

June 21, 2004

Chief of Records
ATTN: Request for Comments
Office of Foreign Assets Control
Department of the Treasury
1500 Pennsylvania Ave NW
Washington, DC 20220

Re: Office of Foreign Assets Control, Treasury; FR Doc. 04-13630

To Whom It May Concern:

On behalf of the Latin American Studies Association, we urge that the “Interim Final Rule” amending the Cuban Assets Control Regulations, part 515 of chapter V of 31 CFR, be rescinded with respect to educational activities in Cuba. The proposed regulation is an egregious infringement on academic freedom. We will highlight five of the several ways in which the regulations would interfere with the rights of higher education institutions to organize their instructional and research activities as they deem most appropriate.

First, the proposed restriction that would limit participation only to those “in a structured educational program in Cuba as part of a course offered at the licensed institution, provided the program includes a full term, and in no instance includes fewer than ten weeks, of study in Cuba,” unreasonably determines what a college or university may assess as the educational equivalent to a full term. A majority of U.S. accredited higher education institutions have summer programs, or mid-year programs, that they consider to be “full term” even when the period of time is less than the regular time period for a full term at their institutions. Accrediting organizations recognize that “contact hours,” not calendar days, is the appropriate unit for determining credit hours, and thus grant higher education institutions the freedom to award academic credit for programs that may be concentrated in a few weeks. Many colleges and universities structure some of their study abroad programs – including those in Cuba – so that the “contact hours” meet or exceed the requirements for an equivalent full term course. The proposed regulation would deny this freedom to colleges and universities by mandating that study in Cuba be a minimum of ten weeks.

Second, the proposed regulations would interfere with the right of colleges and universities to determine whom they admit into their courses. Admission to an institution’s program in Cuba would be limited to “a student currently enrolled in an undergraduate or graduate degree program at the U.S. institution.” Such a restriction serves no national purpose and does not uphold any constitutional principle.

Third, the proposed regulations would limit educational activities in several instances to “a full-time permanent employee” of the U.S. licensed institution. The modifiers “full-time” and “permanent” are ambiguous, may be subject to arbitrary interpretation, and do not correspond to the ways in which many colleges and universities employ specialists to teach their courses. In some cases, part-time or adjunct faculty may have long-term associations with an institution of higher education, which relies on the faculty member’s expertise to fill a particular gap in the

curriculum. The notion of “permanent” faculty is ordinarily reserved for faculty who have been granted tenure (permanent employment). The ambiguity of the proposed regulations have the potential of imposing extraordinary and academically stifling restraints on the way institutions of higher education might be able to staff their programs related to Cuba.

Fourth, it is common for U.S. college and university professors to lecture for short periods at institutions of higher education in other countries. This practice is encouraged by the State Department’s Fullbright Program, which sponsors distinguished lectureships for durations as short as one week. Yet the proposed regulations would require U.S. faculty “teaching at a Cuban academic institution” to be in residence at least ten weeks. This limitation restrains the academic freedom of faculty to lecture for shorter periods without serving any national interest.

Fifth, the proposed regulations would limit the “accompanied baggage” that students, faculty, and professional researchers could carry to 44 pounds. Almost all students who do participate in programs of at least ten weeks duration – and typically those in programs of shorter duration – need to carry clothing, books, and items necessary for their study that will exceed the 44-pound limit. Faculty and researchers need to carry resources that are not available in Cuba. Moreover, the new regulation replaces an existing regulation that pertains only to fully-hosted travel, yet it would cover all authorized travelers. Its intent is to deny excess baggage fees to the Cuban government. If the proposed regulation is instituted, the ability of students, faculty and researchers to carry out their studies and investigations would be compromised. The U.S. government has no authority, and no justification, to interfere with legitimate education and research in this manner.

The particular problems we have highlighted only begin to indicate the more general impediment to academic freedom that proposed regulations embody. The U.S. Treasury has not demonstrated a need for these draconian measures, and there is no pattern of evidence indicating that higher education institutions have abused the existing regulations. The free and full exchange of ideas best serves the interests of people in Cuba and the United States. In contrast, the proposed regulations only serve the interests of those who would deny their citizens the ability to learn from each other.

Sincerely,

Marysa Navarro
LASA President