

# H-1B PART TIME CERTIFICATION

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An H-1B worker may be employed part-time provided the Labor Condition Application (LCA) and H-1B petition state that the H-1B worker will work only part time. For part-time positions, an employer must always express the prevailing wage as an hourly wage, even if the worker is paid a salary.

If the prevailing wage is expressed as an annual salary, it may be converted to an hourly rate by dividing the amount by 2080; where the prevailing wage is expressed as an hourly rate, it may be converted to a salary by multiplying the hourly amount by 2080. 2080 is the number of hours in a 52-week year, at 40 hours per week, i.e. 52 x 40).

An employer may not sponsor an H-1B worker for full-time employment and then only pay him or her for part-time employment. ***A change from full time to part time is considered a material change that requires the employer to file an amended H-1B petition.***

- DOL regulations require employers to keep records of "hours worked each day and each week" for all part-time H-1B employees, regardless of whether or not the part-time employee is paid a fixed salary.
- Employer is required to keep such hourly records for its H-1B part-time salaried employees, even if it does not for other part time workers.

This requirement places an additional burden on employers who hire part-time salaried employees for whose hours worked are not necessarily tracked. Departments who do not already keep records of hours worked for such employees face the choice of implementing a system to track hours worked by their part-time salaried H-1Bs or deciding not to do H-1B petitions for part-timers and adjuncts.

**When hiring an H-1B for less than full time the department agrees to keep track of all hours worked for this part time employee and to have this written information available to give to the Department of Labor in case of an audit.**

Name of Part time Employee: \_\_\_\_\_

\_\_\_\_\_  
Department Chair Signature

\_\_\_\_\_  
Date