

Westlaw

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Interpreter Releases Report and analysis of immigration and nationality law
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April 12, 2010

***800 3. USCIS Releases Q&A on Cap Gap Relief for F-1 Students with Pending or Approved H-1Bs**

U.S. Citizenship and Immigration Services (USCIS) has issued a set of questions and answers (Q&A) addressing the automatic extension [FN4] of F-1 student status in the U.S. for certain students with pending or approved H-1B petitions (indicating a request for change of status from F-1 to H-1B) for an employment start date of October 1, 2010 under the Fiscal Year (FY) 2011 H-1B cap. The Q&A is reproduced in Appendix II of this Release.

[FN4]. On April 8, 2008, the Department of Homeland Security (DHS) published an interim final rule that made substantial changes to the post-completion optional practical training (OPT) system for F-1 students and created permanent "cap gap" relief for F-1 students who are beneficiaries of H-1B petitions with start dates that occur after their F-1 period of stay lapses. 73 Fed. Reg. 18944 (Apr. 8, 2008), discussed in 85 Interpreter Releases 1070 (Apr. 7, 2008) and discussed and reproduced in 85 Interpreter Releases 1187, 1217 (Apr. 14, 2008). See also Fragomen, "The New OPT Rule: New Options, Lingering Uncertainties for Foreign Students," 85 Interpreter Releases 2173 (Aug. 11, 2008).

Appendix II

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