



## POLICY STATEMENT

Harvard University is committed to preserving and protecting the freedom of research and to maintaining a teaching and research environment that is open and that promotes the free exchange of research results. This commitment is generally accepted across the University and was articulated in the 1974 “Report of a Committee on Criteria for Acceptance Sponsored Research in Faculty of Arts and Sciences.”<sup>1</sup>

Adherence to the principle of openness in research generally requires that:

- Harvard University will not undertake classified research,
- Harvard University will not accept publication restrictions or terms and conditions that require sponsor approval of publications<sup>2</sup>,
- Foreign faculty, students, and scholars will not be singled out for restriction in access to Harvard University’s educational and research facilities and activities.

Furthermore, as part of this commitment, Harvard University will not enter into contractual agreements or accept research grants if the contract or grant restricts the freedom of the University to disclose the:

- Existence of the contract or grant
- The identity of the sponsor or contracting entity
- The type of the research to be conducted
- The research results

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<sup>1</sup> See [Managing Your Research- Principles Governing Research at Harvard \(Grey Book\)](#). The key principles of the six (6) included in the Report include the following:

- *The source of sponsorship and the purpose of the research must be of such a nature that they can be publicly disclosed. Ordinarily, every sponsor who is supporting or has supported a research project shall be identified in every publication reporting on that research (Principle #2).*
- *The University will not undertake to grant any special or exclusive information to a research sponsor, nor will it accept research that carries security classification, requires security clearance of University personnel, or otherwise precludes general publication of results...Research agreements may neither bar nor give sponsors the option to bar specific individuals or groups (Principle #3).*
- *All research projects must be undertaken with the clear understanding that the investigators concerned have the full right to publish any results obtained by them, subject only to established safeguards for the protection of privacy or confidentiality of personal data (Principle #4).*

<sup>2</sup> The prohibition against sponsor approval of publications does not apply to the case authorization and approval process that occurs prior to the publication of Harvard Business School case studies.



## EXCEPTIONS

The vast majority of on-campus research is expected to be conducted pursuant to the principles outlined above. Harvard University investigators, however, engage in a broad range of innovative and important research both in the United States and overseas that may require restrictions or requirements counter to this policy. There are number of statutory, or funding agency mandates that impose publication restrictions; or citizenship restrictions; or access restrictions with respect to confidential, proprietary, or restricted information, software code, or technology; or otherwise restrict the sharing or transfer of such information or the uses to which it may be put. In these instances, a researcher or school may choose whether to accept the restrictions by choosing whether or not to accept the federal award or to accept a research project subject to export controls.

In rare cases where the funder has a legitimate interest (e.g. promoting training of domestic students or increasing domestic capacity in a certain sector); or the pursuit of knowledge may involve critically important but sensitive areas of technology where the immediate distribution of research results would be inappropriate, exceptions may be made to these principles regarding publication, classification, and access by foreign students and scholars. Such exceptions must be limited in scope to those circumstances where the area of research is crucially important to Harvard University's educational and research mission.

### I. Confidential/Proprietary Information and Publication Restrictions:

- A. Confidential/Proprietary Information:** In accordance with the guidance Confidential Information and Your Research<sup>3</sup>, if, in a program of research, an outside person or entity has made available to the investigator confidential information, provision<sup>4</sup> may be made to preserve confidentiality and/or a short delay in the publication of research results during which time the information source may examine the proposed publication in order to assure that the investigator has not disclosed, intentionally or unintentionally, any portion of the confidential information supplied, provided that any such provision for delay must contain assurance from the information source that the information source will:
- i. Conduct its review as expeditiously as possible,
  - ii. Not attempt to thwart publication for any reason except to protect confidential information previously supplied, and
  - iii. Indicate with specificity a sentence or sentences which constitutes such a disclosure.

If, in a program of research, private papers, documents, diaries or analogous materials have been provided to the investigator, provision may be made to preserve the confidentiality of those materials for the purpose of protecting the individual privacy of the author, or of the addressee, or of the immediate family of either the author or the addressee.

Similarly, a program of research involving the examination, through interview techniques or otherwise, of a living human being<sup>5</sup>, reasonable provision may be made to protect the rights of that individual to privacy.

- B. Publication Restrictions:** The right to freely publish the results of any research conducted at Harvard University is protected by the University Policy<sup>6</sup> on Publication. Harvard University will not accept any

<sup>3</sup> [http://files.vpr.harvard.edu/files/vpr-documents/files/confidential\\_information\\_and\\_your\\_research\\_guidance.pdf](http://files.vpr.harvard.edu/files/vpr-documents/files/confidential_information_and_your_research_guidance.pdf)

<sup>4</sup> A confidentiality (or equivalent) provision or clause must be included in the grant agreement negotiated by OSP/OTD in advance.

<sup>5</sup> Such research (including specific data security/handling and privacy protections) is always governed by IRB review and approval.

<sup>6</sup> [Harvard University Publications Statement](#); According to the Harvard



research funding for a project if the sponsor requires the investigator to secure permission<sup>7</sup> from the sponsor to publish his or her research results. However, providing that no basis exists at the beginning of the research project to expect that the sponsor would attempt either to suppress publication or impose substantive changes in the manuscripts, a delay in the publication of research results, for patenting purposes; or for the sponsor or data source to identify the inadvertent disclosure of the sponsor's confidential or proprietary information, may be permissible.

- i. **Publication Restrictions and Participation of Students:** It is the policy of Harvard University not to permit involvement of students in projects that carry restrictions that may impede their progress toward a degree. Therefore, students should not be involved in research projects that require the delay of a student's publication of research results when such results are intended for use in obtaining academic credit, except that a sponsor may require a delay of publications in accordance with the Policy on Publication noted above.

## II. Citizenship Restrictions and Additional Restrictions on Research:

This policy does not attempt to anticipate all possible concerns regarding restricted research. In some cases, decisions will need to be made about particular research projects to which the application of particular policy guidelines is not clear. Such decisions will be made by the faculty member's school dean in conjunction with the Office of the Vice Provost for Research.

- A. **Citizenship Restrictions<sup>8</sup>:** In addition to restrictions imposed to protect confidential or proprietary data or other publication restrictions, research funders may also impose citizenship restrictions in their funding arrangements (See Appendix-1 for specific examples). As a general proposition, Harvard University adheres to all applicable non-discrimination legal requirements (federal, state, and local) and does not limit participation in research activities on the basis of citizenship. In certain circumstances, the conduct of research may require that a member of a research group must meet certain citizenship requirements to obtain or to have access to certain proprietary or US Government-restricted information, where that information is subject to Export Control (e.g. International Traffic in Arms Regulation-ITAR; Export Administration Regulations-EAR), or other regulatory restrictions. All such exceptions must be reviewed and approved, first by the relevant School leadership (Dean, or Dean's designee), and then by the Office of the Vice Provost for Research, at both the research proposal submission and award negotiation stage.

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### University Publications Policy:

*“the University may agree to provide sponsors with copies (or drafts) of articles, manuscripts or other written publications up to thirty (30) days in advance of submission for publication or up to thirty (30) days in advance of the anticipated publication date (including electronic publication); or thirty (30) day period to review material intended for public oral disclosure in venues such as scientific meetings, colloquia, or lectures at other institutions. These advance review periods allow sponsors to identify patentable material, use of name, or the inadvertent disclosure of the sponsor's confidential or proprietary information (if any has been provided), or to permit the sponsor an opportunity to comment. Under no circumstances is the sponsor permitted to make or demand unilateral changes.”*

<sup>7</sup> The prohibition against sponsor approval of publications does not apply to the case authorization and approval process that occurs prior to the publication of Harvard Business School case studies.

<sup>8</sup> This policy addresses only U.S. sponsor restrictions on citizenship. In international research, there may also be *de facto* limitations on citizenship imposed by foreign nations where citizens/nationals of certain countries cannot feasibly obtain a visa or work authorization, either due to citizenship limitations in the visa rules, or policies that allow only the hire of host-country employees. Such restrictions may also restrict the participation of certain individuals in research and will be handled on a case-by-case basis.



**B. Additional Restrictions:** In the rare event that other circumstances arise in which a Principal Investigator wishes to enter into a research agreement that imposes additional restrictions upon a proposed research project, a request must be sent to the Principal Investigator's school leadership (Dean, or Dean's designee), for preliminary review, and shall then be forwarded to the Office of the Vice Provost for Research for further review and a final determination in conjunction with the school dean.

In choosing to accept or decline such projects, the Office of the Vice Provost for Research will weigh the potential of a project for generating and disseminating new knowledge supporting the mission of the University against the project's potential for adversely affecting the climate for research conducted in a free and open environment. While this policy sets no explicit limits as to the extent of restricted research permitted at Harvard University, it is not the intent of the policy to encourage any school or department to engage in restricted research as a primary ongoing activity. Indeed, it is expected that restricted research projects will never represent more than a small fraction of the total research effort of the University.

For Additional Information Contact: Your [school's export compliance officer](#) or the [OVPR](#).



## Appendix-1: Examples of Statutory or Funding Agency Restrictions

Funding agencies, or statutory mandates, may impose restrictions on eligibility for certain types of grants or research. The following provides a brief summary of some of the main categories of restriction currently imposed by various funding entities.

### 1. Domestic Capacity Building

In certain cases, a funder may be interested in promoting the training of domestic students, or increasing domestic capacity in a certain sector, and therefore, may restrict eligibility for funding awards to U.S. citizens, U.S. nationals, or permanent residents of the United States. These restrictions are typically limited to providing salary support, stipends, etc. and do not impose restrictions on the participation of non-eligible individuals in the research who are not funded through the award. Examples include:

- a. **National Institutes of Health (NIH):** NIH supports numerous grant programs for research training and career development, as well as institutional and individual research training awards. Eligibility for the fellowship and career development awards is mostly limited to U.S. citizens, U.S. nationals, or permanent residents of the United States.  
<http://aids2012.oar.nih.gov/pubs/NIHtrainingOpps.pdf>
- b. **National Sciences Foundation (NSF)** fellowship program, which by statute can be made only to citizens, nationals, or lawfully admitted permanent resident aliens of the United States.  
[http://www.nsfgrfp.org/how\\_to\\_apply/eligibility\\_guide#glance](http://www.nsfgrfp.org/how_to_apply/eligibility_guide#glance)

### 2. Country Specific Statutory Restrictions

In other cases, statutory language included in a legislation (e.g. appropriation acts), special legislation (e.g. PATRIOT Act), or Presidential Executive Orders may in fact restrict the participation of nationals from certain countries in specific research programs. Examples include:

- a. **National Aeronautics and Space Administration (NASA):** NASA is restricted by The Department of Defense Appropriations Act from using funding appropriated in the Acts to contract with, collaborate or coordinate bilaterally in any way with China or any Chinese-owned company, at the prime contract or any tier subcontract level.  
<http://www.hq.nasa.gov/office/procurement/regs/pic12-01A.html>
- b. **Biological Select Agents and Toxins (BSAT):** The USA Patriot Act creates a class of "restricted persons" who may not participate in research involving the use of BSAT. The Act prohibits the possession, shipment, transportation or receipt of BSAT by an alien (other than an alien lawfully admitted for permanent residence) who is a national of a country to which the Secretary of State, pursuant to applicable law (PUBLIC LAW 107–56; SEC. 175b. POSSESSION BY RESTRICTED PERSONS) has made a determination that such country has repeatedly provided support for acts of international terrorism.  
<http://www.gpo.gov/fdsys/pkg/PLAW-107publ56/pdf/PLAW-107publ56.pdf>

3. **Special Sanctions:** These are also specific sanctions imposed by legislation or Executive Order with respect to certain citizens, or segment of the economy, or specific countries.



- a. “Iran Threat Reduction and Syria Human Rights Act of 2012”, requires that the Secretary of State deny a visa to, and the Secretary of Homeland Security to exclude from the United States, any citizen of Iran that seeks to enter the United States to participate in coursework at an institution of higher education in preparation for a career in the energy sector of Iran or in nuclear science or nuclear engineering or a related field in Iran.  
[http://www.treasury.gov/resource-center/sanctions/Documents/hr\\_1905\\_pl\\_112\\_158.pdf](http://www.treasury.gov/resource-center/sanctions/Documents/hr_1905_pl_112_158.pdf)

#### 4. Export Control Restrictions

The U.S. Government controls exports of sensitive equipment, software and technology by imposing trade sanctions, embargoes, and other restrictions to certain countries, organizations and individuals pursuant to a set of U.S. Laws and Presidential Executive Orders collectively referred to as the Export Control Regulations. Under the current export system, the Departments of State, Commerce, and the Treasury are responsible for implementing these requirements. These Laws and Executive Orders may limit participation of anyone who is not a “U.S. Person<sup>10</sup>” to certain technologies or information generated, or provided in the course of a research project covered under the “Export Control” regime. At universities, this issue arises most frequently in connection with the participation of international researchers or collaborators in projects involving controlled technology. The transfer or release of technical data or information subject to U.S. export controls to a “foreign national,” whether it occurs in the United States or abroad, is “deemed” an export from the United States to the home country of the foreign national. An institution may register with the appropriate agency (e.g. The U.S. Department of State’s Directorate of Defense Trade Controls-DDTC<sup>11</sup>) and obtain licenses to facilitate the participation of non-U.S. persons.

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<sup>9</sup> H.R. 1905-45; Title V-Miscellaneous; Section 501. Exclusion of citizens of Iran seeking education relating to nuclear and energy sectors of Iran.; [http://www.treasury.gov/resource-center/sanctions/Documents/hr\\_1905\\_pl\\_112\\_158.pdf](http://www.treasury.gov/resource-center/sanctions/Documents/hr_1905_pl_112_158.pdf)

<sup>10</sup> US Person is defined as a citizen of United States, a lawful permanent resident alien of the US (a Green Card holder), a refugee or someone here under amnesty or having been granted political asylum. US persons also include organizations and entities, such as universities, incorporated in the US. The general rule is that only US persons are eligible to receive controlled items, software or information without first obtaining an export license from the appropriate agency unless a license exception or exclusion is available.

<sup>11</sup> See DDT Website for details: <http://www.pmdt.state.gov/registration/index.html>

