



Published on *US Immigration Lawyer, Law Offices of Rajiv S. Khanna, PC, Rajiv S. Khanna* (<https://immigration.com>)

Students cannot be in unlawful presence, says the court

Students cannot be in unlawful presence, says the court ^[1]

Submitted by Rajiv S. Khanna on Feb 10th 2020

International students can breathe a sigh of relief. The USCIS has lost another case against its attempts to assault legal immigration. A federal court has held that its attempts to create artificial, three year or ten bars from reentry by students into the USA are illegal.

This decision is laudable in three respects. First, the court correctly interpreted the law and held that the USCIS had implemented a policy against the plain language of the statute. Second, the court invalidated incorrect procedures. And finally, this decision refused to accept all the standard arguments the government makes in similar cases such as, they were creating policy not law, their decisions were not binding, merely advisory, etc.

The government's action smacked of obvious unreasonableness and a desire to tamp legal immigration. As the court noted, students could inadvertently break the law causing irreparable harm to their legal status law by merely moving from one dormitory to another without notifying the government. Even to an uninvolved bystander, such results smack on internment not education.

It is notable that similar "policy decisions" have been made by the administration in the context of work visas (H-1B, L-1, etc.) also. I am left with the impression that it is time to visit these decisions in court.

See my comments in The Times of India.



[US policy that restricted international students? re-entry blocked - Times of India.pdf](#) ^[2]

See my other media quotes: <https://www.immigration.com/news/rajivs-news-clips> ^[3]

Nonimmigrant Visas:

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