



Boston College Office of Export Controls

I-129 Visa Petition (H-1B) and Student/Scholar Export Controls 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, and potentially requires an export license unless an authorized license exemption applies.¹

I-129: 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 (e.g., laboratory equipment, research instruments, materials, software or technology/technical data) controlled under the EAR or ITAR.

J-1/F-1/Other visa Holders: U.S. federal export control regulations require Boston College to determine whether a foreign national student or visiting scholar conducting research will be exposed to any technology or tools (including but not limited to instruments, software, materials, or other items) that is present in the researcher’s laboratory or office environment. In certain cases, access to or use of controlled technology will require prior authorization in the form of an export license before access or use is granted.

QUESTIONNAIRE

Applicant's Name: _____

Please complete the questionnaire below. The questionnaire should be completed or signed by the Faculty Sponsor or other individual with direct oversight or sponsorship of the visa applicant.

1. What kind of visa is the applicant applying for? ☐ H-1B ☐ J-1/F-1/Other visas

¹ 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-1, and B-visa beneficiaries.

2. Please provide a short description of the work the visa applicant/holder will be performing.
3. Will the visa applicant/holder 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.
- ☐ No, the assignment will not involve, expose or *potentially* expose the applicant/holder to any scientific discipline identified above, or if involved in such scientific discipline, will be acting in a teaching-only capacity, with no research involvement. Please sign and date this form below and submit.
- ☐ 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). You are required to check **all** the boxes for questions 4-7 below and sign and date at the bottom. If you do not have the information necessary to complete this certification, please contact [name] to complete the processing of this certification questionnaire. If by virtue of the question, you are unable to check one of the following boxes, please email exportcontrol@bc.edu.
4. ☐ The visa applicant/holder will **not** be working under a sponsored research agreement (e.g. grant or contract) that restricts or prohibits the participation of foreign persons, i.e. there are no restrictive clauses pertaining to foreign nationals or non U.S. persons participating in the research.
5. ☐ The visa applicant/holder will **not** be working under a sponsored research agreement (e.g. grant or contract) that restricts or prohibits the research team's right to publish any of the data or research results, except for the sponsor's right to review and exclude from intended publication proprietary data that, under the terms of the Agreement, is exempt from publication.
6. ☐ In performing the work under the visa, the visa applicant/holder will **not** be provided access (whether or not actually required for his/her work assignment and whether through hard or soft copy) to:
- Technical data or information that has been stamped or otherwise designated by the sponsor or collaborating institution as being "export controlled";
 - Sponsor or third-party proprietary or confidential information, materials, or software that is the subject of a Non-Disclosure Agreement (NDA) or equivalent confidentiality agreement;
 - Third party, proprietary technology for the development of cryptography, or source code containing cryptographic functionality; and
 - Third party, proprietary information pertaining to the "use" or "development" or "production" of instruments, materials, software or scientific processes (technology) that is not in itself the subject or result of fundamental research eligible for publication. For purposes of this question:
 - "Use" means that one or more of the following types of activities occur beyond merely operating a device or software: installation, maintenance, repair, or overhaul/refurbishing.
 - "development" is related to all stages prior to serial production, such as: design research, design analysis, design concepts, assembly and testing of prototypes, pilot production schemes, design data, process of transforming design data into a product, or configuration design.

- “Production” means: product engineering, manufacture, integration, assembly (mounting), inspection, testing, quality assurance.
7. ☐ In performing the work under the visa, the visa applicant/holder will **not** be provided access to research equipment, instruments, materials, software, and/or technical data in any form (e.g. blue print, sketches, specifications, documented technology, vendor operational manual/instructions, data results) that is governed under the **ITAR**.

ITAR covers any item (equipment, instruments, materials, software, and/or technical data as exemplified above) *specifically* designed, developed or modified for military, defense or space applications) and may include such items whether procured from a vendor, or otherwise received by a research sponsor or collaborating research institution. For a list of the high level **ITAR** categories that identify such defense, military and space items please see (http://www.pmddtc.state.gov/regulations_laws/itar_official.html). For purposes of this certification, “access” means any visual or physical access to the item, regardless of whether such access is actually required by the visa applicant/holder to perform his/her work assignment.

(Note: any technology that has been invented as the result of fundamental research and is the subject of a research publication (i.e. already in the public domain) may be exempt from this access restriction, pending confirmation by the Export Coordinator. Please contact [name] if there are any questions about whether such information meets this public domain standard).

8. ****ONLY APPLICABLE IF YOU SELECTED “F-1/J-1/Other VISAs” in question 1 and if department has a Science Liaison. ****
- ☐ By checking this box the person completing this form has had a Science Liaison, _____, assist with the completion of the document and any concerns were addressed to the Office of Export Controls.

CERTIFICATIONS AND APPROVALS

I hereby certify that I am personally knowledgeable with the job duties and other particulars of employment of the visa applicant/holder 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) Boston College.

In the event that the proposed scope of the foreign national’s research responsibilities changes from not being export-sensitive to a position which is export sensitive (i.e., the response to any of the foregoing questions is “Yes,”) I will notify promptly the Office of Export Controls in advance of such a scope change so that export control requirements can be re-evaluated in a timely fashion.

Print Name of PI/Faculty Sponsor

PI/Faculty Sponsor Signature

Date