# 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 offices at the Massachusetts Institute of Technology (MIT) and the Dana Farber Cancer Institute (DFCI) have agreed to reciprocal arrangements with respect to visiting researchers. Visitors from MIT need not sign the VPA unless they are undergraduates. Visitors from DFCI need not sign the VPA.

**UPDATE: SPECIAL PROVISION for Harvard researchers who have left or are leaving the University:** Note that the PA, once signed, does not expire. Instead, it continues to apply whenever an individual uses Harvard-administered resources in their work or participates in an activity that is covered by an agreement between the University a third party. Often, a researcher who has left or is leaving Harvard wishes to return as a visitor or be appointed as an Associate, so that they may resume or continue use of Harvard-administered resources, whether to engage in further collaboration with former colleagues or to complete experiments in progress at the time of their departure, *e.g.*, to finalize results for publication. In such cases, if the researcher signed and Harvard retains a currently-acceptable version of the PA prior to signing any employment agreement or similar document with their current organization (in other words, while still at Harvard and not yet involved with their present employer), the VPA is not needed: in fact, seeking signature of the VPA in such situations is undesirable, as doing so could prompt an interested party to argue (which Harvard would contest) that the PA no longer is in effect. For purpose of this special provision, acceptable versions of the PA include:

* any version signed in GMAS *via* the electronic signature tool launched in November 2011; and
* any paper version that provides for a “present assignment” of intellectual property.

In other words, all electronic signatures logged in GMAS are acceptable, while only a subset of paper forms provide the protections that Harvard needs. Note that no PA signed prior to 2008 is acceptable. If you plan to rely on a signed paper PA, please contact OTD by e-mail at [otd@harvard.edu](mailto:otd@harvard.edu), to have the form reviewed for acceptability under this special provision.

Once the University determines that an acceptable version of the PA has been signed, and that signature was timely, it will be contingent upon the researcher to mitigate the risk of conflict between their Harvard-related activities and their work for their present employer. To do so, it is suggested that they explain to their employer:

* that the PA continues to apply to any work:
  + that they might conduct at Harvard;
  + that they might conduct through the use of funds, facilities, equipment, materials or space provided by or through Harvard; or
  + that is within the scope of activities covered by any agreement between Harvard and a third party, of which some common examples include a research sponsorship or collaboration agreement, material transfer agreement or data use agreement;
* that with respect to any such work, the researcher remains obliged to comply with Harvard’s internal policies, including, among other matters, with respect to the publication of research results, and the ownership of data, inventions, software, databases and unpatented materials; *BUT*
* any conflict between the researcher’s obligations to Harvard and their present employer can be avoided if (1) their activities at or for the two organizations are conceptually distinct from each other *and* (2) if no information, materials, equipment, funds or other resources of Harvard are used in activities conducted for the researcher’s present employer.

It is then up to the researcher’s present employer to decide whether that organization will allow the researcher’s proposed visit or use of Harvard-administered resources to take place, in view of Harvard’s established rights, and, if so, the scope of activities in which they might be permitted to engage.

**Timing and PA/VPA signature:**[**1**](#_bookmark0)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](#_bookmark1) 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 whoever 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**](#_bookmark2)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%2Fparti](https://www.pin1.harvard.edu/cas/login?service=https%3A%2F%2Fgmas.harvard.edu%2Fgmas%2Fparticipationagreement) [cipationagreement](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,](https://vpr.harvard.edu/visitor-participation-agreements) 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, AND had not signed the PA prior to having signed an employment agreement or similar document with that organization;
  + 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 *ONLY IF* they did not sign a currently-acceptable version of the PA prior to having signed an employment agreement or similar document with their current organization (*see,* “UPDATE: SPECIAL PROVISION”, above).

# 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](mailto: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) *not* 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:   * 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, whichever comes first. *For further details, please consult* ***Appendix B****, below.* | 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 (whichever comes first), 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](https://cpb-us-e1.wpmucdn.com/websites.harvard.edu/dist/6/18/files/2020/07/vpa_for_harvard_university_affiliated_academic_medical_centers_002.pdf)  [AGREEMENT for visitors from Harvard-Affiliated Medical Centers](https://cpb-us-e1.wpmucdn.com/websites.harvard.edu/dist/6/18/files/2020/07/vpa_for_harvard_university_affiliated_academic_medical_centers_002.pdf) |
| U.S. non-profit institution *other than* an HMS-affiliated  medical center | [HARVARD UNIVERSITY VISITOR PARTICIPATION](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_visitors_from_us_non-profit_and_govt_institutions_other_than_harvard_amcs_final_11-7-14.pdf)  [AGREEMENT for visitors from U.S. non-profit and governmental](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_visitors_from_us_non-profit_and_govt_institutions_other_than_harvard_amcs_final_11-7-14.pdf) [institutions OTHER THAN the Harvard-affiliated medical centers](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_visitors_from_us_non-profit_and_govt_institutions_other_than_harvard_amcs_final_11-7-14.pdf) |
| Any U.S. governmental agency or institution | [HARVARD UNIVERSITY VISITOR PARTICIPATION AGREEMENT for visitors employed by the U.S. Government](https://cpb-us-e1.wpmucdn.com/websites.harvard.edu/dist/6/18/files/2020/07/harvard_university_visitor_participation_agreement_for_visitors_from_us_government_only.pdf) |
| Foreign non-profit organization | [HARVARD UNIVERSITY VISITOR PARTICIPATION](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_unaffiliated_individuals_and_visitors_from_foreign_non-profits_final_11-7-14.pdf)  [AGREEMENT for visitors from foreign non-profit institutions and for](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_unaffiliated_individuals_and_visitors_from_foreign_non-profits_final_11-7-14.pdf) [unaffiliated individuals](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_unaffiliated_individuals_and_visitors_from_foreign_non-profits_final_11-7-14.pdf) |
| None (visitor is unaffiliated with any organization) | [HARVARD UNIVERSITY VISITOR PARTICIPATION](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_unaffiliated_individuals_and_visitors_from_foreign_non-profits_final_11-7-14.pdf)  [AGREEMENT for visitors from foreign non-profit institutions and for](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_unaffiliated_individuals_and_visitors_from_foreign_non-profits_final_11-7-14.pdf) [unaffiliated individuals](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_unaffiliated_individuals_and_visitors_from_foreign_non-profits_final_11-7-14.pdf) |
| U.S. or foreign for-profit organization (*i.e.*, a company) | [HARVARD UNIVERSITY VISITOR PARTICIPATION](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_visitors_from_for-profit_organizations_final_11-7-2014.pdf)  [AGREEMENT for visitors from for-profit organizations (U.S. and](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_visitors_from_for-profit_organizations_final_11-7-2014.pdf) [foreign)](http://files.vpr.harvard.edu/files/vpr-documents/files/visitor_pa_for_visitors_from_for-profit_organizations_final_11-7-2014.pdf) |

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.