

# Confidential Disclosure Agreements

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## Scope

This policy applies to all HHMI laboratory heads (i.e., Investigators and Freeman Hrabowski Scholars at HHMI's host-based sites, and Senior Group Leaders, Group Leaders, Principal Scientists, and Fellows at HHMI's Janelia Research Campus) and members of their laboratories.

## Policy

### Overview

A confidential disclosure agreement (CDA) is an agreement in which one or all parties agree to maintain certain non-public, proprietary information received from the other party(ies) in confidence under the agreement and use it only for specified purposes. CDAs may also be called non-disclosure agreements, secrecy agreements, or confidentiality agreements. A CDA can arise in a number of contexts. It is not uncommon, for example, for a company or non-profit organization to require a CDA before it engages in initial discussions with a scientist about a possible research collaboration, funding arrangement, or consulting relationship, including in connection with the formation of a start-up company.

Typically, HHMI is not a party to CDAs covering host-based HHMI laboratories; the obligations are those of the host institution or individual scientist who signs the CDA. HHMI review and approval are required before a host institution or scientist may sign certain CDAs for host-based laboratories, as specified below. Host institutions and HHMI laboratory heads and their laboratory members should contact the [HHMI Attorney](#) responsible for their site to discuss any questions about CDAs.

Except for CDAs in contemplation of consulting, HHMI is typically a party to CDAs covering Janelia laboratories. Janelia scientists should contact the [HHMI Attorney](#) responsible for Janelia to discuss any questions about CDAs.

HHMI's primary concern with CDAs is to ensure that they do not place inappropriate restrictions on the ability of HHMI researchers to conduct and publish their own research. For example, a CDA should not allow an organization providing information to an HHMI laboratory head to prevent the laboratory head from publishing their research findings, even if the publication includes information similar to that received under the CDA.

If a CDA requires HHMI review as specified in this policy, host institutions and HHMI laboratory heads and members of their laboratories may not sign the CDA until it has been reviewed and approved by HHMI.

## **CDAs – Research**

HHMI review and approval of CDAs covering discussions about a potential research collaboration with, or company funding arrangement for, a host-based HHMI laboratory (“Research CDAs”) is not required unless (1) the HHMI laboratory head is a party to the Research CDA, or (2) the proposed arrangement (a) goes beyond discussions of a potential future arrangement (e.g., covers the performance of research or other work or covers the sharing of software, equipment, tangible research materials, or anything other than information), (b) includes provisions relating to the publication of research results from an HHMI laboratory, including provisions that limit or prevent an HHMI scientist from publishing their research results, or (c) contains provisions that are inconsistent with the host collaboration agreement between HHMI and the applicable host institution.

All CDAs covering discussions about a potential research collaboration with a Janelia scientist must be reviewed and approved by the [HHMI Attorney](#) responsible for Janelia.

## **CDAs – License Agreements**

HHMI review and approval of CDAs covering discussions about the potential licensing or commercialization of a discovery arising from an HHMI host-based laboratory is not required. HHMI host institutions are responsible for taking the lead on licensing or commercializing such discoveries. HHMI laboratory heads and their laboratory members should coordinate with their host institutions on CDAs for these types of discussions.

All CDAs covering discussions about the potential licensing or commercialization of a discovery arising from a Janelia laboratory must be reviewed and approved by the [HHMI Attorney](#) responsible for Janelia.

## **CDAs – Consulting**

HHMI reviews and approves CDAs covering discussions about potential consulting agreements with HHMI laboratory heads (“Consulting CDAs”). The HHMI laboratory head who will provide the potential consulting services is typically a party to a Consulting CDA. HHMI laboratory heads may disclose to a company any information that the HHMI laboratory head would normally freely disclose to other members of the scientific community at large, whether by publication, by presentation at seminars, or in informal scientific discussions. However, the HHMI laboratory head may not disclose to a company information that is proprietary to HHMI or the HHMI laboratory head’s host institution and is not generally available to the public other than through formal technology transfer procedures. Accordingly, Consulting CDAs must be one-way in favor of the company, only imposing confidentiality obligations on the HHMI employee signing the CDA and not on the company. HHMI has a [CDA- Proposed Consulting Form Agreement](#) that may be used to cover an HHMI laboratory head’s discussion of a potential consulting arrangement with a company. This form is not required to be used; if a company prefers to use its own form consulting CDA, HHMI laboratory heads should send the agreement to the [HHMI Attorney](#) responsible for their site or Janelia, as applicable, for review.

Some companies request that scientists sign a CDA before giving a short talk or seminar at the company or before having a one-time meeting to provide advice; this is considered consulting and is subject to HHMI's policies on consulting.

### **Other CDAs**

If a host institution or HHMI scientist is asked to sign a CDA not otherwise addressed by this policy that covers HHMI research or activities done by an HHMI scientist, the host institution or HHMI scientist should send the agreement to the [HHMI Attorney](#) responsible for their site or for Janelia, as applicable, for review.

## **Related Procedures, Forms, and Policies**

- [Proposed Consulting form agreement](#)

## **Contact**

If you have any questions about any aspects of this policy, please contact the [HHMI Attorney](#) responsible for your site or Janelia.

Issued by: Science  
Issue Date: 06/05/2007  
Last Reviewed: 09/29/2025  
Last Updated: 2/13/2024