 VILLANOVA UNIVERSITY	Title: Compliance With U.S. Export Controls Laws	
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I. PURPOSE

It is the policy of Villanova University to comply with all applicable statutes, executive orders, regulations, and contractual requirements covering the exports to foreign entities and persons, including foreign persons employed by and/or taking classes or conducting research at Villanova.

II. SCOPE

This policy applies to all Villanova University faculty, staff and students. This policy also applies to department chairs, academic deans, and all University administrators who have responsibility or oversight over research projects, service activities, and academic undertakings that are subject to U.S. Export Control Laws.


III. POLICY STATEMENT

Villanova University is committed to maintaining an open academic environment, protecting the academic freedom of its faculty and students, and encouraging the dissemination of information resulting from research and other activities. At the same time, some activities may be subject to U.S. Export Control Laws and regulations that govern the export of certain commodities, software, and technology items and related non-fundamental or unpublished research and research results.

In practice, these laws have a direct impact on what research instruments, materials, software and technology that we, as a U.S. University, can export (*i.e.* transfer) out of the country by any means; and in rare cases, what sensitive items and technology we can share with foreign national individuals (visa holders) working in and/or visiting our research facilities. These regulations also potentially inform what research, academic, and business partners we engage with while avoiding partnership with U.S. government-restricted entities (entities of concern from an export control or economic embargoed country perspective).

In general, the University is committed to performing Fundamental Research in an effort to provide the widest possible public dissemination of scientific learning and research results. The University does not favor any proposed research activity or collaboration that limits the participation of foreign nationals. These restrictions not only impose stringent obligations upon the University, but also run counter to the University's policies of openness in research and non-discrimination. Participating in activities that are governed by U.S. Export Control Laws may limit not only the individual researcher, but could impact student involvement, limit other department/unit activities and access to project-related equipment and space, and add additional expense to projects. As such, the University will carefully consider the costs, limitations, and benefits of the export controlled project and all such projects require approval by the University Provost.

Any proposed research activity, whether funded or unfunded, contractual obligation, project, or academic collaboration or undertaking that raises export control limitations or


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imposes undue burden upon the institution and its mission is subject to final approval by the University Provost.

Failing to comply with the U.S. Export Control Laws may result in substantial civil and criminal penalties to the University and the individual(s) involved, as well as administrative sanctions such as loss of federal funding or of export privileges. Failing to abide by the export control and sanctions policies and procedures adopted by the University can result in disciplinary action up to, and including, termination and expulsion.

IV. DEFINITIONS

1. **Export:** in export control regulations, there are several meanings which include any of the following: 1) actual shipment of any covered goods or items; 2) the electronic or digital transmission of any covered goods, items or related goods or items; 3) any release or disclosure, including verbal disclosures or visual inspections, of any technology, software or technical data to any foreign national; or 4) actual use or application of covered technology on behalf of or for the benefit of any foreign entity or person anywhere.
2. **Export Control Laws:** The set of U.S. laws, policies, and regulations that govern the export of controlled items to an individual, entity or country. Export controls consist of a series of regulatory frameworks overseen by various federal agencies and include the laws and regulations enforced by the agencies listed in Defined Terms numbers 3 through 7 below.
3. **Export Administration Regulations (EAR):** The Commerce Department’s Export Administration Regulations govern “dual-use” items. These are items having both civilian and military or defense applications.
4. **International Traffic in Arms Regulations (ITAR):** The Department of State’s International Traffic in Arms Regulations govern defense articles and activities, as well as all space launch related items and activities.
5. **Office of Foreign Assets Controls (OFAC):** The Department of Treasury’s Office of Foreign Assets Controls governs exports and other transactions with economically embargoed countries and parties as well as those designated as sponsoring terrorism.
6. **Nuclear Regulatory Commission (NRC):** The Nuclear Regulatory Commission governs exports of certain nuclear equipment and materials.
7. **Department of Energy (DOE):** The Department of Energy’s regulations likewise govern certain nuclear and nuclear-related technology and materials as well as other “sensitive” items and subjects.
8. **Deemed Export:** The release or transmission of information or technology subject to export control restrictions to any foreign national in the U.S. The Federal government deems such a release of information to be an export to the foreign national’s home country, thus the term “deemed export.”


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- 9. Fundamental Research:** Basic and applied research in science and engineering, conducted at an accredited United States institution of higher education the results of which are ordinarily published and shared broadly within the scientific community. Information that results from Fundamental Research is not subject to export control restrictions under the Fundamental Research Exemption.
- 10. Public Domain:** Information that is published and that is generally accessible or available to the public.
- 11. Restricted Parties List(s):** Are lists of prohibited or restricted individuals, entities and countries listed by the Departments of Commerce, State and Treasury and other federal agencies.
- 12. Re-Export:** A re-export occurs whenever any item (i.e., commodity, software, technology, equipment or information) is sent from one foreign country to another foreign country.
- 13. Technology Control Plan (TCP):** A plan to manage the security on export controlled items and activities. A TCP formally delineates, in writing, how an export controlled research project will be conducted. It includes details about how the technology will be secured, who will have access to it, and how the technology will be disposed of at the end of the project.
- 14. U.S. Person:** A U.S. citizen, permanent U.S. resident alien, or protected individual, wherever that person is located. U.S. incorporated, organized firms and their foreign branches are also considered “U.S. Person(s).”
- 15. Export License:** A written authorization provided by a governing regulatory authority having jurisdiction detailing the specific terms and conditions under which export or re-export of export controlled items is allowed.
- 16. Foreign National:** An individual who (1) is not a U.S. citizen, or (2) who is not a lawful permanent resident of the U.S., or (3) who does not have refugee or asylum status in the U.S.

V. PROCEDURE

All University faculty, staff and students engaged in funded or unfunded research (collectively, “research personnel”) of any scope or duration are responsible to review the applicable export control regulations prior to the beginning of the research in order to determine whether they apply and to ensure that if they apply, the research project/activity is in compliance.

In addition, all research personnel are responsible for reviewing their research periodically (including when amendments are made to the original study design), at least annually, in order to determine whether changes in the terms of sponsorship, the scope of work, or personnel now bring certain aspects of the research within the purview of

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current export control regulations. Some indicators that the research or activity may be impacted by U.S. export laws, regulations and guidelines and thus may require an export review include, without limitation, the following:

- Foreign sponsors
- Foreign sub recipients or consultants
- Foreign travel (including conference attendance and/or research collaborations)
- Foreign visitors
- Anticipated or actual receipt of equipment, materials, data or software expressly identified as export controlled by the provider
- Contractual provisions restricting publication
- Contractual or award restriction/limitation on the participation of Foreign nationals in the project or collaboration

In connection with sponsored research projects, the Office of Research Administration will conduct an export review at the time of proposal and/or award stage. Based on responses provided by the faculty member in the project proposal form, additional questions may be asked in order to ensure that export control requirements are appropriately vetted. The export review must be completed prior to the acceptance of the award and **prior to ANY expenditure** of project award funds.

As in the case of any research project submitted for review to the Office of Research Administration, the Chair of the department wherein the research will take place and the Dean of the School/College must indicate that they approve of the research project including any project that is subject to export controls. The faculty member's Department and School/College from which the faculty member derives his/her primary appointment bears ultimate responsibility for the monitoring of compliance with any terms and restrictions imposed upon said research due to export control considerations including, without limitation, restriction in the participation of foreign nationals, access controls to the laboratory facilities, Technology Control Plan execution, publication restrictions, or others. The University has instituted a process wherein sponsors, vendors and independent contractors are reviewed against restricted or sanctioned U.S. government lists. In the event that a project involving a sanctioned party or country has already been accepted or undertaken, work on the project must be frozen immediately and the Office of Research Administration and/or the Office of the Vice President and General Counsel notified. Any further communication with potentially sanctioned parties should be coordinated with the Office of Research Administration and/or the Office of the Vice President and General Counsel.

Faculty members, staff and students who are engaged in research activities subject to a Technology Control Plan are required to complete the CITI online export controls training course available through the Office of Research Administration. All members of our University community who work or participate in activities or projects that may be

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subject to the U.S. Export Control laws are strongly encouraged to take this online training. In addition, departmental training may be requested through the University Compliance Office, Office of Research Administration or the Office of the Vice President and General Counsel. These offices are also available to respond to any questions or concerns that a faculty member, staff or student may have regarding the applicability of the U.S. Export Control Laws or the existence of a potential instance of non-compliance.

Faculty, staff and students may also raise any compliance-related questions or concerns via the ethics and compliance hotline—EthicsPoint, which allows for reports to be submitted on a confidential or anonymous basis. The University strictly prohibits retaliation against any individual who raises in good faith an inquiry or concern regarding compliance with any laws or who cooperates in the review or investigation of any such matter.

Special Consideration:


- **Distance Learning:** services provided to students overseas implicate U.S. export controls laws and regulations. Distance learning includes telecommunications-assisted learning and off-site learning. If any distance learning program appears to or could involve a sanctioned party or country or the release or transmission of information or technology subject to U.S. export control restrictions to a foreign national, including an individual from a sanctioned country, the Office of Research Administration or the Office of the Vice President and General Counsel should be contacted immediately.
- **U.S. anti-boycott laws:** The United States prohibits U.S. persons, as broadly defined, from complying with the Arab League’s boycott of Israel. Villanova University is committed to complying with U.S. anti-boycott laws. If you receive any contract or other official document in which you are asked to certify that you will not use Israeli-origin goods or suppliers on a particular contract, or where you otherwise think you are being asked to support the Arab League boycott of Israel, do not take any further action with respect to that transaction and contact the Office of Research Administration and/or the Office of the Vice President and General Counsel immediately.

VI. RELATED INFORMATION/FORMS

Background Screening Policy
New Vendor Registration Policy
Debarment or Suspension Review of Vendors Policy

VII. HISTORY

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Revision Date(s): November 13, 2017

Revisions to this policy were presented to the Faculty Rights and Responsibilities Committee on October 17, 2017 in accordance with the requirements of the Faculty Handbook.

VIII. RESPONSIBLE UNIVERSITY DIVISION/ DEPARTMENT

Associate Vice Provost for Research
Office of the Provost
Tolentine Hall Room 103
610-519-4525

Director of Research Administration
Office of Research Administration
Middleton Hall Room 1st
610-519-4220

Vice President and General Counsel
Office of the Vice President and General Counsel
Tolentine Hall Room 206
610-519-3853

University Compliance Officer
University Compliance Office
Tolentine Hall Room 204
610-519-3976

IX. RESPONSIBLE ADMINISTRATIVE OVERSIGHT

University Provost
Office of the Provost
Tolentine Hall Room 203
610-519-4525