



Faculty Handbook

E50: Export Control Policy

Approved By: Faculty Senate (will need to determine if UNM President approval is appropriate)

Effective Date: **Draft 4/9/25**

Responsible Faculty Committee: Research Policy Committee

Office Responsible for Administration: Vice President for Research (VPR) and Health Sciences
Vice President for Research (HSVPR)

Legend: **Draft** of New Policy

Revisions to the Applicability, Policy Rationale, and Policy Statement sections require approval by the Faculty Senate.

APPLICABILITY

This Policy applies to all members of the UNM community including but not limited to, faculty, staff, students, visiting scholars, postdoctoral fellows, individuals with UNM Letter of Academic Title, volunteers, and any other persons participating in activities at or on behalf of UNM that are subject to export control regulations (See Related Documents section below). For the purpose of this Policy export control laws and regulations refer to U.S. laws and regulations.

POLICY RATIONALE

The University of New Mexico (UNM) promotes and conducts research to advance knowledge, enhance student learning experiences, and build its reputation in the scientific community. While UNM endorses the principles of freedom of inquiry and open exchange of knowledge, it is the policy of UNM to comply with all laws applicable to research including export controls regulations. Export controls (see Definitions below) are laws and regulations that govern the export of certain commodities and/or information to persons and entities outside the U.S. as well as to foreign nationals inside the U.S., for reasons of national security or protection of trade. It also governs certain interactions with embargoed or sanctioned countries, organizations, or individuals.

POLICY STATEMENT

UNM is committed to complying with all applicable export control laws and regulations. This Policy focuses on export control regulations, for information pertaining to foreign talent recruitment programs see the Related Documents section below. Export controls have become increasingly prevalent in the modern research community resulting in the need for appropriate institutional compliance and oversight. These regulations may apply to communications and/or collaborations with foreign individuals, countries, or entities, inside or outside the U.S.

The vast majority of research conducted by UNM is excluded from export controls, if the activities qualify for any of the following exclusions:

1. Exclusions

These following exclusions are not without their limitations. Certain activities, such as physical exports, research concerning military, weapons, defense, chemical or biological weapons, research involving encryption technology and encryption software, space or other dual-use items or export restricted technologies, and research involving sanctioned or embargoed countries are not covered by the exclusions.

The UN Biological Weapons Convention prohibits the development, production, acquisition, transfer, stockpiling and use of biological and toxin weapons. The UN Chemical Weapons Convention prohibits the development, production, acquisition, stockpiling, retention, transfer or use of chemical weapons. The United States is signatory to both the UN Biological and Chemical Weapons Conventions. Biological and Chemical weapons research is not permitted in the United States and has been prohibited since 1972 and 1993 for biological and toxin weapons and chemical weapons, respectively.

For assistance or if you have questions regarding an exclusion contact the UNM Industrial Security Department (ISD) for central and branch campuses and contact UNM HSC (Health Sciences Center) Export Control for assistance for the HSC. UNM biological research is exclusively managed under UNM's Biosafety Program in the HSC Office of Research for all areas of UNM.

1.1 Fundamental Research Exclusion

Fundamental research does not normally come under export controls because the information and data generated by such research are intended to be published and shared within the scientific community. However, some information may still be restricted depending on the type of information, with whom the information will be shared, and for what purpose.

NSDD 189, National Policy on the Transfer of Scientific, Technical and Engineering Information, defines fundamental research as "... basic and applied research in science and engineering, the results of which ordinarily are published and shared broadly within the scientific community, as distinguished from proprietary research and from industrial development, design, production, and product utilization, the results of which ordinarily are restricted for proprietary or national security reasons."

The Fundamental Research exclusion does not apply if there are restrictions on public dissemination of research results; employment, collaboration, and/or access to project materials by foreign persons; or if conducting proprietary research.

1.2. Education Exclusion

The Educational Information Exclusion applies to instruction in general science, engineering, or mathematics, and information that is commonly taught at universities or that is conveyed in courses listed in course catalogs.

1.3. Public Domain Exclusion

The Public Domain Exclusion applies if information is already in the public domain or publicly available normally, meaning it is published and generally available to the public through

unrestricted distribution. This includes published materials, open-source software, and publicly accessible websites.

2. Responsibilities for Compliance

UNM ISD is responsible for central and branch campuses and HSC Export Control is responsible for the Health Sciences Center oversight of export-controlled activities to proactively manage compliance. Penalties for violations can be quite severe, potentially including large fines and imprisonment and apply to both individuals and the institution. The ISD and HSC Export Control are responsible for creating and implementing an Export Control Compliance Program (ECCP) meeting federal guidelines to mitigate the severity of any fines or penalties that might be imposed.

All members of the UNM Community including but not limited to faculty, staff, and students (see Definitions section below) are responsible for complying with applicable laws and regulations and this Policy and taking required training. ISD and/or HSC Export Control are responsible for providing training to assist the UNM Community members with questions or concerns related to export control compliance. This Policy provides information and procedures to assist members of the UNM Community in understanding and complying with applicable laws and regulations. ISD and/or HSC Export Control will notify the UNM Community of any changes to applicable laws and regulations and listings of embargoed or sanctioned organizations or individuals.

3. Violations

A UNM Community member should contact the ISD and/or HSC Export Control upon becoming aware of a potential export control regulatory violation at UNM. Known or suspected export control violations must be reported to the ISD and/or HSC Export Control promptly.

Revisions to the remaining sections of this document may be amended with the approval of the Faculty Senate Research Policy, Policy, and Operations Committee in consultation with the responsible Faculty Senate Committee listed in Policy Heading.

PROCEDURES

These Procedures are to be used in conjunction with the remaining sections of this document including Definitions and Related Documents that are applicable to this Policy.

Violation of U.S. export control laws and regulations is punishable by fines, prison time, and debarment. These penalties apply to individuals of the UNM Community as well as the institution. The most important risk mitigation strategy is comprehensive oversight of export-controlled activities to proactively manage compliance. This requires diligence on behalf of UNM Community members and the administrative functions that support them.

These regulations apply to sponsored research, non-sponsored research, international travel, collaboration, professional meetings, purchasing, property accounting and disposal, material transfer agreement's, non-disclosure agreements, confidential disclosure agreements, and I-129 petitions, with certain foreign countries, entities, or individuals inside or outside the U.S.

1. UNM Community Member Responsibilities

The UNM Community Member leading the research will be informed of regulatory, legal, and contract issues during the pre-award process and should contact the VPR or HSVPR for clarification or to address issues when appropriate. The UNM Community Member leading the research effort is responsible for informing all research team members from UNM and outside of UNM of all applicable restrictions, UNM Export Control policy, and mandatory trainings to ensure their compliance.

The UNM Community member working on research involving dual-use items should consult with ISD and HSC Export control office regarding applicable regulations. If any UNM Community member has questions or concerns about their responsibilities, they may contact their dean or designee, the VPR or HSVPR who will refer the researcher to the appropriate support resources to help them comply with this Policy.

A UNM Community member (see Definitions Section below) may not engage in any activity, or commit UNM to engage in any activity:

- that is prohibited by Export Controls or federal regulations, or
- that requires a license or other agency approval under Export Controls or federal regulations, unless such license or approval has been obtained.

All members of the UNM Community are responsible for proactively identifying potential export control issues and seeking assistance from the ISD and/or HSC Export Control. UNM Community members should consult the ISD and/or HSC Export Control:

- When questions arise while filling out the Export Control Exclusion Screening (ECES) form.
- When sponsors attempt to impose publication or personnel access restrictions on research activities.
- Before receiving export-controlled technical information from an outside party, such as an industry or U.S. government research sponsor.
- When documents from sponsors or other parties refer to the Export Administration Regulations (EAR), International Traffic in Arms Regulations (ITAR), Office of Foreign Assets Control (OFAC) or export controls generally.
- When making purchases from foreign sources.
- Before accepting hardware, software, technology, or technical data from an outside party (such as an industry sponsor) to be used in a project or as part of an instructional course.
- Before exporting from the U.S. any technologies, equipment, materials or chemical or biological agents (including toxins and genetic elements) on the EAR's Commerce Control List (CCL).
- Before handling or exporting from the U.S. any hardware, software, technical data, or services subject to the ITAR.
- Before traveling to an embargoed country or region: contact ISD and/or HSC Export Control for the most up-to-date list.
- When traveling internationally with UNM-owned equipment or UNM-owned information (refer to UAP **Policy 4030** "Travel.")

2. UNM Office of Sponsored Projects (OSP) and UNM HSC Sponsored Projects Office (SPO) Responsibilities

Under specific circumstances, such as restrictions on publication, travel, intellectual property or foreign nationals, the OSP and/or SPO may be prompted to request an export control review to assist in determining and verifying whether or not the project is Fundamental Research. The review is required even when no exporting will occur.

3. UNM Purchasing Department Responsibilities

The Purchasing Department is prompted to request an export control review when specific notifications or forms are received from a vendor.

4. UNM Industrial Security Department (ISD) and/or HSC Export Control Responsibilities

The ISD and/or HSC Export Control are responsible for:

- Providing necessary training to UNM Community members.
- Notifying the UNM Community of any changes to applicable laws and regulations and listings of embargoed or sanctioned organizations or individuals.
- Conducting export control reviews.
- Administering and monitoring the Export Controls Compliance Program (ECCP) and serving as the central point-of-contact for procedures administered to mitigate export control risks.
- Comprehensive oversight of export-controlled activities to proactively manage compliance.
- Implementing compliance measures and/or technology control plans (TCPs) designed to mitigate compliance.
- Raising awareness through communication and training, so that faculty and other academic appointees, staff, students, and non-employee participants in UNM programs, especially those conducting work in high-risk areas, can identify activities that may have export control implications and seek guidance from subject experts.
- Investigating any known or suspected export control violations.

4.1 Export Control Compliance Program (ECCP)

The purpose of the ECCP is to provide oversight to help the UNM Community understand their responsibility for compliance and to manage export-related decisions and transactions to ensure compliance with applicable laws and regulations. Key elements of the ECCP are:

- Identification of research activities with the greatest risk.
- Risk assessment of employees who are neither a U.S. citizen or a U.S. green card holder.
- Documentation of risk assessment procedures and results.
- Export control training for individuals based on expected roles at UNM.
- Procedures for investigating and addressing a problem.
- Regular audits of policies and procedures to ensure they are being followed and are in compliance with applicable laws and regulations.
- Audits of selected activities based on the sensitivity of the involved technology and existing government recommendations.

4.2 Possible Activities with Export Control Implications

The following is a partial list of activities that may fall under the umbrella of Export Control compliance, and is not all-inclusive:

- educational activities;
- external employment requests;
- financial transactions;
- gifts;
- intellectual property management and licensing agreements;
- internal risk assessment and monitoring;
- non-sponsored agreements and contracts;
- non-U.S. person visitors and faculty, staff, and students;
- record-keeping
- shipments (international);
- sponsored research;
- training; and
- travel (international).

The Export Control Offices will conduct an annual audit of all TCPs to confirm the information is current and correct.

4.3. ISD and HSC Export Control Officers (ECOs)

The ECOs serve as the primary representatives and points-of-contact for all UNM export control related activities. Specifically, the ECOs are responsible for any registration, license, commodity jurisdiction, advisory opinion, commodity classification, or voluntary disclosure activities required for compliance with export control laws and regulations.

4.4 ISD and/or HSC Office of Research ITAR Empowered Officials (EOs)

EOs have the authority to sign a licensing application and to inquire into any aspect of a proposed export and verify the legality and accuracy of the information submitted for a transaction. EOs will be the final approval for TCP's. In certain circumstances, such as license applications, advisory opinion requests, commodity classifications, or commodity jurisdiction requests, the EOs may delegate these responsibilities to an appropriate designee within the ISD, Export Control Office or the HSC Office of Research.

The EOs or their designee are authorized to investigate any known or suspected export control violations. Accordingly, the EOs are also authorized to suspend or terminate activities if it is determined such activity is not in compliance with export control laws and regulations.

DEFINITIONS

Dual Use. Research that has civilian applications as well as military, terrorism, weapons of mass destruction, or law-enforcement-related applications.

EAR. Export Administration Regulations.

Export. The transfer of products, technology or services from the United States to another country or to foreign persons within the United States. This includes Deemed Exports which include the transfer of technology, including articles, information, data or use of equipment that has certain export restrictions, to a foreign national in the US.

Foreign Person. Any natural person who is not a lawful permanent resident of the United States, citizen of the United States, or any other protected individual as defined by 8 U.S.C. 1324b(a)(3). It also means any corporation, business association, partnership, trust, society or any other entity or group that is not incorporated in the United States or organized to do business in the United States, as well as international organizations, foreign governments and any agency or subdivision of a foreign government.

ITAR. International Traffic in Arms Regulations.

Professional Meetings. An assembly of two or more individuals discussing a common professional purpose. These include but are not limited to conferences, workshops, training, interviews, presentations, taskforces, committees, and/or boards.

Public Domain. Information which is published and generally accessible or available to the public; interchangeable with the term publicly available. (22CFR 120.11)

OFAC. Office of Foreign Assets Control

UNM Community. This includes, but is not limited to, faculty, staff, students, visiting scholars, postdoctoral fellows, individuals with UNM Letter of Academic Title, volunteers, and any other persons participating in activities at or on behalf of UNM that are subject to export control regulations.

US Person. (22CFR 120.15) includes the following:

- Someone who has been lawfully accorded the privilege of residing permanently in the U.S. as an immigrant in accordance with immigration laws (a lawful permanent resident; 8 U.S.C. 1101(a)(20)).
- U.S. Citizen or U.S. National (protected individual; 8 U.S.C. 1324b(a)(3)).
- Any corporation, business association, partnership, society, trust, or any other entity, organization or group that is incorporated to do business in the United States.
- Any U.S. governmental (federal, state or local) entity.
- An individual who is (protected individual; 8 U.S.C. 1324b(a)(3)):
 - An alien who is lawfully admitted for permanent residence
 - Granted status of an alien lawfully admitted for temporary residence

- Admitted as a refugee
- Granted asylum

CONTACTS

Direct any questions about this Policy or its components to the Office of the Vice President for Research (OVPR) or the Office of the Health Sciences Vice President for Research (HSVPR).

WHO SHOULD READ THIS POLICY

- Faculty, staff, students visiting scholars, postdoctoral fellows, individuals with UNM Letter of Academic Title, volunteers, and any other persons participating in activities at or on behalf of UNM that are subject to export control regulations.
- Department chairs, academic deans and other academic administrators
- External research collaborators who are provided access to UNM managed research data.

RELATED DOCUMENTS

UNM Regents' Policy Manual

Policy 5.9 "Sponsored Research"

Policy 5.11 "Classified Research"

Policy 5.14 "Human beings as Subjects in Research"

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Policy E10 "Classified Research"

Policy E60 "Sponsored Research"

Policy E90 "Human beings as Subjects in Research"

University Administrative Policies and Procedures Manual

Policy 2710 "Education Abroad Health and Safety" Section 9

Policy 4030 "Travel"

Policy 7200 "Cash Management" Section 3.2.3.2.

U.S. Export Control Compliance Memorandum, from President Garnett S. Stokes

Foreign Talent Recruitment Program Compliance Memorandum, from President Garnett S. Stokes

Federal Regulations

ITAR (International Traffic in Arms Regulations) – Department of State

International Traffic in Arms Regulations (ITAR) 22 CFR 120-130

EAR (Export Administration Regulations) – Department of Commerce

Export Administration Regulations (EAR) 15 CFR 730-774

FACR (Foreign Assets Control Regulations) – Department of Treasury

Office of Foreign Assets Control (OFAC) 31 CFR 500-598

National Security Decision Directive 189

Atomic Energy Act of 1954 and Nuclear Regulatory Commission Regulations to 10 CFR Part 110

DRAFT HISTORY

April 4, 2025—revised to include Faculty Senate Policy Committee changes
May 27, 2024 –revised draft to include HSC Export Control, biological research oversight and comments concerning the biological and chemical weapons conventions.
January 17, 2024 – revised draft to address outstanding issues.
March 20, 2023 –revised draft

HISTORY

New Policy