

## EXPORT CONTROLS BASICS FOR DISTANCE EDUCATION

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### What are export controls?

Export control laws regulate the conditions under which certain information, technologies and commodities can be transmitted to foreign persons or entities in the United States or abroad. Their purpose is to protect national economic, security, and foreign policy interests. Most transactions do not require specific approval from the federal government, some require a license, and others are prohibited to certain countries and individuals. Most distance education activities are excluded from export controls under the public domain/publicly available information or educational information exclusions.

### Where do export regulations come from?

Several federal agencies implement export control rules and regulations. Each agency possesses jurisdiction over specific types of technology or restricted trade. The most relevant agencies are referenced below:

- The Department of Commerce regulates commercial products and technology through the Export Administration Regulations (EAR) 15 C.F.R. 700---799.
- The Department of State regulates defense articles, defense services and related technical data through the International Traffic in Arms Regulations (ITAR) 22 C.F.R. 120---130.
- The Treasury Department regulates transactions involving certain countries, individuals and entities subject to embargo, boycott or trade sanctions through the Office of Foreign Assets Control (OFAC) 31 C.F.R. 500---599.

### What's an export?

An "export" generally includes

- Actual shipment of any covered goods or items
- The electronic or digital transmission of any covered goods, items or related goods or items
- Any release or disclosure, including verbal disclosures and visual inspections, of any technology, software or technological data to any foreign person or entity
- Actual use or application of covered technology on behalf of or for the benefit of a foreign entity or person anywhere

When a controlled item or information is transmitted to a foreign person or entity in the United States, it is known as a "deemed export".

An “export” of a service, including educational instruction, is prohibited to certain countries. This means that individuals cannot receive educational instruction without a proper license while the person is physically located in a prohibited country.

#### **How can export control issues arise in the distance education setting?**

- When course content incorporates something that is controlled. Example: A course on animal behaviors at night includes use of night vision goggles distributed by the university.
- By significantly straying from general course catalogue topics into areas that might be controlled. Example: A catalog course on microbiology includes instruction on extracting and purifying viruses and toxins.
- When distance education is delivered to an individual located in an embargoed country such as Cuba, North Korea, Sudan, Syria, and Iran.

#### **What is excluded from export controls?**

- Information that is in the Public Domain or Publicly Available – information that is published and available to the public at libraries, newsstands and bookstores through subscriptions without restriction; is published through patents available at any patent office; or is made available through unlimited distribution at conferences, meetings, seminars, trade shows and exhibitions held in the United States and generally open to the public.
- Educational Information – general scientific, mathematical and engineering principles released by instruction in catalog courses and associated teaching laboratories and offered in an open enrollment fashion. It does not cover controlled information conveyed outside normal classroom teaching activities and teaching lab activities of an academic institution, including extra-curricular classroom projects, short courses, and other subcontracts for services.

#### **What happens if export control laws are violated?**

There are severe institutional and individual sanctions for violations of export control regulations including the loss of research funding, as well as civil and criminal penalties including million dollar fines and imprisonment.

**For more information contact:** Instructors are encouraged to contact Export Controls Office for guidance and assistance. (979) 862-6419, [exportcontrols@tamu.edu](mailto:exportcontrols@tamu.edu) Additional information is also available at <http://vpr.tamu.edu/resources/export-controls>

***About these materials---*** *Export control laws are complex and fact specific. Regulations, rules and lists for specifying who or what is considered export sensitive and where export controls apply are subject to change. The outline above is intended to provide a very brief outline of basic export control information. It should not be relied upon exclusively nor should it be construed as legal advice.*