

J-1/F-1 and I-129 Visa Petition (H-1B) Export Compliance Questionnaire

Background

Under Federal Law, the transfer or release to a foreign national of export controlled information, materials, or other items (described below) by any means is “deemed” to be an export to the foreign national’s country of citizenship or permanent residence, potentially requiring an export license, unless a particular authorized license exemption applies. For purposes of applicable Federal Law, foreign nationals are defined as those individuals who are not U.S. citizens, Permanent Residents (“Green Card” holders) or recipients of Political Asylum status. Foreign nationals are individuals with temporary immigrant visa status including but not limited to H1-B, J-1, F, and B-visa beneficiaries.

J-1/F-1: U.S. federal export control regulations require that Cal Poly determine whether a foreign national visiting exchange student/scholar (J-1 visa) or a student conducting research (F-1 visa) will be exposed to any technology that is export controlled as part of the research process and/or in relation to export controlled tools (instruments, software, materials, or proprietary technology) that may be present in the researcher’s laboratory or office environment. In certain cases, such access to (or use of) controlled technology may require prior authorization (an export license) before such access/use is granted.

I-129 (H-1B): The United States Citizenship and Immigration Service requires that an employer, when filing an H-1B petition, certify that:

- (i) it has reviewed the **Export Administration Regulations (EAR)** administered by the U.S. Department of Commerce and the **International Traffic in Arms Regulations (ITAR)** administered by the U.S. Department of State, and
- (ii) it has determined whether or not a license (prior authorization) is required from either of these Government agencies to allow an employee who is a foreign national access to export controlled items or technology (laboratory equipment/research instruments, materials, software or technology/technical data) controlled under the **EAR** or **ITAR**.

Compliance Procedure:

Please complete the questionnaire below. The questionnaire should be completed or signed by the Principal Investigator (if research related) or other individual with direct oversight/sponsorship of the visa applicant.

CONTACT FOR QUESTIONS:

Preferred (email): Questions should be directed to visasupport@calpoly.edu.

Telephone inquiries may delay processing, but may be directed to:

Don Fischer (campus consultant) 415-987-4039

Leah Rothman (campus consultant) 510-967-9673

Simon Lowrie (slowrie@calpoly.edu) 805-756-2982

Melissa Mullen (mrmullen@calpoly.edu) 805-756-5729

Debbie Hart (dahart@calpoly.edu), Administrative Analyst (backup contact): 805-756-1508

Allie Walter (abwalter@calpoly.edu), Administrative Support Coordinator (backup contact): 805-756-5153

QUESTIONNAIRE FOLLOWS:

Send completed forms to: visasupport@calpoly.edu

Questionnaire

Name of Visa Applicant: _____

1. Will the visa applicant be working in one of the following areas: biomedical sciences, computer sciences, space or space launch sciences, or **any** engineering or scientific discipline? Engineering or scientific disciplines may include but are not limited to the following: Chemical, Electrical, Semiconductor, Materials Science, Physics, Mechanical, Geophysical, Marine, Astronomy, Nuclear, Artificial Intelligence or Robotics.

Check one:

No, the assignment will not involve, expose or *potentially* expose the applicant to any scientific discipline, including but not limited to the ones listed above. Please sign and date this form below and submit it to visasupport@calpoly.edu (see above for further contact information). As you have answered "no," please do NOT answer the questions below in #2.

Yes, the assignment will involve, expose or *potentially* expose the beneficiary to a scientific discipline (including but not limited to one or more of those listed above). Please describe in the space provided below, and then proceed to Questions 2 A – C below.

2. If you answered "yes" to question #1 above, you are required to answer **all** questions below. If you do not have the information necessary to complete this certification, please use the *contact for questions* (indicated above) to assist the processing of this certification questionnaire.

A. Will the visa applicant work under a sponsored research agreement or contract (either known to you at this time, or anticipated) that:

- | | | |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| i. restricts or prohibits the participation of foreign nationals or non U.S. persons participating in the research? | Yes | No |
| ii. restricts or prohibits the right to publish any of the data or research results, except for the sponsor's right to review and exclude proprietary data from publication? | Yes | No |

B. Will the visa applicant be provided access to any of the following?

- | | | |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|
| i. Technical data/information that has been designated as "export controlled" (labeled as such by contract, vendor, or campus designation); | Yes | No |
| ii. Information, materials, or software subject to a Non-Disclosure Agreement (NDA) or equivalent confidentiality agreement; | Yes | No |
| iii. Technology for the development of cryptography, or proprietary source code containing cryptographic functionality; | Yes | No |
| iv. Proprietary/confidential information (excluding publicly available documentation) pertaining to the underlying design, development, production, or maintenance of instruments, materials, software, or scientific processes. | Yes | No |

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Name of Visa Applicant:_____

C. For purposes of this question, "Access" means **any** visual or physical access to the item, regardless of whether required to perform an assignment, and "**ITAR**" means equipment, materials, software, etc. developed or modified for military/defense or space applications. For a list of such items please see: https://www.pmddtc.state.gov/?id=ddtc_kb_article_page&sys_id=%2024d528fddbfc930044f9ff621f961987

i. Will the visa applicant be provided Access to any ITAR items? Yes No

CERTIFICATIONS AND APPROVALS

I hereby certify that I am personally knowledgeable with the job duties and other particulars of employment of the visa applicant listed above, and hereby affirm that the contents of the foregoing certification questionnaire are true to the best of my knowledge, information and belief. I further understand that failure to accurately complete this questionnaire can result in U.S. Government export control violations for which civil and criminal penalties can be assessed against (i) any individual (including a PI) found to have caused or facilitated a violation, and/or (ii) Cal Poly.

Printed Name of Sponsor

Title

Signature of Sponsor

Date

Email Address

Phone

Name of Visa Applicant:_____

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