

H-1B opponents challenge Bush administration in court

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The Bush administration's recent decision to extend the amount of time foreign nationals can work in the U.S. on student visas is being challenged in a federal lawsuit by H-1B visa opponents.

The opponents argue that the administration exceeded its legal authority by stretching the rules for foreign students by extending the length of the visas from one year to 29 months.

The suit, filed in U.S. District Court in Newark, N.J., by the Immigration Reform Law Institute and joined by The Programmers Guild and other groups, charges that the administration's decision in April to extend the work period for students under the Optional Practical Training provision is little more than an effort to get around the H-1B cap limit.

"They did this with absolutely no legal basis," said John Miano, founder of The Programmers Guild in Summit, N.J. He said the federal extension will hurt U.S. workers who are seeking job training because it will divert training resources to foreign workers. "We hear over and over again that U.S. workers do not have the skills to do the job," he said.

Others that have joined in the lawsuit are the American Engineering Association and Brightfuturejobs.com.

Until the Bush administration, through the U.S. Department of Homeland Security, made the change earlier this year, foreign national students typically worked for one year after graduation on their student visa while their employers filed for an H-1B visa. Tech industry groups, however, had sought the extension because of the backlog for H-1B visas.

The U.S. has an annual H-1B visa cap of 85,000, which includes 20,000 reserved for advanced degree holders. But demand for the visas has exceeded the cap and for the last two years the government has quickly exhausted the number of visas available. Industry

groups argued that, as a result, it was becoming impossible for students to apply for an H-1B visa, through their employer, in the same year they graduate.