



Ohio Administrative Code Rule 3339-15-10 Export control.

Effective: [September 12, 2013](#)

It is the policy of the university to comply with U.S. export control laws. Export control laws restrict certain types of information, technologies, and commodities that can be transmitted overseas to individuals, including U.S. citizens, or made available to foreign nationals on U.S. soil. It is the responsibility of faculty, staff, and administrators to be aware of and comply with these laws and follow the university's written instructions and procedures.

The export of certain items, technologies, software, and services is regulated for reasons of national security, foreign policy, prevention of the spread of weapons of mass destruction, and for competitive trade reasons. Prior written authorization (a license) from one or more U.S. government agencies will be required to carry out certain sponsored research or other educational activities involving specified technologies or certain countries, if an exemption or exclusion is not available.

Export control laws restrict the shipment, transmission, or transfer of certain items, technologies, software, and services from the U.S. to foreign countries, as well as deemed exports, which are releases of controlled technology and software source code to foreign nationals located in the U.S.

Although many of the university's activities are exempt from export control laws, some activities may be restricted. Failure to comply with these laws exposes both the employee and the university to severe criminal and civil penalties (fines and prison sentences) as well as administrative sanctions (loss of research funding and export privileges). Criminal penalties for unlawful export and disclosure of information in violation of U.S. export control laws may include fines up to one million dollars and/or imprisonment up to twenty years. Civil penalties can be assessed up to two hundred fifty thousand dollars or two times the value of the transaction, whichever is greater, for each violation. The university and the individual(s) involved also may lose their ability to export in the future.

The U.S. department of state, through its international traffic in arms regulations (ITAR) of the directorate of defense trade controls (DDTC), and the department of commerce, through its export administration regulations (EAR) of the bureau of industry and security (BIS), regulates the export of certain technologies, information, and software. The U.S. export controls also apply to "re-exports" of items, software, and technology subject to U.S. law from one foreign country to another. In addition, the department of treasury, through its office of foreign assets control (OFAC), maintains targeted economic sanctions programs that restrict or prohibit a wide range of export and other transactions which may include educational services involving designated countries, entities, and individuals.

Before engaging in activities that may involve an export, all faculty and staff must understand and identify any potential export limitations. A few examples of export control 'triggers' include:

(A) where foreign nationals will participate in the research;



3339-15-10

2

- (B) where the university will partner with a foreign company;
- (C) where the university hosts foreign visiting scholars for the purpose of research that involves certain specified technologies subject to export controls;
- (D) where equipment needed for experiments or research abroad will be exported (i.e., shipped or accompanying the researcher/faculty member), including, for example, laptops, gps equipment, other hand-held mobile devices, etc., or any device that contains encrypted software.

While many university activities may be eligible for one of the EAR, ITAR, or OFAC exclusions, the university must document its analysis of export control issues, including the availability of any exclusion or exemption. The export control analysis should be undertaken with the assistance of the office for advancement of research (OARS). It is important to note that if a license will be required, this analysis must be done prior to engaging, or agreeing to engage, in the activity because the process for obtaining U.S. government approval is lengthy. In some cases, the university may decide not to accept funding for research containing export controls or restrictions, including, but not limited to, when there is insufficient time to obtain a license or to take appropriate measures to handle properly export-controlled information.

For detailed information about export control “triggers,” activities that may present export-control issues, and these exclusions (e.g., fundamental research, educational information, published information and software, and the exclusion for fulltime university employees) see the office for advancement of research (OARS) website.

If anyone employed by, acting on behalf of, or associated with the university receives information identified as “export controlled,” the information may not be disclosed until the export control analysis has been completed to determine licensing requirements, if any, for such information. In addition, if an anticipated university research or educational activity involves a country subject to U.S. government sanctions, the faculty member or researcher will need also to consult with the director of technology transfer and business partnerships in oars before entering into any negotiations or agreements involving or before traveling to such countries.