

Fact Sheet #62M: What are an H-1B employer's notification requirements?

This fact sheet provides general information concerning an H-1B employer's notification requirements under the H-1B program.

1. U.S. Worker Notification

Notice must be given to U.S. workers on or within 30 days before the date the employer files the Labor Condition Application (LCA) (Form ETA 9035 and/or ETA 9035E) with the Department of Labor. This notice must include:

- The number of H-1B nonimmigrants the employer is seeking to employ;
- The occupational classifications in which the H-1B nonimmigrants will be employed;
- The wages offered;
- The period of employment;
- The locations at which the H-1B nonimmigrants will be employed; and
- The following statement: "Complaints alleging misrepresentation of material facts in the labor condition application and/or failure to comply with the terms of the labor condition application may be filed with any office of the Wage and Hour Division of the United States Department of Labor."

This worker notification must be done in one of the following ways:

- Union notice:

When there is a collective bargaining representative for the occupation in which the H-1B worker will be employed, the employer must provide such notice to that collective bargaining representative via a copy of the LCA or other document which includes all items listed above;

When there is no bargaining representative, the employer must provide the items listed above either by:

- Hardcopy worksite notice:

Posting the notice of the filing of the LCA (or the information therein) at two conspicuous locations at the place of employment for 10 days; or

- Electronic notice:

Electronically providing the notice of the filing of the LCA to all workers at the place of employment for 10 days.

How must electronic posting be done?

If an employer chooses to provide notice electronically, the employer must electronically notify all employees at the place of employment in the occupational classification for which H-1B workers are sought. This notice may be provided by individual e-mail messages, by posting on an appropriate electronic bulletin board, or by other appropriate methods.

What posting is required when the H-1B employer, after filing the LCA, places an H-1B worker at a worksite not contemplated at the time of its filing?

Notice must be given to the workers at the new worksite in the manner described above. The posting must be accomplished on or before the date the H-1B worker begins work.

2. H-1B Worker Notification

The employer must give a copy of the LCA to each H-1B worker no later than the date he/she reports to a permanent place of work.

All requirements listed above can be found in 20 CFR § 655 Subparts H & I and the Immigration and Nationality Act § 212(n).

Where To Obtain Additional Information

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.

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

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