

# Smith College

## Export Control Policy (DRAFT)

**Approved:** *by what body, e.g., Officers, President, Trustees*

**Responsible Office:** Provost and Dean of the Faculty; Vice President for Finance and Administration

**Responsible Administrator:** Associate Provost; Associate Vice President for Finance

**Date Established:**

**Date Last Revised:** *n/a*

### Statement

Smith College recognizes the importance of complying with all U.S. export control regulations and is committed to full compliance with these regulations.

### Scope

This Policy extends to the entire College community. Specifically, the following areas will be most affected by Export Controls:

1. All College research and academic programs which
  - a. Conduct activities with international scope, or
  - b. Conduct research utilizing specialized instruments or materials
2. College operational and business functions including, but not limited to, Human Resources, Facility Management, Library/Information/Technology Services, Study Abroad, Environmental Health & Safety, Grants/Sponsored Research, Purchasing-Accounts Payable, and others.

### Responsibilities

All members of the College community, including faculty, students, and staff, are responsible for complying with this policy.

### Policy

All members of the College community must comply with U.S. export control regulations and adhere to College procedures established to maintain institutional compliance with such regulations.

No member of the College community may engage in any activity, or commit the College to engage in any activity, that violates U.S. export control laws and regulations. Specifically, personnel may not:

- Export commodities, software, or technology subject to the Export Administration Regulations (EAR), except as authorized by the U.S. Department of Commerce;
- Export hardware, technical data, or services subject to the International Traffic in Arms Regulations (ITAR), except as authorized by the U.S. Department of State;
- Engage in transactions subject to restriction under the Foreign Assets Control Regulations, except as authorized by the U.S. Department of the Treasury; or
- Violate any other U.S. export control law or regulation.

Campus community members involved in research and academic projects that are subject to export controls must follow the procedures set forth by Smith College's Export Control Task Force. The

College's export control website may be found at <https://www.smith.edu/about-smith/risk-management/export-control>

### **Recordkeeping**

The U.S. Government agencies responsible for enforcing export control require that certain records be maintained for a minimum of 5 years. These records include but are not limited to the following: export shipping records, including Bureau of Census AES filings; export license records and commercial documentation substantiating shipments made pursuant to a license; denied and restricted parties screening records; self-classification determinations of an item's export controlled status; export control training attendance records; and export control certification documentation related to I-129B visa petitions. Records may be maintained as hard or electronic copies and must be accessible for internal audit purposes. For any questions concerning the College's export record retention requirement, please contact the Export Control Coordinator(s).

### **Training**

All members of the College community are expected to attend export control training. These trainings are offered on an as-needed basis, and they are designed to familiarize faculty and staff with export control requirements and Smith's compliance program.

### **Compliance Monitoring**

The Export Control Task Force routinely monitors the College's export control program to detect process issues and to implement enhancements. Self-assessment is also a campus wide function and should be conducted periodically to ensure that the foregoing processes are being properly implemented as applicable to you and your department. Please direct any assessment-related concerns to the Export Control Task Force.

### **Policy Violations (if applicable)**

Violations of college policies are adjudicated according to procedures outlined in the Student Handbook and the Employee Handbook, with disciplinary consequences imposed by the adjudicating authority up to and including dismissal. Some offenses are punishable under state and federal laws.

U.S. Government export authorities strictly enforce export control through substantial civil and criminal penalties and sanctions, federal debarment and revocation of export privileges. In addition, because of the national security implications to export control, liability for violations can be enforced against an *individual* to whom an intentional violation is attributable, separate from institutional liability.

### **Definitions**

Export is defined in two principal ways:

- 1) International shipments or transfers of items or data abroad by any means; cargo shipments; electronic data transmission (email), spoken communication, hand carried articles, fax, and courier.
- 2) "Deemed exports": foreign national access and/or use of export controlled items, technology, materials, software or data (hard or soft copy) occurring in the U.S. The export is "deemed" to occur upon the foreign national's return to his/her country of citizenship or third country.

However, if the access to or use of the controlled item (activity) would have required an export license given the foreign national's citizenship, the violation occurs immediately when, in fact, such unauthorized activity occurs.

For additional Export Control definitions, please refer to the following:

[ITAR Definitions](#)

[http://www.pmdtc.state.gov/regulations\\_laws/documents/official\\_itar/2014/ITAR\\_Part\\_120.pdf](http://www.pmdtc.state.gov/regulations_laws/documents/official_itar/2014/ITAR_Part_120.pdf)

[EAR Definitions](#)

<https://www.bis.doc.gov/index.php/documents/regulation-docs/434-part-772-definitions-of-terms/file>