CHAPMAN UNIVERSITY

Export Control Policy

Policy for Chapman University faculty, staff, student employees, and courtesy affiliates who work with, or have access to, export-controlled technical data, items, information, materials or equipment.

POLICY STATEMENT

The University is committed to supporting research and complying with U.S. export controls. No University faculty, staff, or student may engage in any activity, or commit the University to engage in any activity, that violates U.S. export control laws and regulations. This Policy applies to Chapman University faculty, staff, student employees and courtesy affiliates who work with, or have access to, export-controlled technical data, items, information, materials or equipment.

REASON FOR THE POLICY

Several federal agencies have implemented export control regulations that may relate to research conducted at Chapman University. The most common export control regulations affecting university research and scholarly activities are described below:

A. Export Administration Regulations (EAR)

The US Department of Commerce, Bureau of Industry and Security (BIS), administers and enforces the Export Administration Regulations (15 CFR Parts 730-774), or "EAR," which regulate the export of "dual-use" items listed on the Commerce Control List. These items include goods and related technology, including technical data and technical assistance, which are designed for commercial purposes, but which could have military applications, such as computers, aircraft, and pathogens.. BIS uses the term "technology" when referring to information about the goods on the Commerce Control List.

B. Office of Foreign Assets Control (OFAC)

Office of Foreign Assets Control ("OFAC") administers and enforces trade, anti-terrorism, narcotics, human rights and other national security and foreign policy based sanctions prohibiting the provision of anything of value, either tangible or intangible, to sanctioned countries, organizations, or individuals. The OFAC regulations (31 CFR Parts 500-599) provide OFAC with broad authority to block or interdict "prohibited transactions" involving restricted destinations or parties.

C. International Traffic in Arms Regulations (ITAR)

The US Department of State, Directorate of Defense Trade Controls (DDTC) administers and enforces the "ITAR" regulations (22 CFR Parts 120-130) and is responsible for items and information inherently military in design, purpose, or use. Referred to as "defense

articles" and "defense services," such items are found on the US Munitions List, [22 CFR 121](). Spacecraft and satellites, even if not for military use, are on the Munitions List, along with their associated systems and related equipment. Information related to Defense Articles is referred to as "technical data."

Penalties for export control violations are substantial, including significant fines, debarment from participation in federal contracting, loss of export privileges, and in some cases imprisonment.

DEFINITIONS

Export: An actual shipment or transmission of items, services, or technical data subject to either the EAR or the ITAR out of the United States, or the release of technology or software source code (EAR), or technical data (ITAR), to a non-U.S. person in the United States. Technology, software, or technical data is "released" for export through:

- Visual inspection by a foreign national of U.S. origin equipment and facilities
- Oral exchanges of information in the United States or abroad
- Transfer or shipment via any means (physical or electronic) to a foreign entity
- Provision of a service, or the application to situations abroad of personal knowledge or technical experience acquired in the United States

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

Defense Article: Any item or technical data designated in the ITAR's United States Munitions List (USML), including any technical data recorded or stored in any physical form, models, mock-ups, or other items that reveal technical data directly relating to a "defense article" listed in the USML.

Defense Services: Furnishing assistance (including training) anywhere (inside the United States or abroad) to foreign nationals in connection with the design, development, engineering, manufacture, production, assembly, testing, repair, maintenance, modification, operation, demilitarization, destruction, processing, or use of defense articles; or furnishing ITAR-controlled "technical data" to non-US persons anywhere, requires authorization from the State Department.

Dual-use: Items that have both commercial and defense application. Items subject to the EAR are often referred to as "dual-use."

Export Controls: Refers to the scheme of federal laws (EAR, ITAR and OFAC regulations) regulating the shipment or transfer, by whatever means, of controlled items, software, technology, or services to foreign nationals or outside of the U.S.

Export license: A written authorization provided by the appropriate governing regulatory authority detailing the specific terms and conditions under which export or re-export of export controlled items is allowed. Export licenses can take up to a year to receive.

Fundamental Research: Basic or applied research in science and engineering where the resulting information is ordinarily published and shared broadly in the scientific community, is excluded from export controls.

- Under the EAR (15 CFR §734.8), university research normally will be considered as fundamental research unless the university or its researchers accept sponsor restrictions on the publication of scientific and technical information resulting from the project or activity. The EAR specifically permits limited prepublication reviews by research sponsors to prevent the inadvertent divulging of proprietary information provided to the researcher by the sponsor or to ensure that publication will not compromise the patent rights of the sponsor.
- Under the ITAR (22 CFR §120.11(8)), only research at accredited institutions of higher learning in the U.S. can qualify as fundamental. University research will not qualify as fundamental research if: (1) the university or its researchers accept any restrictions on the publication of scientific and technical information resulting from the project or activity; or (2) the research is federally funded and specific access and dissemination controls protecting information resulting from the research have been accepted by the university or the researcher.

  Technology Control Plan (TCP): A Tool to safeguard ITAR, EAR, and other restricted material. The TCP establishes a security plan and identifies responsible parties. The TCP must be approved by Vice President for Research before restricted technology can be brought onto campus.

  The TCP can be used to set forth the procedures necessary to protect certain export-controlled materials and technology/technical data from inadvertent transfer and access (oral, visual, electronic, physical, etc.) by unauthorized personnel, including non-U.S. persons. These procedures include physical and information security, procurement, shipping/transporting, personnel screening, training and awareness, and compliance assessment. The TCP can also be used to control the disposition of research materials and technical data when the project is terminated.

POLICY

The University is committed to complying with U.S. export controls. Faculty, staff, and students involved in research and academic projects that are subject to export controls must follow the requirements that are appropriate for the roles they serve. Examples of export controlled activities are identified on the Research Integrity website. Individuals are responsible for reviewing the materials on the University's Research Integrity website and consulting Office of Research when export controls apply. No University faculty, staff, or student may engage in any activity, or commit the University to engage in any activity, that violates U.S. export control laws and regulations.

Most research conducted at Chapman University falls under the definition of fundamental research. The conduct, products, and results of fundamental research conducted at U.S. institutions of higher education are generally excluded from federal "deemed export" controls in accordance with National Security Decision Directive 189 (commonly known as the "fundamental research exclusion"). Research

conducted in foreign locations or with publication restrictions does not fall under the fundamental research exclusion.

EXPORT CONTROL TRAINING REQUIREMENTS
Chapman University employees working on an export controlled projects are required to successfully complete export control training. The University Office of Research is responsible for export control training content and for maintaining training records. Please see the Export Control website for additional information or questions regarding export control training requirements.

OFFICE RESPONSIBLE FOR POLICY
Name of Office: Office of Research – Research Integrity
Contact information for questions about this policy: Vice President for Research

WEBSITE ADDRESS FOR THIS POLICY
https://www.chapman.edu/research/integrity/export-controls/index.aspx

WHO APPROVED THIS POLICY
Senior Staff member submitting the policy: Tom Piechota, Vice President for Research
Date approved: July 2, 2019

[Signed]
Daniele C. Stuppa
President, Chapman University

PUBLICATION DATES
Effective: July 2, 2019

RELATED MATERIALS
Temporary Export Certification (TMP)- for international shipment or hand-carry of an export control-listed tangible item or items returning to the US within 12 months (including Chapman owned laptops, electronic devices, data storage devices, etc)

For a detailed description of all export control related internal processes and guidance, please contact the Office of Research or refer to the Export Control Compliance
Website: https://www.chapman.edu/research/integrity/export-controls/index.aspx