

Academic Affairs Policy on Openness in Research

Approved in Deans Council December 12, 2017 (8-0)

The University relies on the open and free exchange of ideas to meet its mission of discovery and learning and to support the fundamental value of academic freedom ([Regent Law, Article 5.](#)). This commitment to open, fundamental research also allows the University considerable regulatory latitude not afforded to commercial institutions. In keeping with this commitment, the University shall not accept restrictions on research involvement or publication, absent compelling reasons.

There may be circumstances in which the University and the public may benefit from participation in restricted or classified research. The purpose of this policy is to clarify those situations in which the university can accept publication or other restrictions while still preserving the principle of openness in research.

EXCEPTIONS TO OPEN RESEARCH

Proprietary research: sponsored research for which the sponsor or prime contractor requires pre-publication review for the purposes of identifying proprietary information or intellectual property to which the sponsor claims ownership.

The University is committed to working with sponsors to identify and remove proprietary information within reasonable time frames. Research agreements that impose pre-publication reviews of no more than 90 days (as well as an additional 90 days for patent review purposes, if required and by mutual agreement) may proceed according to normal university review procedures. Agreements requiring review periods beyond that require an exemption.

Restricted research: research agreements that impose restrictions on who can participate in the project, or on the ability of the researchers to share information about the project. This may include research agreements that:

- restrain the University from disclosing the existence of a contract or grant, the identity of the sponsor or prime contractor, or the purpose and scope of the research;
- require pre-publication review of results beyond the type of proprietary review described above;
- impose limitations on who in the university community who may participate in the research (e.g., US citizens only). (Restrictions imposed by export control laws are managed by the Office of Export Controls and may not require additional review under

this policy.)

Classified Research: research that bears a security classification from the federal government, such as top secret, secret, or confidential. Classified research restricts some or all of the results, procedures, and personnel working on the project under rules established by the agency for which the research is being conducted.

Exclusions to this Policy

1. Non-classified activities requiring university expertise for technical measurement, analysis, observation, or evaluation that does not normally lead to publishable information
2. Personal consulting by faculty members, in conformance with the “1/6th Rule,” in non-university facilities. (Note that personal consulting conducted in university facilities is included in the policy.)

PETITION TO CONDUCT PROPRIETARY, RESTRICTED OR CLASSIFIED RESEARCH

Prior to performing or agreeing to perform restricted research, researchers must submit a petition for review by the Faculty Committee on Restricted, Proprietary and Classified Research (<https://www.colorado.edu/researchinnovation/restricted-proprietary-and-classified-research>). Petitions to conduct *proprietary* or *restricted* research projects require approval by the Chancellor, or the Chancellor's delegate. Authority for the approval of petitions to conduct *classified* research resides with the Chancellor and cannot be delegated. Approval is required before acceptance of the award by the university. Projects receiving continuation funds do not require either further review or action by the chancellor, or the chancellor's delegate, unless a change in the scope of the required proprietary or security arrangements occurs.

The petition shall be an open document and must contain information sufficient to justify an exemption to the general principle of openness in research. At a minimum, the information provided should address the following questions:

- What efforts have been taken to negotiate restrictions out of the agreement?
- How does the significance of the project outweigh the principles of openness in research and academic freedom?
- How does the project facilitate meeting campus, college and department goals?
- How will the project affect the academic progress of students working with the principal investigator?
- How will publication restrictions affect the career progress of faculty, especially those who are untenured, or post-docs?
- How will faculty and students be informed about security requirements and publication restrictions and the impacts these restrictions may have on their careers?
- What special security arrangements will be needed, and how will they be funded?
- What restrictions will be placed on project participants' ability to discuss their work with colleagues not involved in the project? How will these restrictions be managed?

FACULTY COMMITTEE ON RESTRICTED, PROPRIETARY AND CLASSIFIED RESEARCH (FCRPCR)

The Faculty Committee on Restricted, Proprietary and Classified Research shall be composed of faculty members representing the broad range of scholarly disciplines on the campus, appointed by the Chancellor or her/his designee for three year, staggered terms. The committee shall conduct its deliberations and handle all material with strict confidentiality, rigorously observing national security laws and protecting proprietary information. FCRPCR procedures, forms and other material can be found at <https://www.colorado.edu/researchinnovation/restricted-proprietary-and-classified-research>.

IMPACT ON FACULTY PERSONNEL DECISIONS

The University will continue to base decisions concerning faculty personnel matters on contributions to teaching, research and creative work, and leadership and service. Restricted, proprietary or classified research results that may not be published in the open literature will not be considered in faculty personnel decisions until and unless the research results are released for publication. Any restrictions on publications must be addressed by the petitioner and evaluated by the FCRPCR.

INVOLVEMENT OF STUDENTS

Students must be free to pursue knowledge in an open environment. No thesis or dissertation should be based exclusively on a restricted or classified research project, nor should a thesis or dissertation include restricted or classified information.

Any petition for student involvement in restricted or classified research projects—including participation in faculty personal consulting activities—that could affect students' academic research and publications must include a contingency plan that permits the students to publish their work in due course or provides an alternative means for completing their degree work. This contingency plan must be approved by the faculty member's department head and must also be provided to the student(s).

USE OF UNIVERSITY FACILITIES FOR CLASSIFIED RESEARCH

The university shall strive to maintain campus environments fully open to the university community. Classified research projects shall, therefore, preferably be conducted at off-campus locations unless the Chancellor verifies the necessity of on-campus university facilities for the proposed classified project.

SECURITY COSTS

All security costs required for restricted and classified research shall be borne by the research sponsor. The university may provide facilities to store classified documents.

OTHER REQUIREMENTS

Research conducted under this policy must comply with all other applicable university policies and state and Federal regulations, including but not limited to reviews required for use of human or animal subjects, radiation or biohazards; conflicts of interest; and export controls.

The interests of the Principal Investigator and of the university in patentable discoveries that are made in all research, including that considered restricted, proprietary or classified, shall be protected by University patent policies.

Effective Date: January 1, 2018