

AMERICAN COUNCIL ON EDUCATION

ONE DUPONT CIRCLE  
WASHINGTON, D. C. 20036

DIVISION OF GOVERNMENTAL RELATIONS  
(202) 833-4736

March 2, 1979

Mr. Leonel J. Castillo  
Commissioner  
Immigration and Naturalization Service  
Washington, D. C. 20536

Dear Mr. Castillo:

The American Council on Education, on behalf of the more than 1,300 colleges and universities in the United States, and the associations listed below, wishes to express its concern regarding the recent operating instructions to the INS regional offices containing questions to be asked in personal interviews with foreign students seeking an extension of stay in the United States. We support the efforts of the National Association for Foreign Students Affairs to seek clarification of this new procedure.

While we concur that items one through three are wholly appropriate standards which INS may use to assess a student's request for an extension of stay, we are disturbed by the inclusion of item four. The requirement that the institution must certify that the student has "not engaged in any activity deemed inconsistent with his/her continued presence in the United States as a student" presents serious problems. Institutions most often do not have independent records with regard to such activity and are in no position to judge, in the absence of clearly delineated standards, whether particular conduct is inconsistent with status as a student. This vague standard could lead to a violation of the rights foreign students have to an orderly and lawful determination of their status. At best, institutions, in the absence of greater information, could only certify as to what was conveyed to them by the student. Colleges and universities can not be placed in the posture of conducting independent investigations as to the facts of an individual case.

On the other hand, we are very uncomfortable at the prospect of having personal interviews conducted by regional officers of INS. We believe this would set in place a cumbersome mechanism which could produce a processing backlog of several months, thereby creating a sizeable out-of-status foreign student population.

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Finally, we are greatly concerned about the latitude given the INS regional offices in interpreting and implementing the new instructions. We have received information that indicates that the "instructions" have been interpreted differently in various regions. At least one region has issued a checklist of activities "deemed inconsistent" with valid student status, which incorporates such criteria as whether a student has been "arrested and convicted, has participated in violent demonstrations or activities which would be prejudicial to the public interest or endanger the welfare, safety or security of the United States." In order for institutions to usefully cooperate with INS in assisting students rightfully seeking to extend their stay, clear guidelines must be given by INS to its regional offices pursuant to existing regulations.

We would respectfully urge INS to rescind the new instructions and to publish any proposed future regulations and guidelines in the Federal Register. Although we understand that this procedure will be required only for the transition to the new duration of status procedures, we feel that consultation with the academic community is presently warranted.

We are grateful for your cooperation and assistance, and stand ready to aid your agency.

Sincerely,

Sheldon Elliot Steinbach  
General Counsel

SES:sbe

The following associations wish to join in this statement.

Association of American Universities  
National Association of College and University Business Officers  
National Association of Independent Colleges and Universities  
National Association of State Universities and Land-Grant Colleges