

**THE PUBLIC EXAMINATION FILE
(EXPLANATION OF THE ACTUAL WAGE)**

DOL regulations are designed to protect U.S. workers. As such, the DOL wants to ensure that U.S. workers are not being displaced by H-1B employees. The requirements to provide an “explanation of the actual wage” is to document that employers are not using the H-1B program to hire foreign workers at salaries lower than those a U.S. worker would expect for a similar position with similar requirements and responsibilities. Please note that the DOL reserves the right to conduct employer audits of *Public Examination files.

DEPARTMENTS MUST PROVIDE THE FOLLOWING INFORMATION:

1. Name of the H-1B employee _____
2. Name of the Hiring Department _____
3. Actual Wage being paid to the H-1 B employee _____
(must provide documentation establishing the wage rate to be paid the H-1B employee; initially a copy of the PAF will satisfy this requirement, but subsequently, a copy of every PDR which reflects a salary change for the H-1B worker should be provided and then placed in the PEF).

The following explanations **must** be included below or on additional pages:

___An explanation of how the “prevailing wage” was determined. At Rutgers, the “prevailing wage” is the minimum annual salary for the job title as it appears in the AAUP contract, so this documentation should consist of a copy of the applicable page of the AAUP contract with the “prevailing wage” (minimum salary) highlighted for this specific job title and term of appointment AY or CY.

___An explanation of how the “actual wage” (actual salary) for the H-1B employee was determined. Regulations provide guidance on this requirement as follows :) A full, clear explanation of the system that the employer used to set the “actual wage” the employer has paid or will pay workers in the occupation [job title] for which the H-1B nonimmigrant is sought, including any periodic increases which the system may provide—e.g. memorandum summarizing the system or a copy of the employer’s pay system or scale.

Please Note:

- **If U.S. employees are paid more than the H-1B employee, you must provide a detailed explanation and justification as to why this is the case, bearing in mind DOL’s reason for seeking this information (see top of page).**

48.

- Any records documenting wages/salary should not violate the privacy of any employee. As such if you use actual copies of other employees' pay records, you should blank out the employees' names and SSN.