

International Student Resource Center

DOL Proposed Rule on Prevailing Wages for Foreign Workers

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Summary: DOL Proposed Rule on Prevailing Wages for Foreign Workers

3-27-2026

The Department of Labor (DOL) published a Notice of Proposed Rulemaking (NPRM) on March 27, 2026, proposing to raise the prevailing wage floors that U.S. employers must pay when sponsoring foreign workers through the H-1B, H-1B1, E-3, and PERM programs.

The Core Change

The proposal would increase the wage thresholds under the DOL's Occupational Employment and Wage Statistics (OEWS) system, which is used to determine prevailing wages for both temporary visa programs (H-1B, H-1B1, and EB-3), and permanent labor certification (PERM for the employment-based second (EB-2) and employment-based third (EB-3) preference categories.

Data:

Current and Proposed Wage Levels

Entry-level (Level 1) wages would increase from the 17th to the 34th percentile, with Level II increasing from 34th to 52nd, Level III from 50th to 70th, and Level IV from 67th to 88th.

Wage Level	Current	Proposed
Level 1	17th percentile	34th percentile
Level 2	34th percentile	52nd percentile
Level 3	50th percentile	70th percentile
Level 4	67th percentile	88th percentile

According to DOL, the proposed rule, on average, would increase the required wage employers must pay for an H-1B visa holder by 33% at Level I, 24% at Level II, 21% at Level III and 22% at Level IV.

Proposed rule's percentage wage increase compared to current regulation

Wage Level	Proposed

Level 1	33.39%
Level 2	24.47%
Level 3	20.79%
Level 4	21.68%

Who is Impacted

The rule would apply prospectively only to new Labor Condition Application (LCA) filings and prevailing wage determination requests submitted on or after the effective date, affecting not just first time H-1B, H-1B1 and E-3 visa holders, but also requests for extensions, amendments and change of employers.

Employers sponsoring individuals for H-1B petitions would need to meet the higher wage levels set per level, depending upon the position. These levels would not apply to employers using Collective Bargaining Agreements (CBA's). The proposed rule preserves the option to use private wage surveys as an alternative to the OEWS-based prevailing wages; however, DOL explicitly flagged in the rule that it will be watching their use more carefully, so employers relying on them should expect heightened scrutiny going forward.

Legal Background

This is not the first time DOL has attempted to raise prevailing wage levels. Under the first Trump administration, DOL attempted similar increases in an October 2020 Interim Final Rule, but federal courts vacated it on procedural grounds (i.e. the interim final rule lacked notice-and-comment). A January 2021 Final Rule was later vacated at DOL's own request following the induction of the Biden administration. Given this contentious history coupled with the significant economic impact of these changes, a final rule is likely to face court challenges.

What Happens Next

It is important to note that this rule is not yet final, and instead is still in the proposed stage of the process. The Department of Labor will accept comments from the public for 60 days, until May 26, 2026. Following the comment period, the agency must review all comments and incorporate public feedback into a final rule, a process which typically takes at least a few months. Then the agency must release a final rule in the Federal Register, with the effective date of a new rule typically being 60 days after the final rule

is published in the Federal Register. Policy experts anticipate that the final rule will likely be published and to take effect in time for implementation for next year's H-1B lottery season (Spring 2027).

What you can do

Submit a comment discussing how you or your institutions would be impacted by this proposed rule. The comment period presents a meaningful opportunity to provide input on the impact of the proposed rule on U.S. employers sponsoring foreign workers, including colleges and universities. All are allowed to comment, without regard to citizenship.

Educational Position Samples (ACWIA)

15-1244- Network Administrator

Current	Revised Estimate
Level 1: $67,579	Level 1: $90,144
Level 2: $95,618	Level 2: $119,016
Level 3: $123,677	Level 3: $149,389
Level 4: $151,715	Level 4:$184,606

25-1062 - Ethnic Studies Teacher Postsecondary

Current	Revised Estimate
Level 1: $48,080	Level 1: $64,134
Level 2: $68,323	Level 2: $85,042
Level 3: $88,567	Level 3: $106,980
Level 4: $108,810	Level 4:$132,400

19-1029.02 - Molecular & Cellular Biologists

Current	Revised Estimate
Level 1: $38,834	Level 1: $51,801
Level 2: $50,274	Level 2: $62,576
Level 3: $61,734	Level 3: $74,569
Level 4: $73,174	Level 4: $89,038