

Policy on Compliance with U.S. Requirements Affecting
International Persons, Countries, Organizations and Activities

I. Sanctions Imposed by the U.S. Government

A. Countries and Programs

The U.S. government administers and enforces economic and trade sanctions against targeted foreign countries and programs (“Embargo List”). Conducting business of any kind, including academic activities with or within a country or program on the Embargo List is greatly restricted and requires either authorization by the U.S. government or a license from the Office of Foreign Asset Control (“OFAC”).

As of January 1, 2016, the following are listed by OFAC as countries and other sanction programs on the Embargo List: Balkans, Belarus, Burma, Burundi, Central African Republic, Cote D’Ivoire, Cuba, Democratic Republic of Congo, Iran, Iraq, Lebanon, Liberia, Libya, North Korea, Somalia, Sudan, Syria, Ukraine/Russia, Venezuela, Yemen, and Zimbabwe.

Unless the University has obtained a license from OFAC or is otherwise permitted by the U.S. government, the University may not engage in any of the following: 1) export or import, directly or indirectly, goods, services or technology to and from a country or program on the Embargo List; 2) enter into a contract involving, or otherwise provide services to a country or program on the Embargo List; and 3) enter into a contract with, facilitate, aid or otherwise support services to any entity or individual located in a country or program on the Embargo List. The current Embargo List contains additional sanctions and is located on OFAC’s website at: <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/Programs.aspx>

University employees must consult the OFAC website to verify sanctions imposed, whether the proposed activity is prohibited, and whether a license is required.

B. Individuals and Organizations

The U.S. government also prohibits transactions with persons and entities designated as Specially Designated Nationals (“SDN”) that are included on an SDN list maintained by OFAC. The University is prohibited from employing, receiving funds from, engaging in any transaction with, or facilitating, aiding or otherwise supporting any activities of an individual, entity or organization on the SDN List. The SDN List is updated regularly and is found on OFAC’s website at: <http://www.treasury.gov/resource-center/sanctions/SDN-List/Pages/default.aspx>.

C. Charitable Organizations

The President of the United States has issued Executive Order 13224 and Executive Order 12947 (“Executive Orders”) creating a list of charitable organizations that aid foreign terrorist organizations. The University is prohibited from accepting payments from or making donations to any organization on this list. The list of these organizations can be found on OFAC’s website: <http://www.treasury.gov/resource-center/terrorist-illicit-finance/Pages/protecting-index.aspx>

D. Exposure to Sanctions

Although Montclair State University primarily engages in activities within the United States, the following are examples of University transactions which may be impacted by sanctions imposed by OFAC:

- Accepting tuition payments from, or making grant payments to, a student who is on the SDN List;
- Accepting charitable contributions from an individual or organization on the SDN List or Executive Orders;
- Providing services online (e.g., through a distance learning program) to students physically located within a country on the Embargo List (e.g., Cuba, Iran, Sudan);
- Hiring an employee, or entering into an agreement with a vendor, who is on the SDN List;
- Dealing with foreign students and professors from countries on the Embargo List who wish to engage in research restricted by U.S. export controls;
- Sending employees, students or alumni on a trip to a country on the Embargo List;
- Hiring persons from countries on the Embargo List to perform services for the university or its professors such as research or field work;
- Making certifications in grant applications or other contracts regarding university compliance with sanction laws imposed by governments on the Embargo List; and
- Collaborating on research projects with persons or entities from certain sanctioned countries (even if the persons are not SDNs).

The following University Divisions may be impacted by sanctions imposed by OFAC and must comply with this Policy:

- Division of Human Resources is responsible for the employment of individuals by the University and retention of individuals as independent contractors by the University;
- Division of Advancement facilitates charitable contributions from individuals and charitable organizations;
- Division of Academic Affairs establishes agreements of cooperation and student/faculty exchange agreement with institutions located outside of the United States, and assists the Division of Human Resources when employment or contracting with individuals who are not U.S. citizens;
- Division of Academic Affairs is responsible for administering grant contracts to fund research and may involve individuals, institutions and charitable organizations located outside of the United States;
- Division of Student Development and Campus Life is responsible for the admission of individuals to the University;

- Division of Finance is responsible for the acceptance of payment and the making of payment to individuals or institutions located outside of the United States; and
- Division of Information Technology is responsible for communications and data networks and resources.

In order to ensure compliance, the University requires the following:

- Before entering into any transaction, determine whether a person or entity involved in the contemplated transaction is from a country or involves a program on the Embargo List.
- If the country or program is on the Embargo List, consult OFAC's website to determine if the sanctions prohibit the proposed activity, and whether an application for a license must be submitted; and
- Before entering into any transaction, check the names of the persons and entities involved against the SDN list and Executive Orders (either manually using the list published or list search engine on OFAC's website, or through the use of screening software); and
- If there is a valid or potentially valid match between the name of an individual or organization and a name on the SDN List, Embargo List or Executive Order, the University employee should stop the transaction and report the match to the Vice President for Finance and Treasurer who shall contact OFAC as required by applicable law.
- After entering into any transaction, periodically screen person(s) and entities to determine if they or their country have been placed on the Embargo List, SDN List and Executive Orders.

The University expects all staff to be aware of these requirements and to consider them whenever entering into any transactions with or within a foreign country, or with individuals, entities and organizations. Should specific assistance be required, the Office of University Counsel should be contacted.

II. Currency and Banking Reports

A. Mandatory Reporting of Certain Payments Received by the University Over \$10,000

The U.S. Patriot Act requires the University to file a report with the U.S. government if it receives more than \$10,000 in cash or coin, cashier's checks, money orders or bank drafts in a single transaction, or more than one related transaction. Related transactions would include: 1) those taking place within 24 hours; or 2) tuition and fee payments made in installments. The University is not required to file such a report if it receives a payment of \$10,000 or more by personal check.

The University's Office of Student Accounts and the Division of Advancement are locations which may receive payments greater than \$10,000 in single and related transactions. In the event this occurs, the University employee receiving the payment shall: 1) prepare IRS Form 8300 which can be found at: <http://www.irs.gov/pub/irs-pdf/f8300.pdf>; 2) request government

identification from the individual or entity making the payment; and 3) forward the completed IRS Form 8300 and identification to the Vice President for Finance and Treasurer within 5 calendar days after receiving payment.

The Vice President for Finance and Treasurer, or his designee, shall review IRS Form 8300 for completeness and file it with the IRS within 15 calendar days of receipt of the payment by the University. A copy of the IRS Form 8300 and payee identification shall be retained by the University for no less than five (5) years. At the expiration of the five (5) year period, such documents shall be shredded by the University in a manner to prevent unauthorized access to the information contained therein.

B. University Reporting of Suspicious Activity

The University may report suspicious or unusual activity to the U.S. government even if the payment is below \$10,000.00 or is not otherwise required by law to be reported.

The following are a list of examples that may cause suspicion and warrant reporting:

- Unusual size, frequency or type of transaction
- Inconsistency with normal student activity
- Payments are beyond the student's financial means
- Funds received by third party check
- Unusual processing instructions
- Unusual use of an intermediary
- Students or payments sent from countries on the Embargo List or Myanmar (Burma) and Nigeria (identified by the U.S. Government as Non-Cooperative Countries and Territories for failing to have adequate procedures to prevent money laundering);
- Customers from narcotic source countries;
- Pattern of frequent overpayment (e.g., tuition overpayment every semester);
- Pattern of early loan repayment (e.g., taking out a loan, followed by full repayment and another loan within a short time frame);
- Customers acting on behalf of others, with no apparent connection;
- Customers unwilling to provide identifying information;
- Repetitive early withdrawal from enrollment and request for tuition refund;

In the event a University employee believes a payment is suspicious, IRS Form 8300 may be used by checking Box 1B, providing information in the "Comments" Section, and forwarding it to the Vice President for Finance and Treasurer, or his designee. In addition, the Vice President for Finance and Treasurer or his designee may report such suspicious activity through: 1) a referral form created by the U.S. Department of Treasury or 2) to the Federal Bureau of Investigation through its local field offices which can be found at www.fbi.gov/contact/fo/fo.htm, or 3) by contacting OFAC on its hotline at 800-540-6322.

The University shall not inform the individual or entity that it is the subject of the report. The University shall retain a copy of this report for 5 years from the date of the filing. At the

expiration of the five (5) year period, such documents shall be shredded by the University in a manner to prevent unauthorized access to the information contained therein.

C. Freezing Property and Assets

The U.S. government requires the University to freeze or block the property of individuals and entities on the SDN List, Embargo List and Executive Orders that are within the possession or control of the University. For example, if the University receives a payment from an individual on the SDN List, the funds must be placed into an interest-bearing account at a U.S. financial institution and access must be blocked from the individual or entity. If the University has an existing contract with a person or entity who is subsequently placed on the SDN List, the University must prevent any further activity or performance of the contract, and file a report with OFAC.

The University must file a blocked report with OFAC within 10 calendar days of receiving funds from an individual or entity on the SDN List (or within 10 calendar days from the date a person or entity is designated as SDN if, at the time of the designation, the University has an existing contract with, or holds funds in an account on behalf of, the person or entity designated on the SDN List). In addition, reports must be filed if the University receives funds from, or holds funds on behalf of, a country or program on the Embargo List (or any of its agencies, instrumentalities, or entities owned or controlled by it). After filing the initial report, the University must also file an annual report, listing all property received over the course of the year from the individual or entity on the SDN List or Embargo List. The forms for filing these reports can be found on OFAC's website at: <http://www.treasury.gov/resource-center/sanctions/Pages/forms-index.aspx>.

III. Boycott

The U.S. government prohibits individuals and entities from participating in a boycott that is not approved or sanctioned by the U.S. government. The range of boycott-related activity that is prohibited includes but is not limited to:

- Refusing, or agreeing to refuse, to do business with or in Israel;
- Discriminating, or agreeing to discriminate, on the basis of race, religion, sex, national origin or nationality;
- Furnishing, or agreeing to furnish, information about race, religion, sex, or national origin of another person; and
- Furnishing, or agreeing to furnish, information about business relationships with or in Israel.

The University may not agree to any boycott related activity, and any request made to the University or its employees to participate in such a boycott or to conduct activities in any boycotting country must be formally reported to the appropriate U.S. government agency (e.g., Department of Commerce and IRS). If such a request is made to the University, please contact the Divisional Vice President or the Office of University Counsel.

IV. Prohibition Against Payments to Foreign Officials

The Foreign Corrupt Practices Act (“FCPA”) prohibits making a payment, or gift of anything of value to a foreign official for the purpose of influencing the official to give business to or to obtain an improper advantage in securing or retaining business. A “foreign official” could include any employee or contractor of a foreign government. Individuals employed by foreign universities could be characterized as “foreign officials” under the FCPA. The FCPA also states it is unlawful to make a payment to a third party knowing that all or a portion of the payment will go to a “foreign official”.

The FCPA does permit a payment to be made to a foreign official to facilitate routine governmental action, such as, the issuance of a visa, permit or license. FCPA also permits the payment or gift to occur if it is lawful under the laws and regulations of the foreign official’s country. FCPA permits payment of a reasonable and bona fide expenditure by the foreign official, such as travel and lodging expenses directly related to the promotion, explanation or demonstration of a University’s services or the execution or performance of a specific contract, and that have nominal value.

Compliance with the FCPA is dependent upon the facts and circumstances. Please contact the Divisional Vice President or the Office of University Counsel if you have specific concerns regarding compliance with the FCPA. For general information visit the United States Department of Justice site at www.justice.gov/criminal/fraud/fcpa.

V. Export Controls

U.S. export control laws restrict the ability of the University to grant access to foreign nationals present in the United States to certain types of technology and technical data. Three principal U.S. regulatory laws govern the export of items and technology from the U.S., and the re-export or retransfer of the items outside the U.S.:

- The export or re-export of U.S.-origin items or technologies that are commercial in nature is subject to the Export Administration Regulations (“EAR”), administered by the U.S. Department of Commerce, Bureau of Industry and Security (“BIS”). A copy of the updated set of regulations is available at: http://www.access.gpo.gov/bis/ear/ear_data.html.
- The export, re-export, or retransfer of defense articles and related technical data and defense services (i.e., items or technology that are “inherently military” in nature, as determined by the State Department not by the researcher’s intent, as well as most space-related items) is subject to the International Traffic in Arms Regulations (“ITAR”) administered by the U.S. Department of State, Directorate of Defense Trade Controls (“DDTC”).
- For certain prohibited persons or destinations, the export, re-export, or retransfer of all U.S.-origin items or technologies is generally prohibited under regulations administered by the Department of Treasury, Office of Foreign Assets Control (“OFAC”). See Section 1 of this Policy for more details on the Embargo List.

Finally, various other U.S. government agencies administer limited controls on the export, re-export, or retransfer of certain types of items and technologies with which Montclair State University may be involved, such as the following:

- Nuclear Regulatory Commission (“NRC”) (nuclear equipment and materials);
- Department of Energy (“DOE”) (nuclear technology, high energy lasers, etc.);
- Food and Drug Administration (“FDA”) (drugs and medical devices).
- Drug Enforcement Agency (“DEA”) (drugs and certain chemicals).

The Provost and Vice President for Academic Affairs or his designee will receive all reports regarding possible violations of export controls. The Provost will consult with the Office of University Counsel as necessary.