

A detailed line drawing of a building facade, likely a Georgia Tech building, featuring a gabled roof with two dormer windows and a large arched window. The letters 'GT' are visible on the building's facade.

Global Human Resources

Processing Nonimmigrant Petitions

Wednesday July 21, 2010

Thursday July 22, 2010

Revised (to reflect current fees) : March 1, 2011

Georgia Tech Human Resources

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Agenda

- Introductions
- Foreign National Tax Compliance
- Nonimmigrant Category Definitions
- Timelines
- Procedures
- Questions & Answers

Global Human Resources Staff

Lori Jones

- College of Computing
- College of Engineering
- GTRI


Natalie Wood

- College of Architecture
- College of Management
- College of Sciences
- Ivan Allen College
- Other departments, including the Provost

Foreign National Tax Compliance

- **GLACIER: Nonresident Alien Tax Compliance**
 - System used by Payroll, Accounts Payable and Bursar
- www.ohr.gatech.edu/global/foreignnationaltax
- **Jessica Dunn**
 - International Tax Compliance Specialist
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Nonimmigrant Status Options



- J-1 Exchange Visitors



- B-1/Visa Waiver Business Visitors



- Trade NAFTA (TN)



- O-1, Alien of Extraordinary Ability



- H-1B, Specialty Occupations

J-1 Exchange Visitors

- Only permitted to engage in academic or research activities listed on the DS- 2019
- Aliens subject to the 212(e) 2-year foreign residence requirement are not eligible for H-1B visa (unless waiver approved)
- Cannot be used for tenure-track or tenured positions
- Administered by Office of International Education
- 5 year maximum

B-1 & Visa Waiver Business

- In the U.S. for scientific, professional or business conventions/conferences, or independent research
- Not permitted to accept full-time, part-time or temporary teaching or research positions
- Processed as an **affiliate**, if necessary
- B-1: 6 month maximum, with possible extensions
- Visa Waiver: 90 day maximum, no extensions

TN Professionals under NAFTA

- Applies to Canadian and Mexican citizens who are coming to the U.S. to be temporarily employed in a designated capacity
- Employment must require a professional license or baccalaureate degree
- The profession must be on the NAFTA list

O-1A, Workers of Extraordinary Ability

- Person who “has extraordinary ability in the sciences, arts, education, business or athletics, which has been demonstrated by sustained or international acclaim”
- Employment is limited to the specific employer and employment specified in the O-1 petition
- Initial period of stay of 3 years with 1 year extensions

H-1 B, Specialty Occupation

- Employment is limited to the specific employer and employment specified in the H-1 B petition
- Academic or research, full-time position
- 6 year maximum, in 3 year increments

H-1B Process

Nonimmigrant Process Authorization
Form and Supporting Documents



Prevailing Wage (1 month)



Labor Condition Application (1 week)



I-129 Petition (2 weeks or 2 months)

Documentation for Nonimmigrant Employee Processes

- From Employing Department
 - Nonimmigrant Process Authorization Form
 - Petition Support Letter
 - Fees
- From Employee
 - Foreign National Employee Information Form
 - CV
 - Highest academic degree and transcript
 - Immigration Documents
 - Dependent Form and documents, if applicable

Prevailing Wage

- The average wage of similarly employed workers
 - Similar factors include:
 - Nature of the job
 - Geographic location
 - Job duties
- Re-assessed yearly, new wages published each July
- Processing Time
 - Average: 32 days
 - Range: 0 to 93 days

Labor Condition Application

- Employer must file LCA with Department of Labor
- The LCA attests that:
 - the foreign national will be paid the higher of the actual wage or the prevailing wage
 - that there is no strike or lock-out
 - working conditions of U.S. workers will not be adversely affected
 - notice has been provided to all employees
- LCA must be certified by DOL and a copy is included with H-1B petition to USCIS
- Certified LCA must be posted for 10 business days
- Processing time
 - 7 days

I-129, Petition for a Nonimmigrant Worker

- Fees

- Standard Processing Fee: \$325.00

- Anti-Fraud Fee: \$500.00

- For new petitions only

- Premium Processing Fee: \$1,225.00

- Processing Time

- Standard: 60 days (approximate)

- Premium: 15 days (guaranteed)

New H-1 B Employment

- Change of Status
 - F-1 → H-1 B
 - J-1 → H-1 B
 - Not subject to home residency rule or has an approved waiver
- Consular Notification
 - Foreign national is in home country
 - U.S. Consulate notified of approval, employee applies for visa stamp, enters the U.S. in H-1 B status
- Employer Transfer
 - Foreign national is employed with another employer and holds H-1 B status
 - Cannot begin employment at Tech until receipt is received

Amendments

- A change in employment cannot occur until it has been determined by Global HR if an amended petition should be filed with USCIS
 - Annual merit raises do not require an amendment
 - Promotions that raise the title, increase salary and responsibilities will require an amendment
 - Postdoctoral Fellow → Research Scientist I
 - Research Engineer I → Research Engineer III
- If an amended petition is required, the petition must be approved by USCIS before the changes are effective

Extensions

- The extension process should begin 6 months before the expiration of the alien's current H-1B status
- 240 day rule
 - The alien can work, but cannot (legally) drive
- 6 year limit
 - An extension is not possible if the alien has reached the 6 year limit (limited exceptions)

Resignation or Termination

- H-1B withdrawal required when employment is terminated
- Employer liable for reasonable return transportation costs if employer terminates before end of H-1B period
- Complete the Notification of Termination and/or Resignation Form

Other Issues

- Driver's License Expiration Date
 - GA driver's license expiration dates correspond with the immigration status expiration date
- Leaves of Absence
 - Must notify Global HR
- Travel outside of the US
 - Remind employees to contact Global HR before traveling whenever possible

Global Human Resources Contact Information

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Q & A

Evaluations

Thank you!