

H-1B Workers with Part Time Work and Multiple Employers

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By Mohammad Ali Syed

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Although the H-1B non-immigrant visa status has many restrictions, it does allow H-1B employees to work for more than one employer under H-1B status as well as work part-time. H-1B visa holders are eligible to work full-time, part-time, and for one or more employers, so long as they qualify as an H-1B occupation.[1]

H-1B Pay Requirements for Part-Time Positions

Under the U.S. Department of Labor requirements, H-1B employers must pay their H-1B workers the prevailing wage based on the specific type of work that they perform[2]. Additionally, they must pay more than the prevailing wage if they also pay their other employees who are in the same position a higher wage. This requirement applies to both full or part-time positions. It is important to clearly demonstrate to the United States Citizen and Immigration Services (USCIS) that the hourly rate satisfies the wage requirements. If you change from full to part-time, or vice versa, within H-1B status, you must first file an amended visa petition.

H-1B Cap and Ability to Work Multiple H-1B Jobs

There is a yearly limit to cap-subject H-1B petition approvals, with petitions to be submitted by April 1 and jobs to begin October 1. However, if you are already in H-1B status and find a new job that also meets the H-1B occupation requirements, then your new employer can petition for you right away, even if this position is cap subject or if the cap limit has already been filled.

Employers for non-profits, government research institutions, or universities are another exception to this yearly cap-subject limitation and are allowed to petition for their H-1B worker at any time. If you have a H-1B visa that is cap exempt and find a new job with a cap-subject employer, this new employer can also petition for you right away. However, this is only allowed as long as you stay at with both employers.

Six Year Limit for Part-Time Positions

H-1B status is typically limited to six-years. This limit is also enforced for part-time positions and is based on the amount of time the H-1B visa holder is in the U.S. not on the amount of time one works in H-1B status. However, for those who have spent some time outside of the U.S. while in H-1B status, you can add the time you were outside to the end of your authorized stay. If your H-1B job is seasonal or you spend less than six months a year in the U.S., then you may be eligible to maintain your status indefinitely.

H-1B Workers are Ineligible to Work on a Contract Basis

Since the rules for H-1B eligibility require an employer-employee relationship and therefore H-1B employees cannot work on a contract basis. You must be on an employer's payroll and be receiving a W-2 rather than a 1099 tax form.

H-1B Visa Holders Going to School

There are no restrictions for an H-1B employer to attend school. You can work part-time or full-time with H-1B status and enroll in school, so long as you satisfy the terms of your H-1B employment to maintain your status.

[1] <https://www.nolo.com/legal-encyclopedia/part-time-work-multiple-employers-h-1b-workers.html>

[2] <https://www.dol.gov/whd/immigration/h1b.htm>