



**NORTH CAROLINA SCHOOL OF  
SCIENCE AND MATHEMATICS**

Title	<b>EXPORT CONTROLS</b>
Authority	<b>Chancellor</b>
History	Effective February 1, 2008
Legal Reference	
Additional References	
Responsible Offices	Chancellor, Internal Auditor, Vice Chancellor for Academic Programs
Classification	5400

## I. INTRODUCTION

Export control laws are federal laws that place restrictions on the export of goods, services and technology/technical data to foreign nationals, banned countries, and banned entities. The definition of an export includes “actual exports” or the transfer of goods, services or technology from the US to a non-US territory, as well as “deemed exports” or the transfer of goods, services or technology from the US to a Foreign Person in the US. Violation of these restrictions can result in criminal and civil sanctions. The purpose of this policy is to set out those restrictions that might apply to The North Carolina School of Science and Mathematics (NCSSM) and to establish procedures for complying with these laws.

## II. REGULATIONS

Export controls are currently regulated by Department of Commerce through its Export Administration Regulations (EAR), Department of State through its International Traffic in Arms Regulations (ITAR), and the Treasury Department through its Office of Foreign Assets Control (OFAC). Although there are some similarities between the scope of the EAR and ITAR at the university level, the regulations differ in their primary focus. Specifically, the EAR is mostly concerned with dual-use items (those which are not inherently military in nature), and the ITAR is concerned with items listed on the United States Munitions List and the distribution of related information. OFAC, however, administers and enforces sanctions on targeted countries and individuals.

## III. BASIC PROGRAMMATIC POLICY

It is NCSSM policy to comply fully and completely with all United States export control laws and regulations. It is the policy of NCSSM that instruction, production and the offering of services will be accomplished openly and without prohibitions on the publication or dissemination of the results of academic production and service activities. This accessibility does not preclude copyright, patent or trademark acquisitions where warranted.

## IV. EXCLUSIONS

EAR, ITAR and OFAC regulations are not intended to restrict all academic activities. Therefore, there are specific exemptions that may apply to the dissemination of information in academic instructional, research and service settings. Below are the exemptions that are potentially applicable to the activities of NCSSM:

- A. **Fundamental Research Exemption:** Exclusion applies to basic and applied research in science and engineering performed by universities where the resulting information is ordinarily published and shared broadly within the scientific community. This exclusion applies only to the disclosure of information or technical data to foreign nationals in the US. It does not apply to the shipment of goods or providing of services outside the US.
- B. **Teaching Exemption:** Exclusion applies to information released by instruction in catalog courses and associated teaching laboratories of academic institutions.
- C. **Public Domain Exemption:** Published information and software is excluded when it is generally accessible to the interested public in any form through unlimited and unrestricted distribution. This exemption only applies to information within the United States. Shipments outside the U.S. are subject to export control regulations.

## V. APPLICATION TO NCSSM ACTIVITIES

Due to the nature of our institution and its inherent lack of proprietary information, NCSSM expects to conduct activities restricted by export controls regulations only rarely, if at all. To ensure our compliance with Federal Regulations, we have set forth the following procedures.

## VI. PROCEDURES

### A. Regulatory Framework

The Internal Auditor will be in charge of monitoring the policies on export controls.

### B. Process for Research

In compliance with University of North Carolina policy, NCSSM faculty, staff and students must have the right to disseminate research findings freely and openly. Research conducted under any form of sponsorship must maintain the University's open teaching and research philosophy. Before entering into a research project that restricts the dissemination of findings, involved parties should contact the NCSSM Internal Auditor for assistance to determine the nature and extent of the restrictions and risks under export controls regulations.

### C. Process for Exporting Controlled Items

No member of the NCSSM faculty or staff shall be responsible for the actual or deemed export of controlled goods, technology or services. Prior to the export of goods, services, or

technology that do not meet any of the exemptions above, involved parties should contact the Internal Auditor for guidance. A current list of controlled items and banned countries will be maintained by the NCSSM Internal Auditor.

#### D. Temporary Exports: Taking Laptop Computers Out of the Country

The carrying of laptop computers on foreign travel is discouraged, although it is not prohibited. Computers containing non-commercial, special purpose or certain encryption software may be controlled and should not be taken out of the United States. NCSSM's internal auditor should be consulted prior to taking a laptop or similar computing equipment abroad to ensure that the laptop does not contain controlled information or technology.

#### E. Employment and Enrollment of Foreign Nationals for Activities Covered by the Federal Regulations

When foreign nationals are to be utilized in covered activities, certain steps are required. First, determine whether the person is covered: foreign person means a natural person (1) who is not a lawful permanent resident (i.e. is not a citizen or green card holder); (2) who is not a refugee, asylee or parolee (a "protected individual"); (3) which is any foreign corporation or any foreign group that is not incorporated or organized to do business in the U.S.; or (4) which is a foreign government or an agency or subdivision thereof.

Second, the project or activity director, sponsor or facilitator must provide documentation and a request for approval to the NCSSM Internal Auditor. After receiving the submission, the auditor will make a recommendation for approval or disapproval to the Vice Chancellor for Academic Programs. This decision of the Vice Chancellor for Academic Programs is final and may not be appealed.

### VII. RECORDS

All records, documentation, approvals or disapprovals and related determinations will be maintained securely by the Vice Chancellor of Academic Programs. All records should be maintained for five years and available for inspection at all times.

### VIII. TRAINING

The Internal Auditor will develop training programs to assist the implementation of these standards and procedures. After approval by the Vice Chancellor of Academic Programs, these programs will be provided to persons in the NCSSM community who will be affected by the federal regulations.