



INSTITUTE POLICY

Compliance with Export Laws & Regulations

Effective: December 2008

The mission of the California Institute of Technology is to expand human knowledge and benefit society through research integrated with education. We investigate the most challenging, fundamental problems in science and technology in a singularly collegial, interdisciplinary atmosphere, while educating outstanding students to become creative members of society.

Export control laws and regulations as referred to in this Policy include a number of federal laws and regulations that impact an export or import transaction such as those of the Departments of State, Commerce, Treasury, Defense, Energy and U.S. Customs. These laws have existed for many years, however, the events of September 11, 2001 and subsequent events around the world have pushed national security concerns to the forefront. The U.S. government has responded to global security concerns by tightening the export control regulations that govern the transfer of U.S. strategic technology for national security and foreign policy reasons and in furtherance of economic objectives.

The export control laws are intended to control the transfer of sensitive information or goods to individuals, entities or countries of concern and, under certain conditions, to foreign persons. The regulations contain a fundamental research exclusion and specific university exemptions that allow most of the research activities being performed at U.S. colleges and universities to be carried out without the need of export licenses or other restrictions, subject to certain conditions.

Caltech is an institution of higher learning conducting fundamental research in science and engineering. The fundamental research exclusion, however, does not fully relieve us of our responsibility to comply with the export control regulations.

The fundamental research exclusion, as defined in the U.S. export regulations, applies to basic and applied research in science and engineering performed by colleges and universities, so long as that research is carried out openly and without restrictions on publication or access to or dissemination of the research results.

- The presidential National Security Decision Directive 189 (NSDD 189) recognizes the important contributions that U.S. universities make in science and engineering that allow our nation to remain innovative and competitive. NSDD 189 provides the framework for the fundamental research exclusion.

The fundamental research exclusion applies only to research conducted in the United States. This exclusion allows most of the activities conducted at Caltech to be performed without the need of an export license. However, there are certain activities and information that are not covered by the fundamental research exclusion and remain subject to the export control laws and regulations. Examples of these are:

- Receipt by the Institute of third-party export controlled information which requires that appropriate measures be taken to ensure that the information is properly safeguarded;
- Under certain conditions, the disclosure of specific information and the provision of specific types of services to foreign persons (non-U.S. citizens, legal permanent residents, or U.S. legal entities) inside the United States (“deemed exports”);
- Travel abroad: Engaging in specific activities with persons and entities abroad, even if the information relied upon is publicly available;
- The export of controlled items and information outside the United States including: controlled hardware, software and technology; and
- Financial transactions or other dealings involving prohibited parties or sanctioned countries.

The export control laws and regulations may apply to research activities whether or not they are funded by grants or contracts.

Caltech takes its freedom to publish and its commitment to openness in research very seriously. Caltech’s policy, as set forth in the Faculty Handbook, does not allow acceptance of any government contract or grant that requires classified research to be carried out on campus or which impinges upon the Institute’s freedom to publish and otherwise disseminate the results of its research.

The export control laws are administered by the U.S. Department of Commerce through its Export Administration Regulations (EAR – dual-use items), the U.S. Department of State through its International Traffic in Arms Regulations (ITAR – space and military items), and the U.S. Department of Treasury through its Office of Foreign Assets Control (OFAC – economic and trade sanctions). These laws control the conditions under which certain information, technologies, and commodities can be transmitted overseas to anyone, including U.S. citizens, or to a foreign person on U.S. soil. Caltech is committed to comply fully with these federal laws and regulations.

To that end, Caltech has established an Export Compliance Office and has appointed a Director of Export Compliance who also functions as Caltech’s Empowered Official. The Empowered Official is the person who has legal authority to sign export control license applications and other requests for export approval on behalf of Caltech, and is the person responsible for developing and implementing export compliance programs, campus procedures, awareness programs for faculty and training programs for staff.

Caltech expects all faculty and staff to comply fully with all applicable export control laws and regulations. Noncompliance may result in violations that can subject both the individual and the Institute to civil sanctions and criminal penalties.

It is the responsibility of Caltech faculty and staff to ensure the Institute’s compliance with this policy.

The following individuals have been designated as contacts regarding export control issues:

Adilia F. Koch, ext. 4469
Director of Export Compliance

Jennifer Wong, ext. 2558
Export Compliance Analyst