



BRIDGING THE DIVID

Summer Series

# Export Controls at Universities

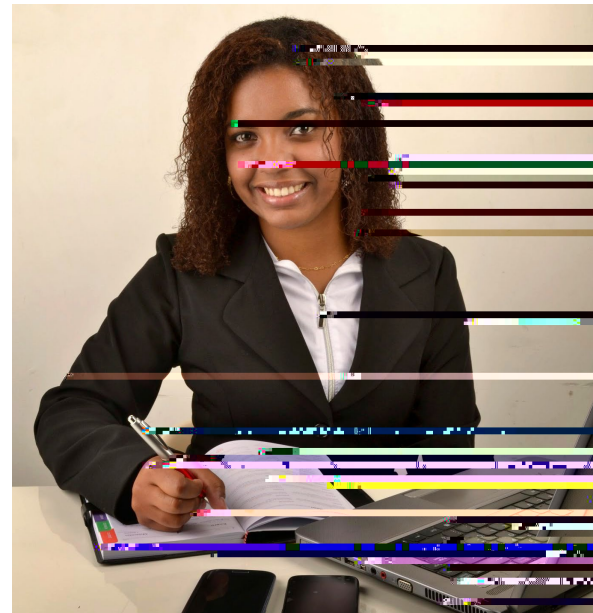
Introductory Overview

## What are Export Controls?

- Laws, regulations and sanctions governing who can have access to U.S. technology
  - Designed to prevent adversaries from using our technology against us
  - Designed to

## Who can be impacted by them?

- Administrators
- Faculty
- Staff
- Students



## What happens if they are violated?

- Individuals and institutions can be fined or criminally prosecuted.
  - Administrative penalty – the greater of:
    - up to \$300,00/violation or
    -

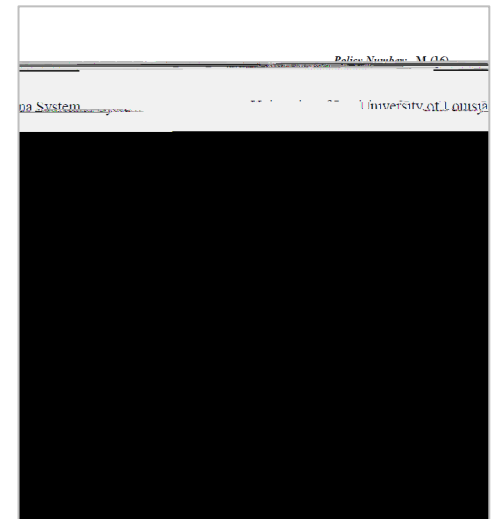
## How do you avoid violation?

Consult with someone knowledgeable in Export Controls before:

- Sharing technology or technical data
- Offering services to non-US persons
- Traveling to foreign countries
-

## The UL System Policy M-(16) Export Control

- [Policy](#) Adopted in 2009
- Contains list of important definitions
- States the purpose of the regulations:
  - 1) Restrict goods and technology from US international adversaries
  - 2) Prevent proliferation of weapons of mass destruction
  - 3) Advance US Foreign policy and protect our economy
- Requires ALL institutions to
  - assess their risks – the Fundamental Research Exclusion does NOT apply to all activities
  - develop appropriate policies and procedures, including ensuring appropriate offices, staffing and training





# Three primary departments involved in Export Controls

[Redacted]

[Redacted]

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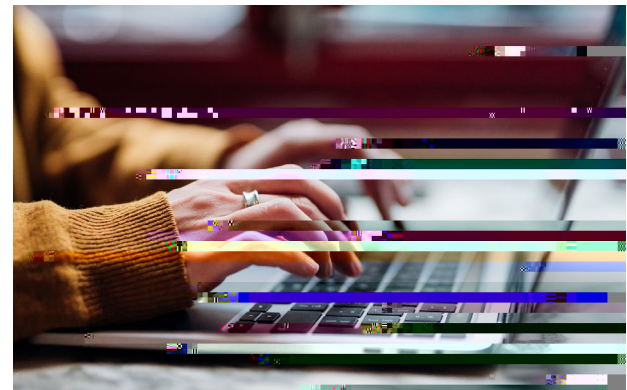
## Export Controls Regulations and Sanctions

- [Bureau of Industry and Security](#) (BIS)
  - Export Administration Regulations (EAR) – [15 C.F.R. Subchapter C](#)
- [Directorate of Defense Trade Controls](#) (DDTC)
  - International Traffic in Arms Regulations (ITAR) – [22 CFR Subchapter M](#)
  - ITAR stems from Arms Export Control Act (AECA)
- [Office of Foreign Assets Controls Sanctions Regulations](#) (OFAC) – [31 CFR Chapter V](#)
- [Nuclear Regulatory Commission](#) (NRC) –



## What is an export?

- 



## Who is a Foreign Person?

- Depends on which set of regulations apply to the activity or technology.
  - 5 The EAR looks at the most recent country of citizenship.
  - 5 The ITAR looks at all countries where citizenship has been held.
- In general, a foreign person:
  - Does NOT have US citizenship,  
[Redacted]  
[Redacted]

## Two key terms are used when discussing Export Controls:

**Technology** (EAR - 15 CFR 772.1)

Information necessary for the

- “development,”
- “production,”
- operation,
- maintenance,
- repair,
- “Use,”
- installation,
- overhaul, OR
- refurbishing

“Use” is operation, installation (including on-site installation), maintenance (checking), repair, overhaul and refurbishing

**Technical data** (ITAR 22 CFR 120.33(a))

Information about defense articles which is required for their:

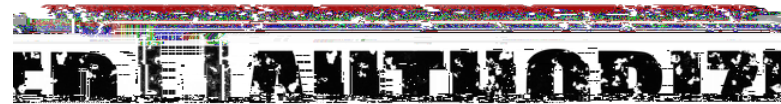
- design,
- development,
- production,
- manufacture,
- assembly,
- operation,
- repair,
- maintenance,
- testing, OR
- modification
- classified information relating to defense articles and defense services
- information covered by an invention secrecy order
- Software (see [§ 120.40\(g\)](#)) directly related to defense articles

## Fundamental Research Exclusion

- Research in science and engineering intended to be published and is not restricted for proprietary or U.S. Government access reasons.
- Applies to technical data

## Licenses

- Issued by
  - Bureau of Industry and Security (BIS)
  - Directorate of Defense Trade Controls
  - Office of Foreign Asset Controls
- Allows foreign persons to have access to items that are normally restricted
- Requires submission of a detailed application
  - Except for general licenses
- Requires documentation of access
- Generally limited to a specific person, project and time period
- Can take months to receive
- No guarantee that one will be granted



## Technology Control Plans (TCP)

Documents that describe

- What is export controlled on the project
- Who can have access
- How access is controlled
- What are the methods of documenting access
- Training of project personnel on the TCP
- When reports will be filed
- Who has ultimate control of the project

Signed by all project personnel



# Examples of University Activities affected by Export Controls

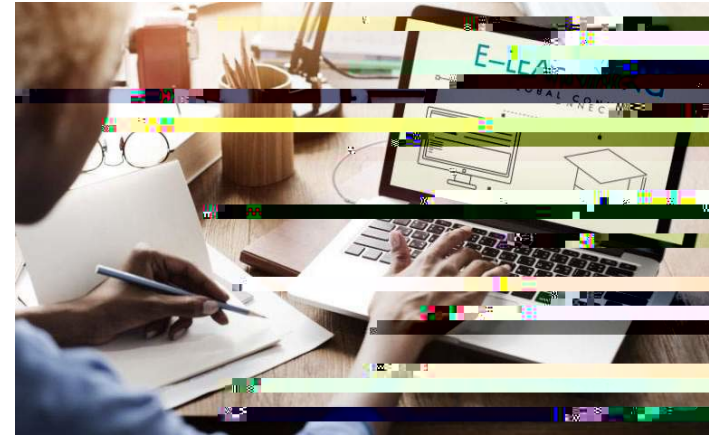
Hiring

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# Examples of University Activities affected by Export Controls

## Online education

- Delivery platform may restrict service to certain countries due to export controls or sanctions.
  - e.g. Distance learning cannot be provided to the Crimea region in Ukraine.
- Topics delivered may be restricted depending on the country and the type of student: undergraduate or graduate.
  - e.g. Students in Iran can take online undergraduate courses in humanities, social sciences, law or business, including introductory math and science
- Talking about an unpublished research projects can be controlled by the EAR or ITAR.



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# Examples of University Activities affected by Export Controls



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## Providing Professional Services

- In some countries, these are prohibited by US export controls
  - e.g. Consulting on a research project
  - Distributing surveys or questionnaires to gather information for your own research

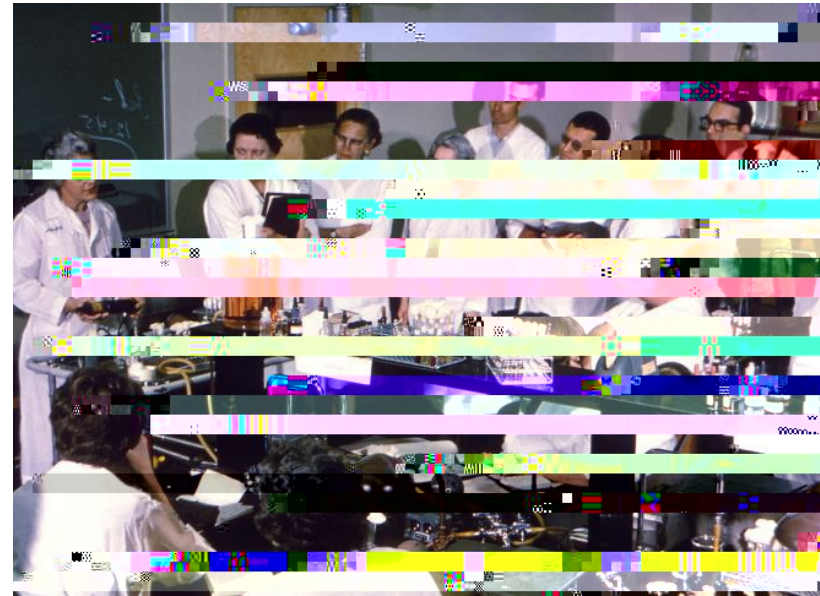
## Contracts, MOUs, Data Use Agreements

- Frequently have export control clauses that can affect who is allowed to work without a license or have access to technological information for the project

## Examples of University Activities affected by Export Controls

Collaborations/Visiting Scientist should be carefully evaluated

- Offering to work for free
  - Are there sanctions that prevent payment
  - Is their government paying them to relay information to the government
- What is their country of origin – is it sanctioned?
- Are they a restricted party?
- Do they work at an institution that is a restricted party?
- What technology will they have access to?
- Are there any software or equipment end-user restrictions?

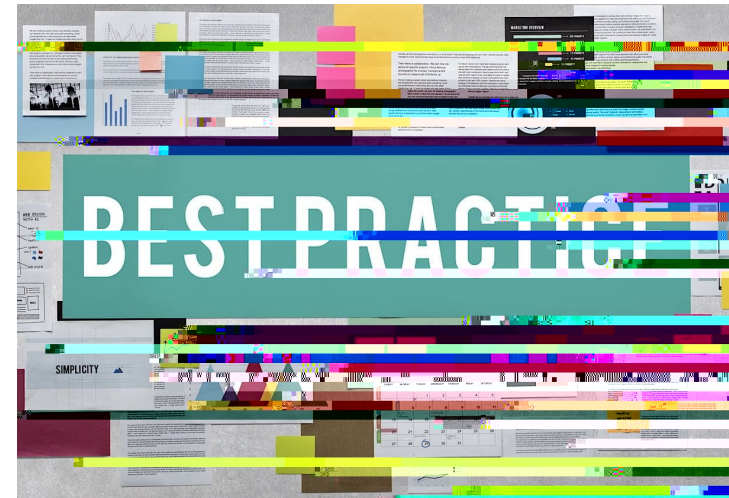


# Examples of University Activities affected by Export Controls

## Documentation

Document everything regarding exports (hold for 5 years after):

- Which regulations apply
  - Export control classification from the manufacturer
- Thought processes
- General and specific licenses used
- Persons involved
- Dates
- Activities
  - Technology “used”
  - Tours
  - Technical data, technology, or software shared
  - Training provided
- Signed technology control plans



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## Resources

- BIS – [Export Administration Regulations Training](#)
- DDTC - [ITAR & Export Control Regulations](#)

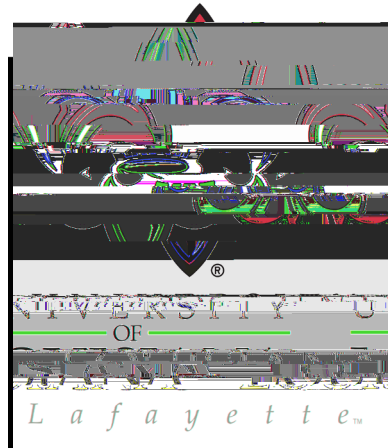
## Questions?

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Thank You for Attending Today's Presentation

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