

Fact Sheet #68 – What Constitutes a Full-Time Employee Under H-1B Visa Program?

This fact sheet provides general information concerning full-time and part-time employment of H-1B workers and the H-1B employer's wage payment obligations.

What are an employer's wage obligations for full-time H-1B workers?

- If the H-1B worker is certified for "full-time employment" on the Labor Condition Application (LCA) the employer is required to pay the hourly wage to the worker for a full-time week, except for a period of non-productive status due to conditions unrelated to employment or which render the worker unable to work. A full-time week is 40 hours per week, unless the employer can demonstrate that less than 40 hours per week is full-time employment in its regular course of business. In no event would less than 35 hours per week be considered to be full-time employment.
- Full-time employment is also determined by industry standards and their business practices. These standards are influenced by particular business operations to include the days and hours the business is functioning.

What are an employer's wage obligations for part-time H-1B workers?

- If the H-1B worker is certified for "part-time employment" on the LCA, the employer is required to pay the hourly wage to the worker for the part-time hours specified each week. If the I-129 specifies a range of hours for part-time employment, the employer is required to pay the worker at least the average number of hours normally worked, provided the average is within the range indicated. The worker should not be paid for fewer than the minimum number of hours indicated for the range of part-time employment. In all cases the H-1B nonimmigrant must be paid the required wage for all hours performing work within the meaning of the Fair Labor Standards Act, 29 U.S.C. 201 *et seq.*

The requirements listed above can be found in the Immigration and Nationality Act § 214, 8 U.S.C. 1184, and 20 C.F.R. § 655.731 and § 655.736.

Where to Obtain Additional Information

For additional information, visit our Wage and Hour Division Website: <http://www.wagehour.dol.gov> and/or call our toll-free information and helpline, available 8 a.m. to 5 p.m. in your time zone, 1-866-4USWAGE (1-866-487-9243).

This publication is for general information and is not to be considered in the same light as official statements of position contained in the regulations.

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