

# Q&A Intellectual Property Policy

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Boston Children's Hospital promotes the development of its research and clinical discoveries for the benefit of the public through publication and dissemination of new knowledge and discoveries, and by encouraging inventorship, innovation and entrepreneurship among our faculty and clinicians.

The IP Policy supports Boston Children's mission by encouraging the translation of laboratory research, clinical research and clinical care innovations into lifesaving biomedical products, devices and procedures to benefit the public. Through actively partnering with biotechnology, pharmaceutical, software and medical device companies at all stages (e.g. research, development, pre-clinical and clinical investigation), Boston Children's works to translate the world-class, cutting edge research, discoveries and innovations of its faculty and staff into new therapies, diagnostics and devices that can benefit the public.

***Q: Why have an Intellectual Property Policy?***

A: The Intellectual Property (IP) Policy enables Boston Children's to promote the development of research and clinical discoveries in order to benefit the public, to encourage inventorship, and to build Boston Children's research endowment. (Section I of the IP Policy)

***Q: Does the IP Policy apply to me?***

A: If you work for Boston Children's or any of its affiliated Foundations, whether as a member of the medical staff, research staff, support staff, other employee, or consultant, this Policy applies to you. If you volunteer at Boston Children's, this Policy applies to you. If you are a visiting scientist or faculty member from another institution doing work at Boston Children's, this Policy applies to you, but we will work with your home institution to reconcile conflicts with that institution's policy. (Section II of the IP Policy)

***Q: I am primarily affiliated with another institution and am subject to their IP Policy and their Participation Agreement. Do I still need to sign the Boston Children's Participation Agreement?***

A: Yes, you need to sign the Boston Children's Participation Agreement. Let the Technology Innovation and Development Office (TIDO), your Department Chief or Program Director and Human Resources know the specifics of your situation. TIDO will work with you and the other institution to come up with a reasonable way to handle any inventions that result from your work here, such as sharing the rights to the intellectual property between Boston Children's and your primary institution. With so many joint appointments and visitors, we are accustomed to resolving these situations for outside scientists and clinicians who visit here. (Section III of the IP policy)

***Q: I want to visit another institution that is asking me to sign an agreement that conflicts with the Boston Children's Participation Agreement. What do I do?***

A. Show TIDO and your Department Chief or Program Director the agreement and tell them the specifics. TIDO will work with the institution you are planning to visit to come up with a fair way to handle any inventions you may make in the course of your work there, and will give you guidance on signing the other institution's agreement. (Section III of the IP policy)

***Q. Do I have to sign the Participation Agreement?***

A. Yes. If you work, consult, or volunteer for and/or at Boston Children's, or are on the medical staff of Boston Children's, you must sign the Participation Agreement. Even if you are from another institution and your inventions are covered under an agreement with your home institution, you must sign the Participation Agreement. To avoid conflicts with your home institution or other employment obligations, please list those other obligations on Exhibit A of the Participation Agreement. TIDO will work with the other institution to share IP fairly. (Section III of the IP Policy)

***Q: The IP Policy states that Boston Children's owns all Intellectual Property that I discover, create or develop. What does "Intellectual Property" cover?***

A: Intellectual Property includes all inventions, patents, and copyrightable works such as scholarly works, books, data, photos, drawings, diagrams, web content, videos material, software and apps.

***Q: What about inventions I discover on my own time that are unrelated to my work at Boston Children's?***

A: If your invention is based on an activity supported in whole or in part by funds, personnel, facilities, materials or other resources of Boston Children's, or by funds or resources administered by Boston Children's (such as a grant from a disease foundation or NIH), it is owned by Boston Children's. If you are a physician and you develop a website in the medical field, even if you develop it at home on your home computer, it is owned by Boston Children's (with an exception for certain Academic Works, see below). If you develop a website related to the mechanics of bicycles, it is not owned by Boston Children's. We ask that you disclose inventions of all kinds to TIDO so we may review ownership and avoid any confusion in the future. TIDO and the General Counsel's Office will work with you to determine if your invention is owned by Boston Children's. (Section II, III, and IV of the IP Policy)

***Q: What about my journal articles or book chapters for which I am required to assign copyright to the editor?***

A: These are "Academic Works," which may include journal articles, academic books, and commentaries. (Please note, software is not considered an Academic Work.) Academic Works are works of authorship that share, for the benefit of the public or the field, an activity or

accomplishment within the scope of your academic work. Boston Children's owns copyrights to Academic Works, but grants to you the right to assign the copyright as long as the assignment is for an academic or charitable purpose and the compensation to you is small or limited to reasonable honorarium or royalties. We ask that, if possible, you retain rights for Boston Children's to use the material for its internal purposes. The new IP Policy was revised to make copyright assignment of Academic Works easier for you by clarifying that you may assign the copyright without the permission of Boston Children's. (Section III of IP Policy)

***Q: How do I let Boston Children's Hospital know that I have invented something?***

A: Disclose inventions to TIDO by completing the Invention Disclosure form available at <http://www.childrensinnovations.org>.

***Q: When should I disclose my inventions?***

A: Please inform TIDO as soon as you believe you have created an invention. Don't worry if you think it might be too early; your licensing manager at TIDO will work with you and let you know whether the invention needs more work before entering TIDO's process. Disclosing to TIDO does not by itself protect the Invention, but is an important starting point. TIDO will work with you to determine the inventor(s), the commercial potential, and the best path forward for your Invention, whether it is by filing a patent, using copyright protection, or another route. By disclosing to TIDO early, and certainly prior to making any public statements or publications describing the invention, you give your invention the best chance of protection and commercialization. (Section IV of the IP Policy)

***Q: My latest research could become a useful technology and I'm about to present it publicly. Is there anything I need to do first?***

A: Call TIDO at x43019, email [tido@childrens.harvard.edu](mailto:tido@childrens.harvard.edu) or [contact your licensing manager directly](#). TIDO will work with you to responsibly protect your invention. Contact TIDO when preparing to submit a manuscript or abstract, at least four weeks before your abstract is published or before your poster or oral presentation. TIDO will evaluate your technology and, if needed, arrange for a patent application to be filed. Keep in mind that abstracts are often posted online up to a month prior to scientific and clinical meetings, and maximal protection of rights requires filing before that posting. (Section IV of the IP Policy)

***Q: Is submitting an invention disclosure to TIDO a public disclosure? And does it lock me into the inventor list and other details of the invention?***

A: A disclosure to TIDO is confidential and is not a public disclosure. The purpose of an invention disclosure is to help TIDO learn the details of the invention so as to evaluate the initial commercial and patent potential. TIDO will use this form as a starting point, but in many cases the details of the invention, including inventorship, evolve as TIDO works with you. (Section IV of the IP Policy)

***Q: Who pays the expenses of getting an invention patented?***

A: Boston Children's pays for the patent expenses and manages the entire patenting process through TIDO. When an invention is licensed to a company, Boston Children's will generally arrange with the company to be reimbursed for these expenses. (Section IV of the IP Policy)

***Q: Can I talk about my inventions or unpublished research with a company, venture capital firm, or potential investors?***

A: Contact TIDO at least one week in advance of any discussions, or as soon as your discussion is scheduled, to allow TIDO to put a confidential disclosure agreement (CDA) in place. After a CDA is executed, you will be able to have the discussion without putting the invention or unpublished research at risk. (Section V of the IP Policy)

***Q: I'm collaborating with colleagues at another institution and we've come up with a valuable invention. What should we do?***

A: Disclose your invention to TIDO. A TIDO representative will meet with you to evaluate the invention, and your contribution to it. TIDO will work with the technology transfer office of the other institution to file and manage the invention. TIDO will also negotiate a joint invention agreement that will define the rights and responsibilities of each institution, including how revenue will be handled. (Section IV of the IP Policy)

***Q: How are my inventions protected and commercialized?***

A: TIDO will work with you to develop a commercialization strategy for your inventions. If TIDO decides to file a patent on your invention, TIDO will engage patent attorneys at Boston Children's expense, and will manage the patenting process. TIDO and outside patent counsel will work with you to file the patent(s) with the appropriate inventors named, and will contact you to sign documents related to the patenting process. TIDO will contact appropriate companies to see if they are interested in licensing it, and can also follow up on any leads that you may have. TIDO manages all the negotiation, legal work and expense necessary to get your invention into the hands of a commercial partner that can develop it into a product. (Section IV of the IP Policy)

***Q: I made an invention before January 20, 2015. Does this new IP Policy apply?***

A: Your invention is governed by the policy in place when the invention is licensed, not when the invention is made. So, if you made an invention before January 15, 2015 and a company licenses it after that date, the current IP Policy applies. For licenses signed before January 15, 2015, an earlier policy applies. (Section VI of the IP Policy)

***Q: How is revenue from the commercialization of inventions distributed?***

A: When Boston Children's receives revenue from the licensing of an invention, the revenue first goes to pay back expenses incurred by Boston Children's such as patent filing costs,

licensing costs and litigation costs, as well as any money owed to third party sponsors, co-owners and/or co-inventors of the invention. For inventions licensed after January 15, 2015, the rest of the revenue received by Boston Children's will be distributed as shown in the table below.

Inventor	Inventor's Research Education Endeavor or	Inventor's Dept. and/or Program	Boston Children's Hospital	TIDO
30%	12.5%	12.5%	30%	15%

The inventor's share is divided among all the inventors. It is expected that the share will be split evenly and only adjusted if all inventors agree in writing.

At Boston Children's discretion, distribution of revenue from Copyrightable Works and Materials may be handled separately with the revenue going to the Inventor's research or education endeavor and Department or Program. (Section VI of the IP policy)

***Q: What if I leave Boston Children's?***

A: If you leave Boston Children's the Inventor's share will be paid to you; if you die the Inventor's share will be paid to your estate. All other shares remain with Boston Children's. (Section VI of the IP Policy)

***Q: May I form a company based on my inventions?***

A: If you are considering starting a company, discuss your business plans with your TIDO case manager and your Chief or Program Director. Once you have approval from your Chief or Program Director, TIDO, and the General Counsel, contact TIDO to work with you to determine the best way to commercialize the technology, and to advise on how to get a company off the ground. TIDO will also help to ensure that the confidential information of Boston Children's is protected for any future business conversations. When the time is right, TIDO will negotiate with the company to execute a license or option to the IP. (Section VII of the IP Policy)

***Q: May I accept founder's equity in a company or receive equity in return for consulting services?***

A: To accept equity, you must receive written approval in advance from your Chief or Program Director, the General Counsel and TIDO. (Sections VII and VIII of the IP Policy)

***Q: The Policy talks about extraordinary investments made by my Department, Program or Boston Children's in my research. What does this mean to me?***

A: A department or program may choose to invest in a project in order to advance it toward commercialization. Such an extraordinary investment is generally above \$100,000 and does not include grants, TIDO's Technology Development Fund awards, Translational Research Program awards, Innovestment Awards, gifts, start-up or recruitment packages or other generally available resources. Upon licensing, the Inventor's share of revenue (and the share of the hospital or the department, if either has not invested) will be reduced by 50% until the investment is repaid with interest. Prior to making an extraordinary investment, the Department Chief/Program Director, Boston Children's Chief Executive Officer (or designee), the General Counsel (or designee), and the Director of TIDO will meet with you to agree on how the investment will be used to further the research, and to review how any future revenue distribution will be altered. (Section VI of the IP Policy)

***Q: How else does the IP Policy on Foundation and Department/Program investments in technology affect me?***

A: The development of technology for broad benefit is part of the mission of Boston Children's Hospital. The policy around investments in technology is designed to enable this goal while avoiding favoritism and conflicts of interest, and potential conflict with Boston Children's in such investments. Such investments require the direction of Boston Children's and may not be in companies where the Chief, Program Director or faculty member has a financial interest; or where the Chief is an inventor or claims any intellectual property rights. (Section IX of the IP Policy)

***Q: What if Boston Children's decides not to protect my invention? Is it possible for me to then assume ownership?***

A: Boston Children's may agree to assign the invention to you, if doing so is in the best interest of the public and of Boston Children's. Discuss your plans for the invention with TIDO. Boston Children's may impose conditions such as requiring that you reimburse Boston Children's for its expenses. (Section IV of the IP Policy)

***Q: Academic labs outside of Boston Children's are asking me to send them research materials that I've made and published. What should I do?***

A: If certain criteria are met, published research materials may be distributed by Boston Children's lab's upon completing a standard MTA. [Please refer to this webpage for the appropriate checklist and instructions.](#) If the materials you wish to send do NOT meet all criteria, please contact TIDO at [mta@childrens.harvard.edu](mailto:mta@childrens.harvard.edu). A member of the material transfer team will be in touch with you to help set up the appropriate material transfer agreement.

***Q: I want to consult for a company. Is this allowed?***

A: If you are faculty, you may consult for up to 20% of your professional time, provided that your Chief, Program Director or Vice President approves. You must provide the consulting



agreement to the Office of General Counsel, who will amend it with Boston Children's mandatory consulting terms, which protect Boston Children's IP. The Office of General Counsel does not provide you with personal advice on consulting agreements, so you may also wish to have your own personal lawyer review such agreements. Speaking engagements for no or *de minimus* compensation and expert witness testimony do not need review by the Office of General Counsel. If you would like guidance on whether your consulting requires prior approval and review, please discuss with your Chief or Program Director or Vice President. (Sections VII and VIII of the IP Policy)

***Q: May I sign material transfer agreements, confidentiality agreements and similar documents?***

A: No, only TIDO can sign these agreements. However, certain MTAs may not need TIDO's signature (see above.) (Section V of the IP Policy)

***Q: Who at TIDO is responsible for helping me? How do I contact that person?***

A: Every department has a Licensing Manager who is happy to work with you. You can find your Licensing Manager on TIDO's website ([childrensinnovations.org](http://childrensinnovations.org)) under "Who We Are," or you can simply email [TIDO@childrens.harvard.edu](mailto:TIDO@childrens.harvard.edu) and your email will be directed to the right person.

***Q: Whom do I contact if I still have specific questions about this IP Policy or my inventions and Intellectual Property?***

A: You may contact:

TIDO: The Licensing Manager for your department (see [childrensinnovations.org](http://childrensinnovations.org))

Senior Director TIDO:

Irene Abrams, [irene.abrams@childrens.harvard.edu](mailto:irene.abrams@childrens.harvard.edu), 617-919-3026

The Chief Counsel for Research Affairs:

Dianne McCarthy, [Dianne.McCarthy@childrens.harvard.edu](mailto:Dianne.McCarthy@childrens.harvard.edu), 617-355-4935

***Q: How else does Boston Children's support my work?***

A: Innovation and inventing is a critical component of Boston Children's success going forward and we want to support and encourage innovation. Boston Children staff with are here to guide you on patenting, company formation, legal matters and innovation in general. Additionally, Boston Children's offers many grants, such as the Technology Development Fund, the Translational Research Program Grant and Investment Seed Funding Grants.

***Q. Can I use Boston Children's brand on my materials/inventions?***

A. Any use of the Boston Children's brand must be reviewed and approved by Marketing and General Counsel's office. Use of name and proper nomenclature is included at <http://www.childrenshospital.org//brand>. This also covers use of the Harvard name as approved by the Dean.

***Q. Must I mention Boston Children's in my materials/inventions?***

A. Generally the answer is yes, and requires the review and approval described above. For an exception, please make a request to both the Marketing and Communication's office and General Counsel's office with your rationale.

***Q. How do I mark copyrightable work?***

A. ©[year created]Boston Children's Hospital. All Rights Reserved. For permissions contact [Name and/or title, department or division] Boston Children's Hospital, 300 Longwood Avenue, Boston, MA 02115, [you can give a phone number if you like].