

Guidance for Use of the Harvard Participation and Visitor Participation Agreements

Background: Anyone who conducts research at Harvard is subject to policies that address issues such as academic integrity, conflicts of interest, protection of human and animal research subjects, the open dissemination of research results and the handling of intellectual property (“IP”). These policies are intended not only to advance the University’s public mission and maintain its reputation as a leading center of scholarly excellence, but also to facilitate compliance with the terms of its research-related agreements with other organizations, such as sponsors of research (whether governmental, non-profit or corporate), external collaborators and third-party providers of other resources (*e.g.*, data, equipment, facilities, computer code or other materials) used in Harvard-administered activities.

Purpose: To facilitate compliance with all applicable Harvard policies and agreements, and so mitigate the reputational and financial risks associated with non-compliance, Harvard utilizes its Participation Agreement (“PA”) and Visitor Participation Agreement (“VPA”) forms. By signing these forms, the terms of which are non-negotiable, individuals:

- Agree that they will abide with the terms of all Harvard policies and agreements that may apply to their work; and
- With respect to IP developed through their Harvard activities:
 - Agree to cooperate with the University’s representatives to protect the IP; and
 - Assign (or ‘deed’) to Harvard their rights in IP that Harvard is entitled to own.

Who should sign: Except as described below, each person who conducts research at (or administered by) Harvard and/or who participates in any externally-supported studies or programs, including:

- Faculty members;
- Staff members;
- Postdoctoral or other research fellows;
- Students; and
- Visitors

Exceptions: The following, do not, by themselves, trigger the PA/VPA signature requirement:

- Engagement as a consultant, for which all issues of research compliance and IP ownership should be addressed in the consulting agreement.
- Use of, or receipt of services from, a Harvard core facility under the terms of its user or vendor agreement, as applicable, even by personnel of other organizations.

In addition, the Harvard Office of Technology Development (“OTD”) and its counterpart office at the Massachusetts Institute of Technology (MIT) have agreed to a reciprocal arrangement with respect to visiting researchers. Visitors from MIT need not sign the VPA unless they are undergraduates.

Timing and PA/VPA signature:¹ The PA or VPA should be signed before an individual begins any research or engages in any externally-supported activity at Harvard. Timing is critical, since a delay can cause Harvard to lose its IP rights to any third party that might stake an earlier claim.² Ideally, the PA

¹ For further details, please refer to **Appendix A**.

² In the case of *Stanford v. Roche*, the U.S. Supreme Court awarded ownership of a patent covering a valuable, federally-sponsored invention to Roche after a Stanford postdoc who visited a Roche facility for a day mistakenly assigned his rights in future IP to the company under the terms of a confidentiality agreement all visitors were

signature requirement is stated as a condition of employment, visitation or enrollment, as appropriate, in any offer letters sent to faculty and staff members, postdocs or other research fellows, invitations to visitors and letters of admission to PhD and other Harvard degree programs that require a research dissertation. Undergraduates or students pursuing graduate degrees for which original research may be optional should sign the PA only if and when they engage in Harvard-administered research or are permitted to use Harvard-administered research funds or infrastructure, other than in connection with ordinary coursework. ***Foreign visitors should be asked to sign and return the VPA before leaving their home country, so that if a visitor is unable or unwilling to sign the VPA, the issue can be addressed before he or she travels to the U.S.*** Similarly, where the VPA for corporate visitors requires countersignature by an authorized company representative, it is best to start early and, if necessary, involve OTD before the visitor arrives on campus.

Responsibility for securing PA/VPA signatures: While each School/tub may elect to implement PA/VPA signature in the manner that best meshes with its internal practices, the PA or VPA is best handled locally, at the level of the Department or research group that has hired, appointed, admitted or invited a given individual. In the case of undergraduates and graduate students enrolled in programs that do not require original research, signature should be secured by the administrator or manager of the research group such a student is joining or, if no research group, by whomever approves a given student's use of Harvard-administered research funding or infrastructure in his/her work. If an individual who has not signed a PA or VPA is named among key personnel on an external funding proposal, signature should be requested by the relevant grants administrator.

PA or VPA document retention process:³ A signed PA or VPA is only useful if it can be found when needed. Harvard individuals should sign the PA using an electronic signature tool that instantaneously links each individual's dated signature to his or her "People" records in GMAS. This not only facilitates document retrieval, but also ensures use of the PA form that is current as of its date of signature. The tool is accessed *via* Harvard Key login at:

<https://www.pin1.harvard.edu/cas/login?service=https%3A%2F%2Fgmas.harvard.edu%2Fgmas%2Fparticipationagreement>

Because it is best for visitors to sign before arriving at Harvard, the VPA exists only on paper. There are several [VPA forms](#), each tailored to a different type of organization, and geographic region, from which a visitor may have come (see **Appendix B**, "Harvard Visitor Participation Summary Sheet"). The signed VPA should be scanned and uploaded to the "Documents" folder in the visitor's "People" record in GMAS. If the visitor does not receive a Harvard appointment, a GMAS record should be created for him/her to enable retrievable archiving of his/her VPA.

PA or VPA? Determining who is a "visitor": For purposes of deciding who should sign a VPA form, as opposed to the 'regular' Harvard PA, a researcher should be considered a visitor if:

- he/she is employed by or primarily affiliated with another organization (including the HMS-affiliated medical centers);
- a student is enrolled at another institution;
- the researcher will not be employed/enrolled elsewhere while at Harvard, but he/she:

required to sign. The Court ruled that by the time he tried to fulfill his obligation to assign those rights to Stanford, he no longer could do so, where Roche already owned them.

³ For further details, please refer to **Appendix A**.

- already has agreed to take up or resume employment with another organization upon leaving Harvard;
- plans to participate in Harvard-administered research without a formal Harvard appointment; or
- will have a Harvard appointment with a title designated as, “Visiting” or “Visitor”.

The following do not, by themselves, indicate visitor status:

- Receipt by a researcher of a stipend directly from an outside foundation or funding agency.
- Appointment of a researcher for a short or otherwise fixed term.

Changes in status: If a visitor subsequently enrolls as a Harvard student or becomes primarily employed by Harvard, he or she should then sign the ‘regular’ Harvard PA. In general, if a Harvard faculty member, employee, student or other trainee leaves the University and then returns while primarily employed by or affiliated with a different organization, he or she should sign the appropriate VPA form.

Requests to negotiate terms *OR* refusals to sign:

- **The PA:** The terms of the PA are non-negotiable, and refusal to sign the PA is a compliance issue that should be referred to the Office of the Vice Provost for Research (OVPR).
- **The VPA:** In general, the terms of the VPA are similarly non-negotiable. Refusals to sign the form ‘as is’ should be referred to the OVPR, where a decision will be made as to whether or not to waive the VPA signature requirement based on a case-by-case risk assessment, with a single exception, as follows:
 - Some VPAs that cover visitors from *for-profit* organizations may be modified by the terms of research agreements (*e.g.*, industry-sponsored research agreements or collaboration agreements) signed by OTD. Any refusals to sign or requests to negotiate corporate VPAs should be referred to OTD at otd@harvard.edu

Appendix A
Harvard PA/VPA signature and retention process summary sheet

Who?	When?	How signed?	How archived?
Faculty member employed by Harvard	Employment start date, if not earlier named as a PI on any external funding proposal processed by OSP/SPA	Electronically	Automatically, upon electronic signature
	Date of submission of first sponsored proposal processed by OSP/SPA, if earlier than employment start date	Electronically, if after creation of GMAS "People" record	Automatically, upon electronic signature
		On paper*, if prior to creation of GMAS "People" record	Signed PA is scanned and uploaded to GMAS "People" record, once created
Staff member employed by Harvard	Employment start date (or prior to conducting Harvard-administered research or participating in an externally-supported activity, if not initially employed to do so)	Electronically	Automatically, upon electronic signature
Postdoctoral or other research fellow (a) <i>not</i> affiliated with another organization and (b) appointed by Harvard other than as visitor	Appointment start date	Electronically	Automatically, upon electronic signature
Harvard graduate student (PhD, AM or SM)	Enrollment start date, unless beginning Harvard-administered research prior to term	Electronically	Automatically, upon electronic signature
	Upon arrival on campus, if beginning Harvard-administered research prior to term	Electronically, if after creation of GMAS "People" record	Automatically, upon electronic signature
		On paper*, if prior to creation of GMAS "People" record	Signed PA is scanned and uploaded to GMAS "People" record, once created
Other Harvard students (graduate, professional or undergraduate)	Upon the first to occur of: <ul style="list-style-type: none"> • Receipt or use of funds (other than need-based financial aid) provided by or through Harvard in support of research; • Use of Harvard research facilities, equipment, space or materials; or • Participation in any Harvard-administered project or externally-supported program 	Electronically	Automatically, upon electronic signature
Visitors	Before the visitor is paid or granted access to Harvard research facilities. <i>For further details, please consult Appendix B, below.</i>	On paper.	Signed VPA is scanned and uploaded to GMAS "People" record, once created

*Please note that any PA or VPA form signed on paper must be the version currently provided on the OVPR website, so a fresh copy should be downloaded for each use.

Appendix B
Harvard Visitor Participation Agreement (“VPA”) summary

The VPA should be signed before the visitor is paid or is granted access to Harvard research facilities, so each visitor should be provided with the VPA well in advance of his or her planned arrival at Harvard. To ensure in each instance that the correct form is used and that it is current, please select the appropriate form of VPA for a given visitor and download that form as a fresh PDF, using the information and hyperlinks provided below:

Visitor’s home organization, if any	VPA form visitor should sign
HMS-affiliated medical center	HARVARD UNIVERSITY VISITOR PARTICIPATION AGREEMENT for visitors from Harvard-Affiliated Medical Centers
U.S. non-profit or governmental institution <i>other than</i> an HMS-affiliated medical center	HARVARD UNIVERSITY VISITOR PARTICIPATION AGREEMENT for visitors from U.S. non-profit and governmental institutions OTHER THAN the Harvard-affiliated medical centers
Foreign non-profit organization	HARVARD UNIVERSITY VISITOR PARTICIPATION AGREEMENT for visitors from foreign non-profit institutions and for unaffiliated individuals
None (visitor is unaffiliated with any organization)	HARVARD UNIVERSITY VISITOR PARTICIPATION AGREEMENT for visitors from foreign non-profit institutions and for unaffiliated individuals
U.S. or foreign for-profit organization (<i>i.e.</i> , a company)	HARVARD UNIVERSITY VISITOR PARTICIPATION AGREEMENT for visitors from for-profit organizations (U.S. and foreign)

Each signed VPA should be scanned and uploaded to the visitor’s “People” record in GMAS. If no such record exists (*i.e.*, if the visitor is not to be given a formal Harvard appointment), you must create a GMAS record for archiving of the visitor’s VPA. Other than GMAS, there is no central repository for VPA forms, so this step is essential.