

# Intellectual Property FAQs

## Intellectual Property (IP) at AHS

The purpose of this document is to provide some general responses to frequently asked questions regarding IP at AHS:

- This document is not meant to be exhaustive, but should provide a base knowledge on the subject
- This information is intended for AHS staff and any individual using AHS resources for their research and innovation
- This information reflects the [AHS IP Policy and Procedures](#), but is not meant to supersede such policies or procedures
- This information has been prepared by the Innovation & Business Intelligence team at AHS

## IP Protection

### What is IP?

- IP refers to a creation of the mind, including inventions, literary and artistic works, designs, software, and trademarks
- IP rights are protected by law, making them a valuable asset
- IP not only has economic value, but can also contribute immense societal benefit
- Types of IP include
  - Patents
  - Trademarks
  - Copyright
  - Industrial Designs
  - Plant Breeders' Rights
  - Trade Secrets
- For more information visit the [Canadian Intellectual Property Office \(CIPO\)](#).

### Why should IP be protected?

- Legally protected IP is a valuable asset allowing the owner to gain financial benefit
- If IP is publicly disclosed before it is protected, it can lose its value
- Protecting IP prevents others from taking advantage of the work
- Formal registration of IP rights creates legal documentation for evidentiary purposes in case of IP infringement.

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## Disclosing your IP to AHS

### Do I have to disclose IP that I create to AHS?

- Under [AHS' IP Policy \(#1137\)](#), an IP creator shall report IP that is capable of being protected and of potential commercial value by completing an AHS IP Disclosure Form. This policy applies to all AHS staff and individuals using AHS resources for their research
- Completed IP Disclosure Forms should be submitted to [innovation@ahs.ca](mailto:innovation@ahs.ca)
- Upon receipt of an IP Disclosure Form, our intellectual property consultants will work with you and stakeholders to evaluate the IP and propose a path forward
- In cases when there is an IP creator from another organization, AHS may enter into agreements with the other organization to establish ownership, a lead for commercialization, and revenue sharing
- For more information see [AHS' IP Disclosure Procedure \(#1137-4\)](#).

## Copyright Works

### What is the difference between copyright and IP?

- Copyright is a type of IP
- If you do not intend on commercializing the copyright work, then you do not need to submit an AHS IP Disclosure Form, but you should still mark the work with appropriate copyright notices and disclaimers
- For more specific information on copyright works developed by AHS staff or using AHS resources, please contact [copyright@ahs.ca](mailto:copyright@ahs.ca).

## AHS IP Policy

### Who does the AHS IP Policy apply to?

- The AHS IP Policy applies to all AHS employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of AHS (including contracted service providers as necessary)
- The IP Policy also applies to any individuals using AHS resources for the purpose of innovation and research, including those with joint appointments.

### Who owns IP that is developed at AHS?

- Unless otherwise indicated in the AHS IP Policy, AHS is the initial owner of any IP developed by AHS staff or anyone using AHS resources
- If there are IP creators from other organizations, the IP may be jointly owned

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- Third-party sponsors and funders of research may also have rights through other agreements
- AHS may review requests to transfer ownership of the IP to the creators or another third-party following review of the IP Disclosure Form
- Please refer to the [AHS IP Policy and Procedures](#) for more information.

## Joint Academic Appointments

I have a joint appointment with an academic institution, does the AHS policy apply to me?

- If you use AHS resources in your research, or you are paid a salary from AHS, then yes, the AHS IP Policy applies to you
- If you are unsure if the AHS IP Policy applies to you, you can contact [innovation@ahs.ca](mailto:innovation@ahs.ca) to find out.

I have a joint appointment with an academic institution, who do I disclose to?

- AHS has understandings with the University of Alberta (UA) and the University of Calgary (UC) with respect to managing IP disclosures
- If you are jointly appointed with UA or UC, you can disclose to them and let them know that the AHS IP Policy may also apply to you. Please feel free to forward your University report of invention. A separate AHS IP Disclosure Form is not required
- If you are jointly appointed with an organization other than UA or UC, please contact [innovation@ahs.ca](mailto:innovation@ahs.ca).

## Publishing Your Work

Can I publish my work?

- AHS strongly encourages publications of research findings, but also recommends protecting commercially valuable IP before it is published or publicly presented
- If you have developed IP that could be protected and commercialized, as per AHS policy, you should refrain from publicly disclosing such IP until AHS has had a reasonable opportunity to evaluate the IP in the IP Disclosure Form
- If AHS identifies information in a publication or presentation that could compromise protecting the IP, you may proceed with public disclosure if you remove the identified information, or you can delay public disclosure for up to 90 days to enable the IP to be protected
- Seek advice from [innovation@ahs.ca](mailto:innovation@ahs.ca) before you publicly disclose any potentially commercializable IP

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- If you have already published, please also let us know. While it is not optimal, some countries still allow for certain IP protection even after a public disclosure has been made.

## Can I share my findings with third-parties?

- It is recommended that you have a Non-Disclosure or Confidentiality Agreement in place with any potential partners before you any disclose details of your IP
- Seek advice from [innovation@ahs.ca](mailto:innovation@ahs.ca) before you share any information regarding your IP
- When sharing information of a confidential nature, you should also mark the information as “Confidential”

## Commercialization of IP

### What is commercialization?

- Commercialization means the transfer and/or commercial exploitation undertaken with respect to IP and includes licensing, sale, or further development through a spin-off company or joint venture
- An IP creator is not responsible for paying any costs relating to the commercialization of AHS-owned IP
- AHS will consult with the IP creator with respect to the commercialization strategy for the IP, but the final IP commercialization strategy is determined by AHS
- If AHS no longer wishes to continue to commercialize the IP, AHS may discontinue such efforts provided there are no outstanding contractual commitments, and the IP creator has been offered a transfer of any existing rights relating to the IP in accordance with the [AHS Transfer of Ownership of the Intellectual Property Procedure](#).

## Revenue Sharing

### Who shares revenue received from commercializing IP?

- When AHS owns and commercializes the IP, unless otherwise determined following the assessment of the IP, net revenues shall be distributed as follows:
  - 33.33% to the IP creator;
  - 33.33% to support ongoing innovation and research in the IP creator’s department at AHS;
  - 33.33% to AHS for innovation and research administration and other purposes
- When AHS transfers ownership to the IP creator and the IP creator commercializes the IP, net revenues shall be distributed as follows:
  - 66.67% to the IP creator
  - 33.33% to AHS for innovation and research administration and other purposes

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- In exceptional circumstances, AHS reserves the right to enter into alternate arrangements
- In the event that there is more than one IP creator for any IP, the IP creators shall determine the division of the IP creator share between them.

## Transfer of Rights

### Can I request assignment (transfer of ownership) of IP rights from AHS?

- When completing the IP Disclosure Form, you will choose either to commercialize the IP through AHS or to commercialize the IP independently and request that AHS transfer ownership of the IP
- AHS will review requests to transfer IP either to the IP creator or to a third-party, but is not obligated to transfer the IP
- When AHS decides to transfer IP to the IP creator or to a third-party for commercialization, it shall ensure that it obtains fair value for such IP transfer
- AHS shall retain a perpetual, royalty-free, non-exclusive, and irrevocable license to make, use, and modify any transferred IP solely for use by AHS, its affiliates and any third-party health care provider in the Province of Alberta for not-for-profit activities or for the provision of health care services
- Before AHS-owned IP is transferred to an IP creator, AHS and the IP creator will enter into an agreement regarding collecting, reporting, and sharing of net revenues. Each party is responsible for its own legal costs in negotiating the terms of such agreement
- When AHS has transferred IP to the IP creator, the IP creator will report and obtain approval from AHS prior to any subsequent transaction whereby the rights to the IP are transferred to another party that is either directly or indirectly not at arm's length to the IP creator.

### When will AHS consider transferring ownership of IP?

- When the IP is not relevant to AHS or is not a health system priority
- When the bulk of resources used in the development of the IP were not from AHS
- When the IP creator is willing and has the capability to undertake commercialization efforts
- When AHS is satisfied that its affiliation agreement partners will diligently pursue and report to AHS on their IP protection and commercialization activities.

### When will AHS consider retaining ownership of IP?

- When there is a request by an IP creator
- When there is strategic relevance to health care or an end user
- When there is greater potential for successful adoption or commercialization with AHS as the owner

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- When retaining ownership decreases risk and conflict of interest
- When there is a contractual stipulation of a sponsor or funding agreement
- When there is an overall net benefit to the parties
- When there is an increased likelihood for use in a health care environment
- When significant AHS resources were used in IP development.

If you have additional questions or require any assistance with respect to IP, please contact [innovation@ahs.ca](mailto:innovation@ahs.ca). Thank you.

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