

3356-10-24 Export control policy.

- (A) Policy statement. It is the policy of the university that all students, employees, and all other people retained or working at or for the university comply with all U.S. laws and regulations while performing work on behalf of the university. Although the university strives to create an environment where teaching, learning, and research are conducted openly and without restrictions, certain federal regulations may require the university to obtain permission from the government before allowing foreign persons to participate in or have access to research involving specific technologies or data. Export control regulations have the potential to:
- (1) Limit research opportunities of university faculty, staff, and students;
 - (2) Affect publication rights; and/or
 - (3) Prevent collaboration
- (B) Purpose. To establish university compliance with U.S. export control laws and regulations while balancing the university's commitment to openness in research and education.
- (C) Scope. This policy applies to all members of the campus community, comprising all units and university personnel including faculty, staff, visiting scholars, research associates and fellows, student employees, students, visitors, volunteers, and all others retained by or working at the university when conducting any research, teaching, service or business activity at the university or on behalf of the university at a domestic location or in a foreign country.
- (D) Definitions.
- (1) "Controlled export." Specific types of exports regulated by the federal government (e.g., commodity, biologics, equipment, software, encryption, technology or technical information) sent from the U.S. to a foreign person or destination.
 - (2) "Deemed export." The release or transmission of controlled exports, technology, technical data, or software source code to a

foreign person in the U.S. This can be through the physical release of information or technology or through communications, such as discussions, with a foreign person including students, visitors, and foreign researchers. Such a release of information is considered to be an export to the foreign national's home country or country of current citizenship.

- (3) "Defense article." Any item or technical data designated in the U.S. Munitions List, 22 C.F.R. 121.1. Defense articles include technical data recorded or stored in any physical form, models, mockups, or other items that reveal technical data relating to the item. It does not include basic marketing information or general system descriptions (22 C.F.R. 120.6).
- (4) "Dual use." Items, information, and software that are primarily commercial in nature but also have potential military applications.
- (5) "EAR." Export administration regulations ("EAR"), administered by the department of commerce through the bureau of industry and security ("BIS") (15 C.F.R. 730-774), regulates commercial and dual use items, technology, and software identified in the commerce control list ("CCL") (15 C.F.R. 774).
- (6) "Educational information." Information that is commonly taught in catalog courses and associated teaching laboratories of academic institutions. It is not subject to export control regulations.
- (7) "Export." Any item (commodity, software, technology, equipment, software, or information) sent from the U.S. to a foreign destination is considered an export. Examples of exports include the actual shipment of goods as well as the transfer of written documents or information via email, phone, fax, internet postings, verbal/personal conversations and meetings.
- (8) "Export license." A written authorization provided by the appropriate governing regulatory authority detailing specific terms and conditions allowing the export or re-export of a controlled item(s).
- (9) "Foreign person or entity." Anyone who is not a U.S. person. This includes individuals as well as any foreign corporation, business

association, partnership, trust, society, or any other foreign entity or group, including international organizations and foreign governments, not incorporated or organized to do business in the U.S.

- (10) “Fundamental research.” Any “basic and applied research in science and engineering, the results of which are ordinarily published and shared broadly within the scientific community...” Information that results from fundamental research is not subject to export control regulations under the fundamental research exclusion (“FRE”). See [National Security Decision Directive 189](#) (“NSDD”) for more information.
- (11) “ITAR.” International traffic in arms regulations, administered by the state department through the directorate of defense trade controls (“DDTC”) (22 C.F.R. 120-130), regulates the export of articles and services that are inherently military in nature.
- (12) “Re-export.” An actual shipment or transmission of a controlled export, software, or information subject to the EAR or ITAR from one foreign country to another foreign country, including the sending or taking of a defense article to or from such countries in any manner.
- (13) “Technology control plan (TCP).” An internal university compliance document that is prepared by the office of research services (“ORS”), subject to review by the office of the general counsel. The plan outlines the security measures to be taken by the principal investigator (“PI”) to ensure that access to the export-controlled information is controlled and managed. The TCP is signed by the PI and all who are working on the project. Once in place, it is the responsibility of the PI to ensure that all of the security measures listed to safeguard the controlled information or technology are enforced.
- (14) “U.S. person or entity.” Any U.S. citizen, a lawful, permanent resident of the U.S., green card holder, refugee, or asylum seeker, wherever that person is located. U.S. incorporated or organized firms and their foreign branches are also considered U.S. persons.
- (15) “U.S. Munitions List (USML).” A list of articles, services, and

related technical data designated as defense and space related by the United States federal government and are subject to export control laws and regulations. The USML is subject to export control regulations under ITAR. The list can be found at www.ecfr.gov.

- (E) Federal administration. There are three primary departments that oversee and enforce export control regulations: the department of commerce, the state department, and the treasury department.
 - (1) The department of commerce
 - (a) Administers the export administration (EAR) regulations through the bureau of industry and security
 - (b) EAR is codified in 15 C.F.R. 730-774
 - (c) Controls the export of dual use items
 - (2) The state department
 - (a) Administers the international traffic in arms regulations (“ITAR”) through the directorate of defense trade controls
 - (b) ITAR is codified in 22 C.F.R. 120-130
 - (c) Controls the export of military and space related items
 - (3) The treasury department
 - (a) Manages and enforces export control through the [office of foreign assets control](#) (“OFAC”)
 - (b) Enforces and oversees regulations related to embargoed and/or sanctioned countries and people and entities from those countries
- (F) Compliance roles and responsibilities
 - (1) All personnel within the scope of this policy are responsible for ensuring that their educational, research, service and other business

activities are conducted properly and in compliance with export control regulations, all requirements of this policy, related procedures, and any TCP on which they are included.

- (2) The provost or their designee shall serve as the empowered official (“EO”) of the university in all matters related to export control. The EO has the responsibility, power, and authority to:
 - (a) Serve as the university’s point of contact for export control related matters
 - (b) Represent the university before export control regulators
 - (c) Sign paperwork binding the university in any proceedings before the DDTTC, BIS, OFAC, or any government agency with export control responsibilities
 - (d) Sign export license applications or other export control related requests
 - (e) Coordinate with the office of the general counsel regarding the legality of any proposed export control activity or transaction
- (3) The director of the office of research services shall serve as the export control officer (“ECO”) for the university. The ECO has the responsibility, power, and authority to:
 - (a) Implement procedures to ensure compliance with export control regulations and this policy
 - (b) Develop, conduct, and oversee university trainings related to export control
 - (c) Work in conjunction with sponsored program officers, university department administrators, units, human resource staff, and the office of the general counsel to facilitate compliance
- (4) Failure to comply with the export control policy or regulations may result in substantial civil and criminal penalties to the university

and specific individual(s) involved, as well as administrative sanctions resulting in potential loss of federal funding and export privileges.

- (G) Procedures. Procedures and other information concerning export control laws and regulations, including regulations in fundamental research and educational information, are available in the office of research services and “PI Handbook,” found at www.yzu.edu/research-office.

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Certification

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