



# EXPORT CONTROL COMPLIANCE

03.370

- Authority:** Provost and Vice Chancellor for Academic Affairs
- History:** Revised August 14, 2017, established October 1, 2007
- Source of Authority:** Export Administration Regulations (EAR) 15 CFR 700-799; International Traffic in Arms Regulations (ITAR) 22 CFR 120-130; Office of Foreign Assets Control (OFAC) regulations; National Security Decision Directive 189 (NSDD 189); UNC Policy Manual 500.1
- Related Links:** [Policy 01.200 Intellectual Property](#)

**Responsible Office:** Sponsored Programs and Research Compliance (SPARC)

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## I. Purpose

The University of North Carolina Wilmington (UNCW) is committed to complying with all applicable laws and regulations regarding federal export controls, including those implemented by the Department of Commerce through its Export Administration Regulations (EAR), the Department of State through its International Traffic in Arms Regulations (ITAR), and the Treasury Department through its Office of Foreign Assets Control (OFAC).

## II. Scope

This Policy applies to all university employees, both full and part time, including faculty, staff exempt from the State Human Resources Act, staff subject to the State Human Resources Act, and students. This Policy, as amended from time to time, shall be deemed to be a part of the conditions of employment of every employee, including student employees, and of the conditions of enrollment and attendance by every student at the university.

## III. Policy

- A. While it is recognized that it may be necessary for a faculty member or student in carrying out a research project to gain knowledge of information considered to be controlled technology by the federal government or proprietary by a private company, faculty and students of the university must have the right to disseminate freely and openly their research findings, and research sponsors may not abridge this basic right. Research conducted under any form of sponsorship must maintain the university's open teaching and research philosophy and must adhere to a policy that prohibits secrecy in research.

- B. UNCW is committed to maintaining a teaching and research environment that is open for the free exchange of ideas among faculty and students in all forums—classrooms, laboratories, seminars, meetings, and elsewhere. Such an environment contributes to the progress of research in all disciplines. There can be no fundamental limitation on the freedom to publish as the result of accepting extramural research support. Restrictions on publication of the results of research are incompatible with the basic concept of an educational institution as a source of knowledge.
- C. The university will not knowingly undertake research on weapons development, or directly on problems of chemical and biological warfare, except in times of declared national emergency and upon request of governmental authority. (Such research brings with it extensive export control regulations.) The chancellor is authorized to waive this requirement if it is in the national, state, or institutional interest to do so. The university will continue to accept support for research contracts and grants through the Department of Defense as well as through other defense related government agencies as long as they meet the general university criteria for research.

#### **IV. Delegation of Responsibilities**

##### **A. Program Implementation and License Application**

The Empowered Official (EO) is ultimately responsible for implementing UNCW's export control management program and for license application or other approval through the regulatory agencies. Accordingly, the EO must be knowledgeable of the applicable regulations and be legally empowered to sign license applications on behalf of UNCW. The Chief Research Officer is best suited to serve as the EO at UNCW. The EO has the independent authority to enquire into any aspect of a proposed export or temporary export by the applicant, verify the legality of a transaction and the accuracy of the information submitted, and refuse to sign any license application or other request for approval without prejudice or other adverse recourse.

##### **B. Compliance Oversight**

Sponsored Programs and Research Compliance (SPARC) has been charged with proposal development and award management for funded projects, and compliance oversight of various research programs, including the responsibility to monitor and direct UNCW's compliance with export control regulations. SPARC will prepare, maintain and update detailed guidelines for complying with the federal statutes and regulations which require export control compliance.

#### **V. Communication and Compliance Responsibilities of Faculty, Staff and Students**

UNCW faculty, staff and students are required to communicate with SPARC on concerns about export control regulations and comply with directives from SPARC which attempt to assist them in their compliance with these regulations. Before

entering into a research project, exporting technology or interacting with foreign nationals in research which may involve the use of what export control regulations deem 'controlled technology', all parties involved, including the faculty member(s), the graduate student(s), the department head(s), and the dean(s), shall contact SPARC for assistance in determining both the nature and extent of the restrictions required of the members of the university, including graduate students, regarding the nondisclosure of the technology.

#### 1. Restrictions on Employment or Participation

- a. Any clause which restricts employment or participation in university research on the basis of citizenship is contrary to policy and should not be accepted. Consistent with this policy, it is university practice that access to university classrooms, libraries, laboratories, and specialized research facilities is open, without regard to citizenship, residency status, or Visa category. Questions regarding citizenship status may not be asked of those entering such facilities, unless the chancellor has approved an exception to the policy, due to the classification of the technology located at the facility.
- b. Before entering into a research project which contemplates restrictions either on the release or publication of information or results, or the involvement of foreign nationals, all parties involved, including the faculty member(s), the graduate student(s), the department head(s), and the dean(s), shall contact SPARC for assistance in determining whether these restrictions will trigger the need for further steps in order to comply with export control regulations and how to next proceed. No agreement, however, may interfere with the publication or oral defense of research theses and dissertations of graduate students. Publication Restrictions.
- c. Do not accept publication controls or access/dissemination restrictions (such as approval requirements for use of foreign nationals), enter into 'secrecy agreements', or otherwise agree to withhold results in research projects conducted at UNCW or that involve UNCW facilities, students, or staff. Non-Disclosure Agreements must be reviewed by SPARC staff.

#### 2. Receipt of Confidential Information

If you receive proprietary information from another that is marked "export controlled" or if you receive materials from a manufacturer of export controlled equipment that is marked "confidential", you must contact SPARC to determine if such information is in compliance with university policy or an exception to university policy is required to accomplish the research goals.

#### 3. Closed Meetings and Conferences

Do not attend meetings that foreign nationals are prohibited from attending. Do not sign the DD2345, Militarily Critical Technical Data Agreement, as a

condition of attending a conference or receiving materials from the government. If attendance at such an event is required to accomplish research goals, you must contact SPARC to determine if a license is required so that attendance is in compliance with federal regulations.

#### 4. Traveling to Embargoed Countries

Do not travel to conduct research or educational activities to embargoed countries without first checking with SPARC to ascertain whether a license from the Department of Treasury, Office of Foreign Assets Control, is required. A link to lists of embargoed countries can be found on the UNCW Export Controls website.

#### 5. Training

Depending on the activities they are involved in or position that they hold, select faculty, staff or students may be required to successfully participate in Export Control Training.

### **VI. Recordkeeping Requirements**

- A. Each of the relevant export control regulations contain specific recordkeeping requirements that must be satisfied. In addition, the university maintains its own recordkeeping requirements in order to document its commitment to, and compliance with, export control regulations generally.
- B. Departments or programs must keep soft or hard copies of all export documentation, including financial records, shipping documentation (Commercial Invoices, Shipper's Export Declarations), and any internal campus forms related to export control regulations in their research project files for a period of five years from the date of the export, re-export or controlled deemed export. Furthermore, any original campus form related to export control must be provided to SPARC, who shall also maintain a copy for a period of five years as described above.