

The State University of New York Statement on Foreign Disclosure and Export Controls

September 16, 2019

Background

The State University of New York (SUNY) values international collaboration, which inspires new perspectives and provides faculty, students and staff with global research and learning experiences. SUNY and The Research Foundation for SUNY (RF) are committed to the advancement of scholarly research with integrity and transparency.

Recently, the United States Government has expressed concerns regarding inappropriate influence by some foreign entities over federally-funded research. Federal agencies have issued reminders to the grant recipient community of disclosure requirements (e.g. [NSF](#) and [NIH](#)) and have indicated that failure to disclose foreign relationships and activities may jeopardize project funding and potentially cause ineligibility for future funding for a Principal Investigator (PI) or an institution.

In June 2019, SUNY Board of Trustees adopted a [Resolution \(Res No. 2019-49\)](#) that directs the Chancellor, or designee, to release a Statement on Foreign Disclosure and Export Controls, which shall address applicable requirements under state and federal law, and provide advice and resources with regard to making necessary disclosures and managing foreign relationships related to University research and education. Res. No. 2019-49 also requires SUNY state-operated campuses to provide training and/or resources regarding foreign interest disclosure and export control laws and regulations. Although the community colleges are not covered by Res. No. 2019-49, they are required to comply with any applicable export control laws and foreign disclosure rules under federally-funded research grants. Consequently, community colleges are encouraged to follow the guidelines and mandates set forth below.

Statement

SUNY encourages transparent and robust international collaboration. It is important for researchers and scholars to disclose their international relationships and each campus to determine if there are any potential conflicts of commitments, duplications of research, and/or diversion or disclosure of intellectual property or confidential information in the performance of research. It is also critical for researchers and scholars to be aware of export control regulations and consult with campus officials when needed, to protect national security and U.S. interests.

SUNY researchers and scholars, including but not limited to faculty, students, staff, and visiting scientists and scholars, are required to contact their campus' Office of Vice President for Research (VPR) or equivalent office to discuss if they have any foreign affiliations related to their research efforts. They must also disclose to their Provost Office or equivalent office any foreign affiliations related to their academic work. Questions regarding individual grants and contracts can be directed to their campus' Office of Sponsored Programs or equivalent. Questions relating to export control laws should be directed to their local Export Controls or

Sponsored Programs Office. Such offices will consult with SUNY's Office of General Counsel, as needed.

Disclosure of Outside Interests

SUNY campuses are required to instruct faculty, staff and students to follow SUNY's system-wide [conflict of interest policies](#) and local campus policies that require disclosure of outside interests to ensure that these obligations are appropriately met.

In managing the disclosure process and disclosed information, campuses may consider the following best practices:

- Specifically and explicitly require disclosure of foreign support and positions, both paid and unpaid, in the campus disclosure form; and/or,
- Establish a committee to review potential areas of foreign influence, security threats and any other related issues.

Following is a list of the types of relationships and activities that SUNY researchers and scholars are expected to disclose:

1. Foreign Components

- Foreign components of federally-funded research should be disclosed on proposals, progress reports, and final reports. Under the NIH Grants Policy Statement, a "foreign component" is defined as "any significant scientific element or segment of a project outside of the United States, either by the recipient or by a researcher employed by a foreign organization, whether or not grant funds are expended". The definition of "foreign component" may include a large number of collaborative activities, including "collaborations with investigators at a foreign site anticipated to result in co-authorship; use of facilities or instrumentation at a foreign site; or receipt of financial support or resources from a foreign entity." Other federal sponsors have similar requirements to disclose foreign components.
- PIs should review all pending proposals and active awards to ensure that all foreign components have been disclosed. If a PI identifies an omission or error in a previously submitted proposal, the PI should contact the local office responsible for sponsored programs administration to have the error corrected.

2. Other Support

- SUNY researchers and scholars must ensure that they disclose all applicable "Other Support" as required by federal sponsors. "Other Support" includes all financial resources, domestic or foreign, available in direct support of a researcher's research endeavors. Such support should be disclosed on an "Other Support" or "Current & Pending" form.
- SUNY researchers and scholars must disclose participation in a foreign talent program to federal sponsors, and must also reach out to their campus Office of VPR or equivalent office to discuss such activity, even if they've previously

disclosed their participation to other university officials. Depending on the circumstances, he or she may be advised to terminate his or her affiliation with the foreign talent program.

- Most federal sponsors will have their own guidance on how to complete “Other Support” forms. It is ultimately the responsibility of the individual researcher to ensure that the report of “Other Support” is complete and accurate to the best of his or her knowledge.
- PIs should review all pending proposals and active awards to ensure that all “Other Support” has been disclosed. If a PI identifies an omission or error in a previously submitted proposal, he or she should contact the campus Office of Sponsored Programs to have the error corrected.

3. Significant Financial Interests

- Significant financial interests received from any foreign entity, including governments and universities, must be disclosed.

4. Foreign Consulting

- Foreign consulting and other outside business activities must be disclosed. These may include activities such as consulting, teaching courses at outside organizations, or entrepreneurial ventures related to a PI’s area of research.

5. Computer/Account Threats

- Contact the campus’ information security office or equivalent office regarding any compromised accounts or other IT threats.

6. Inventions or Intellectual Property

- Promptly report new or previously undisclosed inventions or intellectual property by following local campus process.

Export Controls

As part of its mission to create and transmit knowledge through research, education and patient care, SUNY strives to maintain a diverse and vibrant academic community that welcomes foreign researchers, and encourages international collaboration for the advancement of human knowledge and the benefit to our society. In its [Policy on Unrestricted Dissemination of Research Activities](#) and [Policy on Participation of Foreign Nationals in Research Activities](#), SUNY affirmed that its mission is best served by fostering a culture of academic freedom that promotes the free exchange of ideas and encourages the broadest possible dissemination of knowledge and information through a wide array of research, teaching and clinical activities both within the United States and abroad.

SUNY also recognizes that the United States government has a legitimate national security interest in limiting the proliferation of certain defense-related technologies and the dissemination of technical data relating to those technologies. The regulations enacted by the federal government in furtherance of these interests include, but are not limited to, the Export Administration Regulations (“EAR”), the International Traffic in Arms Regulations (“ITAR”), and the regulations promulgated by the Office of Foreign Assets Control (“OFAC”). Of particular importance in the university setting, these regulations apply not only to the physical export of technology overseas, but also to the deemed export of controlled technical information to foreign nationals within the United States.

Violations of the export control laws may give rise to personal liabilities, both civil and criminal, as well as institutional liabilities and penalties. Consequently, SUNY campuses are required to provide resources and training materials to enable faculty and staff to become familiar with the regulations, to understand when they are performing functions that may give rise to concerns, and to consult with campus officials so that they may fulfill their export control responsibilities.

Resources

An overview of export control laws and a guidance that can be used as training materials can be found on the [website](#) of SUNY RF. More comprehensive training of export control regulations can be offered by campuses or campus-selected research ethics and compliance training providers. Finally, SUNY’s Office of the General Counsel is readily available to answer campus questions in this area. Campuses are encouraged to contact their campus counsel with specific questions or concerns.