

**H-1B CAP GAP ISSUE ADDRESSED BY DEPARTMENT
OF HOMELAND SECURITY**

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by

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The American Immigration Lawyers Association has reported that, as of June 18, 2004, the Department of Homeland Security issued a draft notice to address the H-1B “cap gap” as it relates to F-1 students. The notice is a draft and not yet official. However, there is a strong indication that the H-1B “cap gap” will be resolved in the near future.

As many of you are aware, since the 2004 H-1B cap has long been met, new H-1B employment cannot begin until the next fiscal year (October 1, 2004). As a result F-1 students whose status expires prior to October 1, 2004 have a gap between the expiration of their F status and the anticipated start date of their H-1B status (“cap gap”). The notice from the Department of Homeland Security has been forwarded to and will be reviewed by the Office of Management and Budget (OMB). Stay tuned to find out when the draft notice becomes official.

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