

K. Export Control Compliance Policy

Background

US laws regulate the distribution of strategically important technology, services, and information to foreign nationals and foreign countries to support foreign policy and ensure national security. Consequently, CSUDH requires its faculty, staff, and students to comply with the export control regulations of the United States.

Definitions

Export: The transfer of controlled technology, information, equipment, software, or services to a foreign person in the US or abroad by any means including actual shipment outside the US, visual inspection in or outside the US, or by written or oral disclosure.

Foreign Person: Any person who is not a lawful permanent resident of the US, any foreign corporation or other group that is not incorporated or organized to do business in the US, or any foreign government.

US Person: Any US citizen or lawful permanent resident, any foreign corporation or group that is incorporated or organized to do business in the US, or any federal, state, or local government in the US.

Responsibilities of the Principal Investigator

Faculty and staff are responsible for disclosing to the Office of Research and Funded Projects all pertinent information regarding a project that may involve export-controlled information and materials, as well as plans for foreign travel and foreign visitors to campus. Faculty and staff are responsible for ensuring students' compliance when they are involved in university projects.

Responsibilities of the Office of Research and Funded Projects

The Office of Research and Funded Projects is responsible for conducting an initial evaluation of the proposed project to determine if any activity falls under the requirements of export control. If an assessment cannot be made by Office of Research and Funded Project staff, assistance may be obtained by an outside consultant experienced in export control compliance.

The Office of Research and Funded Projects will coordinate export control for the university providing advice and assistance to faculty regarding the application of US export regulations. This includes assisting with defining export licensing requirements.

Faculty and staff are to report any information received with respect to any potential or known export violations to the Dean of Graduate Studies and Research.

Responsible US Agencies

The US Department of State regulates the import of military technologies through its International Traffic in Arms Regulations (ITAR).

The US Department of Commerce regulates the export of dual-use technologies for civil use through the Export Administration Regulations (EAR).

The US Department of the Treasury through the Office of Foreign Assets Control (OFAC) prohibits transactions with countries subject to boycotts, trade sanctions and embargos.

Designated Controlled Items on the ITAR List

- Firearms, Close Assault Weapons and Combat Shotguns
- Guns and Armament
- Ammunition/Ordnance
- Launch Vehicles, Guided Missiles, Ballistic Missiles, Rockets, Torpedoes, Bombs and Mines
- Explosives and Energetic Materials, Propellants, Incendiary Agents, and their Constituents
- Vessels of War and Special Naval Equipment
- Tanks and Military Vehicles
- Aircraft and Associated Equipment
- Military Training Equipment
- Protective Personnel Equipment
- Military Electronics
- Fire Control, Range Finder, Optical and Guidance and Control Equipment
- Auxiliary Military Equipment
- Toxicological Agents, Including Chemical Agents, Biological Agents, and Associated Equipment
- Spacecraft Systems and Associated Equipment
- Nuclear Weapons, Design and Testing Related Items
- Classified Articles, Technical Data and Defense Services
- Directed Energy Weapons
- Submersible Vessels, Oceanographic and Associated Equipment
- Miscellaneous Articles specifically designed or modified for military purposes.

Designated Controlled Items of Dual-Use (EAR)

- Nuclear materials, facilities and equipment
- Materials, chemicals, microorganisms, and toxins
- Materials processing
- Electronic design, development and production

- Computers
- Telecommunications and information security
- Sensors and lasers
- Navigation and avionics
- Marine
- Propulsion systems, space vehicles and related equipment

Providing Services to Foreign Persons

ITAR and EAR prohibit assisting and training foreign persons anywhere in the design, development, use, and testing of controlled equipment without a license from the Department of Commerce or Department of State. Additionally, the US Department of Treasury (OFAC) prohibits the provision of services to countries subject to US sanctions and boycotts without a license. These services include conducting surveys and interviews in boycotted countries, providing marketing and business services to persons in boycotted countries, creating new information materials at the behest of persons in a boycotted country, and engaging the services of persons in a boycotted country to develop new information materials. For a complete listing of countries subject to Department of Treasury sanctions and descriptions of prohibited activities, visit the Treasury Department website. Examples of countries currently under boycott provisions include Cuba, Iran, Iraq, Libya, Liberia, Sudan, Syria, and North Korea.

Shipping Controlled Equipment Abroad

A license is required to ship equipment controlled by ITAR to any foreign country. A license may be required to ship equipment controlled under EAR out of the US depending on the nature of the equipment and where it is being shipped. Any and all shipments of equipment and provision of services to countries under sanction is illegal.

Liability and Violations

Liability is personal and institutional and may take the form of administrative penalties, monetary fines, or jail sentences.

Exclusions

A license is not required to disseminate information if one of three exclusions applies

- Fundamental Research
- Employment
- Education

Fundamental Research Exclusion

No license is required to disclose to foreign persons information that is published and which is generally accessible or available to the public. Research conducted by faculty and students at a university normally falls within the realm of fundamental research.

Additionally, the Fundamental Research Exclusion permits US universities to allow foreign members of their communities (e.g., students, faculty, visitors) to participate in research projects involving export-controlled technical information on campus without a license. Technical information resulting from fundamental research may be shared with foreign colleagues abroad and shipped out of the US without securing a license as long as there are no restrictions on the publication of results. Be aware, however, that the Fundamental Research Exclusion is destroyed if the university accepts any contract clause that forbids the participation of foreign persons, gives the sponsor a right to approve publications resulting from the research, or otherwise operates to restrict participation in research and/or access to and disclosure of research results.

Employment Exclusion

No license is required to share controlled technical information with a foreign person who is a full-time, bona fide university employee with a permanent address in the US while employed provided that person is not a national of certain countries, and is advised in writing not to share controlled information with other foreign persons.

Education Exclusion

No license is required to share with foreign persons information concerning general scientific, mathematical or engineering principles commonly taught in universities or information in the public domain. Foreign students using controlled equipment to conduct research should be registered for a research credit class.