

HOWARD HUGHES MEDICAL INSTITUTE

STATEMENT OF POLICY ON COMPENSATED MATERIAL TRANSFERS

The sharing of scientific materials among the members of the research community is a traditional part of scientific citizenship. The Institute signs agreements governing such transfers as part of the ongoing operation of its laboratories and actively participates in negotiating the terms of such agreements. The Institute has adopted policies relating to such materials transfers and has developed several forms to assist investigators in carrying out those policies.

It has come to our attention that, in some cases, a fee is imposed in connection with transfers of materials or information (collectively, “materials”) developed in the laboratories of faculty members, including those who are Institute investigators. The treatment of such fees under the agreements between the Institute and the host institutions governing the rights in intellectual property arising in Institute laboratories may vary, depending on the purpose for which the fees are charged.

In some cases, host institutions impose a modest processing fee on each transfer to defray the costs of responding to requests for materials, including producing the materials and preparing them for shipping. These fees are in the nature of an administrative charge that is calculated with reference to the cost to the institution rather than the market value of the material in question. The Institute does not treat the receipt of such fee income as royalties or revenue from a “subject property” that is subject to the income-sharing provisions of the governing agreement and, accordingly, will not claim any share of the fees. Such fee income may be used to reimburse the party who incurred the cost of providing and distributing the materials or for the general research of an investigator’s laboratory in which the materials were developed but may not be made available for the personal use of the investigator or any other person in the investigator’s laboratory.

In other cases, investigators have developed materials that have commercial value in excess of the cost of producing and shipping the materials. In such cases, some host institutions have chosen to make the material available at no charge to academic scientists but impose a charge reflecting its market value as a precondition to providing it to commercial enterprises. The Institute regards this practice as the commercial exploitation of subject property that is subject to the assignment and income-sharing provisions of the governing agreement. This treatment will apply regardless of the form of the commercial transaction, whether cast as a license, material transfer, gift, bailment, or otherwise. It is expected that the Institute’s allocable share of the proceeds will be paid to the Institute in the same manner as other royalties.