

Export Control Laws

All sponsored programs are administered in accord with federal regulations. Federal regulations incorporate export control laws restricting the export of goods and technology, thereby, ensuring protection of United States national security and trade. Trade protection laws are implemented by the U.S. Department of Commerce through its Export Administration Regulations (EAR) and the U.S. Department of Treasury, imposing trade embargoes/sanctions through its Office of Foreign Assets control (OFAC). National Security protection is implemented by the U.S. Department of State through its International Traffic in Arms Regulations (ITAR).

As with all universities, Kent State University is subject to these export control laws. In certain circumstances, the university may cite its rights to a fundamental research exclusion under National Security Defense Directive 189, maintaining university publication rights. The exclusion can apply to either basic or applied research. However, in some cases an ITAR or EAR clause is included in a contractual agreement; the university is then subject to the contract's stated export control regulations. Contracts imposing export control regulations restrict publications and control release of data. In these contracts, the export of technology necessitates obtaining a license from the appropriate agency, be it the Commerce, State, or Treasury Department.

Exporting consists of transferring specific physical items and information to persons/entities outside the United States as well as within ("deemed export") the United States. The term "deemed export" refers to disclosing specific information or providing technical services to foreign nationals inside the United States and is interpreted as exporting to the foreign national's home country. Within the university, a deemed export could be an employee, visitor, or student. A graduate student is a foreign national and "deemed export" if he/she is not a U.S. citizen, national, or permanent resident; has not been granted asylum or refugee status ; or is not a temporary resident (temporary resident is not inclusive of those on certain visas – F-1, J-1, H-1, L-1 etc.). As per EAR and ITAR, no license is required to disclose technical information to foreign nationals inside the United States if the information is in the public domain and generally accessible through unrestricted dissemination. However, when the information is not in the public domain or perhaps arises during the course of a project and is considered to be sensitive, the information is then subject to export control regulations, eliciting the need to implement a Technology Control Plan and possibly request an export license.

Typically, in an academic setting, students, faculty, and staff share research and data with little concern for implications of this sharing (who is to receive the information and subsequent consequences of that receipt). When export control regulations are imposed, there is reason for significant concern. Violating these regulations could lead to severe penalties to include the loss of research funding, sizeable fines, and/or prison time. When export control regulations are part of a contractual agreement, Kent State University's position is to assist the project's principal investigator to comply. Compliance entails establishing a Technology Control Plan to protect sensitive information (prohibiting its verbal or written transfer without U.S. government approval to other foreign persons who are not-U.S. citizens or permanent resident aliens). The primary responsibility for compliance rests with the principal investigator of the controlled research project. Prior to conducting their project, principal investigators must cooperate with the Sponsored Programs Office to determine whether their research is subject to export regulations and shall, during the course of the funded project, reevaluate before changing the project scope or adding new staff to ascertain if such changes affect the initial determination.