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Alberta Health Services Executive Leadership Team

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Intellectual Property Policy (#1137)

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NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

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OBJECTIVES

- To outline the rights and obligations of Alberta Health Services (AHS) and **intellectual property creators (IP creator)** in the resolution of disputes relating to **intellectual property (IP)**.

APPLICABILITY

Compliance with this document is required by all Alberta Health Services employees, members of the medical and midwifery staffs, students, volunteers, and other persons acting on behalf of Alberta Health Services (including contracted service providers as necessary).

ELEMENTS

1. Points of Emphasis

- 1.1 Any disputes about IP or the application of the *Intellectual Property Policy* or related procedures that cannot be resolved by the parties involved and their supervisors is to be referred in writing to the Vice President, Provincial Clinical Excellence (VP, PCE). No action is to be brought by the IP creator against AHS, or by AHS against the IP creator, in any court of law on any matter arising out of the *Intellectual Property Policy* or its procedures until both parties have worked through the dispute resolution process as identified in the Policy and this Procedure.
- 1.2 Disputes involving third parties are subject to any applicable **affiliation agreement**, if one is available. If you are unsure how to proceed with a third party dispute, contact Legal & Privacy for assistance.

2. Assessment

- 2.1 The VP, PCE may request in writing that all parties to the dispute provide all relevant material regarding the dispute within 10 working days of the original request.
- 2.2 The VP, PCE may invite comments from interested parties and consult with experts under a strict confidentiality procedure as appropriate.
- 2.3 The VP, PCE shall share the opinion of the experts with the interested parties and invite their comments within five (5) working days.
- 2.4 Within 60 days of having received all relevant materials and information, the VP, PCE shall advise the parties in writing of their decision on the dispute.
- 2.5 In exceptional circumstances, the VP, PCE may take more than 60 days to provide a decision. The requirement for an extension and rationale is communicated to the parties within the 60 day timeline.

3. Appeal of Decision of the Vice President, System Innovations and Programs

- 3.1 An appeal of the decision shall be made in writing to the President and Chief Executive Officer (CEO) within 10 working days following receipt of the decision by the IP creator.
- 3.2 The CEO may meet separately and/or jointly with the parties or form a dispute resolution committee as required to determine the facts and possible resolutions.
- 3.3 The CEO shall recommend a resolution to the parties on a timely basis. If one or more parties rejects the recommendation, the party(ies) shall request in writing within 10 working days that the dispute proceed to arbitration.

4. Arbitration

- 4.1 The parties shall agree between them to identify a single arbitrator. Arbitration shall be in accordance with the *Simplified Arbitration Rules* of the Alternative Dispute Resolution (ADR) Institute of Canada, Inc. The place of the arbitration shall be in Edmonton or Calgary, Alberta. The language of the arbitration shall be English. The decision of the arbitrator shall be final and binding on the parties.
- 4.2 The costs associated with arbitration shall be shared equally by all parties.

DEFINITIONS

Affiliation agreement means a formal legal contract, including a master IP agreement and any sub-agreements, between AHS and another organization, usually an academic institution, which defines the terms of their relationship. These terms may include, but are not limited to, shared and/or overlapping responsibilities for IP, staff, and students.

Intellectual property (IP) means:

- the intangible nature of works or creations that is unique and original;
- any tangible expression thereof;
- the rights arising from the legal protection of IP, including copyright, trademarks, patents, industrial designs, and integrated circuit topographies; and
- know-how and other trade secrets.

IP includes, but is not limited to, technology, technical information, data, databases, formulae, computer software, computer code, drawings, graphics, designs, concepts, ideas, apparatus, processes, research tools, prototypes, methods, techniques, and all original literary, dramatic, musical, and artistic works, all print, multimedia electronic and audiovisual materials, manuals, program packages, and educational materials.

Intellectual property creator (IP creator) means the originator of IP who is an AHS employee, an individual working in association with an AHS employee, an individual using AHS resources, or a partnership of one or more individuals or organizations.

REFERENCES

- Alberta Health Services Governance Documents:
 - *Intellectual Property Policy* (#1137)

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