

Export Controls Policy

This policy statement was approved by the Academic Senate on 10/13/2022 and approved by the President on 10/24/2022.

I. POLICY STATEMENT

California State University Long Beach is committed to compliance with all U.S. government export control laws, guidance, and regulations. When faculty, staff, and/or students look 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 certain chemicals). (All U.S. government export control restrictions, including, but not limited to, all of the aforementioned 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, and thus it is necessary to consult the specific 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, the term "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 to be 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 a broad range of 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 of the U.S. by any means or released to foreign nationals in-country or overseas. For example, making an export-controlled schematic accessible to a foreign national overseas (or within the U.S.) by posting it to a SharePoint site or common server, without actually 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 reasons of national security, foreign policy, competitive trade reasons, and national defense. California State University Long Beach acknowledges that while international collaboration benefits the academic communities as a whole, the government has an interest in regulating certain transactions and working agreements. The University is legally required and bound to observe all such regulations prescribed by the government. Accordingly, in some circumstances, California State University Long Beach may be required to obtain prior approval from the appropriate federal agency before engaging in activities that could constitute an export, such as, for example, allowing foreign nationals to participate in research, collaborating with a foreign company, or sharing research with foreign nationals. Therefore, California State University Long Beach 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 California State University Long Beach employee and student, as well as to any third party engaging in activities undertaken by or on behalf of the University that are subject to U.S. export control. The policy applies to certain software, hardware, technology, information, and other restricted items that are 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 California State University Long Beach 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 controls laws or regulations. Accordingly, it is necessary to analyze each specific export control regime that governs a given transaction or issue in order to determine the extent to which a particular exemption may be 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 results of the research are publishable, the research is covered by the Fundamental Research Exclusion. However, all California State University Long Beach 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 catalogue 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 that is 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. ROLES AND RESPONSIBILITIES

California State University Long Beach must comply with all applicable export control laws and will assist its individuals 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 own respective activity(ies), 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 are therefore required to consult with the Export Control Officer when necessary.

A. Offices of Research and Economic Development (ORED)

1. Sponsored Program Staff

ORED provides assistance in export controls by working closely with the Export Control Officer in identifying export control issues and providing support for solutions.

- a. Reviews terms of proposed sponsored program grants and contracts, material transfer agreements, and other non-monetary research agreements to identify restrictions on publication and dissemination of research results and to address such restrictions;
- b. Communicates identified potential export control issues to the PI and the Export Control Officer;
- c. Communicates with the Export Control Officer about any changes in awards that necessitate another review of the project for export controls.

2. Empowered Official

The Associate Vice President for ORED is the University's Empowered Official for export control matters. In this capacity, the Empowered Official (or designee) has the authority to represent the University before the export control regulators in matters related to registration, licensing, commodity jurisdiction and classification requests, and voluntary or directed disclosures. While certain oversight functions may be delegated, only the Empowered Official may sign paperwork and bind the University in any proceeding before the Directorate of Defense Trade Controls, Bureau of Industry and Security, Office of Foreign Assets Control, or any other government agency with export control responsibilities.

3. Export Control Officer

The Export Control Officer, together with the campus senior management:

- a. Identifies areas at California State University Long Beach that are impacted by export control regulations;
- b. Develops export control procedure guidance to assist the University in compliance with export control regulations;
- c. Educates inventors, principal investigators, research centers, and academic units about export control regulations and procedures at California State University Long Beach;
- d. Educates others at California State University Long Beach such as Administration and Business Affairs, Purchasing, Travel, and International Programs about export control regulations and procedures at California State University Long Beach;
- e. Monitors and interprets export control legislation;
- f. Works with others such as the Export Liaisons to facilitate understanding and compliance with export controls;
- g. Assists investigators, researchers, and offices at California State University Long Beach when research involves export-controlled equipment or information;
- h. Seeks advice from the Office of General Counsel in analyzing and handling export control compliance issues;

- i. Assists the PI in developing a technology control plan for research involving export-controlled items or information to ensure compliance with export control regulations;
- j. Applies for export licenses, commodity jurisdiction and commodity classification requests;
- k. Advises and assists with record keeping for export-controlled activities at California State University Long Beach;
- l. Maintains the export controls website.

B. Other Entities

1. Export Liaisons

Export Liaisons are individuals appointed from academic and business units across campus to assist ORED in identifying training needs, identify potential export control issues, and serve as local points of contact for questions related to export controls. Export Liaisons are trained and have access to software to perform restricted party screening.

2. Business Administrators

The school and department business administrators assist in ensuring compliance with export control regulations by identifying potential export issues in unit activities. Such issues may include reviewing invoices for statements that items may not be exported, ensuring that international shipping is compliant with export control laws, ensuring that payments do not go to, or contracts are not entered into with, anyone on the then-current **Specially Designated Nationals (SDN)** list, ensuring that international travel is compliant with applicable export control regulations, and ensuring that visa export certification information has been completed.

3. Principal Investigators (PIs)

PIs should 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 that has been 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 ORED in correctly classifying technology and items that are 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 on the export control regulations should any apply.**

4. Export Control Committee (ECC)

Because awareness and oversight of Export Control are best accomplished at the local level, each of the relevant Colleges has an Export Control Liaison.

The University's Export Control Committee (ECC) is established to provide oversight and make recommendations to the AVP of ORED. The (ECC) consists of six faculty members, in addition to the following other members:

- a. Director of Innovation and Economic Development, ORED
- b. Senior Director of Sponsored Programs, ORED
- c. Export Control Liaison from College of Engineering (COE)
- d. Export Control Liaison from College of Natural Sciences & Mathematics (CNSM)
- e. Export Control Liaison from College of Professional & International Education (CPaCE)
- f. Office of the General Counsel
- g. Office of Environmental Health and Safety
- h. Office of Procurement
- i. Faculty Affairs
- j. Staff HR

When notified by the PIs, the ECC determines whether the fundamental research exclusion is applicable or an application for one or more licenses is required. Upon their recommendation, the committee forwards the request to the AVP of ORED who makes the final decision. Contacting the AVP of ORED allows an official determination to be made and documented by the Director of Innovation and Economic Development.

5. Environmental Health and Safety (EH&S)

EH&S shall be responsible for technical assistance to Export Liaison on export permits related to hazardous materials, genetic materials, radiation, and chemicals.

6. Human Resources

The departments of faculty and staff human resources shall be responsible for providing names of new hires to the Export Liaison for screening against sanctioned parties lists, as appropriate and in compliance with applicable U.S. laws and regulations.

7. Office of International Education

The Office of International Education shall be responsible for maintaining and administering non-sponsored international collaborative agreements and other international support services. The Office shall provide up-to-date guidance to travelers in accordance with U.S. Export Control Regulations and other applicable laws, regulations, and policies.

VI. TRAINING

Export controls training modules are accessible through the [Collaborative Institutional Training Initiative \(CITI Program\)](#) to provide general awareness on export controls applicable to university activities. All California State University Long Beach employees are encouraged to review these resources to remain informed on applicable export controls. California State

University might also make available a number of on-line training resources via CSU Training portal 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. California State University Long Beach does not condone discrimination of any sort, including discrimination based on national origin. California State University Long Beach must comply with its obligations under applicable export control laws and regulations while adhering to its obligations under Title VII and under [Interim CSU Policy Prohibiting Discrimination, Harassment, Sexual Misconduct, Sexual Exploitation, Dating Violence, Domestic Violence, Stalking, and Retaliation](#).

VIII. FEDERAL SANCTIONS

Penalties for noncompliance 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 of up to \$1,000,000.00 and imprisonment for up to a period of 20 years.

Any California State University Long Beach faculty, staff, students, visitors, volunteers, and guests who becomes aware of a potential violation of this policy must immediately report the violation to ORED, Innovation and Economic Development.

IX. POLICY VIOLATIONS

ORED reserves the right to investigate potential violations of this policy or reports of violations of this policy in accordance with the [California State University EO 1115 \(Complaint Procedures for Protected Disclosure of Improper Governmental Activities and/or Significant Threats to Health or Safety\)](#).

X. CONTACT

Export Control Officer
Innovation and Economic Development
Office of Research and Economic Development (ORED)
California State University Long Beach
1250 Bellflower Blvd
Room FO5-130
Long Beach, CA 90840-4509
Tel: (562) 985-4382

Export Controls Website:

<https://www.csulb.edu/office-of-research-and-economic-development/import-and-export-control>

Effective: Immediately