



University Policy Statement

UPS 660.000

EXPORT CONTROLS POLICY

I. POLICY STATEMENT

California State University Fullerton (CSUF) is committed to compliance with all U.S. government export control laws, guidance, and regulations. When faculty, staff, and/or students looking to collaborate internationally or with foreign nationals within the U.S. or abroad, individuals must consider and ensure their compliance with the Export Control Regulations of the United States, as defined below.

The three main export regulations are (1) the International Traffic in Arms Regulations (ITAR) administered and enforced by the Department of State's Directorate of Defense Trade Controls, (2) the Export Administration Regulations (EAR) administered and enforced by the Department of Commerce's Bureau of Industry and Security, and (3) economic and trade sanctions commonly known as OFAC regulations administered and enforced by the Department of Treasury's Office of Foreign Assets Control. However, other federal agencies also regulate the export, re-export or re-transfer of certain items and technologies, including, but not limited to, the Nuclear Regulatory Commission (nuclear equipment and materials), the Department of Energy (nuclear technology, high-energy lasers, etc.), the Food and Drug Administration (drugs and medical devices) and the Drug Enforcement Agency (drugs and particular chemicals). (All U.S. government export control restrictions, including, but not limited to, all of the abovementioned regulations are collectively referred to herein as the "Export Control Regulations").

II. DEFINITIONS

For purposes of this Policy, the following terms have the meanings set forth below. Please note that the meanings set forth below may differ from how these terms are defined for purposes of specific U.S. export control laws or regulations. Thus, it is necessary to consult the particular export control law or regulation at issue whenever analyzing the scope of the obligations imposed thereunder.

Export – The shipment or transfer, by whatever means, of controlled items, software, data, technology, or services out of the U.S. In addition, "export" includes activities that constitute a "deemed export."

Deemed Export – Release or transmission of items, information, or technology subject to export control to any foreign national in the U.S., including students and training fellows. Such a release of information is considered an export to the foreign national's home country.

Foreign National – Anyone who is (1) not a U.S. citizen, or (2) not a lawful permanent resident of the U.S., or who does not have refugee or asylum status in the U.S. Any foreign corporation, business association, partnership, trust, society, or any other foreign entity or group as well as international organizations and foreign governments are considered foreign national(s).

Export Controls – Federal laws and regulations that regulate and restrict the release of specified materials and services to foreign nationals and foreign countries for reasons of national security, foreign policy, anti-terrorism, or nonproliferation. Export control regulations apply to various activities – not just sponsored research.

Restricted Items – Certain software, hardware, technology, data, and other items identified in the U.S. Munitions List and Commerce Control List that control or limit what is carried or sent outside the U.S. by any means or released to foreign nationals in-country or overseas. For example, an export-controlled schematic can be made accessible to a foreign national overseas (or within the U.S.) by posting it to a SharePoint site or shared server without physically sending or carrying the schematic outside the U.S.

III. WHY THE POLICY IS NECESSARY

Export control regulations limit the export of certain restricted items and data for national security, foreign policy, competitive trade reasons, and national defense. CSUF acknowledges that while international collaboration benefits the academic community as a whole, the government is interested in regulating certain transactions and working agreements. CSUF is legally required and bound to comply with all such regulations prescribed by the government. Accordingly, in some circumstances, CSUF may need to obtain prior approval from the appropriate federal agency before engaging in activities that could constitute an export, for example, allowing foreign nationals to participate in research, collaborating with a foreign company, or sharing research with foreign nationals. Therefore, CSUF has implemented an Export Management and Compliance Program to help prevent restricted items from being transferred in violation of U.S. export regulations and to prevent foreign nationals from accessing restricted items unless a valid export license has been obtained or an exemption from licensing requirements has been determined to apply.

IV. WHO THE POLICY APPLIES TO

This policy applies to every CSUF employee and student and to any third party engaging in activities undertaken by or on behalf of CSUF that are subject to U.S. export control. The policy applies to specific software, hardware, technology, information, and other restricted items carried or sent outside of the United States by any means or made accessible to foreign nationals in-country or overseas.

Exclusions:

While all activities at CSUF require compliance with applicable export controls, it should be noted that many research activities will be exempt from export licensing requirements. Referenced below are some of the exemptions most commonly relevant to academic research. Note that not every exemption applies to every source of export control laws or regulations. Accordingly, it is necessary to analyze each specific export control rule that governs a given transaction or issue to determine the extent to which a particular exemption may apply.

A. Fundamental Research

The Fundamental Research Exclusion covers scientific research that results in publications and open dissemination of research results, as is typically found in academic research. If the information to conduct research is in the public domain and the research results are publishable, the Fundamental Research Exclusion covers the research. However, all CSUF faculty, staff, students, visitors, volunteers, and guests engaged in research and research administration involving contact with foreign nationals must be aware of the potential applicability of federal laws and regulations on export controls and recognize when an export license may be required. (EAR 15 C.F.R. 734.8(a), (b); ITAR 22 C.F.R. 120.11(a)(8))

B. Educational Information

Educational information may be exported or “deemed” exported without an export license during instruction in courses regularly offered by universities. This exemption includes instruction in science, math, and engineering concepts taught in courses listed in the university’s catalog and associated teaching laboratories, even if the information concerns export-controlled commodities or items. (EAR 15 C.F.R. 734.3(b)(3)(iii), 734.9; ITAR 22 C.F.R. 120.10(5))

C. Public Domain

Information published and generally accessible or available to the public through sales at bookstores or newsstands, subscriptions, libraries, patents available at any patent office, conferences, meetings, seminars, or trade shows, or through fundamental research. (EAR 15 C.F.R. 734.3(b)(3), 734.7-734.10; ITAR 22 C.F.R. 120.10(a)(5), 120.11, 125.1(b), 125.4)

There are also some special exceptions to the export license regulations. These include shipments of limited value, gifts, and humanitarian donations. (15 C.F.R. 740)

V. APPLICABILITY AND ADMINISTRATION

CSUF must comply with all applicable export control laws and will assist its students, faculty, staff and volunteers with export control compliance, including pursuing licenses from U.S. Government agencies, where appropriate. However, each individual engaging in any activity subject to U.S. export control bears direct responsibility for export control regulatory compliance, as they are the most informed about the details of their respective activities, are obligated to familiarize themselves with U.S. export control laws and regulations and can be subject to personal penalties for export violations. Individuals engaged in activities subject to U.S. export control must consult with the Office of Research and Sponsored Programs (ORSP) when necessary.

A. Applicability. Export control regulations apply to all activities undertaken by CSUF faculty, staff, students, and other persons at CSUF acting on behalf of CSUF.

If a project involves any of these activities, please contact ORSP:

- Exporting tangible items outside the United States
- Sharing of information, technical data, technology, or software with a foreign national within the United States or abroad in which the export involves proprietary, restricted, or classified information or the information, technical data, technology, or software does not otherwise fall under an exclusion
- Furnishing of defense services to a foreign person within the United States or abroad
- Transactions with embargoed, sanctioned, or restricted parties, including travel, financial transactions, imports, and exports.

B. Administration. CSUF's export control compliance program is administered under the authority of the Associate Vice President for Research and Sponsored Programs. The daily management of export compliance at CSUF is carried out by the Research Compliance Unit within ORSP.

C. Other Entities.

1. Principal Investigators (PIs)

PIs must have expert knowledge of the type of information and technology involved in a research project or other university activity, such as presenting at conferences and discussing research findings with fellow researchers or collaborators. PIs must ensure that they do not disclose controlled information, such as information provided to them under a corporate non-disclosure agreement or transfer controlled articles or services to a foreign national without prior authorization as required. Each PI must:

- a. Understand his/her obligations under the export control laws.
- b. Assist ORSP in correctly classifying technology and items subject to export control laws.
- c. Assist in developing and maintaining the conditions of a technology control plan for any activity, data, or equipment where the need for such a plan is identified.

- d. Ensure that research staff and students have been trained on the technology plan and the export control regulations should any apply.

2. Environmental Health and Safety (EH&S)

EH&S shall be responsible for technical assistance to the Research Compliance Unit within ORSP on export permits related to hazardous materials, genetic materials, radiation, and chemicals.

3. Human Resources

The appropriate college and/or department shall provide new hires' names to the Research Compliance Unit within ORSP for screening against sanctioned parties lists, as appropriate and in compliance with applicable U.S. laws and regulations.

4. Office of International Programs

The Office of International Programs (OIP) shall maintain and administer non-sponsored international collaborative agreements and other international support services. OIP shall provide up-to-date guidance to travelers per U.S. Export Control Regulations and other applicable laws, regulations, and policies.

VI. TRAINING

Export control training modules are accessible through the Collaborative Institutional Training Initiative (CITI Program) to provide general awareness of export controls applicable to university activities. All CSUF employees are encouraged to review these resources to remain informed on applicable export control regulations. CSUF may also make available several online training resources via the CSUF Training portal, which is accessible from the Campus Single Sign-On (SSO).

VII. TITLE VII DISCLAIMER

Title VII of the Civil Rights Act of 1964 prohibits discrimination based on race, color, religion, sex, or national origin. CSUF prohibits discrimination of any sort, including discrimination based on national origin. CSUF must comply with its obligations under applicable export control laws and regulations while adhering to its obligations under Title VII and Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation.

VIII. FEDERAL SANCTIONS

Penalties for non-compliance can be imposed on institutions and individuals. These may include partial or complete denial of export privileges, civil fines, or seizure of equipment. Criminal penalties for willful violations of U.S. export regulations may include fines and imprisonment.

Any CSUF faculty, staff, students, visitors, volunteers, and guests who become aware of a potential violation of this policy must immediately report the violation to ORSP.

IX. POLICY VIOLATIONS

ORSP reserves the right to investigate potential violations of this policy or reports of violations per CSUF Executive Order 1115 (Complaint Procedures for Protected Disclosure of Improper Governmental Activities and/or Significant Threats to Health or Safety).

EFFECTIVE DATE: July 10, 2024
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