:	

I certify the following:

1. I am the owner (e.g., sole proprietor, general partner, director, corporate officer, or shareholder owning 10% or more of company stock).

2. I have read and understand that I am responsible for complying with the following laws and rules:
 - Article 11 of the New York General Business Law (GBL) beginning at Section 170
 - Article 37 of the Arts and Cultural Affairs Law (ACA) beginning at Section 37.01
 - Title 20 of the New York City Administrative Code (Code) at Chapter 1 beginning at Section 20-101 and Chapter 5 Sections 20-700 to 20-706 and 20-770 to 20-774
 - Title 6 of the Rules of the City of New York (6 RCNY) at Chapter 1 beginning at Section 1-01 and Chapter 5 Sections 5-06 to 5-12, 5-21, 5-24, and 5-241 to 5-258
 - Title 8 of the Code Sections 8-102, 8-107, and 8-107.1
 - Title VII of the Civil Rights Act of 1964 beginning at Section 2000e [Section 701]
 - Executive Law Article 15 Human Rights Law Sections 292, 296, and 296-b
 - All relevant federal, state, and City laws which apply to my business

I understand that I can access the above laws and rules via **nyc.gov/BusinessToolbox**.

3. I understand that I am responsible for knowing and complying with the most current laws, including any amendments and updates made to the laws that are relevant to my business.

PART II

Information about Employment Agency Manager

Employment Agencies must have an Employment Agency Manager who is responsible for directing and operating the placement activities of the employment agency. This person can be the owner. **The person (either the owner or another individual) who will act as the agency's manager must complete and certify Part II.**

The Department of Consumer Affairs (DCA) will consider this Self-Certification incomplete if you do not complete and certify PART II.

Practical Experience: State your experience as a placement employee, vocational counselor, or in related activities that indicate your competence to operate the placement activities of this agency. Attach additional papers as necessary.

Name of Employer	Address	Telephone	Start/End Dates	Position and Duties

Educational Experience:

Name of School	Address	Start/End Dates	Type of Coursework / Degree / or Certification Obtained

Have you previously worked at, owned, operated, or had a financial interest in an employment agency issued violations, shut down, or padlocked by the New York City Department of Consumer Affairs (DCA) or by the New York State Department of Labor?

Yes No

If you answered Yes, please enter requested information below.

Legal Name of Employment Agency:	
Employment Agency Address (<i>Building Number, Street Name, Unit, e.g., Floor, Suite</i>):	
DCA License Number:	
Relationship to Business:	

By signing below, I, the Employment Agency Manager, certify that the statements in PART II are true and correct.

If you submit this form as an electronically filled-in PDF, you may type your name in the signature field.

Signature

Print Name

Title

Date

PART III

This part of the Self-Certification covers New York State and City laws relevant to theatrical employment agencies. Please read each section carefully. Included in each section are checklists. You must check each requirement that applies to your agency to certify that you understand and will comply with the requirement.

Important: If you submit an incomplete Self-Certification, your application will be denied or the Department of Consumer Affairs (DCA) may request additional information.

Section 1: Settlement Agreements/Orders

Check the box or boxes that apply to you.

- I have entered into an Agreement, Settlement Agreement, Consent Judgment Order, or Consent Order (collectively referred to as “settlement agreement”) with DCA.
- My agency has entered into an Agreement, Settlement Agreement, Consent Judgment Order, or Consent Order (collectively referred to as “settlement agreement”) with DCA.
- I am a new applicant, and this Section does not apply to me or my agency.
- I am a renewing licensee, and this Section does not apply to me or my agency.

If you indicated that you or your agency entered into a settlement agreement with DCA, you must complete these additional checklists about Contracts and Receipts.

Contracts

Check the box that applies to you.

I agreed to use the Revised Contract for members of the Association of Talent Agents (ATA) and National Association of Talent Representatives (NATR) (the ATA/NATR Revised Contract) as my agency’s contract with Artists, or a contract that is substantially similar. The ATA/NATR Revised Contract is available for download at http://www.nyc.gov/html/dca/downloads/pdf/li_TalentAgencyContract.pdf. In addition to the contract, I also agreed to give every Artist:

- Sections 185 and 186 of Article 11 of the New York General Business Law each time I collect a fee AND
- Employment contracts executed between employers and Artists AND
- Copies of payments by employers to Artists

I have complied with and agree to continue complying with this requirement.

I agreed to use a contract that includes all information required by Article 11 of the New York General Business Law Sections 181(1) and 181(2) and the Arts and Cultural Affairs Law Section 37.03.

Receipts

I agreed to use DCA's model receipt, or one that is substantially similar and includes all of the information required by Article 11 of the New York General Business Law Section 181(3), to give to each Artist who pays a fee as confirmation of payment. I have complied with this requirement and agree to continue complying with this requirement.

Section 2: Class C Employment

GBL Section 185

I will place or attempt to place Artists (e.g., actors, singers, models, directors, writers, musicians) in theatrical engagements, including but not limited to, in motion pictures, radio, television, and on stage.

Section 3: Agency Name and Printed Matter

GBL Section 187(3) and 187(11)

6 RCNY Section 1-05

I will not use a name or display signs and advertisements with a name that may be confused with the name of a government agency.

I will include in all contracts, receipts, application forms, advertisements, letterhead, correspondence, business cards, and other printed matter all of the following:

- My agency's DCA license number AND
- My agency's name and address AND
- The word "agency"

Section 4: Contracts and Receipts

GBL Section 181

ACA 37.03

6 RCNY 1-05

Contracts

I understand that the contract must be a separate document from any other form I give to Artists. I will not combine the contract with a job application form.

(Check A or B.)

- A. I will use the ATA/NATR Revised Contract or a contract that is substantially similar as my agency's contract and give a copy to each Artist who applies for my services. The ATA/NATR Revised Contract is available for download at http://www.nyc.gov/html/dca/downloads/pdf/li_TalentAgencyContract.pdf.

In addition to the contract, I understand that I must also give each Artist all of the following:

- Sections 185 and 186 of the New York General Business Law, which will be included with the contract AND
 - Employment contracts executed between Artists and employers, upon request AND
 - Copies of payments by employers to Artists, upon request
- B. I will not use the ATA/NATR Revised Contract, but will give each Artist a contract with conditions and provisions that are equitable between the parties, do not unreasonably restrict business, and include all of the following:
- Sections 185 and 186 of the GBL AND
 - The word “Contract” written or printed clearly at the top AND
 - Name, address, telephone number, and DCA license number of my agency AND
 - Name and title of the individual executing the contract on behalf of my agency AND
 - Name and address of the Artist AND
 - Type of work the Artist will perform AND
 - Fee, deposit, or other money the Artist will pay to my agency AND
 - Whether employment is permanent or temporary AND
 - Name and address of the employer and the person acting for the employer in employing the Artist AND
 - Time and duration of the engagement AND
 - Amount to be paid to the Artist AND
 - Character of entertainment to be given or services to be rendered AND
 - Number of performances per day or per week that are to be given by the Artist AND
 - Cost of transportation to the place where the services are required, if paid by the Artist AND
 - Notice in 14-point or larger boldface type printed directly above the space reserved in the contract for the applicant’s signature stating:

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.

IMPORTANT: It is against the law for the employment agency to charge a registration or application fee. The agency can only collect a deposit if you are applying for certain types of jobs. **YOU ARE ENTITLED TO A REFUND. IF A REFUND IS NOT MADE WITHIN SEVEN (7) DAYS OR YOU HAVE A COMPLAINT OR NEED MORE INFORMATION, CALL 3-1-1.**

Receipts (Check A or B.)

- A. I will use DCA’s model receipt as my agency’s receipt and give a receipt to each Artist who pays a fee as confirmation of payment. The receipt is available for download at **nyc.gov/BusinessToolbox**. I am responsible for using the most current version of this receipt, and I will regularly check DCA’s website for updates.

B. I will not use DCA’s model receipt, but will give each Artist who pays a fee a receipt that is substantially similar to DCA’s model receipt and will include all of the following:

- The word “Receipt” written or printed clearly at the top AND
- Name of the applicant AND
- Name, address, and DCA license number of my agency AND
- Date and amount of the fee AND
- Reason for the fee AND
- Signature, printed name, and title of the person receiving the deposit, fee, or other charge on behalf of my agency

Maintenance of Contracts and Receipts

I will maintain at my agency and have available for inspection by DCA all completed contracts and receipts I issued to Artists for three years. If my agency uses the ATA/NATR Revised Contract or one that is substantially similar, I will also maintain at my agency all employment contracts executed between Artists and employers and copies of payments by employers to Artists for three years.

Section 5: Application Forms

GBL Section 187(3)

6 RCNY Sections 1-05, 1-16, and 5-248

I understand that an application form must be a separate document that I cannot combine with my agency’s contract. I will give a copy of the completed job application form to each Artist who applies for my services.

My agency’s job application form will include all of the following:

- The words “Application Form” written or printed clearly at the top AND
- Name of the Artist AND
- Name, address, telephone number, and DCA license number of my agency AND
- The word “agency”

My agency’s job application form will not directly or indirectly inquire about an Artist’s age, race, creed, color, national origin, religion, sex, disability, predisposing genetic characteristics, marital status, or status as a victim of domestic violence, sex offence, or stalking. If the application form directly or indirectly inquires about any of this information, the form will also clearly state how the information relates to a legitimate job qualification.

I will maintain at my place of business and have available for inspection by DCA all completed job application forms I issued for three years.

Section 5 does not apply to my agency because my agency will not use an application form.

Section 6: Job Orders and Registers

GBL Sections 179 and 187

I will only send or refer Artists to an employer after I have obtained a bona fide job offer, except that I may attempt to sell the Artist's services to an employer without a bona fide job offer as long as I disclose this fact to the Artist before I direct the Artist to the employer. Alternatively, I may refer Artists to employers who have previously requested in writing that they be regularly sent Artists for interviews.

I will maintain at my agency and have available for inspection by DCA for three years from the date of the last entry an Employer Register and a Job Applicant Register. Entries will be in the English language and may be maintained electronically.

The Employer Register will include all of the following:

- Name and address of every employer who pays a fee AND
- Name and address of every employer to whom I refer any Artist paying a fee AND
- Date each employer requested or agreed to the supply of Artists AND
- Kind of positions for which Artists are requested AND
- Names of the Artists paying a fee who were sent to the employer, including a designation of the applicant hired AND
- Amount of the fee charged AND
- Rate of wages or compensation agreed upon

The Job Applicant Register will include all of the following:

- Date of application for employment AND
- Date the Artist started work AND
- Name and address of every Artist who is charged a fee AND
- Amount of the fee charged AND
- Service for which the fee was charged

Section 7: Premises

GBL Section 187
6 RCNY Section 5-245

(Check A or B.)

A. I will not operate my agency in the same space as another employment agency.

B. I will operate my agency in the same space as another unrelated employment agency. I will make sure my agency complies with all of the following requirements:

- My agency's signs will make clear that my agency is a separate business from the other employment agency. AND
- My agency will be separated from the other employment agency by a partition or wall or other barrier. AND
- My agency will not directly or indirectly suggest to a job applicant that the applicant purchase the services or products of the other employment agency. AND

- My agency will not share proceeds or profits in any form with the other employment agency. AND
- My agency will not have the same officers, directors, partners, shareholders, principals, managers, executives, administrators, salespersons, or job-placement counselors as the other employment agency. AND
- My agency will maintain separate contracts, receipts, application forms, registers, advertisements, letterhead, correspondence, business cards, and all other records and printed matter from the other employment agency.

Section 8: Signs

GBL Sections 174 and 188

6 RCNY Section 1-03

Sec. 2000e-10 [Section 711] of Title VII of the Civil Rights Act of 1964

Executive Law Article 15. Human Rights Law

- I will post all of the signs listed below in the reception or waiting area, where all Artists can see them.
 - DCA's new combined license and complaint sign provided by DCA
Note: DCA combined the license and the complaint sign, previously separate documents, into one consolidated sign. New licensees and licensees that renew after October 15, 2013 will receive the new sign. Renewing licensees must remove the old license document and complaint sign that DCA previously provided and post the new combined sign. Until you receive the new sign, you must continue to post both your license and the complaint sign. For more information about this new regulation, go to nyc.gov/consumers.
 - New York Employment Agencies Law poster containing Sections 178, 181, 185, and 186 of the New York General Business Law in the languages in which my agency does business.
Note: You can get copies of the poster in English and Spanish at the DCA Licensing Center and online at nyc.gov/BusinessToolbox.
 - U.S. Anti-Discrimination Poster provided by DCA
 - New York State Anti-Discrimination Poster provided by DCA

Section 9: Advertisements

GBL Section 187

Code Section 20-700

- I will not print or distribute any false, fraudulent, or misleading information, representation, promise, notice, or advertisement. Advertisements include, but are not limited to, promotional materials, mailings, flyers, handouts, brochures, business cards, classified ads, text messaging, social media, and print, television, Internet, or radio advertisements.
- I will not advertise that I can "guarantee" jobs or placement.
- I will not advertise "no fee."

I will not post any signs, notices, or advertisements at my agency stating I “guarantee” jobs or placement, “no fee,” or any other false, fraudulent, or misleading information and representation.

Section 10: Prohibited Discriminatory Practices

6 RCNY 5-248

Title VII of the Civil Rights Act of 1964

Executive Law Article 15. Human Rights Law Section 296

Title 8 of the Code, Chapter 1 Sections 8-107 and 8.107.1

I will not discriminate against any Artist because of age, race, creed, color, national origin, religion, sex, sexual orientation, military status, disability, predisposing genetic characteristics, marital status, or status as a victim of domestic violence, sex offence, or stalking when providing my services, including, but not limited to, referring applicants to employers.

I will not directly or indirectly inquire about an Artist’s age, race, creed, color, national origin, religion, sex, disability, predisposing genetic characteristics, marital status, or status as a victim of domestic violence, sex offence, or stalking. If I directly or indirectly inquire about any of this information, I will also clearly state how the information relates to a legitimate job qualification.

I will not print or circulate any statement, advertisement, or publication, or use an application form that requires, directly or indirectly, an Artist’s age, race, creed, color, national origin, religion, sex, disability, predisposing genetic characteristics, marital status, or status as a victim of domestic violence, sex offence, or stalking. If I print or circulate any statement, advertisement, or publication that directly or indirectly inquires about any of this information, the statement, advertisement, or publication will also clearly state how the information relates to a legitimate job qualification.

Section 11: Fees and Refunds

GBL Sections 185, 186, and 187

6 RCNY Section 1-15

Prohibited Conduct

I will not engage in any of the following prohibited conduct:

- Require Artists to pay for or subscribe to any service other than for job placement (e.g., headshots, photographs, uniforms, setting up interviews, reviewing résumés, trainings, publications, advertising)
- Charge registration fees
- Collect fees greater than the maximum amount allowed according to the fee schedules provided for each Class of employment

Refunds

I will provide refunds in all of the following circumstances:

- I will return immediately any amount I collect above the maximum fee.

- If the Artist accepts employment and does not report to work, I will return immediately any portion of the fee the Artist is due.
- If the Artist is employed and is later terminated for any reason, I will return immediately any portion of the fee the Artist is due.
- If a court or the DCA Adjudication Tribunal orders my agency to provide a refund, I will provide a refund.

Section 12: Collection of Fees for Class C Placements

GBL Section 185

- I will give each Artist who pays a fee Sections 185 and 186 of Article 11 of the New York General Business Law.
- I will only collect a fee in accordance with the terms of a written contract, except that I may collect a fee absent a written contract only after I have made a referral and as a result of the referral the Artist is employed, and/or upon negotiation or renegotiation of an original or preexisting contract and as a result of the negotiation or renegotiation the Artist enters into an original or preexisting contract.
- I will not charge a gross fee that exceeds, for a single engagement, 10% of the compensation payable to the Artist. *Exception:* For employment or engagements for orchestras and for employment or engagements in the opera and concert fields, I will not charge a gross fee that exceeds 20% of the compensation payable to the Artist.

Section 13: Financial Records

6 RCNY Section 5-241

- I will maintain at my agency and have available for inspection by DCA my agency's financial records on a monthly or quarterly basis. The records will be updated within 30 days after the end of each month or quarter.

Section 14: Inspections, Investigations, and Consumer Complaints

Code Section 20-114

6 RCNY Sections 1-12, 1-14, and 1-16

- I will cooperate with all DCA inspections and investigations of my agency.
- I will produce all books, records, registers, and documents I am required to maintain for inspection by DCA, upon request.
- I will comply with and respond to any *subpoena duces tecum* DCA issues to my agency.
- I will make all reasonable efforts to resolve any complaints that consumers file with DCA and will respond in writing to DCA within 20 days of receiving notice of a complaint.

PART IV

Certification:

I am authorized to complete and submit this Self-Certification. I have reviewed the entire Self-Certification. To the best of my knowledge, this Self-Certification is true, correct, and complete.

If any of the information in this Self-Certification changes, the employment agency must inform the Department of Consumer Affairs of those changes in writing.

This certification shall be deemed executed in the City and State of New York and shall be governed by and construed in accordance with the laws of the State of New York (notwithstanding New York choice of law or conflict of law principles) and the laws of the United States.

FAILURE TO RETURN OR FULLY COMPLETE THIS SELF-CERTIFICATION:

If you do not return or fully complete this Self-Certification, the Department of Consumer Affairs may deny your license.

PENALTY FOR FALSE STATEMENTS:

It is against the law to make a statement in this Self-Certification that you know is false. If you make a statement that you know is false, you may be punished.

Under Sections 210.45 and 175.30 of the New York Penal Law, you may be:

- fined up to \$1000 and / or
- sent to jail for up to one year

Under Section 175.35 of the New York Penal Law, you may be punished if you:

- make a statement that you know is false and / or
- make the statement because you intend to mislead the Department of Consumer Affairs

Under Section 175.35 of the New York Penal Law, you may be:

- fined up to \$5000 or
- fined an amount that is twice the amount of money you received by making the false statement and / or
- sent to jail for up to 4 years

The Department of Consumer Affairs may also punish you for making a false statement on this Self-Certification. These punishments may include:

- fines or penalties of up to \$500 for each false statement
- permanent loss (revocation) of your license

By signing below, I certify that the statements above are true and correct.

If you submit this form as an electronically filled-in PDF, you may type your name in the signature field.

Signature

Print Name

Title

Date

Please submit the signed original to DCA and make a copy for your records.

All laws and rules of the City of New York, including the New York City Consumer Protection Law and Rules, are accessible via **nyc.gov/consumers**. For convenience, sections of relevant New York State Law and/or New York City Law and Rules are also accessible in one of the following ways:

- Go to DCA's Business Toolbox at **nyc.gov/BusinessToolbox**
- Go to DCA's Licensing Center at 42 Broadway, 5th floor, in Manhattan