

## **Compliance with Export Laws and Regulations**

*The mission of the California Institute of Technology is to expand human knowledge and benefit society through research integrated with education. We investigate the most challenging, fundamental problems in science and technology in a singularly collegial, interdisciplinary atmosphere, while educating outstanding students to become creative members of society.*

Export control laws and regulations as referred to in this Policy include a number of federal laws and regulations that impact an export or import transaction such as those of the Departments of State, Commerce, Treasury, Defense, Energy and U.S. Customs. These laws have existed for many years. Events around the world, however, have pushed national security concerns to the forefront. The U.S. government has responded to global security concerns by tightening the export control regulations that govern the transfer of U.S. strategic technology for national security and foreign policy reasons and in furtherance of US economic objectives. Moreover, Presidential National Security Directives mandate the establishment of research security programs to protect against foreign government interference to address intellectual property theft, malign foreign talent programs, and to protect critical technologies that can be used by adversaries in ways that can jeopardize our national security.

The export control laws are intended to control the transfer of sensitive information or goods to individuals, entities, or countries of concern. The laws impose restrictions dependent on the type of information or goods and the identity of the foreign person or entity. The regulations contain a fundamental research exclusion and specific university exemptions that allow most of the research activities being performed at U.S. universities to be carried out without the need of export licenses or other restrictions, subject to certain conditions.

The National Policy on Transfer of Scientific, Technical and Engineering Information, i.e., Presidential National Security Decision Directive 189 (NSDD 189) recognizes the important contributions that U.S. universities make in science and engineering that allow our nation to remain innovative and competitive. This National Policy provides the framework for the fundamental research exclusion. NSDD 189 defines fundamental research as:

*Basic and applied research in science and engineering where the resulting information is to be shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons.*

The fundamental research exclusion applies to basic and applied research in science and engineering performed by universities, so long as that research is carried out openly and without restrictions on publication or access to or dissemination of the research results.

Caltech is an institution of higher learning conducting fundamental research in science and engineering. The exclusion allows most of the activities conducted in the United States to be performed without the need for an export license. While the fundamental research exclusion applies to much of the research carried out at Caltech, there are, nonetheless, certain activities and information that are not covered by the fundamental research exclusion and remain subject to the export control laws and regulations.

Examples of activities not covered by the fundamental research exclusion are:

- Receipt of third-party export-controlled information which requires that appropriate measures be taken to ensure that the information is properly safeguarded;
- Under certain conditions, disclosure of specific information and the provision of specific types of services to foreign persons (e.g., individuals who are not U.S. citizens, legal permanent residents, or U.S. legal entities) inside the United States (“deemed exports”);
- Engagement in specific activities with persons and entities while traveling abroad, even if the information relied upon is publicly available;
- The export of controlled items and information outside the United States including hardware, software, biological and chemical materials, and technical data; and
- Financial transactions or other dealings involving prohibited parties or sanctioned countries.

The export control laws and regulations apply to covered research activities regardless of whether they are unfunded or funded, e.g., by government contract or grant.

The export control laws are administered by the U.S. Department of Commerce through its Export Administration Regulations (EAR – dual-use items), the U.S. Department of State through its International Traffic in Arms Regulations (ITAR – space and military items), and the U.S. Department of Treasury through its Office of Foreign Assets Control (OFAC – economic and trade sanctions). These laws control the conditions under which certain information, technologies, and commodities can be transmitted overseas to anyone, including U.S. citizens, or to a foreign person on U.S. soil. Caltech is committed to complying fully with these federal laws and regulations.

Caltech takes its commitment to openness in research very seriously. Caltech’s policy, as set forth in the [Faculty Handbook](#), does not allow acceptance of any agreement, including a government contract or grant, that impinges on Caltech’s ability to freely publish and otherwise disseminate the results of its research. The transfer of export-controlled information or items requires added levels of security, safeguarding responsibilities and, in some instances, government authorization. For these reasons, research activities in which students will be provided with export-controlled technology (including technical data, software or items) with ITAR or high EAR (e.g., 500- and 600-series Export Control Classification Number\*) controls or licensing requirements, must be formally approved by the Office of the Provost.

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\* Export Control Classification Numbers (ECCNs) are described on the Department of Commerce’s website here: <https://www.bis.gov/ear>

Caltech has an established Export Compliance Office and has an appointed Export Compliance Manager who also functions as Caltech's Empowered Official. The Empowered Official is the person who has legal authority to sign export control license applications and other requests for export approval on behalf of Caltech and is the person responsible for developing and implementing export compliance programs, campus procedures, awareness and training programs for faculty and staff.

All faculty and staff must comply fully with all applicable export control laws and regulations. (The Jet Propulsion Laboratory, a federally funded research and development center, has a separate Export Compliance Policy.) Noncompliance may result in violations that can subject both the individual and Caltech to civil sanctions and criminal penalties.

It is the responsibility of Caltech faculty and staff to ensure Caltech's compliance with this policy and all related Caltech procedures.

The Export Compliance Manager has been designated as the primary contact for export control issues. For more information or for questions, please contact:

Grace Fisher-Adams, Export Compliance Manager, (626) 395-2907, [gracefa@caltech.edu](mailto:gracefa@caltech.edu) or the Export Compliance Office, (626) 395-2641 or [exportcompliance@caltech.edu](mailto:exportcompliance@caltech.edu).

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