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# Rights of Employees

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### H-1B/H-1B1 Employee Rights

H-1B and H-1B1 workers are granted a number of important rights including:

- The employer must give the worker a copy of the LCA.
- The employer must pay the worker at least the same wage rate as paid to other employees with similar experience and qualifications or the local prevailing wage for the occupation in the area of employment, whichever is higher.
- The employer must pay for non-productive time caused by the employer or by the worker's lack of a license or permit.
- The employer must offer the worker fringe benefits on the same basis as its other employees.
- Also, the employer may not require the worker to pay a penalty for leaving employment prior to any agreed date. However, this restriction does not preclude the employer from seeking "liquidated damages" pursuant to relevant state law. Liquidated damages are generally estimates stated in a contract of the anticipated damages to the employer caused by the worker's breach of contract.

U.S. workers and job applicants may also have certain rights under the H-1B and H-1B1 programs. U.S. workers employed by an H-1B dependent or willful violator employer may not be laid off within 90 days before or after the employer files a USCIS petition to employ an H-1B worker in an essentially equivalent job. In addition, an H-1B dependent employer or willful violator must offer the job to any U.S. worker who applies and is equally or better qualified for the job than the H-1B alien worker. The U.S. Department of Justice has the authority to investigate complaints of failure to hire qualified U.S. workers.

No employer of H-1B or H-1B1 workers may intimidate, threaten, blacklist, discharge, or in any other manner discriminate against any employee, former employee, or job applicant for disclosing violations of H-1B or H-1B1 provisions or for cooperating in an official investigation of the employer's compliance.

U.S. workers and H-1B/H-1B1 workers may also examine the public disclosure documents that the employer is required to maintain that provide information about the employer's

compliance with the attestation elements.

Complaints about non-compliance with H-1B/H-1B1 labor standards may be filed with local Wage and Hour Division offices.

For more information, please see: <http://www.dol.gov/compliance/guide/h1b.htm> [2]

## **Other Links Pertaining to Employee Rights**

- Information regarding your rights as employees (with respect to non payment for employees on EAD) can also be collected from your local State Workforce Agency: <http://www.doleta.gov/regions/reg01bos/StateResources-SWA.cfm> [3]
- Employees? rights information pertaining to E-Verify: <http://www.uscis.gov/files/nativedocuments/e-ver-employee-rights.pdf> [4]  
[USCIS Link Discussing E-Verify and Employee Rights](#) [5]

## **Immigration Law :**

[Compliance](#) [6]

**Profession/Occupation:**

[Employee](#) [7]

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### **Links:**

[1] <https://immigration.com/rights-employees>

[2] <http://www.dol.gov/compliance/guide/h1b.htm>

[3] <http://www.doleta.gov/regions/reg01bos/StateResources-SWA.cfm>

[4] <http://www.uscis.gov/files/nativedocuments/e-ver-employee-rights.pdf>

[5]

<http://www.uscis.gov/portal/site/uscis/menuitem.eb1d4c2a3e5b9ac89243c6a7543f6d1a/?vgnextoid=d6f988e60a405>

[6] <https://immigration.com/law/immigration-law/compliance>

[7] <https://immigration.com/profession/professionoccupation/employee>