

A detailed line drawing of a building facade, likely a Georgia Tech building, featuring a gabled roof with two dormer windows and a large sign with the letters 'GT' and 'H' on the front. The drawing is rendered in a light, sketchy style.

Global Human Resources

# Processing Nonimmigrant Petitions

Wednesday July 21, 2010

Thursday July 22, 2010

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

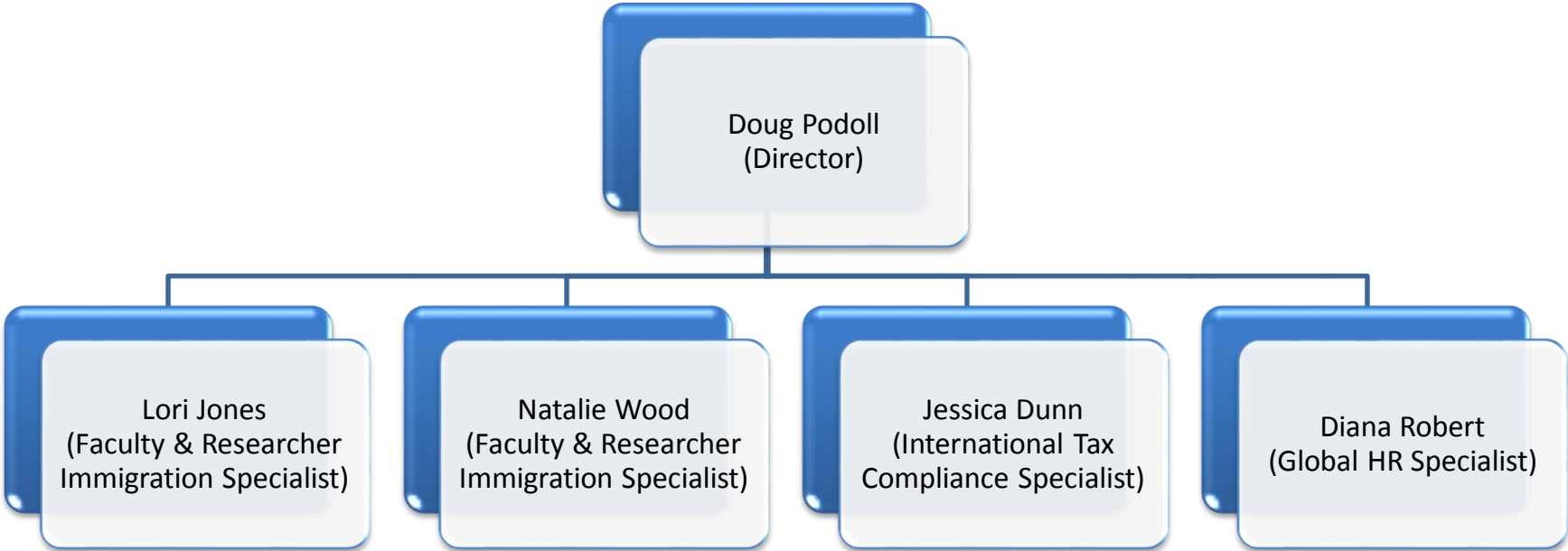
Georgia Tech Human Resources

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# Agenda

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

# Global Human Resources Staff



# 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](http://www.ohr.gatech.edu/global/foreignnationaltax)
- **Jessica Dunn**
  - International Tax Compliance Specialist
  - 404-385-1657
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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!