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Policy Title: Export Control Certification Requirement
Policy Owner: Research Compliance and Regulatory Affairs Group
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United States Citizenship and Immigration Services (USCIS) Form I-129, the petition used to sponsor H-1B, O-1, TN, and similar employment-based nonimmigrant classifications, includes an export control attestation. As part of that attestation, the University of Delaware must certify whether the foreign person will be performing work that is subject to U.S. Department of State (ITAR) or U.S. Department of Commerce (EAR) export regulations, and whether export licensing will be required for the work.

It is important to note that the release of controlled technology or technical data to a foreign person **in the United States** is a “deemed export” and is subject to the relevant export regulations. While most of the research conducted by foreign nationals at the University of Delaware qualifies as “fundamental research” (research performed without restrictions on publication or on who may participate), it remains important to understand the specific terms of the contract or grant on which foreign national employees and scholars are working, as well as the nature of the research, in order to complete the certification correctly.

The **Export Control Certification** documents the University’s export control determination for a foreign national employee or scholar. For the employment-based nonimmigrant classifications (H-1B, O-1, and TN), the certification supports the export control attestation on Form I-129. The Research Office also conducts this review for J-1 exchange visitor scholars. For J-1 scholars, the certification is not a federal regulatory requirement; it is an institutional review through which the Research Office examines the scope of the proposed research and related factors. The Center for Global Programs and Services (CGPS), which administers immigration sponsorship, requires a current certification before sponsorship proceeds, including for initial, extension, and transfer requests.

The sponsoring department, unit, or HR administrator completes the Export Control Certification and submits it to the Research Office for review and certification. The form is signed by the UD principal investigator or sponsor, the department chairperson, and the college dean’s office, and is accepted by the University’s Empowered Official. Once the certification is executed, the requesting department provides it to CGPS for use in the immigration sponsorship process. If a sponsored individual’s source of funding or work assignment changes, the department must request a new certification so that the Research Office may review applicability.

The Research Office, through Research Compliance and Regulatory Affairs, is available to answer questions about U.S. export control regulations, to assist with completing the certification, and to provide related training. Please contact the Research Office at RO-Agreements@udel.edu.

For questions about immigration sponsorship and the process for hosting or hiring foreign nationals, please contact the Center for Global Programs and Services at oiss-scholars@udel.edu or (302) 831-2115.

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