# THE UNIVERSITY OF TEXAS AT AUSTIN
# INSTITUTIONAL REVIEW BOARD
# POLICIES AND PROCEDURES MANUAL

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Section 1: Introduction

1.1 Background Information

Review of the history of human subjects research provides us with many examples of unethical and inhumane treatment of human research subjects. Perhaps the most infamous examples were perpetrated by Nazi physicians during World War II, but there are several other examples of unethical research activities that took place in the United States.

As a result, several international codes arose that addressed the issues of ethical treatment of research subjects. In 1947, the Nuremberg Code established ten major ethical principles for human subjects research and later the World Medical Association established its own code of research ethics at a meeting in Helsinki, Finland and revised it several times over the years to keep pace with the changing technologies and types of human subjects research.

In the United States, concern over the rights and welfare of humans involved in research prompted changes in grant policy. In 1974 Congress enacted the National Research Act (P.L. 93-348) establishing a National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. In 1979, the National Commission published the now well-known Belmont Report that identified three basic ethical principles as relates to human subjects research. The principles are; respect for persons, beneficence, and justice. In January 1981, human subjects regulations were amended to provide a common framework within which Institutional Review Boards (IRBs) could review human subjects research. The regulations were codified in 1991 under Title 45, Part 46 of the Code of Federal Regulations. Subpart A of the codification was accepted by seventeen Federal Agencies as “the Common Rule.”

1.2 Mission

The University of Texas at Austin

The mission of The University of Texas at Austin (University) is to achieve excellence in the interrelated areas of undergraduate education, graduate education, research and public service. The University provides superior and comprehensive educational opportunities at the baccalaureate through doctoral and special professional educational levels.

The University contributes to the advancement of society through research, creative activity, scholarly inquiry and the development of new knowledge. The University preserves and promotes the arts, benefits the state’s economy, serves the citizens through public programs and provides other public service.

The University’s Human Research Protection Program (HRPP)

Coupled with the research programs, the University strives to protect the rights and welfare of human subjects who choose to participate in biomedical or socio-behavioral science research and has an organized and systematic program in place for the protection of research subjects that includes a commitment to the principles and guidelines for protecting research subjects contained in the Belmont Report. Central to this program, the University maintains a Federal Wide Assurance (FWA) of Compliance (hereafter referred to as “Assurance”) with the Department of Health and Human Services’ Office for Human Research Protections (OHRP) (FWA # 00002030). This Assurance is updated periodically and commits the University to abiding by all federal regulations and guidelines with respect to its research activities involving human subjects. Based on the principles of the Belmont Report - respect for persons, beneficence, and justice - the over-arching goal of the Human Research
Protections Program (HRPP) is to protect the rights and welfare of human research subjects at the University.

1.3 Institutional Commitment

The University leadership is committed to upholding the University’s Assurance, improve the research infrastructure to ensure a strong HRPP and, through evaluation and assessment, initiate required improvements in the HRPP. At the University, the individual designated by the President as ultimately responsible for the Assurance and implementation of the University HRPP is the Vice President for Research (VPR), also referred to in the Assurance as the Institutional Official (IO). The IO is the University official responsible for ensuring that the HRPP has the resources and support necessary to comply with federal regulations and guidelines that govern human subjects research. As an agent of the institution, the IO is legally authorized to represent the institution in matters regarding human subject research, is the signatory official for all Assurances and assumes the obligations of the University’s Assurance. The IO is also responsible for review and evaluation of reports on HRPP performance and Quality Improvement (QI) activities. The IO is responsible for further institutional review and approval or disapproval of research approved by the University Institutional Review Board (IRB) (neither the IO nor any other University official can approve research that was disapproved by the IRB). To facilitate this oversight function, the Office of Research Support (ORS) forwards to the IO copies of all IRB meeting minutes, containing reports of IRB deliberations on human subjects protocols, the results of QI audits and noncompliance findings. All correspondence and reports sent to federal regulatory agencies regarding investigator or institutional noncompliance are signed by the IO.

The Associate Vice President for Research, who is the ORS Director, implements needed improvements and follow-up actions relating to the principle investigator (PI) and institutional compliance of University’s HRPP. The ORS Director is responsible for monitoring changes in federal, state or local regulations, policies and guidelines relating to the HRPP, ensuring that the IRB and IO are informed of the changes and assuring compliance with all requirements.

In general, however, it is the responsibility of all faculty and research staff, IRB members, IRB staff, University staff negotiating with research sponsors, and anyone else involved in human subjects research to uphold the ethical standards delineated in the Belmont Report and assure that the highest level of human subjects protections are in place and implemented at all times.

1.4 Human Subjects Research Oversight

Federal and State Regulations in regards to Human Subjects Research

The OHRP provides leadership on human research subject protections and implements a program of compliance oversight for U.S. Department of Health & Human Services (HHS) regulations for the protection of human subjects. Visit the OHRP website at http://www.hhs.gov/ohrp/. OHRP works to support and strengthen the nation's system for protecting those who volunteer to participate in research that is conducted or supported by agencies of HHS. OHRP also provides guidance to IRB members and IRB staff as well as to scientists and research administrators on the complex ethical and regulatory issues relating to human subjects protections in medical and behavioral research.

Within HHS, the Food and Drug Administration (FDA) has oversight over FDA-regulated research (drugs, biologics, medical devices, and foods) as described in the FDA oversight policies Title 21, Parts 50 and 56. The FDA is responsible for protecting the public health by assuring the safety, efficacy, and security of human and veterinary drugs, biological products, medical devices, our nation’s food supply, cosmetics, and products that emit radiation. For more information on Code of Federal Regulations visit the FDA websites at:
The University will comply with all applicable state laws regarding human subjects research. If research takes place outside the state of Texas, the IRB will consult with legal counsel who provides interpretation and guidance to the IRB. In situations where there are conflicts between federal and state, or other applicable laws, legal counsel will be consulted to advise on resolution of the conflicts. If deemed necessary by the University’s legal counsel, the University System Office of General Counsel and/or the state Attorney General’s Office will be consulted for resolution.

The University of Texas at Austin

The Office of the Vice President for Research is responsible for the administration and oversight of research ethics at the University. The IO oversees the functioning of the IRB. The ORS Director is responsible for provision of IRB administrative support. Supervisors periodically evaluate administrative support staff regarding their knowledge and interpretation of relevant policies and procedures regarding human subjects protections. In addition and as a part of the overall oversight function, in order to maximize compliance with the regulations, guidelines, and policies and procedures of the institution, the ORS Director relies on an internal QI monitoring program to assess research activities and documentation.

1.5 Purpose and Scope of the Manual

This manual contains a current compilation of federal, state, The University of Texas System (UT System) and the University rules, regulations, policies and procedures applicable to the protection of human research subjects, sets forth appropriate mechanisms for their implementation and is regularly updated to reflect new standards, regulations and the University policy.

1.6 Applicability

The policies and procedures set forth in this manual are applicable to all faculty, staff, employees, and students at the University who propose to use human subjects in research, development, and related activities including research for which investigational devices or drugs are used.

The IRB has jurisdiction and oversight responsibilities over human subjects research in which the University is engaged. Specific examples would include but not be limited to research:

1. For which the University receives funding.
2. Conducted by or under the direction of faculty, students, or staff of the University in connection with their institutional responsibilities.
3. Conducted by or under the direction of any faculty, students or staff of the University using any property or facility of the University.

The University requires research investigators who are not its employees or agents:

1. To obtain the collaboration of a University faculty member.
2. To ensure all PIs (internal and external to the institution) comply with all relevant
   a. IRB determinations.
   b. Federal and state regulatory requirements.
   c. Human subjects protection standards.
Compliance with this policy or the procedures set forth herein will in no way render inapplicable pertinent laws of the State of Texas, any local law which may bear upon the proposed activity or the Rules and Regulations of the Board of Regents of UT System.

1.7 Revision and Maintenance of the Manual

The ORS is responsible for maintaining and updating this manual. All new or revised manual materials will be placed on the ORS website by the IRB office at http://www.utexas.edu/research/rsc/humansubjects/policies/index.html.
Section 2: Definitions

2.1 Definitions Applicable to All Sections of this Manual

Adverse events are a subset of unanticipated problems involving risks to the subject or others and are related to untoward or unfavorable medically-related events, including any abnormal sign, symptom or disease temporarily associated with the subject’s participation in the research or clinical trial.

Agent of the Organization is a faculty member or non-faculty employee, who may also be a principal investigator of a research protocol or an Institutional Review Board member, or non-employees who perform institutionally designated activities or who exercise institutionally delegated authority or responsibility such as research or teaching activities. Examples would include community IRB members, University faculty who are conducting research at another institution, a faculty member performing research while on sabbatical or a University student conducting research at another institution as part of a course requirement.

Allegation of Noncompliance means an unproven assertion of noncompliance.

Anonymity means that the identity of a research subject cannot be readily ascertained by anyone, including the Principal Investigator, either directly or through the use of coded data.

Anonymous Data pertains to information that is collected or that an individual has disclosed in a study with the expectation that the information has no identifiers linked to the participant and therefore cannot in any way be traced to the participant. An example would be survey research that does not ask for the participants’ names or any other form of personal identification. The words “anonymous" and "confidential" do not have the same meaning and are not interchangeable.

Applicable Clinical Trial means any research project that prospectively assigns human subjects to intervention and comparison groups to study the cause and effect relationship between the intervention and a health relationship. The definition includes surgical procedures, behavioral treatments, and FDA regulated studies with drugs, biological products, or devices.

Approved means a protocol is approved as written with no explicit conditions.

Approved Assurance means a document that fulfills the requirements of 45 CFR Part 46 and is approved by the Secretary of Department of Health and Human Services (HHS). The University of Texas at Austin has an approved Federalwide Assurance on file with HHS.

Approved with Explicit Conditions means the protocol is approved with explicit conditions for minor changes or simple concurrence of the Principal Investigator that will be identified to the Principal Investigator and must be completed and documented prior to beginning the research. In most instances, the Institutional Review Board (IRB) Program Coordinators will review and approve but explicit conditions deemed as significant or are directly relevant to regulatory criteria must go back to the convened IRB for review and approval.

Assent means an affirmative agreement to participate in research or clinical investigation. Mere failure to object an absence of affirmative agreement may not be construed as assent. This most often is applicable to children and decisionally impaired adults.

Authorized deception means that a Principal Investigator has intentionally not described certain aspects of a research study but subjects are informed that certain information will be withheld until the subject completes the study tasks.
Basic community partnership research is a project that involves a relationship with a community partner in which the researcher makes the key decisions in the project, but considers the needs and interests of the community in how the research is conducted and how the outcomes are disseminated.

Children are persons who have not attained the legal age for consent to treatments or procedures involved in research or clinical investigations. In Texas, where federal regulations and state law both apply, individuals under the age of 18 are considered to meet the definition of children. For research conducted outside Texas, children are defined under the applicable law of the jurisdiction in which the research or clinical investigations will occur. Some funding agencies may define children differently.

Close community partnership research is an ongoing collaborative project in which goals are co-defined in ways that balance benefit to the PI and utility of the findings for the community. There is some sharing of decision making between the Principal Investigator and the community, but the research methodology is primarily determined by the Principal Investigator.

Coded Information/Data means that identifying information that would enable the Investigator to readily ascertain the identity of the individual to whom the private information or specimens pertain has been replaced with a number, letter, symbol, or combination thereof and a key to decipher the code exists, enabling linkage of the identifying information to the private information or specimens.

Coercion is an overt or implicit threat of harm that is intentionally presented by one person to another in order to obtain compliance. For example, an investigator might tell a prospective subject that his or her grades might suffer if they do not participate in the research.

Collaborator is anyone who plays a part in the protocol and has access to study records.

Common rule refers to Department of Health & Human Services 45 CFR Part 46, Subpart A.

Community is a group that self-identifies by geography, age, ethnicity, gender, sexual orientation, disability, illness or health condition, common interest or cause, a sense of identification or shared emotional connection, shared values or norms, mutual influence, or commitment to meeting a shared need. Community need not be defined solely by geography. Defining “community” in a community-university partnership is more about the process of asking questions than about a strict definition of who “is” community or “represents” community: “Are those most affected by the problem at the table? Are community members at the table? Are those who have a stake in the issue being addressed at the table? Do they play decision making roles?” The purpose of the research partnership drives the definition - each project must define the community of interest.

Community-based research is research that takes place in or involves a community. The more precise definitions below reflect the degree of engagement of the community in the research, which can take place along a spectrum of engagement and shared governance.

Community-placed research is a researcher-initiated project involving a one time or short-term relationship between the PI and the community, with limited community involvement beyond being a venue for recruiting research subjects or for implementing research procedures.

Community-based participatory research (CBPR) is a project defined by co-creation of project ideas and procedures by Principal Investigator and a community, active and substantive participation by the community in all or nearly all stages of the research, and shared power and decision-making responsibilities. There is an expectation that findings will be used to change systems or solve community problems. CBPR sees research subjects as both individuals and as a community comprised of individuals. Issues of confidentiality in CBPR should be viewed differently than with individual subjects and decisions made as to what may or may not be appropriate.
Confidential pertains to the treatment of information that an individual has disclosed in a relationship of trust and with the expectation that it will not be divulged to others without permission or in ways that are inconsistent with the understanding of the original disclosure. For example, there may be a legal responsibility to divulge information and that should be stated in the consent form. The words “anonymous” and "confidential" do not have the same meaning and are not interchangeable.

Conflict of Interest is defined as any situation in which financial or personal obligations may compromise or present the appearance of compromising an individual or group's professional judgment in conducting, reviewing, or reporting research. Members of the Institutional Review Board may not review, deliberate on or approve research if they have a conflict of interest related to the research.

Dead fetus means a fetus that does not exhibit heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles, or pulsation of the umbilical cord.

Data and Safety Monitoring Plan (DSMP) is an individualized plan, written by the Principal Investigator (PI) responsible for the study. The DSMP sets forth mechanisms for reviewing and evaluating unanticipated problems and other study-relevant data. The rationale for requiring a DSMP is the need to enhance research subject safety by clearly defining safety related issues prior to subjects being enrolled in a study. These issues include:

1. Monitoring the safety of the environment including the safe handling of drugs, solutions, specimens, physical space, and equipment;
2. Monitoring and protecting the validity and integrity of the data collected for the study; and
3. Documenting, grading, attributing, and reporting unanticipated problems involving risks to subjects or others.

De-Identified refers to information or data where direct identifiers such as name and address have been removed. In common use, the term refers to data where it may still be possible to identify individuals by inference or through codes held by the investigator or a third party. Therefore data that is de-identified may not be anonymous because it may still permit at least probabilistic re-identification when analyzed in conjunction with other datasets.

Deception (as applies to research) means intentionally giving research subjects false information in order to establish false beliefs during the course of a research study.

Delivery means complete separation of the fetus from the woman by expulsion or extraction or any other means.

Designated Reviewers are experienced IRB members, defined in this policy as having been an IRB member for at least one year and having been trained on the expedited process by an IRB Chair or the ORS Director. The IRB Chair has designated the IRB Vice Chair, ORS Director and other IRB members as reviewers of protocols requesting and qualifying for expedited review.

Disapproved means the protocol describes a research activity that is deemed to have risks which outweigh potential benefits or the protocol is significantly deficient in several major areas. The protocol and/or other documents will need to be completely re-written and re-submitted as a new submission. Principal Investigators may request reconsideration of a determination for disapproval in writing and possibly be invited to attend an Institutional Review Board meeting and presenting reasons for reconsideration.

Engaged in human subjects research as defined by the Department of Health and Human Services guidance document states that in general an institution is considered engaged in a particular non-
exempt human subjects research project when its employees or agents, for the purposes of the research project, obtain:

1. Data about the subjects of the research through intervention or interaction with them.
2. Identifiable private information about the subjects of the research.
3. Informed consent of human subjects for the research.

**Enrollment** includes all subjects intended to be included in a study, including screen failures and dropouts. (Example: The investigator has a target enrollment of 100 and expects 75 to be screen failures so the study will accrue 25).

**Food and Drug Administration (FDA)** is an agency within the U.S. Department of Health and Human Services. FDA is responsible for protecting the public health by assuring the safety, effectiveness, and security of human and veterinary drugs, vaccines and other biological products, medical devices, our nation’s food supply, cosmetics, dietary supplements, and products that give off radiation.

**Fetus** means the product of conception from implantation until delivery.

**Financial Interest** in or related to the research means financial interest of any amount in the sponsor, product or service being provided, or a competitor of the sponsor. This can also be referred to as Financial Conflict of Interest.

**Generalizable Knowledge** means information from which one may infer a general conclusion; knowledge brought into general use or that can be applied to a wider or different range of circumstances. For example, publication and presentation are typical methods used to disseminate research findings, thereby contributing to “generalizable knowledge.” However, not all information that is published or presented represents generalizable knowledge. Generalizable knowledge is also interpreted to include data intended for general use, regardless of its eventual distribution or acceptance.

**Guardian** means a person appointed by a court to have full authority to make decisions for and act on behalf of a child or decisionally impaired adult, except as otherwise provided for by law. For research conducted outside Texas, children are defined under the applicable law of the jurisdiction in which the research or clinical investigations will occur.

**HIPAA** is the acronym for the Health Insurance Portability and Accountability Act of 1996 and intended to provide standards for protecting the privacy of personally identifiable health information (PHI).

**Human Embryonic Stem Cells** are pluripotent cells that are derived from early stage of embryos, up to and including the blastocyst stage, are capable of dividing without differentiating for a prolonged period in culture, and are known to develop into cells and tissues of the three primary germ layers.

**Human Subjects** has two definitions depending on the federal agency overseeing the research.

1. Department of Health and Human Services regulations define human subjects as living individuals* about whom the Principal investigator conducting research obtains:
   a. Data through intervention or interaction with the individual; or
   b. Identifiable private information.
      i. Intervention means both physical procedures by which data are gathered and manipulation of the subject or the subject’s environment for research purposes.
ii. Interaction includes communications or interpersonal contact between the investigator and the subject, i.e., obtaining informed consent.

iii. Private information includes information about behavior when the subject can reasonably expect that no observation is taking place and information that has been provided for specific purposes and which the subject can reasonably expect will not be made public (e.g., medical record). Private information is individually identifiable, i.e., the identity of the subject may be readily ascertained by the investigator.

The definition provided in the Common Rule is expanded to include investigators, technicians, and others assisting investigators, when they serve in a "subject" role by being observed, manipulated, or sampled. For the purposes of this manual, research involving human biological specimens (e.g., urine, blood, tissue, and other bodily fluids) will be considered human subjects research.

*Note: Research on autopsy materials or specimens from deceased individuals is not considered to be human subjects research. However, some research, such as genetic studies providing private medical information about living relatives may need IRB review.

2. Food and Drug Administration definition is an individual who is or becomes a participant in research, either as a recipient of a test article (investigational drug, biologic or device) or as a control and may be either a healthy human or a patient. The definition also includes an individual on whose specimen a device is used.

Human Subjects Research has reference to two definitions defined by federal agencies.

1. Department of Health and Human Services defines human subjects research as systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge (45 CFR 46.102(d)) and includes a living individual about whom the investigator conducting research obtains:
   a. Data through intervention or interaction with the individual.
   b. Identifiable private information.
   c. Data about the subjects of the research through intervention or interaction with them.
   d. Identifiable private information about the subjects of the research.
   e. Informed consent of human subjects for the research.

2. Food and Drug Administration (FDA) defines human subjects research as (21 CFR 56.102):
   a. A clinical investigation on one or more individuals who are or become participants in the investigation, either as recipients of a test article (drug, biologic, or device) or as controls and may be either patients or healthy non-patients.
   b. The data obtained from participants (and controls) will be submitted to, or held for inspection by, the FDA in support of a marketing or research application for an FDA-regulated product, or data obtained from the use of a device (in vitro diagnostic device) on tissue specimens will be submitted to, or held for inspection by, the FDA in support of a marketing or research application for an FDA-regulated product.

If the research does not meet either HHS or FDA definitions, it is not human subjects research.

Incidents of Noncompliance/ Protocol Violations means that principal investigators did not adhere to Federal Regulations and/or The University of Texas at Austin policies, procedures, requirements, or Institutional Review Board determinations for conducting research involving human subjects.

Incomplete disclosure means that the principal investigator withholds some information about the real purpose of the study or the nature of the research procedures.
**Individually Identifiable Information** means any information about a living individual that is linked, associated with, or contains the name or any details of the individual that would allow someone to be able to directly or indirectly identify a subject from the information collected.

**Informed Consent** means the knowing consent of an individual or his legally authorized representative, so situated as to be able to exercise free power of choice without undue inducement or any element of force, fraud, deceit, duress, or other form of constraint or coercion. Information conveyed in the informed consent procedure must include all essential elements listed later in this manual.

**Institution** means any public or private institution or agency (including federal, state, and local government agencies).

**Institutional Official (IO)** is the University official responsible for ensuring that the human research protection program has the resources and support necessary to comply with all federal regulations and guidelines that govern human subjects research. The IO is legally authorized to represent the institution, is the signatory official for all Assurances, and assumes the obligations of the institution's Assurance. At The University of Texas at Austin, the Vice President for Research is the IO.

**Interaction** means communication or interpersonal contact between an investigator and participant.

**Intervention** is a physical procedure by which data are gathered, or manipulation of the participant or the participant’s environment for research purposes.

**Investigator** is considered to be an individual performing various tasks related to the conduct of human subjects research activities such as:

1. Obtaining information about living individuals by intervening or interacting with them for research purposes.
2. Obtaining identifiable private information about living individuals for research purposes.
3. Obtaining voluntary informed consent of individuals to be subjects in research.
4. Studying, interpreting or analyzing identifiable private information or data for research purposes.

**Lapse of approval** means that, for whatever reason, the Institutional Review Board (IRB) has not received or reviewed required documentation for protocol continuation prior to the protocol’s expiration date and all research activities must cease. Continuing review of research activities by the IRB must occur at least annually and a request for continuation must be accompanied by a report and other pertinent documentation. By regulation, no grace period is allowed. The IRB notifies Principal Investigators of lapses in approval and the requirement to cease all research activities until approval for continuation is obtained (currently with a “Cessation” letter).

**Legally authorized representative (LAR)** means an individual, judicial or other entity authorized under applicable law to consent on behalf of a prospective subject to such subject's participation in the particular research activity or procedure. For research conducted in Texas where federal regulation and Texas law both apply, for healthcare related treatments and procedures and for non-healthcare procedures, individuals in the following order may serve as a LAR: a legal guardian, persons appointed as health care agents under Durable Power of Attorney for Health Care, a spouse, adult child, parent, or an adult sibling. For research conducted outside of Texas, individuals who meet the definition of an LAR are those who are described under the applicable law of the jurisdiction in which the research will be conducted. Legal counsel may be consulted by the Director of Office of Research Support and the Institutional Review Board Chair for assistance in applying laws to research involving human subjects.
**Legally effective informed consent** means that the Principal Investigator obtained consent to participate from a subject or the subject’s legally authorized representative (LAR) and documented it in a manner consistent with the human subjects protection regulations and applicable laws of the jurisdiction in which the research is conducted. It is expected that the Principal Investigator will seek consent only under circumstances that provide the prospective subject or LAR sufficient opportunity to consider whether or not to participate and to minimize the possibility of coercion or undue influence. The information provided in the consent process should be understandable to the subject or subject’s LAR and may not include any exculpatory language.

**Member** includes an Institutional Review Board member or consultant and their immediate family members defined as spouse and dependent children and step-children.

**Minimal Risk** means that the risks of harm anticipated in the proposed research are not greater than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests. These are risks that reflect background risks that are familiar and part of the routine experience of life for an average person in the general population. For children, the definition means research in which the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life (of a healthy child) or during the performance of routine physical or psychological examinations or tests.

For Prisoners, minimal risk is the probability and magnitude of physical or psychological harm that is normally encountered in the daily lives, or in the routine medical, dental or psychological examination of healthy persons who are not prisoners.

**Neonate** means a newborn.

**Noncompliance** means that researchers or individuals other than researchers, such as research staff, Institutional Review Board (IRB) staff, or IRB members, did not adhere to Federal Regulations and/or The University of Texas at Austin policies, procedures, requirements, or IRB determinations for conducting research involving human subjects.

**Nonviable neonate** means a neonate after delivery that, although living is not viable.

**Office for Human Research Protections** is an office in the Office of the Secretary of Health and Human Services that is responsible for regulatory oversight of human subjects research.

**Parent** means a child's biological or adoptive parent.

**Permission** means the agreement of parent(s) or guardian to the participation of the child in the research or clinical investigation.

**PHI** is the acronym for personal health information which is protected under the HIPAA regulations.

**Pregnancy** encompasses the period of time from implantation until delivery. A woman shall be assumed pregnant if she exhibits any of the presumptive signs of pregnancy, particularly missed menses, until the results of pregnancy testing are negative or until delivery.

**Principal Investigator** means an individual under whose immediate direction research is conducted or in the event of research conducted by a team of individuals, is the responsible leader of that team.

When The University of Texas at Austin (University) accepts a grant or contract from an outside sponsoring agency, certain legal and ethical obligations are stated or implied in the document of agreement. The University becomes responsible for the proper performance of the stated work and for
fiscal management of the funds received from the sponsor. Sponsors usually require an individual be named to oversee the project with the reasonable assurance that the agreed responsibilities will be discharged faithfully and prudently in the mutual interest of the sponsor and the University and over the full period of the award.

In order to implement these obligations, only individuals in the categories shown below are authorized to be PIs or project directors for sponsored projects. Only in rare instances will others be authorized, and then only with the written approval of the ORS Director.

1. Members of the faculty in the professorial ranks (assistant professor, associate professor and professor)
2. Directors (code 1000)
3. Research scientists/engineers (code 1000) and senior research scientists/engineers (code 1000)
4. Special research associates at the Applied Research Laboratory.
5. Students who list a full-time faculty member as a sponsor/mentor (or a part-time or adjunct faculty member when specifically requested by the department chair).
6. Adjunct faculty when Principal Investigator status is specifically requested

**Prisoner** means any individual involuntarily confined or detained in a penal institution. The term is intended to encompass individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing. Individuals are prisoners if they are in any kind of penal institution, such as a prison, jail, or juvenile offender facility, and their ability to leave the institution is restricted. Some common examples of the definition are:

1. Individuals who are detained in a residential facility for court-ordered substance abuse treatment as a form of sentencing or alternative to incarceration.
2. Individuals with psychiatric illnesses who have been committed involuntarily to an institution as an alternative to criminal prosecution or incarceration.
3. Individuals who have been voluntarily admitted for treatment or who have been civilly committed to non-penal institutions for treatment because their illness makes them a danger to themselves or others are not prisoners.
4. Parolees who are detained in a treatment center as a condition of parole. Parolees living in the community, even with community-supervised monitoring, are not prisoners.
5. Probationers and individuals wearing monitoring devices are generally not considered to be prisoners. However, some situations of this kind may require analysis of circumstances and Office for Human Research Protections should be consulted when questions arise about research involving this population.

**Prisoner Advocate** is an individual representing the interests of incarcerated persons who may be approached and enrolled as research subjects.

**Privacy** means having control over the extent, timing and circumstances of sharing oneself (physically, behaviorally or intellectually) with others.

**Privacy Board** is a review body that may be established to act upon requests for waiver or alteration of the requirement for a signed “Authorization for Use or Disclosure of Protected Health Information (PHI)” under the HIPAA Privacy Rule for uses and disclosures of PHI for a particular research study. A Privacy Board may waive or alter all or part of the Authorization requirements for a specified research project or protocol. The IRB may act as a privacy board.

**Private Information** consists of the following:
1. Information that has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (e.g., medical record).
2. Information that can be readily identified with individuals, even if the information was not specifically collected for the study in question.
3. Information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place.

**Protocol Deviation** means a deviation from Institutional Review Board-approved activities related to a research study. This means that the principal investigator(s) has performed activities that are different than those described in the protocol, that procedures not previously described in the protocol were performed, or that procedures described in the protocol were not performed.

**Quality Improvement (QI)** projects are defined as those activities that are designed purely to evaluate and improve practice to conform to established or accepted standards. These types of activities are generally not subject to Institutional Review Board (IRB) review and approval. However, if data from the QI activity are used to draw general or widely applicable conclusions beyond evaluating a particular program or activity, the activity probably is research. The distinction is not always clear. The intent to publish, in and of itself, does not require that an activity be reviewed by the IRB. If the activities and data being reported are a result of QI assessment, then no IRB review is required for the activity or for its publication.

**Quorum** is defined as a majority of the voting members. In the case of the Institutional Review Board (IRB), a quorum will consist of at least 51% of the voting IRB members and must include at least one non-scientific and one unaffiliated member. All members present have equal voting power. At meetings of the IRB, a quorum must be established and maintained throughout the entire meeting. A member with a conflict of interest cannot contribute to a quorum. For Food and Drug Administration-regulated research, a licensed physician must be present during the review, deliberation and voting to satisfy the quorum requirement under Code of Federal Regulations Title 21 CFR 56.108(c).

**Research** by definition of Department of Health and Human Services means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge (45 CFR 46.102(d)) or, under Food and Drug Administration (FDA) regulations, an activity that involves a drug or drug, other than use of a market drug in the course of medical practice, or the use of a device to evaluate safety and effectiveness of that device, and data from the activity will be submitted to, or held for inspection by, the FDA in support of a marketing or research application for an FDA-regulated product. If the activity is designed to improve internal practices it is not research (See Definition: Quality Improvement).

**Research Records** are records consisting of both Institutional Review Board-related records and any data gathered for research purposes.

**Secretary** means the Secretary of Department of Health and Human Services (HHS) and/or any other officer or employee of the HHS to whom authority has been delegated.

**Sponsor** means any person or entity that takes responsibility for, initiates or funds a study. The sponsor may be an individual, pharmaceutical company, device manufacturer, governmental agency, academic institution, private organization, or other organization.

**Student** means any individual who is enrolled as a student at The University of Texas at Austin.

**Staff** means all employees of The University of Texas at Austin.
**Suspension** means a temporary cessation of research activities, to include enrollment of new subjects, collection of data from enrolled subjects, and performance of any research activities described in the approved protocol. Suspensions can be administered by the Institutional Review Board (IRB), the IRB Chair, or the principal investigator in order to eliminate an immediate hazard to subjects. A suspended protocol requires continuing review.

**Systematic Investigation** is a planned activity involving qualitative or quantitative data collection and data analysis that sets forth an objective(s) and a set of procedures intended to reach the objective(s), i.e., to acquire knowledge, develop a theory, or answer a question.

**Tabled** means generally, the protocol or consent form has deficiencies that prevent accurate determination of risks and benefits or requires significant clarifications, modifications or conditions that, when met or addressed, require full Institutional Review Board (IRB) review and approval of the Principal Investigator’s (PI) responses and revisions. The deficiencies will be specified to the PI, and on occasion the PI is asked to attend the full board meeting in order to clarify the points in question. The PI must revise the protocol, consent forms, or other documents as specified by the IRB and re-submit.

**Termination** means a permanent discontinuance of research activities described in a research protocol due to withdrawal of Institutional Review Board (IRB) or regulatory agency approval. If subjects are currently enrolled, the IRB and Principal Investigator must implement actions for immediate care of and safe withdrawal of subjects from the research study. A terminated protocol does not require submission for continuing review.

**Unaffiliated member** means an IRB member who has no affiliation with the University except as a member of the IRB. Persons retired from the University or those who have family members (spouse, parent, children) employed by the University are not considered unaffiliated. At least one unaffiliated member must be present at a convened IRB meeting in order to meet the quorum requirements. It is expected that unaffiliated members will attend at least 8 meetings per year as documented in the meeting minutes.

**Unanticipated problem involving risks to subjects and others** means any problem, event, occurrence or new information related to the research project that is unanticipated and indicates that subjects or others are at increased risk of harm.

**Undue influence** is an offer or implication, real or perceived, of an excessive or inappropriate reward or other overture in order to obtain compliance. For example, professors recruiting their students may lead to the perception of undue influence to participate.

**Viable** as it pertains to the neonate, means being able, after delivery, to survive (given the benefit of available medical therapy) to the point of independently maintaining heartbeat and respiration. The Secretary may from time to time, taking into account medical advances, publish in the FEDERAL REGISTER guidelines to assist in determining whether a neonate is viable for purposes of the 45 CFR 46 Subpart B. If a neonate is viable then it is a child and the 45 CFR 46 Subpart D may apply.

**Ward** is defined as a child who is placed in the legal custody of the state or other agency, institution or entity consistent with applicable federal, state or local law.
Section 3: General Policies and Procedures

3.1 Applicable Regulations and Laws

The purpose and responsibility of the Institutional Review Board (IRB) is to protect the rights and welfare of human research subjects. The IRB reviews and oversees research activities involving human subjects and requires that the research complies, as applicable, with Federal regulations at 45 CFR 46, Subparts A, B, C, and D, (or equivalent policies and procedures), the FDA 21 CFR Parts 50, 56, 312, and 812, Texas law and all other pertinent regulations and guidelines. Compliance with this policy or the procedures set forth herein will in no way render inapplicable pertinent laws of the State of Texas, any local law which may bear upon the proposed activity, or The University of Texas System Rules or Regulations of the Board of Regents. For research that is non-funded, participants are provided the same or equivalent protections.

In addition, the Office of the Vice President for Legal Affairs provides the IRB, ORS, and other components on the HRPP with counsel on an as needed basis, primarily on matters related to state laws, cooperative agreements, conflicts of interest, and contractual issues in human subjects research.

3.2 Institutional Review Board

3.2.1 Purpose

Safeguarding the rights and welfare of subjects at risk in any research activity, whether financially supported or not, and irrespective of the source of any supporting funds, is primarily the responsibility of the institution. In order to provide for the adequate discharge of the institutional responsibility, no non-exempt research activity involving human subjects may be undertaken by any faculty, staff, employee or student at The University of Texas at Austin (University) unless an IRB has reviewed and approved the research prior to commencing the research activity.

3.2.2 Designation and Authority

The University has designated one IRB responsible for conducting initial and continuing reviews and providing oversight for all research activities involving the use of human subjects performed by agents or employees of the University. The scope of research reviewed by the IRB is not limited and the IRB reviews all types of research submitted.

The Institutional Officer (IO) formally grants the IRB the following authority relative to the protection of human subjects:

1. To approve, require modifications to secure approval, or disapprove all research activities overseen and conducted by the agents of the organization and involving human subjects, based on its consideration of the risks and potential benefits of the research and whether the rights and welfare of the subjects are adequately protected;
2. To require reports for protocol continuing review;
3. To continuously monitor the conduct of research with human subjects;
4. To suspend or terminate approval of research that is not being conducted in accordance with IRB requirements or that has been associated with unexpected serious risk to subjects;
5. To place restrictions on a study, if necessary to protect human research subjects;
6. To observe, or have a third party observe, the consent process;
7. To observe, or have a third party observe, the conduct of the research.
No official within the organization may approve a protocol or human subjects research activity that has not been approved by the IRB. However, the IO or any other University executive administrative official may disapprove a protocol or research activity that has been approved by the IRB.

### 3.2.3 Composition and Appointment of the IRB

The IRB is a committee formally appointed by the IO, with input and membership nominations coming from the IRB Chair and IRB members, the ORS Director, University department chairs, and self-nominations, and is composed of a sufficient number of members to assure complete and adequate review of activities commonly conducted at the University. The composition of the IRB exceeds the minimum regulatory requirements and is sufficiently qualified through the maturity, experience, and expertise of their members and diversity (experience, expertise, racial, cultural, and gender) of membership to insure respect for their advice and counsel specific to safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific activities, the IRB is able to ascertain the acceptability of proposals in terms of organizational commitments, regulations, applicable law, standards of professional conduct and practice, and community attitudes and are constituted to meet those requirements.

Scientific members of the IRB generally will have had experience in research involving human subjects, and will be recruited from among active research members of the University. Nonscientific members will be recruited from the faculty at large and will reflect professional expertise in a non-scientific area, such as law, ethics, human or patient rights, etc. The appointment of non-affiliated (community) members and a prisoner representative will also be done by the IO but the Office of Research Support (ORS) Director is responsible for determining whether or not the nominees are truly unaffiliated and/or have appropriate expertise to serve as prisoner representative.

Alternates are appointed and function in the same manner as the primary IRB members. The alternate’s expertise is comparable to those of the primary member. The role of the alternate member is to serve as a voting member of the IRB when the regular member is unable to attend a convened meeting. When an alternate member substitutes for a primary member, the alternate member will receive and review the same materials prior to the IRB meeting that the primary member received or would have received. The alternate member will not be counted as a voting member unless the primary member is absent. The IRB minutes will document when an alternate member replaces a primary member.

At times, the IRB may not have the necessary expertise to judge the scientific soundness of a research protocol and may be unable to make a fair and accurate determination of the risk-benefit ratio. For these protocols the IRB Chair, or the primary reviewer after consultation with the IRB Chair, may call upon an ad hoc consultant for assistance in review for scientific merit or to perform an in-depth review of the study. The ad hoc consultants are not considered to be members of the IRB, are utilized only for expert scientific review, have no voting rights and must disclose whether or not he/she has any conflicts of interest with the protocol. The consultants will submit a written report and copies of the report will be distributed to all IRB members. The report and recommendations will be documented in the IRB minutes for the meeting. It is expected that, because of the wide diversity of IRB members, the use of ad hoc consultants will be a rare occurrence.

The IO may appoint administrative staff and/or faculty (e.g., legal counsel) at the University to serve as non-voting members of the IRB should the IO, the IRB Chair, or the ORS Director decide that such persons would be of assistance to the IRB in conducting its duties. Individuals involved in the business function or in research development do not serve in any capacity on the IRB and have no involvement in the day-to-day operations of the review process. A non-voting member cannot be counted in the quorum and cannot vote, but can participate in discussions. In addition, funding agencies may have additional IRB membership requirements. For example, the National Institute on Disability and Rehabilitation Research (NIDRR) specifies that when an IRB reviews an NIDRR-funded research
project that purposefully includes children with disabilities as research subjects, the IRB must include at least one person whose primary interest is the welfare of children with disabilities. When reviewing these types of research projects, the IRB may use ad hoc reviewers with specific expertise in treating children with disabilities.

ORS will report changes in IRB membership to OHRP as required.

3.3 **Term of Appointment**

IRB members are appointed to one-year, renewable terms. The IRB Chair and Vice Chair are expected to hold the positions for several years. Upon appointment and again at time of annual reappointment, each IRB member is queried to determine roster information such as affiliation status, relationship of the member to the University, indications of experience and other relevant information. IRB member’s performance will be reviewed annually by the IRB Chair and Vice Chair. IRB members who are not performing in accordance with the IRB’s mission or policies and procedures or who have an undue number of absences will not be reappointed. Feedback will be provided to the members by the IRB Chair and IO.

3.4 **Committee Officers**

The IRB will have a Chair and a Vice Chair chosen from IRB members and will typically be members of the faculty of the University knowledgeable in human subjects research, including the federal and state regulations, University policies, and ethics relevant to such research. The IRB Chair shall preside over and be authorized to speak for the IRB. Whenever the Chair is not available, the Vice Chair will assume the responsibilities of the IRB Chair during the period of their absence.

3.5 **Meetings**

In order to conduct IRB business, there must be a quorum of members present at a convened meeting. If quorum is lost, votes are not taken until it is restored. To be approved, a protocol must receive a majority of votes of members present at the meeting. The IRB shall hold regular meetings at a time and place to be determined by the IRB and posted electronically. Researchers are welcome to attend to address specific concerns regarding research protocols but will be asked to leave the meeting during all deliberations and votes. Other members of the University community are permitted to attend meetings but, due to limited seating space, must request attendance through the IRB Director. Guests may be asked to sign a confidentiality agreement.

Prior to each full board meeting the IRB Program Coordinators or the IRB Chair will review the agenda of protocols and will assign primary reviewer(s) knowledgeable about or experienced in working with these types of studies. The IRB Program Coordinator ensures that either the Primary or Secondary Reviewer is present at the meeting or available by teleconference during the convened meeting.

3.6 **IRB Meeting Minutes**

IRB meeting minutes are recorded in writing in sufficient detail to allow an outside observer to reconstruct protocol specific discussions and determinations. IRB Program Coordinator(s) monitor quorum at each meeting, records and IRB discussion points for the minutes. Meeting minutes are distributed each month to those IRB members who were in attendance at the given meeting, the ORS Director and Assistant Director, and the IRB Program Coordinators via secure website with a request for comments and/or suggested changes regarding the document’s accuracy. After all comments are reviewed and addressed if appropriate, a pending version of the minutes are available for review prior to and discussion at the next IRB meeting. A vote for approval of the final version of the minutes
occurs at the next convened meeting. Once approved, the IO is notified and provided access to the secure location of the approved minutes in order to review all actions taken by the IRB.

Minutes shall include:

1. A protocol summary and the deliberations for each protocol and the resulting IRB action.
2. The approval period for each initial review, continuing review and amendment.
3. A record of attendance for each protocol including the names of members who left the meeting due to a conflict of interest and a notation of such.
4. The voting record for each protocol and the previous meeting’s minutes reflecting the number of members for, against or abstaining from the vote and when alternate members replaced a primary member.
5. The basis for requiring changes to a protocol, tabling or disapproving research.
6. A written summary of the discussion and resolution of controverted issues.
7. Justification of deletions or substantive modifications of information concerning risks or alternative procedures contained in a HHS approved consent form.
8. If applicable, summaries of deliberations of protocols for inclusion of vulnerable populations.
9. If applicable, the rationale for significant risk/non-significant risk device determinations.
10. If applicable, protocol specific justifications for waivers of consent and research involving vulnerable populations.
11. A list of all actions that were taken administratively during the previous month.

3.7 Confidentiality of the Review Process

During the process of initial, continuing review, or amendment of an activity, material provided to the IRB and ORS shall be considered privileged information and the IRB shall assure the confidentiality of the data contained therein.

3.8 Conflict of Interest

3.8.1 IRB Members – Convened Meeting

The IRB is charged with protecting research subjects from risks in experimental studies. Principles codified in the Nuremberg Code, the Declaration of Helsinki, Belmont Report, and existing federal regulations are employed to provide a framework for ethical considerations and assessment of risk and benefit in individual studies. The decisions made by the IRB are guided by these principles, but the IRB can only be successful if members are free of conflict of interest (COI).

Prior to discussion of protocols at a convened meeting, the IRB Chair will ask if any member has a COI with any protocol being discussed at that meeting. Should an IRB member declare involvement in any way in a research protocol under review by the IRB, or state a COI with the research protocol the following is required:

1. IRB member is excluded from discussion and voting except to provide information requested by the IRB.
2. IRB member leaves the meeting room during discussion and voting.
3. IRB member is not counted towards quorum.

3.8.2 Designated Reviewers for Expedited Review

IRB members who are IRB Chair designated reviewers for initial or continuing review of research protocols, reports of noncompliance, protocol deviations, unanticipated problems, and amendment requests that qualify for expedited review will self-identify any COI that they may have with the
3.8.3 Examples of IRB Member COI

IRB members are considered to have a conflict of interest if they:

1. Are involved in the design, conduct, or reporting of the research study.
2. Have direct administrative powers over the investigators or the study.
3. Have a financial and/or ownership interest of any amount in or related to the research and the value can be readily determined.
4. Have a financial and/or ownership interest in or related to the research but the value cannot be readily determined.
5. Received or will receive compensation and/or have ownership interest of any amount with value that may be affected by the outcome of the study.
6. Have received in the past year, currently are receiving, or will receive from the sponsor of the study, honoraria, payments, or compensation of any amount.
7. Have a proprietary interest in the research, including but not limited to a patent, trademark, copyright, or licensing agreement.
8. Serve as directors, board members, scientific advisors or hold other decision making positions in the entity sponsoring the research.
9. Are not an investigator, co-investigator, or consultant on a study, but are closely associated with the investigators on the study being reviewed, or other studies.
10. Have personal, familial, or intimate relationships with the principal investigator.
11. For any reason, believe they cannot be objective concerning a study.

3.8.4 Principal Investigator

All PIs and their research staff are required to disclose any financial COI according to the University COI policy found in the Handbook of Operating Procedures and Policy Memoranda. Disclosed COIs that might affect the protection of subjects must have a management plan in place. Management plans may include: partial or complete divestment, limiting involvement of the conflicted individual, additional oversight, or disclosure. Disclosure alone cannot be used to manage conflicts of interests that might affect the protection of subjects.

When made aware of a possible researcher conflict, the IRB formally refers cases to the Conflict of Interest (COI) Office, which in turn determines if formal COI management strategies are required. If required, the COI Office will prepare a draft COI Management Plan. The COI Office will work with the researcher to develop and finalize a COI Management Plan. When finalized, the COI Management Plan will be submitted to the IRB for review and final approval. Under no circumstances will research be approved until the IRB has reviewed and approved the COI Management Plan.

Institutional COIs are handled according to the University Institutional Conflict of Interest in Human Subjects Research policy found in the Handbook of Operating Procedures and Policy Memoranda.

3.9 Interaction with Other University of Texas Components and Commencement of Research Activities

The University is comprised of multiple types of research review and some reviews are accomplished by standing committees, e.g., Objectivity in Research Committee, Scientific Integrity Committee, Biological Safety Committee, and the Office of Sponsored Projects. The successful fulfillment of the University’s intent to protect human research subjects is dependent upon open communication among these various institutional components. These committees and offices exchange information, when
necessary, to assure that, in addition to IRB review, human subjects research receives all appropriate
review prior to implementation of the research activities. Human subjects research is not allowed to
commence until all applicable reviews are complete and notification of approval is received by the
IRB.

3.10 Types of Research Conducted at the University

The majority of research at the University is social-behavioral in nature. The University does not
participate in planned emergency research described in and covered under 21 CFR 50.54 and OHRP
Guidance 97-01.

3.11 Categories of Research Subjects

Human subjects research at the University generally includes normal healthy individuals; adults and/or
children. The IRB reviews and approves research proposing inclusion of vulnerable populations. The
vulnerable populations most commonly included in research activities are children, prisoners, pregnant
women, and decisionally impaired adults.

3.12 Determining if IRB Review is Required

3.12.1 Determination of Human Subjects Research

Most of the time, it will be obvious whether or not the University and a PI are engaged in human
subjects research. However, at times, the IRB Program Coordinators (consulting with the ORS
Director, Chair, or Vice Chair, if needed) will need to determine if the proposed activity constitutes
engagement in human subjects research. The first determination is whether or not the activity proposed
is research (for HHS supported studies) or a clinical investigation (for FDA regulated studies). The
second determination to be made is whether or not human subjects are involved. The determination is
made by using the appropriate definitions found in Section 2 of this manual. The ORS office will
accept requests for determinations by telephone, e-mail or by letter. Information required to make the
determination includes a description of the activity, data collection methods and the research setting.
Further information may be requested. Determinations of whether or not activities constitute human
subjects research will generally be relayed to investigators immediately for telephone requests, and
within five work days from the date of receipt of the e-mail or the letter for written requests. IRB
Program Coordinators will also determine of the proposed research must be reviewed by the IRB.

According to HHS regulations, the University becomes engaged in human subjects research when its
employees or agents (i) intervene or interact with living individuals for research purposes, or (ii)
obtain individually identifiable private information about those individuals for research purposes.
Under FDA regulations, the institution becomes engaged in human subjects research when it
undertakes a clinical investigation on individuals who are or become subjects in the investigation,
either as recipients of a test article or as controls and may be either patients or healthy non-patients.

PIs are automatically considered to be “engaged” in human subjects research whenever they apply for
or receive a direct award to support research that includes human subjects, even if all the activities
involving human subjects will be carried out by a subcontractor or collaborator. In all cases the
institution to which the grant has been awarded bears the responsibility for protecting human subjects
under the award.
3.12.2 Class Projects

Class projects typically do not meet the definition of human subjects research. As such, IRB review may not be required. For guidance regarding institutional policy regarding the review of class projects, visit the ORS website at [http://www.utexas.edu/research/rsc/humansubjects/class_project.html](http://www.utexas.edu/research/rsc/humansubjects/class_project.html).

3.12.3 Oral History Projects

The following is based on guidance received from OHRP:

A decision whether oral history or other activities solely consisting of open ended qualitative type interviews are subject to the policies and regulations outlined in an institution’s Federalwide Assurance (FWA) and HHS regulations for the protection of human research subjects (45 CFR 46) is based on the prospective intent of the PI and the definition of “research” under HHS regulations at 45 CFR 46.102(d): “a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge.” Specifically, for the purposes of this policy in order to be subject to the University’s human research protections policies, the activity must meet the following standards and general principles for evaluating Oral History type activities:

1. The activity involves a prospective research plan which incorporates data collection, including qualitative data, and data analysis to answer a research question; and
2. The activity is designed to draw general conclusions (i.e., knowledge gained from a study may be applied to populations outside of the specific study population), inform policy, or generalize findings.
3. Oral history activities, such as open ended interviews, that only document a specific historical event or the experiences of individuals without intent to draw conclusions or generalize findings would not constitute “research” as defined by 45 CFR 46. For example, an oral history video recording of interviews with Holocaust survivors is created for viewing in the Holocaust Museum. The creation of the video take does not intend to draw conclusions, inform policy, or generalize findings. The sole purpose is to create a historical record of specific personal events and experiences related to the Holocaust and provide a venue for Holocaust survivors to tell their story.
4. Systematic investigations involving open-ended interviews that are designed to develop or contribute to generalizable knowledge (e.g., designed to draw conclusions, inform policy, or generalize findings) would constitute “research” as defined by 45 CFR 46. For example, an open ended interview of surviving Gulf War veterans to document their experiences and to draw conclusions about their experiences, inform policy, or generalize findings would require IRB review and approval.
5. Oral historians and qualitative investigators may want to create archives for the purpose of providing a resource for others to do research. Since the intent of the archive is to create a repository of information for other investigators to conduct research as define by 45 CFR 46, the creation of such an archive would constitute research under 45 CFR 46. For example, open ended interviews are conducted with surviving Negro League Baseball players in order to create an archive for future research. The creation of such an archive would constitute research under 45 CFR 46 since the intent is to collect data for future research.

PI’s are advised to consult with their IRB Program Coordinator regarding whether their oral history project requires IRB review and approval.

3.13 Coded Private Information as Relates to Human Subjects Research

The OHRP does not consider an institution or PI to be engaged in human subjects research if the PI consults or collaborates on human subjects research by obtaining coded private information or human
biological specimens from another institution, engaged in the research, which retains the code. However, one of the following four conditions must be met:

1. The key to decipher the code is destroyed before the investigator receives the coded information.
2. The consulting or collaborating PI and the holder of the key enter into an agreement prohibiting release of the key under any circumstances.
3. The releasing institution has IRB-approved written policies and procedures applicable to the research project that prohibit release of the key to consultants or collaborators under any circumstances.
4. There are other legal requirements prohibiting release of the key to consultants or collaborators.

OHRP also does not necessarily consider authorship as a factor in determining whether or not an institution is engaged in human subjects research. It is possible that the authors of a paper or presentation were not involved in obtaining “data about subjects of the research through intervention or interaction with them” or “identifiable private information about the subjects of the research.” If a PI simply receives unidentifiable or coded information about human subjects, OHRP has determined that analysis of the information and/or publication of conclusions based on analysis of the information does not constitute being engaged in human subjects research.

3.14 Cooperative Activities

The IRB shall have special responsibilities in the review and approval of proposals involving cooperative activities. Cooperative activities are those in which the University faculty, students or staff, obtain access to human subjects involved through one or more cooperating institutions, or when PIs from cooperating institutions obtain access to human subjects at the University. When a PI plans to conduct research at a site external to the University (not owned or operated by the University), the PI must respond to questions in the application that informs the IRB of:

1. The contact information of the site(s);
2. Whether the site(s) has an IRB;
3. Whether the site(s) has granted permission for the research to be conducted and;
4. If the site has an IRB, has the IRB approved the research or does the site plan to defer to the University IRB.

If the site defers to the IRB, the site must submit a FWA that designates the institution’s IRB as an IRB that the site relies upon for review of human subjects research. Communication between the University IRB Office and the site will occur as needed. Generally, an Inter-Institutional Agreement or Memorandum of Understanding (MOU) that delineates the specific roles and responsibilities of each participating institution must be established and executed. Activities involving investigators from one or more institutions who may exchange or pool similar data obtained from human subjects who participate in independently sponsored projects are not cooperative activities as defined above.

For PIs performing research in which the University is the lead or coordinating institution, the PI should note in the initial IRB application that the University is the lead or coordinating institution of a multi-site study. The PI should also provide the following information:

1. The name(s) of each participating institution that will be engaged in human subjects research.
2. Confirmation that each participating institution has an FWA.
3. The contact name and information for the PI at each institution.
4. The contact name and information for the IRB of record at each institution.
5. The method of multilateral communication between institutions/IRBs of any unanticipated problems involving risks to subjects or others and other study related information.

The researcher should also upload copies of IRB approved documents and relevant correspondence between participating sites.

3.15 Undue Influence of the IRB or ORS Staff

It is the policy of the University that the human subjects research review process and implementation of IRB policies and procedures are conducted objectively and without undue influence over deliberations or processes. Individual members of the IRB whether employed by the institution or community members, as well as HRPP staff, have the right and obligation to report any undue pressure upon them to make decisions that would favor an individual PI over subject protections, during the initial and continuing review processes or when conducting or participating in other IRB related business. The IRB member or HRPP staff person is asked to document the issues related to the case in writing to both the ORS Director and the IO in order to open a formal report. The IO will formally review the information and may convene a meeting and/or otherwise obtain additional information as necessary. The ORS Director will then subsequently inform the IRB of the findings. The IO has the authority to take corrective action in consultation with the IRB.

Upon resolution, the IRB will determine if the attempted, inappropriate influence represents an unanticipated problem involving risks to subjects or others and will determine if reporting to OHRP is appropriate.

3.16 Training Requirements

3.16.1 Researchers and Research Staff

The University HRPP policy requires training for all faculty, faculty mentors, researchers, and students, including researchers from other institutions who wish to conduct human subjects research at the University. All key personnel (PI, Co-PI, Faculty Sponsor), originally listed or later added to a study through an amendment, must complete the required human subjects training. In order to comply with the policy, researchers are required to complete the University’s training affiliated with Collaborative Institutional Training Initiative (CITI) (modules relating to ethics, regulations, risk assessment, informed consent and privacy and confidentiality). Completion of this training must be accomplished every three years. Protocol submissions (initial, continuing, amendments) are checked to assure all researchers and research staff have completed training. Protocol actions are not approved until training is completed by all listed on the protocol. Webinars and local conferences are made available to the University community for additional training.

3.16.2 IRB Members and Chairs

IRB members and their alternates and the chair and vice-chair must complete the required human subjects training upon being appointed to the IRB and every three years for the duration of their membership. Initial training consists of completion of the identical CITI modules required for researchers and research staff, plus three additional modules relating to their service as IRB members. At the time of initial appointment, ORS will also provide IRB orientation information (meeting schedules, locations, etc.) and copies of the following information:

1. CD-ROM of the PRIM&R Investigator 101 Tutorial
As a part of annual evaluation of members, ORS staff provides the chair with the training status for all members. Members in need of completing their triennial training are reminded by the chair of this requirement. Failure to complete the training may result in removal from the IRB. Continuing educational materials are distributed at each IRB meeting in the form of relevant periodicals or articles. Webinars and local conferences are made available to the members to attend.

3.16.3 **Department Review Committee (DRC) Members**

DRCs should review IRB the Policies and Procedures Manual and must complete CITI Training. DRCs may be invited to attend IRB meetings as necessary. Webinars and conference are made available for additional training. Also, upon request a member of the IRB staff will meet one-on-one with a DRC.

3.16.4 **ORS Staff**

ORS staff must document that they have completed the CITI training. Attendance at regional and national meetings, (e.g., PRIM&R) is encouraged and supported for ORS staff. ORS staff are encouraged to attend any additional training, such as webinars, that are offered by ORS. IRB Program Coordinators and the Senior Program Coordinator are highly encouraged to obtain IRB Certification (Certified IRB Professional (CIP)).

3.17 **Roles and Responsibilities**

3.17.1 **Principal Investigators**

The following are the PI responsibilities and are not all inclusive:

1. Assure that all personnel listed on the research protocol have completed the human subjects research training and submitted a Financial Interest Disclosure.
2. Submit protocols for IRB review and approval of proposed research activities prior to commencing the research activities.
3. Employ sound study design in accordance with standards of the PI’s discipline.
4. Assure that adequate time and resources are present before conducting a research study to assure participant protections.
5. Maintain appropriate oversight of each research study, as well as research staff, and appropriately delegate research responsibilities and functions.
6. Insure that the research is conducted according to the protocol, any signed agreements, in compliance with all applicable laws and regulations and organizational policies and procedures with the highest of ethical standards.
7. Submit for review and approval all proposed protocol and consent form changes prior to implementing the changes in the protocol except where necessary to eliminate apparent immediate hazards to human subjects.
8. Obtain legally effective informed consent from subjects prior to commencement of research activities, unless the requirement is waived by the IRB.
9. Ensure the rights, safety and welfare of the research subjects are upheld and protected.
10. Follow reporting requirements for problems that require prompt reporting (see Section 24).
11. Submit requested data at specified times for continuing review of ongoing research activities.
12. Upon completion of a study, honor all commitments that were agreed to as part of the approved research, e.g., providing information about the study results to research subjects or honoring commitments for reimbursements to subjects.
13. Upon completion of a study, submit a Closure Report to the IRB.
14. Disclose all conflicts of interest.
15. Retain records as required by the regulations, the sponsoring entity and local policy for the
appropriate time period (See Section 3.21 Record Retention).

16. When PI is the lead researcher for a multi-site study, applications must include information about the management of information that is relevant to the protection of research participants, e.g., interim results; protocol modifications; how unanticipated problems involving risks to participants or other unanticipated problems will be managed; how communication of unanticipated problems to all sites will occur; how protocol modifications will be managed; is there a formal agreement in place delineating each site’s roles and responsibilities.

17. If you hold an IND/IDE, adhere to sponsor responsibilities in addition to investigator responsibilities as per 21 CFR Parts 312/812.

18. If appropriate, assure that applicable clinical trials (includes some of the NIH funded trials) are registered on the governmental database at http://www.ClinicalTrials.gov. Applicable clinical trials are defined by Federal Statute (Public Law 110-85). Generally, these trials include:
   a. Trials of Drugs and Biologics: Controlled clinical investigations, other than Phase I investigations, of a product subject to FDA regulation; and
   b. Trials of Devices: Controlled trials with health outcomes, other than small feasibility studies, and pediatric post-market surveillance.

19. Address research participant’s concerns, complaints, or requests for information.

Members of the International Committee of Medical Journal Editors (ICMJE) will consider the results of clinical research for publication only if the trial has been registered prior to enrollment of the first subject. ICMJE defines a clinical trial as: “Any research project that prospectively assigns human subjects to intervention and comparison groups to study the cause-and-effect relationship between a medical intervention and health outcome.” … This definition includes drugs, surgical procedures, devices, behavioral treatments, process-of-care changes and the like. ICMJE further defines “medical intervention” as “any intervention used to modify a health outcome.”

3.17.2 Faculty Sponsors

The responsibilities for a Faculty Sponsor (FS) are equivalent to those for a principal investigator and should not be accepted lightly. Acting as a FS is time-consuming and requires an enthusiastic commitment to the students and to the research project. The FS must be actively involved in the research, from protocol design to data analysis and report preparation. In many cases, it may be the student's first experience with formal research. The success of the student's experience will be measured not only in the outcome of their projects, but also in what they learn from the faculty sponsor. These experiences will help form their perception of scientific research, and in some cases, determine whether a career in academic research is right for them. The following are the faculty sponsor responsibilities and are not all inclusive:

1. Advise the student on the selection of a topic, the content and preparation of their research proposal. Understand the research hypothesis, goals and methodology. Guide and interact with the student throughout the research project.
2. Assist the student with the preparation of the IRB application. Complete and sign forms as required. Ensure the student obtains all necessary approvals (i.e., IRB) before initiating the project, implementing any changes in the research activities and continuing the research activities after the approval period has expired.
3. Serve as the IRB protocol Principal Investigator of record for the student when the research meets the criteria for exemption from the regulations or for any ongoing research when the student leaves the institution prior to completing the research protocol.
4. Ensure that the student is provided with, or has access to, information on University policies relating to administration of their protocol.
5. Assure the student understands the underlying ethical principles for conducting research with human subjects and the applicable research regulations and local policies and procedures. Stay abreast of the status of the protocol and ensure on-going compliance with federal regulations and institutional policies and procedures relating to human subjects research and
IRB required reporting.
6. Advise and assist students with the preparation of poster presentations and papers, as applicable.
7. Ensure that all study documents and data are archived at the end of the study in accordance with federal, state and local policy and regulations.
8. Be available to the student during the active research period.

3.17.3 Departmental Review Committees

Review of human subjects research for scientific or scholarly validity is conducted by the IRB on all non-exempt research. However, the IRB expects the DRC to assure that research protocols submitted for review by the IRB:

1. Clearly state the rationale for the study.
2. Clearly state the aims and corresponding hypotheses and the primary outcome and secondary outcomes, as appropriate.
3. That the questions or hypotheses that are being tested are providing important knowledge to the field and the design of the study is appropriate for the questions that are posed.
4. That statistical considerations, including sample size and justification, estimated accrual and duration, and statistical analysis are clearly described and are adequate to meet the study objectives.

3.17.4 Institutional Official

The IO is designated by the University President to have responsibility for the Human Research Protection Program with the authority to delegate activities as may be necessary to fulfill the following responsibilities:

1. Assure compliance with institutional policies and all applicable regulations for the protection of human research subjects.
2. Is legally authorized to represent the institution in matters regarding human subjects research and is the signatory authority for all the Federal-Wide Assurance to the Office for Human Research Protections.
3. Responsible for review and evaluation of reports on HRPP performance and QI activities.
4. Responsible for further institutional review and approval or disapproval of research approved by the University IRB (neither the IO nor any other University official can approve research that was disapproved by the IRB).
5. Reviews copies of all IRB meeting minutes, containing reports of IRB deliberations on human subjects protocols, the results of QI audits, and noncompliance findings.
6. Signs all correspondence and reports sent to federal regulatory agencies regarding PI or institutional noncompliance.

3.17.5 Institutional Review Board

IRB main responsibilities in safeguarding the rights and welfare of subjects are as follows and are not all inclusive:

1. Conduct review of initial protocol submissions, continuing reviews, and all revisions to protocols of human subjects research conducted by the University researchers.
2. Approve, require modifications to secure approval, defer (table), or disapprove research activities overseen and conducted under the auspices of the University, regardless of location of the research activities.
3. Systematically analyze protocols for benefits to subjects and importance of knowledge to be
expected and assess the potential benefits in relation to the potential risks involved in the research.

4. Report in writing the findings and actions of the IRB to the PIs, IO, and, when applicable, to federal regulatory agencies or departments, as necessary.

5. Determine the interval at which ongoing studies need to be reviewed by the IRB (must be at least annually).

6. Determine which studies need verification from sources other than the researchers that no material changes have occurred since the previous IRB review.

7. Observe, or have a third party observe, consent processes and/or the conduct of research.

8. Ensure prompt reporting of any changes in research activities to the IRB by researchers.

9. Ensure prompt reporting, by PIs, to the IRB and/or federal agencies or departments (where applicable) of:
   a. Unanticipated problems involving risks to subjects or others.
   b. Serious or continuing noncompliance with regulations.
   c. Suspension or termination of IRB approval.

10. Determine if studies involving drugs need an investigational new drug (IND) number designated by the FDA.

11. Determine if studies involving investigational devices pose significant or non-significant risk and whether an IDE is required.

12. Suspend or terminates approval of research not being conducted in accordance with IRB requirements or that has been associated with unexpected serious harm to subjects.

13. If applicable, act as the Privacy Board for research involving use of PHI.

3.17.6 IRB Chair and Vice Chair

IRB Chair and Vice Chair main responsibilities are as follows and are not all inclusive:

1. Serve as public spokesperson for the IRB.
2. Chair convened meetings of the IRB.
3. Ensure adequate expertise for review and determinations.
4. Assure a quorum is present for all meetings.
5. Review protocols, continuing review reports, unanticipated problem and deviation reports, and other documentation submitted to the IRB.
6. Obtain an individual vote on all IRB actions (For, Against, Abstain).
7. Vote on each IRB action
8. Delegate review responsibilities as necessary and applicable.
9. Maintain up-to-date knowledge of human subjects regulations and pertinent events.
10. Consult with investigators as necessary.
11. Suspend the conduct of research when individuals are placed at an unacceptable level of risk.
12. Collaborate with the ORS Director to provide continuing education for IRB members.
13. Collaborate with the ORS Director to resolve IRB-related issues with faculty or subjects.
14. Recognize and support partnership with ORS to assure IRB efficiency and effectiveness.

3.17.7 IRB Members

IRB members responsibilities are as follows and are not all inclusive:

1. Be familiar with IRB policies and procedures and federal, state, and local regulations policies or guidelines relating to human subjects research.
2. Review submitted proposals as assigned by the Chair of Chair’s designee.
3. Review meeting documents in advance of IRB meetings and be prepared for discussion of submitted protocols.
4. Act as a primary or secondary reviewer of protocols when assigned.
5. Maintain confidentiality of IRB proceedings.
6. Disclose conflicts of interest, if applicable.

3.18 Monitoring/Verification of Compliance from Sources Other than the PI

In accordance with 21 CFR 56.108(a)(2) (FDA) and 45 CFR 46.103(b)(4)(ii) (OHRP), it is incumbent upon the IRB to assure itself, by whatever method it deems appropriate, that the rights and welfare of human subjects are being protected. This applies to transnational research and research taking place in other states and in Texas. In doing so, the IRB may determine that it is appropriate to use sources other than reports from the investigator to verify that no material changes in the protocols have occurred since their most recent review, and that investigators are conducting the research in compliance with all regulations, laws (domestic and international), policies, and guidelines. Also, the IRB may determine that the consent process for some higher risk protocols should be observed.

To assess whether there have been no material changes in the protocols as stated above, the IRB may request that members of the IRB and/or ORS staff conduct an observational visit for a specific protocol. This review will help ensure that investigators are not implementing protocol changes prior to IRB review and approval, except when necessary to eliminate apparent immediate hazards to subjects.

As a part of an ongoing Quality Improvement (QI) program, monitoring reviews may be initiated in other ways:

1. The QI staff may randomly select protocols from a list of currently approved protocols;
2. The PI or the PI’s department may wish to have research protocols reviewed proactively for compliance;
3. The IRB may determine that verification of compliance is required because the protocol is very complex and involves unusual levels or types of risk to subjects;
4. A relatively high risk protocol is being conducted by a PI who is inexperienced in human subjects research;
5. A protocol is being conducted by an investigator who previously failed to comply with regulations, the protocol, local policy, or IRB determination; or
6. Other reasons primarily related to subjects’ risk and safety.

Upon completion of the QI visit, the results will be reported to the ORS Director. The PI will be queried for a response to the findings of the visit, if applicable. The report and if appropriate, the PI’s responses will be brought to the IRB at a convened meeting for discussion and action. If the report indicates suspected or observed incidents of noncompliance, procedures outlined in Section 22 of this manual will be followed for investigation of possible noncompliance.

3.19 Contacts for Questions, Concerns, Complaints or Input

Faculty, research staff, students, and research subjects or any other person who has a question, concern, complaint, suggestion, or input regarding the HRPP or feels that they have been subjected to coercion or undue influence regarding aspects of human subjects research, or feels that they have observed issues of concern regarding human subjects research, may contact the ORS:

Office of Research Support
Flawn Academic Center, Suite 426.2
Phone: (512) 471-8871
Fax: (512) 471-8873
E-mail: orsc@uts.cc.utexas.edu
Website: http://www.utexas.edu/irb
Any and all concerns, complaints, input or suggestions regarding the Human Research Protection Program and all allegations of coercion, undue influence or noncompliance are thoroughly investigated and, if applicable, corrective actions taken to rectify the situation. Ultimately, the ORS Director is responsible to assure that all concerns, complaints, and allegations have been addressed appropriately and that input and suggestions related to the HRPP are considered when reviewing the program. If it appears that the concern/complaint could be an incident of noncompliance, further inquiry will follow procedures delineated in Section 22. If the concern/complaint appears to involve an unanticipated problem involving risks to subjects or others, it will be reviewed according to Section 9 of this manual.

3.20 Periodic Review of the HRPP and Participant Outreach Programs

3.20.1 HRPP

The ORS Director and Assistant Director, with input from the IRB Chairs will, at least annually, review the composition of the IRB and determine whether it is appropriate for the volume and types of research being reviewed to assure thorough and timely IRB review. Recommendations for the appointment of new members and removal of members will be forwarded to the IO. The ORS Director and Assistant Director will annually consider whether or not the resources and personnel being provided in support of the HRPP are adequate and advise the IO as necessary. Additionally, the ORS Director and Assistant Director will evaluate allocated space, availability of legal counsel and the process for assuring that all applicable personnel involved in the HRPP have completed required training and submitted financial interest disclosures.

The ORS Director and Assistant Director annually evaluates the performance of the IRB Chair and Vice Chair, with feedback from IRB members and the ORS Director and communicates the results of this evaluation to the IRB Chair and Vice Chair.

The ORS Director will, at least annually, review HRPP policies and procedures and make adjustments as necessary. Comments from research faculty and staff regarding the HRPP will be reviewed as they are received by the IRB Chair, Vice-Chair, ORS Director, and, if necessary, the IO. If applicable, modifications to the HRPP will be made and implemented and the effectiveness of the implemented changes monitored and discussed at least annually.

3.20.2 IRB Members and ORS Staff

The ORS Director and Assistant Director in consultation with the IRB Chair annually review the HRPP, including IRB Members, IRB member feedback, and any input from outside the IRB and provide recommendation(s) to the IO regarding the recruitment, retention, or dismissal of members. This review includes examination of attendance, specialty, expertise, education, affiliation, and diversity. A summary of the evaluations and member comments will be submitted through the ORS Director to the IO along with input for appointment for additional terms.

The ORS Director will be evaluated and provided feedback annually by the IO. IRB Program Coordinators will be evaluated and provided feedback annually by the IRB Senior Program Coordinator and/or ORS Assistant Director. Formal evaluation of the ORS Assistant Director’s performance is accomplished annually by the ORS Director at which time formal feedback is provided.

3.20.3 Participant Outreach

ORS dedicates a section of its website, entitled “Human Subjects Participant Page” to current and prospective research subjects. This section of the ORS website included resources such as “Frequently Asked Questions,” downloadable University brochures in English and Spanish regarding research
participation, and links to relevant source documents and websites relating to volunteering as a subject in research. There are also links to the OHRP downloadable brochures intended to inform the general public about research participation. In addition, each person logging on to the website is asked to complete a brief survey of the website and the ease of navigation within the website.

To evaluate the effectiveness of the participant outreach program, ORS monitors the number of visits to the website and responses to the voluntary, anonymous survey. Comments, complaints, or input received regarding the website are evaluated, changes made if necessary, and the changes evaluated for effectiveness.

3.21 Record Retention Policy at The University of Texas at Austin

In order to allow a reconstruction of a complete history of IRB actions related to the review and approval of protocols, the IRB records include copies of:

- Protocol applications, research protocols, consent documents and all other documents submitted for review of proposed human subject research
- Scientific evaluations, when provided by an entity other than the IRB
- Progress reports submitted by researchers
- Reports of injuries to participants
- Data and safety monitoring reports, if any
- Modifications to previously approved research
- Unanticipated problems involving risks to subjects or others
- Documentation of non-compliance
- Significant new findings

Records related to HRPP operations (as well as research related records) are retained for at least three years.


The University of Texas at Austin Records Retention Schedule (UTRRS; http://www.utexas.edu/business/accounting/retention/ret.html) is certified by the Texas State Library and Archives Commission. It has been adopted as an administrative rule of the University. All official state records (paper, microform, electronic, or any other media) listed on the UTRRS must be retained for the minimum period designated. Once official University records have met their retention periods, they must be disposed of in accordance with the policies and procedures of Office of Accounting’s Division of Records Management Services.
Section 4: Subject Recruitment and Participation

4.1 General Recruitment Guidelines

In some cases, the information in recruiting materials may constitute the earliest components of the informed consent process. In addition to its review for scientific merit and protection of subjects from unnecessary research risks, the IRB will evaluate all protocols for equitable and non-discriminatory subject recruitment. When inclusion is inappropriate with respect to the safety or well-being of the subjects or the purpose of the research justification for exclusion of particular groups will be considered and approved. The Institutional Review Board (IRB) will also consider the scientific and ethical justification for exclusion of classes of persons who might benefit from the research and determine if exclusion is justifiable and allowable.

There are several questions in the IRB application in which the Principal Investigator (PI) must describe the proposed study population, the number of subjects to be enrolled, and the procedures to be used for recruitment. In addition, all materials used to recruit subjects must be reviewed and approved by the IRB. These would include written advertisements and the amount of reimbursement (See Section 4.8 Compensation for Research Subjects) to be given to subjects to compensate for their time and inconvenience, parking, travel, etc.

4.2 Advertisements

The IRB must review and approve the information contained in all advertisements that will be used to recruit subjects for a specific research study and the mode of their communication. Generally, advertisements used to recruit research subjects should be limited to information that a potential subject would need to determine if they are eligible and interested in participating. More specifically, the advertisements should include information such as:

1. The name and address of the investigator and/or research facility.
2. The condition or disease that will be the focus of the research.
3. The purpose of the research with reference to the fact that the study is investigational.
4. If any, a brief list of potential benefits of participation.
5. A summary of criteria for eligibility to participate.
6. The time and other commitments that will be required of the subject.
7. The location of the study and the office to contact for further information.
8. If any, state that reimbursement for time, travel, etc. will be given.
9. Will contain the statement: “This study has been approved by The University of Texas at Austin Institutional Review Board.”

The advertisement should not contain:

1. Emphasize the amount of reimbursement that subjects will receive by bolding or using large fonts. The ads may state that reimbursement for time, travel, etc. will be given.
2. Exculpatory language where the subjects would be required to give up some of their rights.
3. A promise for a favorable outcome or benefits.
4. The concept promoting that the subjects will be receiving medical treatment at no cost (free medical treatment) since the reality is that they will not be charged to participate in a research project.
5. Explicit or implicit claims of equivalency or superiority to other standards of treatments or safety and efficacy.
6. Wording that the study involves “new treatment”, “new Medication, or “new drug” without an explanation that the treatment is investigational.
7. Claims, explicitly or implicitly, about the drug, biologic or device under investigation that are inconsistent with FDA labeling.

Advertisements conforming to the above guidelines may be approved for any advertising format, e.g., posted flyers, newspapers, internet advertisements, radio/television, slides shown prior to films at movie theaters. However, the IRB must review the final copy of printed advertisements to evaluate the relative size of font type used and other visual effects and must review the script of the final audio or video taped advertisements. To avoid multiple requests for IRB review and approval, investigators should specify in their original request all advertising formats that are anticipated. If a website is to be used to advertise for a research study, the website address must be identified to the IRB.

When following FDA regulations, the IRB reviews advertising to ensure that advertisements do not allow compensation for participation in a trial offered by a sponsor to include a coupon good for a discount on the purchase price of the product once it has been approved for marketing.

4.3 Pre-screening

Some research may require a pre-screening process in which potential subjects are asked for personal and sensitive health information to determine eligibility for the study. Questions asked during this pre-screening process are subject to IRB review, in particular, to determine if proper procedures are in place for protecting the privacy and confidentiality of the information collected. In addition, if more than the above listed information is present, the IRB must evaluate whether or not the description of potential risks and benefits is presented in a fair and balanced manner. The IRB must also assess the types of incentives, if any, that are offered, whether or not the site clearly states that the trial is voluntary, and other subject protection issues.

4.4 Recruitment of Students and Staff

The University students and staff have the same rights as any other potential subject to participate in a research project, irrespective of the degree of risk, provided all of the following conditions exist:

1. Recruitment should not be conducted in ways that students may reasonably perceive to be undue influence.
2. The research must not bestow upon participating University subjects any competitive academic or occupational advantage over other students or staff who do not volunteer. The researchers must not impose any academic or occupational penalty on those not volunteering.
3. Due to the potential for perceived or undue influence to participate, University students and staff who desire to participate in the research must not be under the direct supervision of anyone who has access to identified data (e.g., researchers, those collecting data).
4. If incentives for participation are offered (e.g., extra course credit), the incentives should not be so large as to cause undue influence. Typically this means that any credit or extra credit must be only a small portion of the total grade.

4.5 Researchers Recruiting from Their Own Courses

One particular circumstance that raised special ethical concerns involves researchers recruiting students from courses that they are teaching. The primary issue with gathering data from one’s own course is the potential for undue influence.

4.5.1 Potential for Undue Influence

Instructors have inherent power over students (e.g., through their responsibility for assigning grades). Because of this power relationship, it is likely that some students will feel pressure to comply with
requests made by their instructors. This is true independent of whether the instructors actually try to pressure the students. For example, when instructors ask students to participate in research projects, some students may worry that not participating could influence the instructor’s opinion of them or that their grade might be affected. Such potential concerns are problematic regardless of whether the instructor actually should think negatively of nonparticipation or whether the students’ grades actually would be affected. Students’ perceptions that such negative consequences could happen are enough to make them feel pressure to participate.

4.5.2 Reducing the Potential for Undue Influence

In the rare instances in which recruiting from one’s own class is permissible, researchers are expected to minimize the potential for students to feel pressured to participate. There are various strategies for minimizing the potential pressure to participate. One way that researchers have reduced the potential to cause undue influence is to design the study so that the instructor is blind to the identity of the participants (at least until after the final grades have been assigned). For example, a researcher can run the study and keep any identifying information from the instructor. If a researcher designs a study in this way these points are crucial:

1. Before being asked to participate, potential subjects should be informed that the instructor will not know who did and who did not participate (at least until after the final grades have been assigned).
2. The research should be designed so that the instructor cannot infer who participated through indirect means (e.g., by seeing who walks into the laboratory, by getting a list of who earned extra credit for participating in the study).

In short, due to the potential for undue influence, researchers generally should avoid recruiting subjects from their own classes. When recruiting from their own class is the only feasible way to do a study, researchers are expected to design the research in such a way that the potential for students to feel pressure is minimized.

4.5.3 Exceptions

There are cases in which the research cannot be feasibly completed without recruiting students from a particular course. For example, if the research project concerns a teaching method that will be implemented in the course, then the only possible subject pool comes from the students enrolled in that course. If a research project has a reasonable chance of yielding benefits, and the only feasible way to complete the study is to recruit in the researcher’s course, the reach may be permissible if the researcher is able to sufficiently reduce the potential for students to feel pressure to participate.

4.6 Subject Pools

A subject pool is a research resource used by some departments and schools in academic settings as a registry of individuals who are interested in participating in research and agree to be contacted for potential participation in a study. These volunteers are used in studies for that school or department. The IRB provides guidance and oversight of departmental subject pools, and reviews all research requesting subject pool participation.

Student subject pools serve to not only provide researchers a pool from which to recruit primarily student participants for their studies, but also serve to familiarize students with the research process as subjects and researchers. Student subject pools are composed of undergraduate students enrolled in particular departmental courses that provide credit for participation in one or more research projects. All student participation in subject pool research must be completely voluntary. Departments may provide students with incentives (usually extra credit) to participate in the subject pool. However,
reimbursement for participation must not jeopardize the subject confidentiality or anonymity and subject pools offering extra credit to participating students must provide alternative opportunities to earn the same extra credit for those not wishing to participate in the research. Alternatives to the research subjects should require an equivalent amount of time and effort to complete for extra credit. Subject pools including subjects under 18 years-of-age are required to obtain parental permission prior to their involvement in research unless those individuals are emancipated. It is up to the student to decide whether to participate in any study; instructors cannot mandate or require student participation. As stated above, instructors are strongly discouraged from recruiting subjects they directly supervise or selecting subjects on such basis. Subject pool requirements and procedures vary by department so it is best to consult with your individual departments for specific guidelines and additional requirements.

4.7 Equitable Subject Recruitment

The IRB will only approve studies demonstrating equitable subject recruitment, taking into account the purposes of the research and the setting in which it will be conducted. The IRB evaluates all research applications to verify that investigators have demonstrated equitable selection and recruitment (distributive justice) of all research subjects and have made every effort to ensure diversity of subject selection. In particular, the IRB evaluates any special problems that may occur with proposed research involving vulnerable populations, such as children, prisoners, pregnant women, and decisionally impaired adults. For greater than minimal risk studies, the IRB ensures that proposed sampling efforts do not favor some classes of subjects solely due to ease of availability, compromised positions, or manipulability. IRB reviewers also require researchers to make every effort to include women and members of minority groups, if appropriate to the research purpose.

4.8 Compensation for Research Subjects

4.8.1 General Guidelines

During the initial review of a research protocol, the IRB is required to review both the amount of compensation proposed and the method and timing of disbursement to assure that neither are coercive or present undue influence. There are guidelines to assist investigators in determining a reasonable amount of compensation that can be given to research subjects and also place some boundaries on what is and is not “reasonable.” The “reasonableness” of a particular sum of money or other form of payment should be based upon the time involved, the inconvenience to the subject, reimbursement for expenses incurred while participating, and should not be so large as to constitute a form of undue influence. The guidelines are:

1. For studies involving more than one visit/session, compensation should not be contingent upon the subject completing the study, but should accrue as the study progresses.
2. Unless it creates undue inconvenience or undue influence, compensation to subjects who withdraw from the study should be made at the time they would have completed the study, had they not withdrawn.
3. The amount of compensation and any prorating or scheduling of payments should be clearly described in the informed consent document.
4. Finder’s fees and bonus payments of any kind are not permitted (See Section 4.9).

4.8.2 Use of Lotteries

Lotteries are considered “gambling” under the Texas Penal Code, which is an illegal activity. The Texas Penal Code (Sec. 47.01 et seq.) defines a lottery as “any scheme or procedure whereby one or more prizes are distributed by chance among persons who have paid or promised consideration for a chance to win anything of value, whether such a scheme is called a pool, lottery, raffle, gift, gift enterprise, sale, policy game, or some other name.”
The Attorney General opined in JC-0174 (2000) that “if the ‘payment’ required of a lottery participant is not monetary in nature, then such a ‘payment’ needs to involve a ‘substantial expenditure of time and effort’ before it would constitute ‘consideration’ under the gambling law.”

Given the above parameters, the key question for researchers who want to use drawings as incentives for research participation is whether the subject’s participation requires a substantial amount of time and effort. Researchers should ensure that no conditions are imposed for enrollment. This means that everyone is eligible for the drawing upon providing consent to participate in the study. If the researcher wants to impose a condition (e.g., completion of the survey) before entry is granted to the subject, then the IRB (with legal counsel if needed) will need to make the determination as to whether or not the condition(s) involve a “substantial expenditure of time and effort” on behalf of the subject.

The determination of “substantial time and effort” is made on a case by case basis and considers various factors such as the time involvement of the subject, if return visits are required, what is asked of the subject (e.g., survey completion, blood draw), etc.

4.9 Finder’s Fees and Bonus Payments

Finder’s fees and bonus payments are generally associated with clinical trials and are offered by the sponsor of the research as an incentive to enhance recruitment. The IRB does not permit the payment of finder's fees and/or bonus payments (monetary or in kind) in any form, due to the potential that such a practice could be perceived as causing undue influence and bordering on unethical research subject recruitment. In addition, several professional associations and groups have stated that this practice is unethical (e.g., AMA, APA).

4.10 Costs to Research Subjects

When appropriate, a statement must be included in the informed consent document alerting the potential subject to any additional costs that may result from participation in the research, specifically if a research subject may have to bear any costs which would be unnecessary if the subject had declined to participate in the research. All potential subjects must be fully informed of the nature and estimated extent of these costs when obtaining consent.

4.11 Protection of Privacy for Subjects and Confidentiality of Subject Data

4.11.1 General

The possibility that research activities may invade the privacy of individuals or result in loss of confidentiality of their private information should always be of concern to researchers involved in human subjects research. In some cases, the risks of serious harm resulting from loss of privacy or confidentiality may exceed the physical or other risks associated with the research activity. In addition, loss of privacy or confidentiality associated with a research activity can be considered a moral wrong and can provide cause for legal actions against the investigator and/or the institution. In this regard, as part of its review of research proposals and protocols, the University IRB considers several issues related to procedures to protect research subject’s privacy and confidentiality.

4.11.2 Considerations and Provisions to Protect Humans Subject Privacy

When the IRB considers whether or not subject’s privacy is adequately and appropriately protected in a particular study, members might consider, but not be limited to, the following:
1. The methods used to identify and contact potential subjects, the nature of the information being sought, and whether or not an invasion of privacy is involved.
2. The setting in which subjects will be interacting with the investigator.
3. The methods used to obtain information about and from subjects.
4. The nature of the information being obtained from individuals other than the “target subjects” that might result in an invasion of subject privacy (e.g., survey information about a family member).
5. Whether or not the information is publicly available.
6. Whether or not information about the subject is recorded in such a manner as to prevent identification.
7. The methods used to limit access to subject logs and signed consent forms.
8. Whether subject consent will be sought and obtained or the requirement to obtain consent meets criteria for waiver.
9. Whether signed consent forms will be kept in locked cabinets or other secure location separate from subjects’ data.
10. For observational studies, chart reviews, or discarded materials studies, the subjects will not be identified.

4.11.3 Confidentiality Data Security Considerations

Whenever researchers promise subjects that their responses and data will be maintained in confidence, all researchers (investigators, directors, transcribers, students, and staff) are required to prevent accidental and intentional breaches of confidentiality. However, all measures used to assure confidentiality of data need to be understood by all research staff before research is initiated, and followed once research is initiated. Confidentiality procedures must be described in research applications that come before the IRB. Researchers proposing projects that will address sensitive, stigmatizing, or illegal subjects must explicitly outline the steps they will take to assure any information linking participants to the study is maintained in confidence. The requirement of signed consent forms is often waived in sensitive studies, if the consent document is the only written record linking participants to the project and a breach of confidentiality presents the principal risk of harm anticipated in that research. When the IRB considers whether or not subject confidentiality is adequately and appropriately protected in a particular study, members might consider, but not be limited to, the following:

1. The methods used by the investigator to ensure that information obtained is not improperly divulged.
2. The nature and adequacy of the safeguards that will be used to ensure protection of sensitive data.
3. The methods used to de-identify data.
4. Substituting codes for subject identifiers.
5. Removing names from survey instruments containing data.
6. Proper disposal of identified data at the earliest possible time.
7. Limiting access to data in locked file cabinets or password protected computer files.

4.11.4 Protecting Subjects’ Health Information

Use or disclosure of subjects’ Protected Health Information (PHI) is generally required to have the subject’s signed authorization (See Section 6.8). Even in circumstances where a waiver of the requirement for written documentation of informed consent has to be approved by the IRB, a signed authorization from the research subject permitting the use and disclosure of their Protected Health Information (PHI), will still be required. The requirement for written documentation authorizing use or disclosure of PHI may also be waived by the IRB under certain circumstances (See Section 6.9). Confidentiality is best maintained by anonymous data collection. In the event that the Privacy rule is
more restrictive than the procedures described in the consent requirements, the more restrictive rule must be followed.

4.11.5 Certificates of Confidentiality

Under provisions of the Public Health Service Act, the Secretary of Health and Human Services “may authorize persons engaged in biomedical, behavioral, clinical, or other research … to protect the privacy of individuals who are the subject of such research by withholding, from all persons not connected with the conduct of such research, the names or other identifying characteristics of such individuals. Persons so authorized to protect the privacy of such individuals may not be compelled in any federal, state or local civil, criminal, administrative, legislative, or other proceedings to identify such individuals.”

Protection can be granted only to research activities, i.e., systematic investigations designed to develop or contribute to generalizable knowledge. The protection will be granted only when the research is of a sensitive nature where the protection is judged necessary to achieve the research objectives. Research can be considered sensitive in any of the following categories if it involves the collection of information (including but not limited to):

1. Relating to sexual attitudes, preferences, or practices.
2. Relating to the use of alcohol, drugs or other addictive products.
3. Pertaining to illegal conduct.
4. That, if released, could be reasonably damaging to an individual’s financial standing, employability, or reputation within the community.
5. Would normally be recorded in a patient’s medical record, and the disclosure of which could reasonably lead to social stigmatization or discrimination.
6. Pertaining to an individual’s psychological well-being or mental health.
7. Pertaining to qualify genetics.

For research funded by National Institutes of Health (NIH) that falls into one of the categories described above, the IRB will generally expect the PI to obtain a Certificate of Confidentiality. Certificates of Confidentiality are issued by the NIH. Information regarding Certificates of Confidentiality is available on the NIH website at: [http://grants.nih.gov/grants/policy/coc/index.htm](http://grants.nih.gov/grants/policy/coc/index.htm).

It should be noted that the protection offered by a Certificate of Confidentiality is not absolute. It does not restrict voluntary disclosures. For example, it does not prevent PIs from voluntarily disclosing to appropriate authorities such matters as child abuse, a subject threatening violence to self or others, or from reporting a communicable disease. However, if PIs intend to make such disclosure it should be clearly stated in the consent form. In addition, a Certificate of Confidentiality does not authorize the person to whom it is issued to refuse to reveal the name or other identifying characteristics of a research subject if:

1. The subject or the subject’s legally authorized representative consents to the disclosure in writing.
2. Authorized personnel of the Department of Health and Human Services (HHS) request the information for audit or program evaluation or for investigation of HHS grants or contractors and their employees.
3. Release of such information is required by the Federal Food, Drug and Cosmetic Act or regulations implementing that act.

In addition to certificates of confidentiality available from NIH, the U.S. Attorney General is authorized to grant protection for research concerning drug abuse under the Controlled Substance Act.
4.12 Use of Collected Data if a Subject Withdraws from a Study

Current regulatory agencies generally agree that when a subject withdraws from a study or participation of a subject in a study is terminated by the PI, the PI is allowed to retain and analyze already collected data pertaining to the subject. The use and/or analysis of the data must fall within the scope described in the IRB approved protocol and may include identifiable private information relating to the subject.

However, for research not subject to Food and Drug Administration (FDA) review, PIs can choose to honor a subject’s request to destroy data relating to the participant or exclude the data from further analysis. PIs are encouraged to consult with the funding agency, if applicable, to assure that requirements of the funding agency are met.

Additionally, PIs are encouraged to consider discussing during the enrollment process, verbally or in the consent form, the use or analysis of collected data if a subject chooses to withdraw from a research study. In deception research, subjects should be permitted to withdraw their data at the time of the debriefing.

For more detail information on HHS and FDA information see:

http://www.hhs.gov/ohrp/policy/subjectwithdrawal.html

4.13 Specimen Collection for Research Purposes

Collection of body fluids (e.g., blood, saliva, urine, etc.) for research purposes must be reviewed and approved by the IRB and the Institutional Biosafety Committee. For some studies the only research intervention is the collection of blood for analysis. Studies involving the collection of blood may be considered minimal risk if the procedures meet certain requirements.

4.13.1 General Requirements

1. There are no special health reasons (e.g., anemia) to contraindicate blood withdrawal.
2. The withdrawal method is by cutaneous sticks (e.g., finger) or by standard venipuncture in a reasonably accessible peripheral vein, and the frequency of punctures does not exceed two per week.
3. The volume of blood drawn from lactating or known pregnant subjects does not exceed 20 ml per week.
4. All blood withdrawals and collections are carried out by experienced personnel.

4.13.2 Additional Requirements for Adults

1. If less than 50 ml is collected, there are no additional restrictions with regard to hemoglobin or hematocrit.
2. If a volume greater than 50 but less than 200 ml is collected for “no-benefit” studies, hemoglobin levels should be >11.0 g/dl for males and >9.5 g/dl for females with a Mean Corpuscular Volume (MCV) >85 femtoliters. The cumulative volume withdrawn or collected may not exceed 450 ml per eight-week period (this maximum includes blood being drawn for clinical purposes) from patients 18 years of age or older in good health and not pregnant.
4.13.3 Additional Requirements for Children

1. No more than three skin punctures are to be made in any single attempt to draw blood, and the frequency of punctures does not exceed twice per week.

2. The volume of blood withdrawn, including blood for clinical purposes, does not exceed the lesser of 50 ml or 3 ml/kg in an 8 week period and collection may not occur more frequently than 2 times per week.

3. The cumulative volume of clinical and research blood withdrawn per 8 week period does not exceed 6.0% of the child's total blood volume.
Section 5: Initial IRB Review of Research Activities

5.1 Governing Principles/Regulations

The IRB will evaluate each proposed human subjects research project on an individual basis to assess whether or not the investigator is adequately protecting the rights and well-being of the subjects. The governing principles for the IRB derive from those described and discussed in the Belmont Report. The governing regulations for the IRB are 45 CFR Part 46 and 21 CFR Parts 50, 56, 312, 600 and 812.

5.2 Initial IRB Review at a Convened IRB Meeting

Generally, protocols that must be reviewed at a convened meeting are considered to be more than minimal risk studies. The IRB will evaluate each project on an individual basis in order to assess whether the PI is providing adequate protection for the subjects. The assessment will be based on the initial IRB application, which includes the applicable documents listed in Section 5.2.1.

Submission deadlines and the number of copies of the submission packets are listed on the ORS website at http://www.utexas.edu/research/rsc/humansubjects/meeting_dates.html

All meeting documents will be made accessible to all members including alternates who will be attending in place of primary members. Members may bring laptop computers to access meeting documents. In the event that a member cannot attend in person, teleconference capability is present and members may participate through teleconference.

5.2.1 Submission and Review Schedule

If the proposal meets all requirements for full board review, the following is required to be electronically submitted and included in the submission packet:

1. A completed original IRB application with electronic signatures of the PI, co-investigator(s), faculty sponsor and, if applicable, Departmental Review Committees (DRCs).
2. A research proposal describing the rationale for the study, research questions to be answered, information that allows the IRB to determine whether selection of participants will be equitable, methods, procedures, data analysis plan, and other required information that will allow the IRB reviewer(s) to conduct an analysis of the risks and potential benefits. The research proposal must follow the outline in the Research Proposal on the ORS website: http://www.utexas.edu/research/rsc/humansubjects/forms.html
3. An informed consent document.
4. Training Verification. (See 3.17 Training Requirements).
5. Recruitment materials; i.e., flyers, posters, web-pages, email messages, etc.
6. Data and Safety Monitoring Plan (DSMP) (See 5.2.2 below).
7. Copies of all instruments if the study involves the use of questionnaires, surveys, or similar instruments.

If applicable:

8. Letters of support for external sites.
9. Review/confirmation of Environmental Health and Safety (EHS), Institutional Animal Care and Use Committee (IACUC), and/or Institutional Biosafety Committee (IBC) approval.
10. Sponsor protocol (and the Investigator’s Brochure, when one exists).
11. Copy of the Health & Human Services (HHS) grant application.
12. HHS sample protocol.
13. HHS sample consent document.
PIs are also requested to submit one paper copy of the entire submission to ORS by the submission deadline.

5.2.2 Data and Safety Monitoring Plans

Research studies in which subjects are at greater than minimal risk of experiencing physical or psychological injury (e.g., clinical/biomedical or behavioral studies that deliver an intervention to subjects) must consider how study data will be monitored and unanticipated problems addressed to assure the ongoing safety and wellbeing of subjects during the study. In these types of studies, a Data and Safety Monitoring Plan (DSMP) that addresses the following must be submitted:

1. Type of data or events that are to be captured under the monitoring provisions. The monitoring provisions should be tailored to the expected risks of the research, the type of subject population being studied, the nature and size of the study, and the complexity of the research protocol.
2. Frequency of assessments of data or events captured by the monitoring provisions (e.g., at certain points in time or after enrollment of a certain number of subjects).
3. Entity or person(s) responsible for monitoring the data collected, including data related to protocol deviations, and unanticipated problems and their respective roles in the research activities (i.e., investigators, research coordinators, statisticians, independent medical monitor, etc.).
4. Procedures for analysis and interpretation of the data.
5. Time frames for reporting protocol deviations and unanticipated problems to the monitoring entity.
6. Definition of specific triggers or stopping rules that will dictate when action is required and what the range of possible actions is.
7. Reporting mechanisms/procedures for the data monitor and others responsible for communicating with the IRB, the study sponsor, the investigators and other appropriate officials the outcome of the reviews of the monitoring entity.

5.2.3 Assignment of Primary and Secondary Reviewers

IRB Program Coordinators will assign each protocol to IRB members who, as primary and secondary reviewers, will review the protocol in detail and act as a liaison between the IRB and the PI. Primary and secondary reviewers are assigned, as closely as possible, according to their expertise with the research being proposed and/or the subject population(s) being enrolled and their appropriate scientific or scholarly expertise to review the protocol. Protocols are not assigned to reviewers who have a conflict of interest (COI) or have academic appointments in the same administrative unit as the PI. The primary and secondary reviewers may contact the investigator, co-investigators, other IRB members, or outside sources as necessary to ensure a thorough evaluation of risks and benefits of the proposed research.

At times, the IRB may not have the appropriate expertise to review the study for scientific or scholarly validity. In those cases, the IRB Chair will consider who in the University faculty or community has the appropriate scientific expertise to serve as an expert consultant to perform an in-depth review of the study. Consultants will disclose any COI prior to performing the review and those with a COI will not be used for protocol review.

5.2.4 Distribution of Submitted Materials to IRB Members

Meeting documents will be accessible to the IRB members 10-12 days prior to the scheduled meeting. The primary and secondary reviewers are expected to review all materials for their assigned protocol(s). IRB members who are not assigned as primary or secondary reviewers are expected to
review at least the application, protocol and consent forms for research studies being considered at the meeting but, of course, may review all submitted materials as follows:

1. Application form.
2. Full protocol.
3. Informed consent document
4. Request to include vulnerable populations as subjects (pregnant women, fetuses, children, prisoners, decisionally impaired adults).
5. Recruitment material.
6. Copies of all instruments if the study involves the use of questionnaires, surveys, or similar instruments.

If applicable:

7. DSMP.
8. HHS grant application.
9. HHS sample consent document.
10. Sponsor protocol.

5.2.5 IRB Meeting Schedule

The IRB is generally scheduled to meet on the fourth Monday of each month but may be adjusted as necessary to accommodate member schedules, semester breaks, and other factors that affect member availability. The schedule may be viewed on the ORS website.

5.2.6 Presentation and Discussion of Protocols

Protocols undergoing initial and continuing review at the convened meeting are presented individually to the IRB by the Primary and Secondary Reviewers. IRB Program Coordinators will assure members with appropriate scientific expertise, local knowledge and other expertise specific to the protocols are present at the IRB meeting, along with at least one member who is knowledgeable about or experienced in working with vulnerable subjects, when research involving subjects who are vulnerable to coercion are reviewed. If a member with the appropriate expertise, knowledge, or experience in working with the specific vulnerable population cannot be present, the IRB Program Coordinator will notify the IRB Chair to obtain a consultant, if needed, to provide a written report of their evaluation of the protocol.

To be properly presented and discussed, a quorum of the members, which must include a non-scientist, an unaffiliated member and a prisoner representative (if research including prisoners is discussed) must be present for the entire presentation, discussion, and deliberation. The IRB Senior Coordinator (or designee) will determine is a quorum of members in present and inform the Chair when quorum is met. Members not present for a substantial part of the discussion and deliberations should abstain from voting. The presence of a quorum of members is documented in the meeting minutes. For those protocols undergoing initial review, the following are discussed in detail (list is not all-inclusive):

1. The regulatory criteria for approval at 45 CFR 46.111 are met.
2. The setting in which the research occurs; i.e. investigators have adequate time, staff and facilities to safely conduct and complete the research.
3. The scientific and ethical justification for including vulnerable populations (children, prisoners, pregnant women, fetuses, decisionally impaired adults), if applicable.
4. Analysis of the procedures to minimize risk that includes PI access to a population that will allow recruitment of the necessary number of participants and the availability of medical or psychosocial resources that participants might need as a consequence of the research.
5. The procedures to be used to ensure protection of subject privacy and data confidentiality.
6. The scientific qualifications and experience of the investigators and their research staff.
7. The human subjects protection training of the investigators and their research staff.
8. Potential or disclosed investigator conflict of interest.

If applicable:

9. The scientific and ethical justification for excluding classes of persons from the research.
10. DSMP.
11. Written consultant reports. (If the protocol was reviewed by a consultant, the consultant will not be present for deliberation and the voting on the protocol.)

5.2.7 Criteria for IRB Approval of Research

In order to approve research, the IRB will provide ethical and scientific review of all human subjects research to the extent necessary to determine that all of the requirements of 45 CFR 46.111 Criteria for IRB approval of research are satisfied. Visit the HHS website at: http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html#46.111

To ensure that all regulatory requirements for review have been met, a Primary and Secondary Reviewer checklist is utilized. Additionally, an IRB Guide containing a list of the requirements and reminders for other required determinations is distributed to each member at the IRB meetings.

5.2.8 Scientific/Scholarly Review

As stated in Section 3.17.3, the IRB relies upon the DRCs to assure that submissions contain appropriate information to facilitate IRB review. The IRB is ultimately responsible for the scientific/scholarly and ethical review of the research.

5.2.9 Length of Approval Period

The IRB will also determine the interval for the continuing review of the research, appropriate to the degree of risks that will be experienced by subjects. The interval for continuing review will be at least once per year (not to exceed 365 days; 366 days during a leap year) but may be shorter. If the protocol was approved or approved with explicit conditions, the expiration date is calculated from the date of the convened meeting. Protocols that have not undergone continuing review will expire at midnight on the expiration date. Research activities may not continue after midnight of the expiration date. The following conditions are likely to require review more often than annually:

1. There is a high degree of risk to subjects.
2. The stage of research is such that many of the risks are unknown.
3. The proposed procedures have not been used in humans.
4. There have been confirmed instances of serious or continuing noncompliance.
5. An IRB member believes more frequent review is required.
6. Other reasons for which the IRB requests closer monitoring.

5.3 Research Appropriate for Expedited Review

If a protocol has been determined to be minimal risk it may be considered for expedited review provided that it fits one of the categories authorized by 45 CFR 46.110 for expedited review.

Research including prisoners and involving direct interaction with the prisoners may be reviewed by the expedited review process if a determination is made that the research is minimal risk for the prison
population being studied or included and a prisoner representative must review the research as either a primary or secondary reviewer.

Research that does not involve interaction (e.g., existing data, record review) with prisoners may be reviewed by the expedited review process if a determination is made that the research is minimal risk for the prison population being studied or included. A prisoner representative may review the research but review by a prisoner representative is not required.

The expedited review proposal may be reviewed and approved by the IRB Chair, Vice Chair, ORS Director or other IRB Chair designated reviewer.

5.3.1 Submission and Review Schedule

Protocols submitted for expedited review may be submitted at any time and will be processed within the timeframe listed on the ORS website at http://www.utexas.edu/research/rsc/humansubjects/timeline.html.

At least one IRB member is provided and reviews the complete protocol, including any protocol modifications previously approved by the IRB.

5.3.2 Submission Requirements/Materials Reviewed

If the protocol meets all requirements for expedited review, the following must be electronically submitted:

1. A completed original IRB application (status report) with electronic signatures of the PI, co-investigator(s), and, if applicable, DRC.
2. A research proposal describing the rationale for the study, research questions to be answered, methods, procedures, data analysis plan, and other required information. The research proposal must follow the outline in the Research Proposal Template.
3. An informed consent document.
4. Training verification. (See 3.17 Training Requirements).
5. Recruitment materials; i.e., flyers, posters, web-pages, email messages, etc.

If applicable:

6. Copies of all instruments if the study involves the use of questionnaires, surveys, or similar instruments.
7. Site letters for extramural research.
8. EHS, IACUC, IBC approval documentation.
10. Copy of the HHS grant application.
11. HHS sample protocol.
12. HHS sample consent document.

5.3.3 Assignment of Expedited Reviewer

Upon processing, the IRB Program Coordinators will verify the protocol is appropriate for expedited review. They will work with the PI to assure that all required documentation has been uploaded and the application is complete. The research protocols are then presented to the IRB Chair, Vice Chair, ORS Director, or other IRB Chair designated reviewer. Designated reviewers will be experienced IRB members, defined as having served on the IRB for at least one year. IRB Program Coordinators will assure that reviewers do not have a conflict of interest.
5.3.4 Reviewer Considerations

Protocols undergoing expedited review are reviewed to assure:

1. The research meets all applicability criteria (See Section 5.3.5) and falls into one or more categories of research eligible for review using the expedited procedure. 45 CFR 46.110
2. The regulatory criteria for approval are met. (See Section 5.3.6 Criteria for IRB Approval of Research)
3. Investigators and their research staff have appropriate and sufficient qualifications, expertise, and training. (See 3.17 Training Requirements).

5.3.5 Applicability Criteria

The following criteria should be considered for research undergoing expedited review:

1. The research procedures present no more than minimal risk to subjects.
2. The identification of subjects or their responses will not reasonably place them at risk of criminal or civil liability or be damaging to their financial standing, employability, insurability, reputation or be stigmatizing, unless reasonable and appropriate protections will be implemented so that the risks related to invasion of privacy and breach of confidentiality are no greater than minimal.
3. The research is not classified.

5.3.6 Criteria for IRB Approval of Research

In order to approve research, the IRB will provide ethical and scientific/scholarly review of all human subjects research to determine that all of the requirements of 45 CFR 46.111 criteria for IRB approval of research are satisfied.

Protocols that may be minimal risk but are not included on the list of activities that may undergo expedited review are reviewed at a convened meeting of the IRB. The IRB may then designate that a protocol is minimal risk and determine that the protocol may undergo an expedited review process under Category 9 during its subsequent reviews for continuation.

5.3.7 Scientific/Scholarly Review

As stated in Section 3.17.3, the IRB relies upon the DRCs to assure that submissions contain appropriate information to facilitate IRB review. The IRB is ultimately responsible for the scientific/scholarly and ethical review of the research.

5.3.8 Length of Approval Period

The interval for continuing review will be at least once per year (not to exceed 365 days; 366 days during a leap year) but may be shorter. If the protocol was approved or approved with explicit conditions, the expiration date is calculated from the date of review and approval by the IRB Chair or designated reviewer. Protocols that have not undergone continuing review will expire at midnight on the expiration date. Research activities may not continue after midnight of the expiration date.

5.3.9 Reporting of Expedited Review to the IRB

The protocol number, title, PI name, and the category of research for which each protocol that was approved using an expedited review procedure is reported to the IRB at the next scheduled meeting.
5.4 Exempt Research

For HHS-funded research, the following exemptions do not apply if research includes prisoners as research subjects or if the research is FDA regulated. If the research is not HHS-funded, the exemptions will apply for research including prisoners as research subjects unless the research involves interaction with prisoners (including obtaining informed consent).

Research qualifying for exempt status must be in accordance with the University’s ethical standards and training requirements.

The HHS and FDA regulations define some research as exempt from IRB review. The IRB recognizes the exempt categories described in Section 5.4.1. However, depending on the potential risks subjects may experience, the IRB may require a higher level of review either through the expedited process or by the IRB at a convened meeting. PIs who feel their research exactly fits one of the categories for exemption may request such a determination by submitting an IRBaccess application. Upon receipt, the IRB Program Coordinators, in consultation with the ORS Director, Assistant Director, IRB Chair, or Vice Chair as necessary, will evaluate all requests for exemption and determine whether or not the research is eligible for exemption. PIs are not allowed to make the final determination of exemption. PIs will be informed of the results of the evaluation by letter. PIs are not authorized to begin until this letter is received.

Modifications that affect the exempt category or the criteria for exempt determination must be submitted as an amendment. Investigators are strongly encouraged to contact the IRB Program Coordinator(s) to describe any changes prior to submitting an amendment. The IRB Program Coordinator(s) can help investigators determine if a formal amendment is necessary or if the modification does not require a formal amendment process.

Formal continuing review will not be required, but investigators will be contacted at least every three years to determine if the research is still ongoing.

5.4.1 Exempt Research (Not FDA Regulated)

The categories for exemption are as follows:

1. Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (i) research on regular and special education instructional strategies, or (ii) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.
2. Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior, unless:
   a. Information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and
   b. Any disclosure of the human subjects’ responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects financial standing, employability, or reputation.

Note: For HHS-funded research that involves children as subjects, the procedures cannot involve i) survey procedures; ii) interview procedures; or iii) observation of public behavior where the investigators participate in the activities being observed (observation of public behavior where the investigators do not participate is allowable).
3. Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior that is not exempt under paragraph (2) above, if:
   a. Human subjects are elected or appointed public officials or candidates for public office; or
   b. Federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.

4. Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that the subjects cannot be identified, directly or through identifiers linked to the subjects.

   **Note:** This exemption would not apply if the investigator(s) collects data in a coded manner since the code would enable subjects to be identified via the code. “Existing” means that the data, documents, records, or specimens must exist and be de-identified at the time the research proposal is submitted.

5. Research and demonstration projects which are conducted by or subject to the approval of department or agency heads, and that are designed to study, evaluate, or otherwise examine:
   a. Public benefit (e.g., financial or medical benefits as provided under the Social Security Act) or service programs (e.g., social supportive or nutrition services as provided under the Older Americans Act);
   b. Procedures for obtaining benefits or services under those programs;
   c. Possible changes in or alternatives to those programs or procedures; or
   d. Possible changes in methods or levels of payment for benefits or services under those programs.

   In addition:

   e. The research must be conducted pursuant to specific federal statutory authority.
   f. There must be no statutory requirement that an IRB review the research.
   g. Research must not involve significant physical invasions or intrusions upon the privacy of the subjects.
   h. The exemption should have authorization or concurrence by the funding agency.

6. Taste and food quality evaluation and consumer acceptance studies if:
   a. Wholesome foods without additives are consumed.
   b. A food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or
   c. Agricultural chemical or environmental contaminant at or below the level found to be safe by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

### 5.4.2 Exempt Research (FDA)

The categories of research qualifying for exemption are as follows:

1. Any investigation that commenced before July 27, 1981 and was subject to requirements for IRB review under FDA regulations before that date, provided that the investigation remains subject to review of an IRB that meets the FDA requirements in effect before July 27, 1981;
2. Any investigation commenced before July 27, 1981 and was not otherwise subject to requirements for IRB review under Food and Drug Administration regulations before that date;
3. Emergency use of a test article, provided that such emergency use is reported to the IRB within 5 working days. Any subsequent use of the test article at the institution is subject to IRB review;
4. Taste and food quality evaluations and consumer acceptance studies, if wholesome foods without additives are consumed or if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural, chemical or environmental contaminant at or below the level found to be safe by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

5.4.3 Criteria to Determine that Subjects of Exempt Research are Protected

Although exempt research is not covered by the federal regulations, it is not exempt from institutional ethical considerations. The individual making the exempt determination will assure the research meets the criteria of one of the categories for exemption listed in Section 5.4.2 and that ethical standards are met regarding risks, equitable selection of subjects, privacy and confidentiality, and informed consent. The Principal Investigator is responsible for assuring the following during the conduct of the research:

1. All research personnel are trained in ethical principles, relevant federal regulations, and institutional policies governing human subjects research.
2. All subjects are provided pertinent information (e.g., risks and benefits, contact information for investigators and the ORS), are selected equitably, and voluntarily consent to participate.
3. Information or unanticipated problems that may increase the risk to the subjects and cause the category of review to be reclassified to expedited or full board review are immediately reported to the IRB.
4. Complaints from subjects regarding their risks and benefits are immediately reported to the IRB.
5. The privacy of the subjects and confidentiality of the research data will be maintained appropriately to ensure minimal risks to subjects.
6. Reporting, by submission of an amendment request, any changes in the research study that alter the level of risk to subjects.

5.4.4 Length of Approval Period

Since protocols that are exempt from IRB review are not approved by the IRB, there is no approval period. However, PIs will be contacted every 3 years to verify that the research is ongoing and remains exempt. If the research is completed prior to the 3 year period, investigators are requested to notify the IRB of the study’s closure.

5.4.5 Modifications to Exempt Research

Researchers should notify ORS of proposed modifications to research determined to be exempt to assure that the research activities remain exempt for IRB review and exempt determination.

5.5 Possible IRB Protocol Determinations

Either the IRB at a convened meeting or a designated reviewer (expedited protocols) will render one of the following determinations for each protocol:

1. **Approved**: Approved by the IRB as written with no explicit conditions.
2. **Approved with Explicit Conditions**: Approved with requirements for minor changes or simple concurrence of the PI. These will be identified to the PI and must be completed and documented prior to beginning the research. For these conditions, the IRB Program
Coordinator(s), in consultation with IRB Chair’s designated reviewers, upon reviewing the PI’s response(s) to the conditions, may approve the research on behalf of the IRB. PI responses to conditions deemed to be significant or that are directly relevant to regulatory criteria must be reviewed by the IRB at a convened meeting.

3. **Tabled:** Generally, the protocol or consent form has deficiencies that prevent accurate determination of risks and benefits or requires significant clarifications, modifications, or conditions that, when met or addressed, require full IRB review and approval of the PI’s responses and revisions. The deficiencies will be specified to the PI, and on occasion the PI is asked to attend the full board meeting in order to clarify the points in question. The PI must revise the protocol, consent forms, or other documents as specified by the IRB and re-submit the entire protocol for full review at a convened meeting. The PI may request reconsideration of determination by submitting a written response to the IRB. The IRB will invite the PI to the IRB meeting if the IRB has additional questions. The IRB will reconsider its original decision in light of new information presented by the PI. The second decision is final.

4. **Disapproved:** This determination may only be made at a convened IRB meeting. The protocol describes a research activity that is deemed to have risks which outweigh potential benefits or the protocol is significantly deficient in several major areas. The protocol and/or other documents will need to be completely re-written and re-submitted as a new submission. PIs may request reconsideration of disapproved studies by submitting a written response to the IRB. The IRB will invite the PI to the IRB meeting if the IRB has additional questions. The IRB will reconsider its original decision in light of new information presented by the PI.

For those protocols reviewed using the expedited review process, the designated reviewer may render decisions of approved, approved with explicit conditions, or tabled. The designated reviewer may not render a decision of disapproved. A decision of protocol disapproval may only be rendered by the IRB at a convened meeting.

Due to the high volume of protocols reviewed by the IRB, any protocol for which no PI response to approved with explicit conditions or tabled is received in 60 days will be withdrawn from IRB consideration. Reconsideration of the protocol will require complete re-submission.

### 5.6 Notification of Determinations

#### 5.6.1 Full Board Review

Within five working days after each IRB meeting a letter is prepared and sent to the PI of each protocol notifying them of the IRB determination for the protocol. An approval letter requires no further action and the PI can begin research.

Letters giving approval with explicit conditions will contain a list of required conditions and PIs will not receive final approval until all required conditions have been met. Along with the determination, the IRB will determine whether the PI’s responses to the explicit conditions will need to be reviewed for appropriateness and completeness at another IRB convened meeting or by the IRB Chair or designated reviewer. Responses to clarifications that are directly relevant to regulatory criteria must be reviewed by the convened IRB. When the PI has responded to all conditions appropriately and completely in a letter to the IRB office then final approval is granted. The PI will be notified by an approval letter that research can begin and when the protocol will require continuing review.

For tabled protocols, the PI will be notified by letter the reasons the protocol was tabled. The entire protocol, with all supporting documents, must be revised as needed and resubmitted.

The PI of protocols that are disapproved will receive a letter that delineates the reasons for disapproval.
5.6.2 Expedited Review

Within five work days after the protocol is reviewed by a designated reviewer, the PI will receive a letter of the IRB determination. An approval letter requires no further action and the PI can begin research. Letters giving approval with explicit conditions will contain a list of required conditions and PIs will not receive final approval until all conditions have been met. When the PI has responded appropriately and completely in a letter to the IRB office addressing all conditions, then final approval is granted. The PI will be notified by an approval letter that research can begin and when the protocol will require continuing review.

For tabled protocols, the PI will be notified by letter of the reasons the protocol was tabled. In order to have the protocol reviewed again, the PI must respond to all the tabled reasons by adjusting the submission documents or attaching additional supportive documentation.

Due to the high volume of protocols reviewed by the IRB, any protocol for which no PI response to approved with explicit conditions or tabled is received in 60 days will be a withdrawn from IRB consideration. Reconsideration of the protocol will require complete re-submission.

5.6.3 Exempt Research

If the research study is determined to meet the criteria for exempt status and if the PI Assurance Statement has been received, the IRB Program Coordinator will send an Exempt Determination letter to the PI. The exempt determination will be recognized for three years.

By agreeing to the PI Assurance Statement, the investigator assures that all investigators and co-investigators are trained in the ethical principles, relevant Federal Regulations and institutional policies governing human subjects research. The investigator assures that:

1. Human subjects will voluntarily consent to participate in the research when appropriate (e.g., surveys, interviews) and will provide subjects with pertinent information such as risks and benefits of participation, contact information for investigators and the IRB office, etc.
2. Human subjects will be selected equitably, so that the risks and benefits of the research are justly distributed.
3. The IRB will be immediately informed of any information, unanticipated problems that would increase the risk to the human subjects and cause the category of review to be upgraded to Expedited or Full Board Review.
4. The IRB will be immediately informed of any complaints from participants regarding their risks and benefits.
5. Confidentiality and privacy of the subjects and the research data will be maintained appropriately to ensure minimal risk to subjects.

5.7 Final Approval and Expiration Dates

If a study is approved with no conditions, the final approval is effective the day the study is approved, i.e., the date of the convened IRB meeting for full board protocols and the date of reviewer’s approval for expedited protocols.

If a study is approved with explicit conditions, the final approval is effective on the day the protocol was reviewed and conditions were imposed by the IRB at a convened meeting (full board protocols) or the date that the reviewer imposed conditions (expedited protocols). This determination will be documented in the IRB meeting minutes. The expiration date for the approval is based on the date it was approved at a convened meeting or approved by a designated reviewer and will be no longer than
365 days (366 days if during a leap year) from the approval date, but may be sooner if more frequent review is stipulated by the IRB.
Section 6: Informed Consent

6.1 General Policy

Researchers must describe in their research protocol how the informed consent process will be conducted, the setting in which it will occur, a description of the waiting period between informing the prospective participant and obtaining consent and methods in place to prevent undue influence on a potential participant to enroll in a study. The following are points to consider when conducting the consent process.

Researchers should consider obtaining informed consent as a process, not just a consent form, by which the research study is thoroughly explained to the potential subject. The requirement to obtain informed consent should be seen as not only a legal obligation, but also as an ethical obligation. Documentation of informed consent is accomplished through the use of a consent form. Prior to enrolling subjects in a research activity, researchers are required to obtain legally effective informed consent from a potential subject or their LAR and, if the research involves children, a parent’s permission or child’s consent. (See Section 6.6 Parental Permission/Child Assent).

As part of the informed consent process, researchers are responsible for ensuring subjects (or LARs) are given sufficient opportunity to consider whether or not to participate in the study and must seek to avoid coercion or undue influence. Information given to potential subjects (or LAR) must be in language that is understandable to the subject or representative. Non-English speaking subjects must have information presented in a language they understand (Section 6.4.1 Non-English Language Informed Consent and other Study Documents).

No process or consent form used to obtain and document consent may include exculpatory language through which the subject waives any of their legal rights or releases, or appears to release, the researcher, sponsor, or institution or its agents from liability for negligence. Any consent form used to enroll subjects in a research protocol must be reviewed and approved by an IRB prior to enrollment. In addition, the IRB may request to observe the informed consent process to ensure adequate consent when the research involves particularly vulnerable populations.

Researchers should be aware that the setting in which consent is sought may introduce a feeling of undue influence. For example, students in an educational setting may feel that refusal to participate will affect their grades. Prevention of these sorts of pressures should be addressed in the research design as the process must always preserve the right to refuse participation.

In all cases, consent forms must be consistent with state laws and federal regulations regarding content. The informed consent requirements stated in this manual are not intended to preempt any applicable federal, state, or local laws that require additional information to be disclosed in order for informed consent to be legally effective.

Procedures for requesting a waiver of the requirements for obtaining and/or documenting informed consent are delineated in Section 6.7.

6.2 Elements of Informed Consent

The IRB will determine that the required disclosures will be provided to each subject or a legally authorized representative in accordance with legal and regulatory requirements listed below as required elements of informed consent. The IRB will also consider whether additional disclosures are required for inclusion in the consent process.

It is expected that researchers will use the informed consent form template with required sections and
verbiage for preparing consent forms. Other formats may be considered providing that all required
elements and applicable additional elements are present. Research-related consent forms must contain
all the basic elements of informed consent regardless of the risk level of the study unless a request for
waiver or alteration of some or all of the elements is requested by the researcher and the waiver is
approved by the IRB. The consent form template contains all the required elements of consent. In
addition, the IRB requires that all consent forms be written in the second person, e.g., “You will be
required to ...” The following are the basic required elements (extracted from 45 CFR Part 46.116):

1. A statement that the study involves research.
2. An explanation of the purpose of the proposed research.
3. The expected duration of the subject’s participation.
4. A description of the procedures to be followed.
5. Identification of which procedures are experimental. For studies that are not greater than
   minimal risk and are not HHS-funded, this element may be omitted.
6. A description of reasonably foreseeable risks or discomforts that the subjects may encounter,
   and, if appropriate, a statement that some risks are currently unforeseeable.
7. A description of possible benefits, if any, to the subject and others which may be reasonably
   expected. It should be stated that if it is an experimental treatment or procedure, no benefits
   can be guaranteed.
8. A disclosure of appropriate alternative procedures or treatments, if any, which are available
   and might be advantageous to the subject. One alternative might be to choose not to participate
   in the research. For studies that are not greater than minimal risk and are not HHS-funded, this
   element may be omitted.
9. A statement describing the manner and extent, if any, to which confidentiality of records
   identifying the subject will be maintained, a statement that the IRB and other entities may
   inspect the records, and, if the research is Food and Drug Administration (FDA)-regulated,
   FDA may inspect the records.
10. For research involving more than minimal risk, an explanation as to whether any
    compensation or any medical treatments are available if injury occurs and if so, what they
    consist of or where further information may be obtained. For studies that are not greater than
    minimal risk and are not HHS-funded, this element may be omitted.
11. A description of whether or not reimbursement for time, inconvenience, etc. will be given,
    including the schedule of payments.
12. Information regarding who to contact for answers about the research and in the event there is a
    research-related injury (this is generally the principal investigator (PI) or another staff member
    closely associated with the study). A separate contact, typically this is the Office of Research
    Support, must be named for questions concerning the subject’s rights to provide input,
    comments, or complaints.
13. A statement that the subjects’ participation is voluntary, that refusal to participate will not
    involve penalty or loss of benefits to which the subject is entitled, and that the subject may
    discontinue participation at any time without penalty or loss of benefits to which the subject is
    entitled.

Note: for FDA regulated applicable clinical trials (See definition in Section 2) the following statement
must be included:

“A description of this clinical trial will be available on http://www.ClinicalTrials.gov as required by
U.S. Law. This web site will not include information that can identify you. At most, the Web site will
include a summary of the results. You can search this Web site at any time.”

The following additional elements of informed consent must be added to the consent form when
appropriate:
1. A statement that the particular treatment and/or procedure may involve risks to the subject (or to the embryo or fetus, if the subject becomes pregnant) that are currently unforeseeable. This element should be included when the research involves an investigational drug or device or involves procedures for which the risk profile is not well known.

2. Anticipated circumstances under which the subject’s participation may be terminated by the PI, with or without the subject’s consent. Include when there are known circumstances under which the subject’s participation may be terminated by the PI or sponsor.

3. A description of additional costs for which the subject will be responsible, that may result from participation in the research study. Include when there are additional costs to subjects, over and above standard of care, e.g., additional MRIs, radiographs, DEXA scans, additional visits that may not be covered by insurance/Medicare/Medicaid.

4. A description of the consequences of a subject’s decision to withdraw from the research and procedures for orderly and safe termination of participation by the subject. This element should be included when there is a likelihood that abrupt termination from the research is likely to result in adverse events to the subject.

5. A statement that significant new findings developed during the course of the research that may relate to the subject’s willingness to continue participation will be provided to the subject. Include when there is likelihood that interim findings might indicate increased risk and a reasonable person would wish to reconsider participation.

6. The approximate number of subjects that will be involved with the study, totally and at the University. Include when such information might affect a subject’s willingness to participate.

7. Other additional information may be required by the IRB.

6.3 Other Requirements for Obtaining Informed Consent

1. The IRB must be made aware of the person(s) who will be conducting the informed consent process. These faculty/staff members should be listed in the application and are the only personnel allowed to obtain consent. The IRB requires that the person obtaining consent be appropriately trained in human subjects research (See Section 3.16 Training Requirements) and fully knowledgeable about the project and be able to answer questions that potential subjects may ask regarding the project and/or procedures performed as a part of the project.

2. If potential subjects are deemed as decisionally impaired, informed consent must be obtained from a LAR (See Section 6.5: Third Party/Surrogate Consent). They should be told that their obligation is to try to determine what the subject would do if they were competent, or if the subject’s wishes cannot be determined, what they think is in the best interest of the decisionally impaired subject. The IRB must approve the inclusion of decisionally impaired subjects.

3. The consent form is only part of the total consent process in which the researcher conducting the informed consent process, perhaps using the written consent form as an outline, describes all facets of the study and answers the subject’s questions. The person obtaining consent is responsible for insuring that research subjects understand the research procedures and risks. Each subject (or LAR) must be provided adequate time to read and review the consent form, in addition to being advised of the procedures, risks, potential benefit, alternatives to participation, etc. Failure of the subjects to ask questions should not be construed as understanding on the part of the subject.

4. The IRB has the authority to observe the consent process at any time. Depending on the perceived risk of the research procedures, the IRB may wish to observe the consent process for that protocol. In these cases, the PI will be contacted and the time and place for observing the process will be scheduled.

5. Obtaining informed consent from subjects must be accomplished prior to performing the research activity and using only an IRB-approved and stamped consent form. Written requests for amendments to an existing consent form must be approved prior to implementation, at which time the revised consent form will be stamped and dated by the IRB Program Coordinators and be accompanied by a formal approval notification.
6. Upon receipt of an IRB approved consent form, copies of all old versions should be discarded to prevent inadvertent use of an outdated consent form. Copies of the most recently approved consent form may be made and should be used until superseded by an amended consent form. The consent form must be reviewed at least annually as part of the continuing review process and should not be used after the expiration date stamped on the form. It is advised the researchers retain a copy of the original, expired consent form(s) for their records.

7. For long-term studies, researchers are reminded that the informed consent process is an ongoing and that does not end with the signing of the consent form. Subjects should be kept apprised of events that might affect their willingness to participate.

8. Researchers are reminded that the informed consent process and form must be in a language understandable to the subject. Therefore, if it is anticipated or known that there will be non-English speaking potential subjects who might be interested in enrolling in a study, the consent form must be translated. It will then have to be reviewed and approved by the IRB. Translation of the consent form should be conducted by a certified translator or if performed by someone who is not a certified translator but is fluent in the translated language the PI must certify that it is an accurate translation.

6.4 Documenting Informed Consent

Federal regulations governing the use of human subjects in research activities require written documentation of informed consent (handwritten signature of the subject) unless the research meets the criteria for waiver of documentation. The subject and researcher’s staff conducting the consent interview should sign and date the IRB approved consent form.

1. After completing the consent process and assuring that the subject (or LAR) has no further questions and agrees to participate in the research activity, the person obtaining informed consent should instruct the subject (or LAR) to sign and date the consent form in the appropriate spaces.

2. The researcher or designee conducting the consent interview must then sign and date the consent form in the appropriate spaces. It is assumed that in most cases, all persons signing the consent form will do so at the conclusion of the consent process.

3. Each subject (or LAR) must be given a copy of the signed consent form. The original consent form should be filed in such a manner as to insure immediate retrieval when required by auditing entities, e.g., FDA, IRB.

4. For minimal risk studies the researchers should use the template Consent Form 2.

6.4.1 Non-English Language Informed Consent and other Study Documents

It is neither ethically justifiable to exclude potential subjects in a research study solely on the basis of language spoken nor ethically justifiable to obtain consent of subjects who do not have a clear understanding of the consent document or who do not have the opportunity to freely ask and receive answers to their questions. Without this understanding and opportunity, consent may not be truly informed and may not be legally effective. In order to address these considerations, when enrolling subjects who do not speak English in research, the subject must be provided with:

1. A written consent document in a language understandable to them.

2. An interpreter fluent in both English and the subject’s spoken language.

A consent form translated into the appropriate language should be submitted the IRB. If the informed consent and other documents are not professionally translated to the non-English language version, other translation procedures may be considered by the IRB. Be sure to describe the proposed translation procedures or a copy of a certificate can be submitted if a certified translator was used to translate the documents.
6.4.2 Use of a Short Form Written Consent Document

A short form is a written document stating that the elements of informed consent required by 45 CFR 46.116 have been presented to and understood by the subject or the subject's legally authorized representative. A short form may be used when the majority of subjects in a study are English speakers, but there are a portion of the subjects who will not be able to understand the consent form written in English.

However, if the majority of the anticipated subjects to be enrolled do not speak English or will be unable to understand the consent form written in English, the consent form must be translated into a language understandable to the subjects.

6.4.2.1 When following DHHS regulations the IRB must determine

1. The consent document states that the elements of disclosure required by regulations have been presented orally to the participant or the participant’s legally authorized representative.
2. A written summary embodies the basic and required additional elements of disclosure.
3. There will be a witness to the oral presentation.
4. For participants who do not speak English, the witness is conversant in both English and the language of the participant.
5. The participant or the participant’s legally authorized representative will sign the consent document.
6. The witness will sign both the short form and a copy of the summary.
7. The person actually obtaining consent will sign a copy of the summary.
8. A copy of the signed short form will be given to the participant or the legally authorized representative.
9. A copy of the signed summary will be given to the participant or the legally authorized representative.

6.4.2.2 When following FDA Regulations the IRB must determine

1. The consent document states that the elements of disclosure required by regulations have been presented orally to the participant or the participant’s legally authorized representative.
2. A written summary embodies the basic and required additional elements of disclosure.
3. There will be a witness to the oral presentation.
4. For participants who do not speak English, the witness is conversant in both English and the language of the participant.
5. The participant or the participant’s legally authorized representative will sign the consent document.
6. The witness will sign both the short form and a copy of the summary.
7. The person actually obtaining consent will sign a copy of the summary.
8. A copy of the signed short form will be given to the participant or the legally authorized representative.
9. A copy of the signed summary will be given to the participant or the legally authorized representative.

6.4.3 Informed Consent Process for Online Survey-Based Research

1. Internet consent documents should include all the elements of a regular signed consent form.
2. Researchers should maintain the format of the template consent document, with study specific information added, as much as possible.

6.5 Third Party/Surrogate Consent

1. The regulations are clear that written documentation of informed consent (or permission of the parents if the subject is a child) of the subject (or LAR) is required.
2. When a PI proposes to conduct a research project utilizing adult subjects who by virtue of age, physical impairment, mental impairment, or any other reason may not be able to personally execute legally effective informed consent, the IRB shall review the project on the basis of risk and benefit. This policy is not meant to imply that the requirement for written documentation of consent is waived. Rather, it applies to those studies in which third party/surrogate consent is obtained from a LAR.

6.6 Parental Permission/Child Assent

If the research involves minors under the age of 18 years the federal regulations require the assent of the child or minor and the permission of the parent(s) (45 CFR 46.408). While children may be legally incapable of giving informed consent, they nevertheless may possess the ability to assent. The assent process should involve taking the time to explain to a child, at whatever age they can begin to understand, what is going on in the proposed study, why the study is being done, what will be done to them, and that if they object, the research will be terminated. Assent means the potential subject’s affirmative agreement to participate in the research. Mere failure to object should not, in the absence of affirmative agreement, be construed as assent.

To obtain informed consent for children under the age of 18 years submit the Parent Consent for Child Participation and Child Assent form.

For more information see Section 12.4 Research Involving Children.

6.7 Waiver of Informed Consent and Waiver of Documentation of Consent

Waivers cannot be granted for FDA-regulated research and the IRB does not approve requests for “Planned Emergency Research” or exceptions to the requirement to obtain consent for “Planned Emergency Research.”

6.7.1 Waiver of Informed Consent

Federal regulations include provisions for approval of a waiver or alteration of part or all of the consent process. There are two general instances when an IRB may approve a consent procedure that does not include, or that alters, some or all of the elements of informed consent set forth in 45 CFR 46.116, or waives the requirement to obtain informed consent. In the first general instance (45 CFR 46.116(c)) the IRB must find and document that:

1. The research is to be conducted by or subject to approval of state or local government officials and is designed to study, evaluate, or otherwise examine: (i) public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) Possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those programs; and
2. The research could not be practically carried out without the waiver or alteration.
In the second general instance (45 CFR 46.116(d)) an IRB may approve a consent procedure that does not include, or that alters some or all of the elements of informed consent or that waives the requirement to obtain informed consent provided that the IRB finds and documents that:

1. The research involves no more than minimal risk to the subjects.
2. The waiver or alteration will not adversely affect the rights and welfare of the subjects;
3. The research could not practicably be carried out without the waiver or alteration (it is impracticable to perform the research if obtaining informed consent is required and not just impracticable to obtain consent); and
4. Whenever appropriate, the subjects will be provided with additional pertinent information after participation.

### 6.7.2 Waiver of Documentation of Consent

Documentation of Consent cannot be waived if the research is FDA regulated.

The IRB has the authority to waive the requirement for written documentation of informed consent. When waiving the requirement for a consent form, the IRB must review a written description of the information that will be provided to subjects and consider whether to require the researcher to provide subjects with a written statement regarding the research. If required, the IRB encourages researchers to use the consent template, or a reformatted version, with the signature sections removed. The IRB may waive the requirement for the researcher to obtain a signed consent form for some or all subjects if it finds that (45 CFR 46.117 (c)):

1. The only record linking the subject and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality and the research is not FDA-regulated. Each subject will be asked whether the subject wants documentation linking the subject with the research, and the subject’s wishes will govern or;
2. The research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.

The determination of the applicability for waiver of the consent process must be documented in the IRB minutes as to the specific paragraph and subparagraph(s) under which the waiver was approved.

### 6.8 Authorization to Use or Disclose Protected Health Information

Researchers may perform research activities in which they collect or have access to Protected Health Information (PHI). To use or disclose PHI, researchers must obtain an authorization signed by the subjects.

#### 6.8.1 Required Elements

1. A description of the information to be used or disclosed presented in a specific and meaningful fashion.
2. The name or other specific identification of the person(s), or class of persons, to whom the use or disclosure will be made.
3. A description of each purpose of the requested use or disclosure.
4. An expiration date or event that relates to the individual or the purpose of the use or disclosure.
5. A statement of the individual’s right to revoke the authorization in writing and the exceptions to the right to revoke, together with a description of how the individual may revoke the authorization.
6. A statement indicating when the authorization for use and disclosure occurs; e.g., at the end of the research.
7. Signature of the individual and date. If the authorization is signed by a personal representative of the individual, a description of such representative’s authority to act for the individual must also be provided.

In addition to the core elements, the authorization is required to contain statements adequate to place the individual on notice of all of the following:

1. The individual’s right to revoke the authorization in writing, and either:
   a. The exceptions to the right to revoke and a description of how the individual may revoke the authorization; or
   b. To the extent that the information in Section 6.7.1 is included in the notice required by 45 CFR 164.520, a reference to the covered entity’s notice.
2. The ability or inability to condition treatment, payment, enrollment, or eligibility for benefits on the authorization, by stating either:
   a. The covered entity may not condition treatment, payment, enrollment, or eligibility for benefits on whether the individual signs the authorization when the prohibition on conditioning of authorizations applies; or
   b. The consequences to the individual of a refusal to sign the authorization, the covered entity can condition treatment, enrollment in the health plan, or eligibility for benefits on failure to obtain such authorization.
3. The potential for information disclosed pursuant to the authorization to be subject to redisclosure by the recipient and no longer be protected.
4. The authorization must be written in plain language.
5. The individual must be provided with a copy of the signed authorization.

6.9 Waiver of Authorization for Use and Disclosure of PHI

In order to use or disclose PHI without an authorization signed by the research subject, the researcher must obtain one of the following:

1. Documentation that an amendment or waiver of the research subjects’ authorizations, for use/disclosure of PHI has been approved by the IRB. This provision of the rule might be used, for example, to conduct records research when researchers are unable to use de-identified information; or
2. Where researchers represent:
   a. That the research is only for purposes of preparing a research protocol or similar uses preparatory to research.
   b. That he or she will not remove any PHI from the covered entity and
   c. That PHI is necessary for the research purpose; or
3. To disclose PHI of decedents, where the researcher represents that the use or disclosure of PHI is:
   a. Solely for research on the PHI of decedents,
   b. Necessary for the research, and
   c. Documentation of the death of the individuals about whom PHI is sought and provided.

6.10 Re-Consenting Subjects

Researchers have the responsibility to inform subjects of any new information that might affect subjects’ willingness to continue participation in the research. In these cases, an amended consent form, delineating the findings and the changes to research risks/benefits, must be reviewed and
approved by the IRB. Subjects should then be briefed on the changes, asked if they wish to continue participation and signify their willingness to continue participation by signing the amended consent form. For minor changes to the consent form that will not change risk/benefit, re-consenting is generally not required.

6.11 Record Retention Requirements for Subject Consent Forms

The PI shall maintain, in a designated location, the original copy of all executed subject consent forms. The signed consent forms, along with all research-related files, are to be available for inspection by authorized officials of the University administration, the IRB, regulatory agencies, sponsors and, if applicable, the FDA or HHS. For non-FDA regulated studies, forms should be retained for at least three years after completion of the study. For FDA-regulated studies, all signed subject consent forms shall be retained by the PI for the appropriate period(s) specified below:

1. **Drugs**: 2 years following the date a marketing application is approved or the study is discontinued.
2. **Devices**: 2 years after a study is terminated or completed and the records are needed to support FDA approval.

Should a PI or project director depart the University prior to the completion of an activity or less than the time specified above, the PI is responsible for initiating mutually satisfactory arrangements with their department and the University administration as to the disposition of executed subject consent documents.
Section 7: Continuing Review of Human Subjects Research Activities

7.1 Requirement for Continuing Review

Any research activity involving the use of human subjects that has received initial review and approval by an Institutional Review Board (IRB) is subject to continuing review and approval. Time intervals for such reviews shall be made at the discretion of the IRB based on the anticipated risks to subjects but shall occur no less than once per year. The principal investigator (PI) must seek approval of continuation unless all of the following are true:

1. The research is permanently closed to the enrollment of new subjects.
2. All subjects have completed all research–related interventions.
3. Collection and analysis of private identifiable information has been completed.

As a courtesy, the IRB office will send a reminder to PIs approximately two months before the study expires. If no response is received a second notice will be sent approximately a month later. However, it is ultimately the PI’s responsibility to complete and submit the IRB Continuing Review Application in time for IRB review prior to the study’s expiration of approval.

Generally, if a protocol was approved at a convened meeting of the IRB at initial review, it must be reviewed at a convened meeting of the IRB for its continuing review. However, if the research initially did not qualify for expedited review the IRB may designate the protocol as minimal risk and determine that the protocol may undergo an expedited review process under Category 9. This determination can be made at the time of initial review or at a subsequent continuing review.

No research protocol may continue after approval has expired until final approval for continuation is granted.

7.2 Submission Requirements

Continuing reviews must be submitted through the IRBaccess. Full board and expedited studies require the following be submitted for continuing review:

1. Completed IRB continuing review application (Status report) which includes the following information:
   a. Number of participants accrued.
   b. A summary since the last IRB review of:
      c. Adverse events, untoward events, and adverse outcomes experienced by participants.
      d. Unanticipated problems involving risks to participants or others.
      e. Participant withdrawals.
      f. The reasons for withdrawals.
      g. Complaints about the research.
      h. Amendments or modifications.
      i. Any relevant recent literature.
      j. Any interim or significant findings that might affect participants’ willingness to continue.
      k. Any relevant multi-center trial reports.
      l. The Researcher’s current risk-potential benefit assessment based on study results.

2. Completed research protocol.
3. A summary of the research.
4. Consent form, if applicable:
   a. Current version being used with IRB stamp and date.
b. If no changes are made in the consent form a new copy must be submitted so it can be stamped with a new date.
c. If changes are being made the PI must submit an amendment. (See Section 8 Amendment of Human Subjects Research Activities)

5. If the protocol is being amended, submit a copy that highlights changes are being made.
6. Copies of questionnaires, payment schedules, recruitment materials, and scripts that are still being used.
7. Other documents relating to the research activities that have not been reviewed by the IRB during initial review or by an amendment to the protocol.
8. Renewal letters from cooperating IRBs as relevant (e.g., site still operational). If the site(s) in question did not have an IRB of record and thus submitted an official letter granting permission for the researcher to conduct the research, then a second letter is not required.

If a protocol receives a status of “Cessation” and the required documents are not submitted within 30 days, the protocol will be closed and receive a status of “Inactive.” PIs requesting re-review/re-consideration of their protocols are required to complete the initial submission process.

7.3 Continuing Review of Research Appropriate for Expedited Review

7.3.1 Review of Protocol

Continuing reviews for expedited studies are reviewed by IRB Program Coordinators for completeness and congruence with the currently approved protocol. In addition, the IRB Program Coordinators determine if the continuing review of studies previously reviewed at a convened meeting qualify for expedited review because:

1. The protocol was initially reviewed using the expedited review process.
2. The protocol meets the criteria for expedited review under expedited Category 8a, 8b or 8c.
3. The protocol was designated by the IRB at a convened meeting as meeting the criteria for expedited review under Category 9.

7.3.2 Review of Materials

The materials that will be reviewed as part of an expedited continuing review application include but are not limited to the materials listed in Section 7.2.

7.3.3 Reviewer Considerations

1. The research falls into one or more of the categories of research eligible for review using the expedited procedure and meets applicability criteria for expedited review:
   a. The research procedures present no more than minimal risk to subjects. For continuing review, this applies to current and future procedures and does not include procedures no longer being performed. These criteria do not apply to Category 8(b).
   b. The identification of subjects or their responses will not reasonably place them at risk of criminal or civil liability or be damaging to their financial standing, employability, insurability, reputation, or be stigmatizing, unless reasonable and appropriate protections will be implemented so that the risks related to invasion of privacy and breach of confidentiality are no greater than minimal. For continuing review, this applies to current and future procedures and does not include procedures no longer being performed. These criteria do not apply to Category 8(b).
   c. The research is not classified.
2. The regulatory criteria for approval are met (See Section 7.5)
7.3.4 Possible IRB Protocol Determinations

Either the IRB Chair or a designated reviewer will render one of the following determinations for each protocol:

1. **Approved**: It is approved as written with no explicit conditions.
2. **Approved with Explicit Conditions**: The protocol was approved with explicit conditions requiring minor changes or simple concurrence of the PI. These will be identified to the PI and must be completed and documented prior to continuing the research.
3. **Tabled**: The information in the submitted documents has deficiencies that prevent accurate determination of risks and benefits. The deficiencies will be identified to the PI, who must address all concerns in a written response.

A designated reviewer may not render a decision of disapproval. Protocol disapprovals may only be rendered by the IRB at a convened meeting.

7.3.5 Length of Approval Period

The interval for continuing review will be at least once per year (not to exceed 365 days; 366 days during a leap year) but may be shorter. The expiration date is calculated from the date of review by the IRB Chair or designated reviewer. Protocols that have not undergone continuing review will expire at midnight on the expiration date. Research activities may not continue after midnight of the expiration date.

7.3.6 Notification of the IRB of Expedited Review

A list of protocols approved for continuation through the expedited review process since the previous IRB meeting is provided to IRB members at each meeting.

7.4 Continuing Review at an IRB Convened Meeting

7.4.1 Assignment of Primary and Secondary Reviewers

Upon receipt, IRB Program Coordinators will assign each protocol to IRB members who, as primary and secondary reviewers will review the protocol in detail and act as a liaison between the IRB and the PI. Primary and secondary reviewers are assigned, as closely as possible, according to their expertise with the research being proposed and/or the subject population(s) being enrolled and their appropriate scientific or scholarly expertise to review the protocol. Protocols are not assigned to reviewers who have a conflict of interest or have academic appointments in the same administrative unit as the PI. The primary and secondary reviewers may contact the investigator, co-investigators, other IRB members, or outside sources as necessary to insure a thorough evaluation of risks and benefits of the proposed research.

At times, the IRB may not have the appropriate expertise to review the study for scientific or scholarly validity. In those cases, the IRB Chair will consider who in the University faculty or community has the appropriate scientific expertise to serve as an expert consultant to perform an in-depth review of the study. Consultants will disclose any conflict of interest (COI) prior to performing the review and those with a COI will not be used for protocol review.

7.4.2 Distribution of Submitted Documents

The following continuing review documents are provided to all IRB members (including alternate members, if attending) and consultants for review:
1. **IRB Continuing Review Application (Status report)** containing the following information:
   a. The number of participants accrued;
   b. Adverse events and outcomes experienced by participants;
   c. Unanticipated problems involving risks to participants and others;
   d. Participant withdrawals and reasons for withdrawal;
   e. Complaints about the research;
   f. Amendments or modifications;
   g. Any relevant recent literature;
   h. Any interim findings;
   i. Any relevant multi-center trial reports, if applicable;
   j. The researchers current risk-potential benefit assessment based on study results

2. Research protocol.
3. New informed consent form.
4. Copies of questionnaires, payment schedules, recruitment materials, and scripts that are still being used.
5. Data and Safety Monitoring Plan (if applicable).
6. Primary Reviewer’s Checklist

### 7.4.3 Presentation and Discussion of Protocols

Protocols undergoing continuing review are presented individually to the IRB by the assigned Primary and Secondary Reviewers. IRB staff will assure that appropriate scientific expertise, local knowledge, and other expertise specific to the protocol(s) is present at the IRB meeting and at least one member who is knowledgeable about or experienced in working with such subjects, when research involving subjects who are vulnerable to coercion are reviewed, will be present at the IRB meeting. If a member with the appropriate expertise, knowledge, or experience in working with the specific vulnerable population cannot be present, the IRB staff will notify the IRB Chair to obtain a consultant if needed. To be properly presented and discussed, a quorum of the members must be present for the presentation, discussion, and deliberations of the protocol. Members not present for a substantial part of the discussion and deliberations should abstain from voting. For those protocols undergoing continuing review, the following are discussed in detail (list is not all-inclusive):

1. The regulatory criteria for approval at 45 CFR 46.111 are met.
2. The new consent form to be used for the next approval period and the adequacy of the consent process.
3. Demographics of recruited/enrolled subjects.
4. Reports of protocol deviations, unanticipated problems, amendments, multi-center/ Data and Safety Monitoring Board reports, and audits reports.

### 7.4.4 Possible IRB Determinations

After presentation by the primary and secondary reviewers and complete discussion by the IRB, each protocol is voted upon for one of four possible dispositions:

1. **Approved**: It is approved as written with no explicit conditions.
2. **Approved with Explicit Conditions**: Approval with explicit conditions is not a final approval. The protocol was approved with minor changes or simple concurrence of the PI. These will be identified to the PI and must be completed and documented prior to beginning the research. For these conditions, the IRB Chair’s designated reviewer, (IRB member, IRB Director, IRB Program Coordinators) upon reviewing the PI’s response(s) to the conditions, may approve the research on behalf of the IRB. PI responses to conditions deemed to be significant or that are directly relevant to regulatory criteria must be reviewed at a convened meeting.
3. **Tabled:** The information in the submitted documents has deficiencies that prevent accurate determination of risks and benefits or requires significant clarifications, modifications, or conditions that, when met or addressed, require full IRB review and approval of the PI’s responses and revisions. The deficiencies will be specified to the PI, who must address all IRB concerns in a written response. On occasion the PI is asked to attend the full board meeting in order to clarify the points in question. PIs may respond to a “tabled” decision with a written request. The IRB will review the appeal and invite the PI to the IRB meeting if the IRB has additional questions. The IRB will reconsider its original decision in light of new information presented by the PI. The second decision is final.

4. **Disapproved:** The submitted materials describe events or situations that indicate that research risks now outweigh potential benefits. PIs may appeal a determination for disapproval in writing or by attending an IRB meeting and presenting reasons for reconsideration. Upon appeal, the IRB will reconsider its original decision in light of new information presented by the PI. The second decision is final.

### 7.4.5 Length of Approval Period

The IRB will determine the interval for the continuing review of the research, appropriate to the degree of risks that will be experienced by subjects. The interval for continuing review will be at least once per year (not to exceed 365 days; 366 days during a leap year) but may be shorter. When the IRB grants approval for one year at the time of continuing review and performs the continuing review and re-approval (with or without explicit conditions) of the research within 30 days prior to the IRB approval period expiration, the IRB will retain the anniversary of the expiration date of the initial IRB approval as the expiration date of the subsequent one-year approval period. Protocols that have not undergone continuing review will expire at midnight on the expiration date. Research activities may not continue after midnight of the expiration date.

The IRB may require certain protocols be reviewed more than once a year. Reasons for the IRB to require more than annual review include but are not limited to the following:

1. Increase in risks over what was originally anticipated.
2. Noncompliance history.
3. As necessitated by protocol Quality Assurance recommendation.

### 7.4.6 Third Party Observation

The IRB has the authority to observe or appoint a third-party to observe research conduct, including consent procedures. It may also consider whether a study requires independent verification from sources other than the PI to ensure that no material changes have occurred since the last IRB approval. The IRB will require verification of the information provided for continuing review when:

4. Continuing review materials appear inconsistent or inaccurate compared to prior applications or records and discrepancies cannot be resolved via communication with the PI; or
5. The IRB determines that such actions are useful as part of a corrective action plan for any unanticipated problem or event.

If the findings of such investigations during the continuing review process warrant corrective actions, the IRB may suspend or terminate a research project to ensure the quality of research and protection of research subjects.
7.5 Criteria for IRB Approval of Research Continuation

In order to approve research for continuation, the IRB must consider the PI’s continuing review report and assure that the requirements 45 CFR 46.111 remain satisfied as follows:

1. Risks to subjects are minimized:
   a. By using procedures that are consistent with sound research design and which do not unnecessarily expose subjects to risk; and
   b. Whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes.
2. Risks to subjects continue to be reasonable in relation to anticipated benefits, if any, to subjects and the importance of the knowledge that may reasonably be expected to result from the research. In evaluating risks and benefits, the IRB will consider only those risks and benefits that may result from the research, as distinguished from risks and benefits of therapy the subjects would receive even if not participating in the research.
3. Selection of subjects is equitable and takes into account the purpose of the research and the setting in which the research will be conducted. Special attention is paid to problems of research involving vulnerable populations such as, children, prisoners, pregnant women, fetuses, and decisionally impaired adults.
4. Unless waived by the IRB, informed consent will be appropriately sought from each prospective subject or the subject’s legally authorized representative in accordance with and to the extent required by appropriate local, state, and federal laws or regulations. The IRB is responsible for the review and approval of the informed consent form submitted by the PI.
5. Informed consent will be appropriately documented according to local, state, and federal laws or regulations.
6. Where appropriate, there are adequate provisions to protect the privacy of the subjects and to maintain the confidentiality of their identifiable data.
7. When appropriate, the research plan continues to make adequate provision for monitoring the data collected to ensure the safety of subjects.
8. When some or all of the subjects are likely to be vulnerable to coercion or undue influence, additional safeguards have been included in the study and in the IRB review process, to protect the rights and welfare of the subjects.

7.6 Notification of IRB Determinations

Within five (5) working days after the IRB meeting at which the protocol was reviewed for continuation or after expedited review by an IRB Chair designated reviewer, the PI will be notified of the IRB determination for their protocol. Approved protocols require no further action. Protocols that are approved with explicit conditions will have a list of conditions provided and PIs are notified that final approval will not be granted until all conditions have been met. For protocols reviewed at a convened meeting, the IRB will determine, at the convened meeting, whether the PI’s responses to explicit conditions must be reviewed by the entire IRB or may be reviewed for appropriateness and completeness by the Chair or the Chair’s designee. Responses to clarifications that are directly relevant to regulatory criteria must be reviewed by the convened IRB. When the PI has responded appropriately and completely, in a letter to the IRB office, to all conditions a final approval is granted. The PI will be notified by an approval letter that research can resume and when the protocol will require continuing review.

For tabled protocols the PI will be notified, by letter, of the reasons the protocol was tabled. The entire submission, with all required documents, will need to be resubmitted after revision for IRB review.

For protocols that are disapproved for continuation, the PI will receive a letter that delineates the reasons for disapproval. PIs may appeal the determination in writing to the IRB Chair.
7.7 Failure to Comply with Continuing Review Requirements – Lapsed Protocols

IRB approval can be for no longer than a one year period of time and there is no grace period beyond the expiration date of IRB approval. Extensions of approval beyond the expiration date cannot be granted. Failure to submit the required documents and receive IRB approval for the protocol before the end of the approval period will result in a status of “Cessation.” This will occur even if the PI has provided the required documents but IRB review and approval is not completed before the expiration date. If a protocol is placed in this status, the PI will be notified that they must cease all research activities (recruitment, advertisement, screening, enrollment, consent, interventions, interactions, and collection and analysis of private identifiable information) until the required documents are submitted, reviewed, and approved by the IRB (must occur within 30 days). However, subjects who are currently enrolled and for which continuation would be in the best interest of their health or well-being, may continue to participate if the PI requests and justifies, in writing, the need for continuation. The request will be considered by the IRB Chair. If the IRB Chair is of the opinion that stopping participation could result in increased risk or potential injury or hardship to subjects, the IRB Chair may approve continued participation for a reasonable time beyond the expiration date. Therefore, to prevent expiration of IRB approval and stopping of research, it is of vital importance to ensure timely completion and submission of the continuing review documents to allow sufficient time for IRB review prior to the expiration date. No research protocol may continue activities after the expiration date of the protocol until final approval for continuation is granted.
Section 8: Amendment of Human Subjects Research Activities

8.1 Requirement for Amendments

Modifications to consent forms or process, protocols, or procedures/study-related activity must be reviewed and approved by the IRB prior to making any changes in study procedures except when necessary to eliminate apparent immediate hazards to subjects. If modifications are made prior to IRB review to remove immediate hazards to subjects, the modification must be promptly reported to the IRB and the modification(s) will be reviewed to verify that it was appropriate to implement prior to IRB review and approval.

8.2 Submission Requirements

Amendments must be submitted through the IRBaccess. The requirements for amendments are:

1. Completed amendment application.
2. Revised consent process described in protocol or document with changes highlighted.
3. Protocol, recruitment, enrollment, or other study activity or procedure if modified.
4. Requests must describe what modifications are desired, why the changes are required, and if the changes pose any additional risks to the subjects.

Amendments may only be submitted after any prior amendment for the same protocol has been approved. If a protocol amendment is submitted while a prior amendment request is still under review for the same protocol, the new amendment request will be withdrawn.

8.3 Assignment of Expedited Reviewer

Upon receipt, the IRB Program Coordinators will verify the amendment is appropriate for expedited review. They will work with the PI to assure that all required documentation has been uploaded and the application is complete. The amendment is then reviewed by the IRB Chair, Vice Chair, ORS Director, or IRB Chair appointed designated reviewer.

8.4 Review of Amendment Requests

Minor changes (those which involve minimal risk procedures and/or do not increase the risk or decrease the potential benefit to subjects, do not involve one or more of the regulatory criteria, and may include Categories 1-7 on the Expedited list) may be approved through an expedited review process. Typical changes considered to be minor include changes in personnel, non-significant changes in sample size, an addition of a questionnaire that does not include sensitive or controversial questions, a change in the compensation schedule, an addition of a site, etc. Reviewers using the expedited review process must consider the following:

1. The amendment is a minor modification to previously approved research,
2. The regulatory criteria for approval are met.

At the reviewer’s discretion the amendment may be referred to the convened IRB. All amendments reviewed through an expedited process are reported, as a list included with the minutes of the previous convened meeting, to the IRB at a convened meeting.

Changes considered as more than minor or those that involve one or more of the regulatory criteria must be reviewed at a convened meeting of the IRB. When amendments are reviewed by the convened IRB, all IRB members will be provided with a copy of all documents submitted by the PI. Each
amendment to be considered will be assigned and presented by the assigned Primary and Secondary Reviewers. IRB Program Coordinators will assure that appropriate scientific expertise, local knowledge, and other expertise specific to the protocol(s) is present at the IRB meeting and at least one member who is knowledgeable about or experienced in working with such subjects, when research involving subjects who are vulnerable to coercion are reviewed, will be present at the IRB meeting. If a member with the appropriate expertise, knowledge, or experience in working with the specific vulnerable population cannot be present, the IRB staff will notify the IRB Chair to obtain a consultant, if needed. To be properly presented and discussed, a quorum of the members must be present for the entire presentation, discussion, and deliberation of the amendment request. Members not present for a substantial part of the discussion and deliberations should abstain from voting.

8.5 Possible IRB Protocol Determinations

Either the IRB Chair or a designated reviewer will render one of the following determinations for each protocol:

1. **Approved**: It is approved as written with no explicit conditions.
2. **Approved with Explicit Conditions**: The protocol was approved with explicit conditions requiring minor changes or simple concurrence of the PI. These will be identified to the PI and must be completed and documented prior to continuing the research.
3. **Tabled**: The information in the submitted documents has deficiencies that prevent accurate determination of risks and benefits. The deficiencies will be identified to the PI, who must address all concerns in a written response.

A designated reviewer may not render a decision of disapproval. Protocol disapprovals may only be rendered by the IRB at a convened meeting.

8.6 Criteria for Approval of Amendments

In order to approve an amendment to research activities, the IRB will provide ethical and scientific scholarly review of all human subjects research to determine that all requirements are satisfied according to 45 CFR 46.111 Criteria for IRB approval of research.

8.7 Length of Approval Period

Amendment approvals do not change the approval period of the protocol. Therefore, the expiration date will remain the same as was determined for the protocol at the time of initial or continuing review.

8.8 Notification of Investigators of IRB Determination

Within five (5) working days after each IRB meeting a letter is prepared and sent to the PI of all protocols notifying them of the IRB determinations for their protocols. An approval letter requires no further action and the PI can begin research. Letters giving approval with explicit conditions will contain a list of required conditions and PIs will not receive final approval until all required conditions have been met. Along with the determination the IRB will determine whether the PI’s responses to the explicit conditions will need to be reviewed for appropriateness and completeness by another IRB convened meeting, the IRB Chair or designated reviewer. Responses to clarifications that are directly relevant to regulatory criteria must be reviewed by the convened IRB. When the PI has responded appropriately and completely, in a letter to the IRB office, to all conditions then final approval is granted. The PI will be notified by an approval letter that research can begin and when the protocol will require continuing review.
For tabled protocols the PI will be notified by letter the reasons the protocol was tabled. The entire submission, with all required documents, will need to be revised as needed and resubmitted.

For disapproved amendments, the PI will be notified by letter the amendment was disapproved and the reason(s) for the disapproval.
Section 9: Reporting Unanticipated Problems

9.1 Principal Investigator Reporting Requirements

9.1.1 Reporting Determinations

The Institutional Review Board (IRB) requires principal investigators (PI) to promptly report a summary of each unanticipated problem involving risks to subjects and others to the IRB using the Unanticipated Problem Form. Unanticipated problems include but are not limited to the following:

1. An actual unforeseen harmful or unfavorable occurrence to subjects or others that relates to the research protocol (injuries, side effects, deaths).
2. A problem involving data collection, data storage, privacy, or breach of confidentiality.
3. A subject complaint about IRB approved research procedures.
4. New information about a research study (e.g., a publication in the literature, interim findings, safety information released by the sponsor or regulatory agency, or safety monitoring report) that indicates a possible increase in the risks of the research.
5. Changes in approved research initiated without IRB review and approval to eliminate apparent immediate hazards to the subject.
6. Incarceration of a subject.
7. A sponsor-imposed suspension of a protocol due to possible increased risk.
8. A complaint from a subject when the complaint indicates potential increased risk or when the complaint cannot be resolved by the PI.
9. A protocol deviation (Section 22: Protocol Deviation and Noncompliance) that places one or more subjects at increased risk or has the potential to occur again.
10. An event that requires prompt reporting to the sponsor.
11. Adverse event if research is Food and Drug Administration (FDA)-regulated.

9.1.2 Reporting Unanticipated Problems

PIs are required to report unanticipated problems to the IRB within five days of becoming aware of the problem. However, if a protocol deviation or unanticipated problem meets any of the following criteria, the protocol deviation or unanticipated problem is considered serious and it must be reported to the IRB office within 24 hours:

1. Was unanticipated and unexpectedly serious (in terms of nature, severity, or frequency) or life-threatening.
2. Resulted in hospitalization or prolongation of hospitalization or death.
3. Resulted in a persistent or significant disability/ incapacity.
4. Resulted in suspicions that exposure to an investigational drug/device prior to conception or during pregnancy resulted in an adverse outcome (congenital anomaly/birth defect) to a child.
5. Based on appropriate medical judgment, the protocol deviation or unanticipated problem may jeopardize the subject’s health and may require medical/surgical intervention to prevent one of the other outcomes listed in 1-4 above.

9.2 Review of Unanticipated Problem Reports

9.2.1 Initial Review

Upon receipt, IRB Program Coordinators will screen the report. The report, with the IRB Program Coordinator’s recommendation, is then reviewed by the IRB Chair, Vice Chair, or ORS Director who will determine whether the report likely represents an unanticipated problem that meets the regulatory criteria requiring reporting to federal oversight agencies (Office for Human Research Protections
(OHRP), FDA) and refer the report for review at a convened meeting of the IRB. If the reported problem does not meet the regulatory criteria for reporting to federal agencies, the issue will be returned to the ORS to be handled administratively. All reports will also be reviewed to determine if there are issues of possible noncompliance.

### 9.2.2 Convened Meeting Review

If initial review indicates that the report is likely an unanticipated problem involving risks to subjects or others, a copy of the report, the protocol, and informed consent will be provided to the IRB members for review prior to the convened meeting. The IRB will consider whether the event meets the following regulatory criteria for an unanticipated problem involving risks to subjects or others:

1. The event was unforeseen.
2. The event is related or possibly related to the research.
3. The event caused harm to subjects or placed them at increased risk of harm.

Upon discussion, the IRB will determine whether the event does in fact represent an unanticipated problem involving risks to subjects or others, and if so, must be reported through the Institutional Official to the appropriate regulatory agency (OHRP or FDA). However, if after reviewing the information, the IRB determines that the event was not an unanticipated problem, the issue will be returned to the ORS to be handled administratively.

Deliberations and determinations of the IRB will be fully documented in the minutes.

### 9.3 Possible IRB Actions

Any unanticipated problem or an event that is determined by the IRB to be unanticipated and indicates that subjects or others are at increased risk will warrant consideration of substantive changes in the research protocol and/or consent document/process or other corrective actions in order to protect the safety, welfare, or rights of subjects or others. Some of the corrective actions that might need to be considered in response to an unanticipated problem include:

1. Changes to the protocol initiated by the PI prior to obtaining IRB approval to eliminate apparent immediate hazards to subjects may need to be made a permanent part of the protocol.
2. Modification of inclusion/exclusion criteria to mitigate the newly identified risks.
3. Implementation of additional procedures for monitoring subjects, the consent process, and/or the research.
4. Suspension of enrollment of new subjects.
5. Suspension of research procedures on currently-enrolled subjects.
6. Modification of the protocol.
7. Modification of the continuing review schedule.
8. Modification of informed consent documents to include a description of newly recognized risks or any other information that should be disclosed during the consent process.
9. Notification of current subjects when such information may relate to subjects’ willingness to continue.
10. Provision of additional information about newly recognized risks to previously enrolled subjects.
11. Require the investigator to re-consent current participants.
12. Termination of the protocol with consideration for health and well-being of currently enrolled subjects; and
13. Referral to other organizational entities.
9.4 University Reporting Requirements

In addition, any event that meets the criteria for an unanticipated problem involving risks to subjects or others listed in Section 9.2.1 must be reported to the appropriate Federal agencies (OHRP, FDA) and sponsoring entities.

9.5 Notification of Principal Investigators

Upon completion of the review, the PI will be notified by letter. If the problem/event does not meet the criteria of unanticipated and indicates that subjects or others are not at increased risk, the letter will acknowledge the report. If the problem/event meets the criteria of being unanticipated and indicates that subjects or others are at increased risk, the letter will inform the PI that the IRB determined the problem/event to be an unanticipated problem involving risks to subjects or others, that the problem/event will be reported to the appropriate Federal agency, and provide a list of required actions and/or changes to the protocol or consent form.
Section 10: Research with Investigational Drugs

10.1 General

If a proposed research activity involves evaluation of an investigational drug or biological material in humans or before a Food and Drug Administration (FDA)-approved drug can be used for unapproved indications, the sponsor or researcher may need to obtain an FDA Investigational New Drug Exemption (IND). Whenever possible, the IND should be obtained prior to review by the IRB.

It is critical that the Principal Investigators (PI) understand that by obtaining and holding an IND they assume sponsor and investigator responsibilities for the conduct of the research as described in 21 CFR 312.

If research involves the use of a food, nutritional or food supplement that might fit the FDA definition of a “drug,” the IRB Program Coordinators will review the protocol to determine whether the research involves the use of a drug as defined by FDA. Generally, bioavailability and bioequivalence studies are exempt from the IND requirements.

The FDA defines a drug as:

1. An article recognized in the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and
2. An article intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; and
3. An article (other than food) intended to affect the structure or any function of the body of man or other animals; and
4. An article intended for use as a component of any article specified in the numbered statements 1, 2 and 3 above.

If required, IND numbers are usually obtained by the study sponsor and can usually be found on the sponsor protocol. PIs should confirm that the number is either on the protocol, in some form of communication from the sponsor or in a letter from the FDA to the sponsor. The IRB primary reviewer for the study will expect to find and will verify existence of an IND from one of these sources. If the PI of the study holds the IND then a copy of the communication from the FDA noting the IND number should accompany the protocol submission.

When completing the application, the PI will be asked to provide a copy of the research and informational materials generated by the drug company, if applicable. The storage, preparation and dispensing of investigational drugs should be described in the protocol.

Biological products subject to licensure may also be considered drugs within the definition. A dietary supplement may also fit the definition of a drug, in which case research activities with dietary supplements should be considered under the numbered statements 1 and 2 above. If the intended research with a dietary supplement is to evaluate its use under statement 3 above, it is not considered a drug, and the study is not FDA-regulated and will not require an IND.

An FDA-regulated study is a study in which a PI uses a drug in one or more persons and the drug is not an approved drug in the course of medical practice and/or the data collected in the study is intended to be submitted to or held for inspection by the FDA. Some examples are:

1. A psychology professor gives people ginkgo biloba to look at its effects on learning or memory.
2. As part of student lab, a biology professor gives a student an aspirin and other students collect blood and urine to demonstrate the first order kinetics of aspirin.
3. A kinesiologist gives people caffeine to look at the effect of arm blood flow.
4. The agriculture department has developed a genetically modified watermelon with high levels of vitamin A and wants to test if it can be used to treat vitamin A deficiency.

During initial review of a drug study, the IRB primary reviewer will determine whether the study has a valid IND by reviewing the sponsor protocol, communication from the sponsor or a letter from the FDA to the sponsor. If there is no IND, the primary reviewer will determine if the study meets one of the exemptions from the requirement to have an IND.

10.2 Exemptions

While IND numbers are generally required for drug studies there are several possible FDA exemptions from this requirement listed in 21 CFR 312.2(b). PIs should submit documentation to support an exemption and may contact an FDA consumer safety officer for confirmation that the investigation fits one of the exemptions.

10.2.1 For Exemption under 21 CFR 312.2(b)(1)

To qualify for this exemption, the study must meet all of the following:

1. The drug is lawfully marketed in the United States. (Sponsors or sponsor-investigators are allowed to make low-risk modifications to the lawfully marketed dosage form, i.e., changing the color, scoring or capsule, or the size of the dosage.)
2. The investigation is not intended to be reported to the FDA as a well-controlled study in support of a new indication for use nor is it intended to be used in support of any other significant change in the labeling for the drug.
3. If the drug that is undergoing investigation is lawfully marketed as a prescription drug product, the investigation is not intended to support a significant change in advertising for the product.
4. The investigation does not involve a route of administration or dosage level or use in a patient population or other factor that significantly increases the risks or decreases the acceptability of the risks associated with use of the drug product.
5. The investigation will be conducted in compliance with the requirements for institutional review as set forth in 21 CFR Part 56 and with the requirements for informed consent as set forth in 21 CFR Part 50.
6. The investigation will be conducted in compliance with 21 CFR 312.7 which restricts promotion, commercial distribution or charging for the drug or undue prolongation of the study.

10.2.2 For Exemption under 21 CFR 312.2(b)(2)

To qualify for this exemption, the study must meet all of the following:

1. The clinical investigation will involve an in vitro diagnostic biologic product that involves blood grouping serum, reagent red blood cells and/or anti-human globulin.
2. The diagnostic test is intended to be used in a diagnostic procedure that confirms the diagnosis made by another, medically established, diagnostic product or procedure.
3. The diagnostic test will be shipped in compliance with 21 CFR 312.160 that delineates investigational labeling, assurance of shipment to an authorized user, record keeping and disposition of unused drugs.
10.2.3 For Exemption under 21 CFR 312.2(b)(3)

To qualify for this exemption, the study must meet the following:

The drug is intended solely for tests *in vitro* or in laboratory research animals if shipped in accordance with 21 CFR 312.160.

10.2.4 For Exemption under 21 CFR 312.2(b)(5)

To qualify for this exemption, the study must meet the following:

The clinical investigation involves use of a placebo and the investigation does not otherwise require submission of an IND.

10.2.5 Exemption for Bioavailability (BA) or Bioequivalence (BE) Studies

FDA regulations describe criteria under which BA/BE studies using unapproved versions of approved drug products can be conducted without submission of an IND. A BA/BE study in humans does not require an IND if all of the following are met:

1. The drug product does not contain a new chemical entity (21 CFR 314.108), is not radioactively labeled, and is not cytotoxic.
2. The dose (single dose or total daily dose) does not exceed the dose specified in the labeling of the approved version of the drug product.
3. The investigation is conducted in compliance with the requirements for review by an IRB (21 CFR part 56) and the requirements for informed consent (21 CFR part 50).
4. The sponsor meets the requirements for retention of test article samples (21 CFR 320.3(d)(1)).

10.2.6 Exemption for Studies using Stable Isotopes

When used for basic research purposes, cold (or stable) isotopes ordinarily present fewer safety concerns than radioactive isotopes. FDA does not intend to object to clinical investigations using cold isotopes of unapproved drugs being conducted without an IND, provided the following conditions were met:

1. The research is intended to obtain basic information regarding the metabolism (including kinetics, distribution, and localization) of a drug labeled with a cold isotope or regarding physiology, pathophysiology, or biochemistry.
2. The research is not intended for immediate therapeutic, diagnostic, or preventive benefit to the study subject.
3. The dose to be administered is known not to cause any clinically detectable pharmacologic effect in humans based on clinical data from published literature or other valid human studies.
4. The quality of the cold isotope meets relevant quality standards.

10.2.7 Dietary Supplements

For studies with dietary supplements, if the clinical investigation is intended only to evaluate the dietary supplement’s effect on the structure or function of the body, an IND is not required.

However, if the clinical investigation is intended to evaluate the dietary supplement’s ability to diagnose, cure, mitigate, or prevent a disease, an IND is required under part 312.
10.3 Applying for and/or Filing an IND

An IND application should include the facts that satisfy the FDA that the agent may be justifiably administered to a human as proposed. If the PI wishes to apply for and hold an IND, they must give the FDA the information specified in “Notice of Claimed Investigational Exemption for a New Drug (IND),” Form FD-1571. Visit the FDA website for instructions for completing and submitting an IND:

http://www.fda.gov/Drugs/DevelopmentApprovalProcess/HowDrugsareDevelopedandApproved/ApprovalApplications/InvestigationalNewDrugINDApplication/ucm071098.htm#form1571

After the submission of the IND, the sponsor (person or persons initiating the clinical trial) must wait 30 days before beginning clinical tests. The 30-day period can be extended if the FDA requires additional time for the sponsor to correct deficiencies.

10.4 Investigator Responsibilities

10.4.1 General

1. Ensure that the clinical research is conducted according to the signed investigator statement for clinical investigations, the investigational plan and applicable regulations.
2. Inform the subjects, or any persons used as controls, that the drugs/biologics are being used for investigational purposes. Include a statement in the consent form.
3. Administer the study drug or biologic only to subjects under the investigator’s personal supervision or the supervision of a sub-investigator.
4. Follow reporting requirements in Section 9 for problems that require prompt reporting.
5. Do not supply the study drug or biologic to any person not authorized to receive it (patient or another investigator).
6. Comply with all requirements regarding the obligations of clinical investigators and all other pertinent requirements of 21 CFR 312.
7. Provide for control of drugs or biologics in accordance with 21 CFR 312.60.
8. Maintain adequate records of the disposition of the study drug or biologic to include dates, quantity and use by subjects.
9. Return any unused supply of study drug to the sponsor upon completion, suspension, termination or discontinuation of the clinical investigation. (21 CFR 312.59 and 312.62)
10. Permit the FDA to have access to and copy and verify records or reports (generally not required to divulge subject names) made during the study. (21 CFR 312.68)
11. If the investigational drug is subject to the Controlled Substances Act, take adequate precautions, including storage of the drug in a securely locked, substantially constructed cabinet or enclosure to which access is limited to prevent inappropriate distribution. (21 CFR 312.69)
12. Read and understand information in the Investigator’s Brochure, including potential risks and side effects of the drug.
13. As noted in Section 10.1 above, researchers who apply for and hold an IND are also subject to sponsor responsibilities.

10.4.2 Lead Investigator of a Multi-Center Study

When the PI is the lead investigator of a multi-site study, the PI must submit information to the IRB regarding the communication process between sites and the management of information obtained during the course of the study such as:

1. Unanticipated problems involving risks to subjects or others.
2. Interim results.

The IRB will evaluate the management plan as it relates to adequacy of the protection of subjects.

10.4.3 Additional Reporting Requirements

If the PI does not hold the IND and an external sponsor funds or supports the study, then the PI is responsible for notifying the sponsor of any serious adverse events or unanticipated problems. For any studies under FDA jurisdiction, it is the PI and/or sponsor’s responsibility to notify the FDA within 24 hours of any serious adverse events or unanticipated problems.

Similarly, if the study is a multi-site project and the unanticipated problem occurs at a site other than the University, then the sponsor (PI if they hold the IND) is required to inform researchers of unanticipated problems or reactions that occur at other sites. When PIs are informed of unanticipated problem(s) in sponsor safety memos or other correspondence, then the PI must notify the IRB as promptly as possible after receipt of the report from the sponsor.

Note that notifying the IRB does not relieve the PI from their responsibility to notify the sponsor and/or FDA, as applicable.

10.5 Emergency Use of an Investigational Drug or Biologic –FDA-Regulated Studies

Since the University is not a medical campus nor does it perform industry sponsored clinical trials, there should never be an occasion to use this provision of the FDA regulations. If this changes in the future, specific policies and procedures will be established.

10.6 Registering Applicable Clinical Trials

All Applicable Clinical Trials with drugs or biological products subject to FDA regulation must, by law, be registered on http://www.ClinicalTrials.gov.
Section 11: Research with Investigational Devices

11.1 General

If a research activity appears to use a device for an indication for which it has not been cleared, the IRB Program Coordinator will review FDA regulations to verify that the research meets the definition of a device investigation. Device studies must satisfy one of the following:

1. Have an Investigational Device Exemption (IDE) approved by the FDA under 21 CFR 812.30;
2. Be categorized as fitting abbreviated requirements under 21 CFR 812.2(b) or;
3. Be deemed by the FDA as being exempt from the requirement to have an IDE under 21 CFR 812.2(c).

By reviewing the protocol, some form of communication from the sponsor or a letter from the FDA to the sponsor, the IRB primary reviewer will determine whether or not the study has a valid FDA-approved and issued IDE. If not, the primary reviewer will determine whether or not the study meets the requirements for an abbreviated IDE or exemption from the requirement for an IDE.

11.2 Abbreviated Requirements

The following categories of investigations are considered to have applications for IDEs, unless FDA has notified a sponsor under 812.20(a) that approval of an application is required:

1. An investigation of a device other than a significant risk device, if the device is not a banned device and the sponsor:
   a. Labels the device in accordance with 812.5;
   b. Obtains IRB approval of the investigation after presenting the reviewing IRB with a brief explanation of why the device is not a significant risk device, and maintains such approval (See section 11.4 below);
   c. Ensures that each PI participating in an investigation of the device obtains from each subject under the PI’s care, informed consent under Part 50 and documents it, unless documentation is waived by an IRB under 56.109(c);
   d. Complies with the requirements of 812.46 with respect to monitoring investigations;
   e. Maintains the records required under 812.140(b)(4) & (5) and makes the reports required under 812.150(b) (1)-(3) and (5)-(10);
   f. Ensures that participating PIs maintain the records required by 812.140(a)(3)(i) and make the reports required under 812.150(a)(1), (2), (5) & (7); and
   g. Complies with the prohibitions in 812.7 against promotion and other practices.
2. An investigation of a device other than one subject to 812.2(e), if the investigation was begun on or before July 16, 1980 and to be completed, and is completed on or before January 19, 1981.

11.3 Applying for and/or Filing an IDE

An IDE application should include the facts that satisfy the FDA that the agent may be justifiably administered to a human as proposed. If the PI wishes to apply for and hold an IND, they must give the FDA the information specified in "Notice of Claimed Investigational Exemption for a New Drug (IND),” Form FD-1571. Visit the FDA website for instructions for completing and submitting an IND:

http://www.fda.gov/MedicalDevices/DeviceRegulationandGuidance/HowtoMarketYourDevice/InvestigationalDeviceExemptionIDE/ucm046706.htm
11.4 Exemptions

The regulations at 21 CFR 812.2 do not apply to investigations that fit one of the following categories:

1. A device, other than a transitional device, in commercial distribution immediately before May 28, 1976, when used or investigated in accordance with the indications in labeling in effect at that time;
2. A device, other than a transitional device, introduced into commercial distribution on or after May 28, 1976, that the FDA has determined to be substantially equivalent to a device in commercial distribution immediately before May 28, 1976, and that is used or investigated in accordance with the indications in the labeling that the FDA reviewed under Subpart E of part 807 in determining substantial equivalence;
3. A diagnostic device, if the sponsor complies with applicable requirements in 21 CFR 809.10(c) and if the testing is i) non-invasive, ii) does not require an invasive sampling procedure that presents significant risk, iii) does not by design or intention introduce energy into a subject, and iv) is not used as a diagnostic procedure without confirmation of the diagnosis by another, medically established diagnostic product or procedure;
4. A device undergoing consumer preference testing, testing of a modification or testing of a combination of two or more devices in commercial distribution, if the testing is not for the purpose of determining safety or effectiveness and does not put subjects at risk;
5. A device intended solely for veterinary use;
6. A device shipped solely for research on or with laboratory animals and labeled in accordance with 21 CFR 812.5(c);
7. A custom device as defined in 21 CFR 812.3(b), unless the device is being used to determine safety or effectiveness for commercial distribution.

11.5 Significant/Non-significant Risk Determinations

If a PI or sponsor claims a device is not a significant risk, then the IRB will review research involving the investigational device at a convened meeting. The IRB will determine whether the study using the device is significant risk, within the context of the overall study, by reviewing the criteria in 21 CFR 812.3(m). A significant risk device means that the device:

1. Is intended as an implant and presents a potential for serious risk to the health, safety, or welfare of a subject;
2. Is purported or represented to be for use supporting or sustaining human life and presents a potential for serious risk to the health, safety, or welfare of a subject;
3. Is for a use of substantial importance in diagnosing, curing, mitigating, or treating disease or otherwise preventing impairment of human health and presents a potential for serious risk to the health, safety, or welfare of a subject;
4. Otherwise presents a potential for serious risk to the health, safety, or welfare of a subject.

A non-significant risk device study is one that does not meet the definition for a significant risk device study.

If the IRB determines that the study using the device is not “significant risk,” it will document that determination in the primary and secondary reviewer checklist and the minutes, along with the IRB’s rationale for that decision. The IRB will notify the PI of its determination and the study may begin without submission of an IDE application to the FDA.

If the IRB disagrees with the sponsor’s or PI’s assessment that a device study is “non-significant risk” and determines that the study using the device is “significant risk,” it will notify the PI, and where applicable, the sponsor (21 CFR 812.66) and document its determination in the IRB minutes. The
study will be tabled, the sponsor or PI must apply for an IDE, and the study may not begin until the FDA approves the IDE application and the IRB approves the study. Upon receipt of FDA approval, the sponsor or PI must provide the IRB with the FDA’s approval letter or conditional approval letter as part of the re-submission process.

11.6 Principal Investigator (PI) Responsibilities

1. Must not begin the study or obtain informed consent of any subject prior to IRB and FDA approval.
2. Ensure that the clinical investigation is conducted according to the signed PI agreement for clinical investigations, the investigational plan, applicable regulations (21 CFR 812), and any conditions of approval imposed by the reviewing IRB or FDA.
3. Supervise all testing of the device involving human subjects in accordance with 21 CFR 812.43(c)(4)(ii) and 812.110(b).
4. Permit use of an investigational device only with subjects under the supervision of the PI and to supply the investigational device only to persons authorized to receive it.
5. Provide for control or take adequate precautions, including storage of the device in a securely locked area to which access is limited to prevent inappropriate use of the device in accordance with 21 CFR 812.100, and return any remaining supply of the device (or otherwise dispose of it as directed by the sponsor) upon completion or termination of the clinical investigation or the PI’s part of an investigation.
6. Permit the FDA to inspect and copy any records pertaining to the investigation, including those which may identify subjects (21 CFR 812.145).
7. Prepare and submit to the sponsor:
   a. Progress reports,
   b. Final report,
   c. Financial disclosure reports and;
   d. Any other information requested by the FDA (21 CFR 812.110).

11.7 In Vitro Diagnostic Devices

In vitro diagnostic devices (IVDs) are products (reagents, instruments, and systems) intended for use in diagnosis of disease or other conditions, including a determination of the state of health, in order to cure, mitigate, treat, or prevent a disease or its sequelae. Such products are intended for use in the collection, preparation, and examination of specimens taken from the human body (21 CFR 809.3). IVDs are considered to be devices under the regulations and are therefore subject to FDA regulation. In many cases, the research usually involves the comparison of the IVD under investigation to the “gold standard” using data generated from samples analyzed on both instruments. The comparison data and subsequent statistical analysis are submitted to the FDA for consideration of clearance or approval for marketing.

Technically, within the FDA regulations there is no distinction between an IVD and a device that may be implanted regarding informed consent of subjects in the study. However, the samples used in IVD studies typically are laboratory samples that have already been analyzed for clinical and/or diagnostic reasons and obtaining informed consent to use the samples for IVD analyses would be cumbersome. In a recent guidance document the FDA informed IRBs and others that it does not object to the use of “leftover specimens” in IVD studies without the consent of the specimen donors, providing that:

1. The investigation meets the IDE exemption criteria at 21 CFR 812(c)(3);
2. The study uses leftover specimens collected for routine clinical care or analysis and/or leftover specimens that were previously collected for research purposes;
3. The specimens are not individually identifiable;
4. The specimens may be accompanied by clinical information as long as the information does not make the specimen source identifiable to the PI or any other person associated with the investigation;
5. The individuals caring for the patients are different from and do not share information about the patient with those conducting the study;
6. The specimens are provided to the PI without identifiers and the supplier has established procedures to prevent the release of personal information;
7. The study has been reviewed and approved by an IRB.

The FDA has a guidance document entitled “In Vitro Diagnostic (IVD) Device Studies – Frequently Asked Questions” which should be considered when proposing IVD studies.

Proposed research on IVDs may be reviewed using an expedited review process providing that the research meets all applicability criteria as listed in Section 5.3.5 of this manual and one of the categories of research that qualify for expedited review http://www.hhs.gov/ohrp/humansubjects/guidance/expedited98.htm.

11.8 Emergency Use of Devices

The University is not a medical campus nor does it perform clinical trials in which emergency use would be a possibility, so there should never be an occasion to use this provision of the FDA regulations. If this changes in the future, specific policies and procedures will be established.

11.9 Principal Investigator Responsibilities in Storage and Use of Investigational Devices

Storage and use of investigational devices are the responsibility of the PI. A sponsor should deliver/ship investigational devices only to qualified, IRB-approved PIs participating in the investigation. Arrangements for delivery/shipping of investigational devices must be arranged in advance to ensure they are received by the PI. Every attempt should be made to deliver/ship the investigational devices as close as possible to the time of use.

Investigational devices must be stored in a locked room designated for research or in a locked cabinet within a room designated for research that is under the direct control of the PI and accessible only to the PI and his/her authorized and IRB-approved staff. If applicable, the storage area for investigational devices must be separate from storage areas for approved devices. An investigational device or its packaging must be labeled with the following information:

1. The name and place of business of the manufacturer;
2. Packer or distributor;
3. The quantity of contents, if appropriate; and
4. The following statement: "CAUTION - Investigational device. Limited by Federal law to investigational use." The label or other labeling must describe all relevant contraindications, hazards, adverse effects, interfering substances, or devices, warnings, and precautions.

An investigational device is to be used only on subjects under the PI's supervision or under the supervision of a Co-I on the study. A PI will not supply an investigational device to any person not authorized to receive it. The PI is responsible for records of receipt, use, or disposition of a device that:

1. Relate to the type and quantity of the device;
2. The dates of its receipt;
3. The batch number or code mark;
4. The names of all persons who received, used, or disposed of each device; and
5. Why and how many units of the device have been returned to the sponsor, repaired, or otherwise disposed of.

Upon completion or termination of a clinical investigation or the PI's part in an investigation, or at the sponsor's request, the PI must return to the sponsor any remaining supply of the device or otherwise dispose of the device as the sponsor directs.

11.10 Registering Applicable Clinical Trials

All applicable Clinical Trials with devices subject to FDA regulation must, by law, be registered on http://www.ClinicalTrials.gov. Small feasibility trials and larger clinical trials of prototype devices with a primary measure of feasibility rather than health outcomes and trials using only de-identified human specimens are not Applicable Clinical Trials.
Section 12: Vulnerable Populations

12.1 Inclusion of Vulnerable Populations in Research Activities

When some or all of the subjects that will be enrolled in a research study are likely to be vulnerable to coercion or undue influence, such as pregnant women, prisoners, children, and decisionally impaired adults, additional safeguards must be included in the study to protect the rights and welfare of these subjects.

In addition to the responsibilities prescribed for the IRB under 45 CFR Part 46, Subpart A, the IRB shall follow special procedures with respect to pregnant women, fetuses, neonates of uncertain viability, prisoners, and children as specified in Subparts B, C, and D. Inclusion of other vulnerable populations as research subjects is considered by the IRB and is discussed in further detail in this section.

12.2 Pregnant Women, Fetuses, and Neonates

12.2.1 Research Involving Fetuses and Neonates

Research with fetuses, neonates of uncertain viability, and non-viable neonates is not performed at the University.

12.2.2 IRB Review of Non-HHS Funded Research Involving Pregnant Women

For studies not greater than minimal risk and not funded by HHS, 45 CFR Part 46, Subpart B may be used as a guide, but determinations of approval for inclusion of pregnant women will predominantly be made by assuring that risks to the fetus are minimal and all criteria for approval under 45 CFR 46.111 are met. However, additional protocol-specific safeguards may be required by the IRB on a case-by-case basis depending on risks to the woman and fetus.

Note: Recruitment and enrollment of women of child bearing potential does not necessarily require compliance with these policies.

12.2.3 IRB Review of HHS-Funded Research Involving Pregnant Women

For those studies that are funded by the HHS, 45 CFR 46.204, in addition to the responsibilities prescribed in Subpart A, will be followed. The IRB chair will assure that the IRB determines and documents that Subpart B is followed.

HHS-funded research activities requesting inclusion of pregnant women may be undertaken if all the following conditions, 45 CFR 46.204, are met:

1. Where scientifically appropriate, pre-clinical studies, including studies on pregnant animals and clinical studies, including studies on non-pregnant women, have been conducted and provide data for assessing potential risks to pregnant women and fetuses;
2. The risk to the fetus is caused solely by interventions or procedures that hold out the prospect of direct benefit for the woman or the fetus; or, if there is no such prospect of benefit, the risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge that cannot be obtained by any other means;
3. Any risk is the least possible risk for achieving the objectives of the research;
4. If the research holds out the prospect of direct benefit to the pregnant woman, the prospect of direct benefit both to the pregnant woman and the fetus, or no prospect of benefit for the
pregnant woman or the fetus when the risk is not greater than minimal and the purpose of the research is the development of important biomedical knowledge that cannot be obtained by any other means, the consent of the mother will be obtained in accordance with the regulations (45 CFR 46, Subpart A), unless altered or waived in accordance with 45 CFR 46.116(d);

5. If the research holds out the prospect of direct benefit solely to the fetus, then the consent of the pregnant woman and the father is obtained in accordance with the informed consent provisions of 45 CFR 46, Subpart A, except that the father’s consent need not be obtained if he is unable to consent because of non-availability, incompetence, or temporary incapacity or the pregnancy resulted from rape or incest;

6. Each individual providing consent is fully informed regarding the reasonably foreseeable impact of the research on the fetus or neonate;

7. For children as defined in 45 CFR 46.402(a) who are pregnant, assent and permission are obtained in accord with the provisions of 45 CFR Part 46, Subpart D. Generally, in the State of Texas, if the research is related to the pregnancy, only the child’s assent/consent is needed. If the research is on the pregnant minor and is not related to the pregnancy, parental permission and child assent/consent is required;

8. No inducements, monetary or otherwise, may be offered to terminate pregnancy for the purposes of the activity;

9. Individuals engaged in the research will have no part in any decisions as to timing, method, and procedures used to terminate a pregnancy; and

10. Individuals engaged in the research will have no part in determining viability of the neonate.

11. If the research is greater than minimal risk, a Data and Safety Management Plan (DSMP) to monitor participants must be established.

Research activities that are approved for inclusion of pregnant women must be documented in the IRB minutes.

12.2.4 Research Not Otherwise Approvable that Presents an Opportunity to Understand, Prevent, or Alleviate a Serious Problem Affecting the Health or Welfare of Pregnant Women (45 CFR 46.207)

For Federally funded research, the Secretary of HHS will conduct or fund research that the IRB does not believe meets the requirements of 45 CFR 46.204 only if:

1. The IRB finds that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of pregnant women, fetuses, or neonates; and

2. The Secretary of HHS, after consultation with a panel of experts in pertinent disciplines and following opportunity for public review and comment, including a public meeting announced in the Federal Register, determines either:
   a. That the research in fact satisfies the conditions of 45 CFR 46.204, or
   b. The research:
      i. Presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of pregnant women, fetuses, or neonates,
      ii. Will be conducted in accordance with sound ethical principles, and
      iii. Informed consent will be obtained in accordance with 45 CFR 46, Subpart A.

12.3 Research Involving Prisoners

The IRB determines whether the criteria for approval of research are met when research involves prisoners.
Since prisoners (See definition of prisoner and minimal risk in Section 2) may be influenced by their incarceration to participate in research and in order to assure that their decision to participate is not coerced, for research funded by HHS, the IRB will adhere to Subpart C of 45 CFR Part 46. Texas Department of Criminal Justice (TDCJ)/Bureau of Prisons (Bureau) forms, if required, must be submitted directly to the appropriate agency for review and approval.

The University is considered “engaged” in research involving prisoners when an agent or employee of the University, for the purposes of the research obtains:

1. Data about the prisoner subjects through intervention or interaction with them; or
2. Identifiable private information about the prisoner subjects.

In addition, the University would become engaged in research involving prisoners if agent or employee are the primary awardee of funds to conduct such research, even when all activities involving prisoner subjects are carried out by agents or employees of another institution.

### 12.3.1 IRB Review of Non-HHS Funded Research Involving Prisoners

For research that is not HHS-funded, the additional safeguards under 45 CFR 46.305(a)(2-7) will generally be followed but the overall determination or whether or not to approve research for inclusion of prisoners (See definition of prisoner in Section 2) will be based on the criteria for approval specified in 45 CFR 46.111. Research will not have to meet one of the categories listed in 46 CFR 46.306. When research involves the Bureau of Prisons, additional safeguards are provided as set forth in Section 25. If an enrolled subject becomes incarcerated and the research was not initially approved for inclusion of prisoners the following determination must be made:

1. The IRB Chair will determine whether it is in the best interests of the subject to remain in the study or to terminate enrollment and will decide whether it is feasible for the subject to remain in the study.
2. If it is determined that it is in the best interests of the subject to remain in the study, keep the subject in the study and review the research at the next convened IRB meeting.

When reviewing research that involves prisoners, the IRB will review and approve an appropriate consent process that includes a determination that:

1. The information will be presented in a language that is understandable to prisoners.
2. Each prisoner will be informed in advance that participation in the research will have no effect on his or her parole.

In addition, research requesting inclusion of prisoners as subjects may be reviewed by an expedited review process and may be considered for exemption (if an exemption is appropriate for the prison population being studied) under the categories listed in Sections 5.4.1 and 5.4.2.

For research involving interaction with prisoners reviewed by expedited procedure:

1. Research involving interaction with prisoners may be reviewed by the expedited procedure, if a determination is made that the research involves no greater than minimal risk for the prison population being studied.
   Note: The prisoner representative must concur with the determination that the research involves no greater than minimal risk.
2. The prisoner representative must review the research as a reviewer, designated by the IRB Chair. This may be as the sole reviewer or in addition to another reviewer, as appropriate.
3. Review of modifications and continuing review must use the same procedure for initial review using this expedited procedure including the responsibility of the prisoner representative.

For research that does not involve interaction with prisoners (e.g., existing data, record review) reviewed by expedited procedure:

1. Research that does not involve interaction with prisoners may be reviewed by the expedited procedure, if a determination is made that the research involves no greater than minimal risk for the prison population being studied.
2. Review by the prisoner representative is not required.
3. The prisoner representative may review the research as a reviewer or consultant if designated by the IRB Chair.
4. Review of modification and continuing review must use the same procedures as the initial review.

12.3.2 IRB Review of HHS-Funded Research Involving Prisoners

For research funded by HHS, none of the exemption categories listed in Sections 5.4.1 and 5.4.2 applies for research involving prisoners. In addition, even though it is not prohibited by 45 CFR Part 46, Subpart C, HHS-funded research requesting inclusion of prisoners as subjects will not be reviewed by an expedited review process. The IRB determines and documents that for DHHS research, all requirements for 45 CFR Part 46, Subpart C are followed. All such protocols will be reviewed at a convened meeting with a prisoner advocate present.

For HHS-funded research desiring to include prisoners as subjects, a majority of the IRB members (exclusive of the prisoner advocate) must have no affiliation with the prison system, apart from membership on the IRB and at least one member who is a prisoner representative, with appropriate background and experience to serve in that capacity, must be present at any meeting at which protocols including prisoners will be discussed. In addition, the prisoner representative will be a voting member of the IRB, will be a primary or secondary reviewer, will receive all submitted protocol documents (initial review, modifications, continuing review) and will present their review at the IRB meeting. If no prisoner representative is present, review of proposals requesting inclusion of prisoners must be postponed and no determinations on approval of protocols for inclusion of prisoners as research subjects may take place.

In addition to all other responsibilities prescribed under 45 CFR Part 46 Subpart A, the IRB shall review and approve HHS-funded research for inclusion of prisoners only if it finds the research under review represents one of the categories of research permissible in 45 CFR 46.306 (a)(2) (See Section 12.3.3) and meets all criteria under 45 CFR 46.305(a) as follows.

1. Any possible advantages accruing to the prisoner through his or her participation in the research, when compared to the general living conditions, medical care, quality of food, amenities and opportunity for earnings in the prison, are not of such a magnitude that his or her ability to weigh the risks of the research against the value of such advantages in the limited choice environment of the prison is impaired.
2. The risks involved in the research are commensurate with the risks that would be accepted by non-prisoner volunteers.
3. Procedures for the selection of subjects within the prison are fair to all prisoners and immune from arbitrary intervention by prison authorities or prisoners. Unless the principal investigator (PI) provides to the IRB justification in writing for following some other procedures, control subjects must be selected randomly from the group of available prisoners who meet the characteristics needed for that particular research project.
4. The information is presented in language that is understandable to the subject population.
5. Adequate assurance exists that parole boards will not take into account a prisoner’s participation in the research in making decisions regarding parole, and each prisoner is clearly informed in advance that participation in the research will have no effect on his or her parole.
6. Where the IRB finds there may be a need for follow-up examination or care of participants after the end of their participation, adequate provision has been made for such examinations or care, taking into account the varying lengths of individual prisoner’s sentences, and for informing participants of this fact.

12.3.3 Requirements by Categories in Research Involving Prisoners

1. 45 CFR 46.306(a)(2)(A)
   The study of the possible causes, effects, and processes of incarceration, and of criminal behavior, provided that the study presents no more than minimal risk and no more than inconvenience to the subjects.
2. 45 CFR 46.306(a)(2)(B)
   The study of prisons as institutional structures or of prisoners as incarcerated persons, provided that the study presents no more than minimal risk and no more than inconvenience to the subjects.
3. 46.306(a)(2)(C)
   Research on conditions particularly affecting prisoners as a class (e.g., vaccine trials and other research on hepatitis which is much more prevalent in prisons than elsewhere; and research on social and psychological problems such as alcoholism, drug addiction, and sexual assaults), provided that the study may proceed only after the Secretary of HHS has consulted with appropriate experts including experts in penology, medicine, and ethics, and published notice, in the Federal Register, of his/her intent to approve such research. Note: HHS Secretary consultation does not apply if research is not funded by HHS.
4. 45CFR 46.306(a)(2)(D)
   Research on practices, both innovative and accepted, that have the intent and reasonable probability of improving the health or well-being of the subject. In cases in which those studies require the assignment of prisoners, in a manner consistent with the protocols approved by the IRB, to control groups that may not benefit from the research, the study may proceed only after the Secretary of HHS has consulted with appropriate experts including experts in penology, medicine, and ethics, and published notice, in the Federal Register, of his/her intent to approve such research.
   Note: HHS Secretary consultation does not apply if research is not funded by HHS.

In accordance with the federal regulations, the IRB has the authority to waive the requirement that research activities fit Categories 1-4 listed above if the proposed research meets the following specific criteria:

1. The research involves epidemiologic studies in which the sole purposes are:
   a. To describe the prevalence or incidence of a disease by identifying all cases, or
   b. To study potential risk factor associations for a disease, and
2. The IRB has determined that items in Section 12.3.2 have been appropriately addressed and has also determined that:
   a. The research presents no more than minimal risk and no more than inconvenience to the prisoner-subjects, and
   b. Prisoners are not a particular focus of the research.

12.3.4 Subjects that Become Incarcerated During HHS-Funded Research Study

If a subject becomes a prisoner while enrolled in a research study that was not reviewed according to the requirements in Sections 12.3.2 and 12.3.3 above:
1. Confirm the subject meets the definition of a prisoner.
2. Terminate enrollment or review the research study under Subpart C if it is feasible for the subject to remain in the study.
3. Before terminating the enrollment of the incarcerated subject the IRB should consider the risks associated with terminating participation in the study.
4. If the enrollment of the subject cannot be terminated for health and safety reasons:
   a. Keep the subject enrolled in the study and review the research under Subpart C.
      Note: If some of the requirements of Subpart C cannot be met, but it is in the best interests of the subject to remain in the study, keep the subject enrolled and inform OHRP of the decision along with the justification.
   b. Remove the subject from the study and keep the subject on the study intervention under an alternate mechanism such as compassionate use, off label use, etc.

12.3.5 Documentation and Certification of Research Involving Prisoners

Research activities that are approved for inclusion of prisoners as subjects must be documented in the IRB minutes that the research has been reviewed and meets the criteria for approval.

In addition, for research that is funded by the HHS, the IRB must also send a certification letter to the OHRP stating that:

1. The IRB has been constituted according to the regulations,  
2. That the IRB has considered and made the seven findings set forth in 45 CFR 46.305, and  
3. That the IRB finds that category A, B, C, and/or D of 46.306 permits the research to go forward with prisoners as human subjects. The certification letter should also provide a brief description of the research sufficient to allow OHRP to determine whether or not to concur with the IRB’s findings or whether to consult with appropriate experts and publish a Federal Register notice. This requirement does not apply if not funded by HHS.

12.4 Research Involving Children

Note: Studies involving children in schools will require approval of the school district(s) and parental permission. So as not to unnecessarily delay review and approval of a study, IRB applications and requests for district permission to conduct the study should, when allowed by the school district(s), be submitted simultaneously. The IRB will require that copies of district approval letters be uploaded with the IRB documentation.

12.4.1 IRB Review of HHS-Funded Research Involving Children

In reviewing HHS-funded research requesting the inclusion of children as research subjects, it is necessary to apply special safeguards as prescribed in 45 CFR 46, Subpart D in addition to the responsibilities prescribed in other Subpart A. Special risk/benefit determinations must be discussed and documented by the IRB in the minutes as to the specific paragraph and subparagraph(s) under which the research is approved.

In addition, some funding agencies may have additional IRB membership requirements. For example, the National Institute on Disability and Rehabilitation Research (NIDRR) specifies that when an IRB reviews a NIDRR-funded research project that purposefully includes children with disabilities as research subjects, the IRB must include at least one person whose primary interest is the welfare of children with disabilities. When reviewing these types of research projects, the IRB will use ad hoc reviewers (consultants) with specific expertise in treating children with disabilities.
12.4.2 Requirements by Category in Research Involving Children

Research involving Children as subjects must meet one of the following categories:

1. 45 CFR 46.404
   Minimal Risk with or without a potential for direct benefit.
   a. Adequate provisions need to be made for obtaining assent of the children.
   b. Adequate provisions must be made to obtain permission of parents or guardians (Permission Form).

2. 45 CFR 46.405
   Greater than Minimal Risk with a potential for direct benefit (to each individual subject).
   a. IRB must find that the risk is justified by the anticipated benefits.
   b. The relation of the anticipated benefit to risk is at least as favorable as alternative approaches.
   c. Adequate provisions must be made for obtaining assent of the children.
   d. Adequate provisions must be made to obtain permission of parents or guardians (Permission Form).

3. 45 CFR 406
   Greater than Minimal Risks with no prospect of direct benefit, but likely to provide generalizable knowledge about the subject’s disorder or condition and:
   a. The risk represents a minor increase over minimal risk.
   b. The intervention or procedure presents experiences commensurate with those inherent in the subjects’ actual or expected medical, dental, psychological, social, or educational experience.
   c. The intervention or procedure yields generalizable knowledge about the subjects’ disorder or condition that is vital to understanding or ameliorating the subjects’ disorder or condition.
   d. Adequate provisions must be made for obtaining assent of the children.
   e. Adequate provisions must be made to obtain permission of parents or guardians (Permission Form).

4. 45 CFR 46.407
   Greater than Minimal Risks with no prospect of direct benefit and cannot meet the conditions specified in the category of 45 CFR 406 (Number 3 above a-e). The research is not otherwise locally approvable but presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of children. Research in this category must meet the following requirements:
   a. The IRB must find that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health and welfare of children.
   b. A request must be made by the PI, through the IRB, to the Secretary of HHS or the Commissioner of FDA to approve the research. The Secretary or Commissioner, after consultation with a panel of experts in pertinent disciplines and following opportunity for public comment, may approve the research.

12.4.3 IRB Review of Non-HHS Funded Research Involving Children

Research that involves children and is not HHS-funded must meet one of the approvable categories described in Section 12.4.2 (1-3). However, for research falling under category 45 CFR 46.407 (See Section 12.4.2 (4)) and not FDA regulated, the PI must request that the IRB establish an expert panel to review the research. Based on recommendations of the panel, the IRB will consider the research for approval.
12.4.4 Assent/Permission Requirements for Research Involving Children

1. Requirements for documentation of assent depend on the age, maturity, and psychological state of the child:
   a. For children under the age of 7, assent is waived or verbal assent is obtained as determined by the IRB.
   b. For children ages 7-12, a simple assent form is used and verbal assent is obtained. The child does not have to sign the assent form.
   c. For children ages 13-17, a simple assent form is used, verbal assent is obtained, and the child must sign the assent form.
2. If the research is approvable under 45 CFR 46.404 46.405, only one parent’s signature is required.
3. If the research is approvable under 45 CFR 46, 406, 46.407, both parents must sign the parental permission form, unless one parent is unavailable or not competent to consent.
4. For research approved under 45 CFR 46.404, 46.405, the parents can override a child’s decision not to participate. Parents cannot override a child’s decision not to participate if the research is approvable under 45 CFR 46.406, 46.407. The IRB could waive the requirement for the child’s assent, in which case the parents could override the child’s decision to participate for all research activities.
5. A legal guardian could only give permission for inclusion of a child as a research subject if the document granting guardianship authorizes the person to give permission for “medical care including research.”

12.4.5 Exceptions to Assent Requirements for Research Involving Children

When the IRB determines that assent is not a requirement for some or all children in a study, the IRB determines and documents one or more of the following:

1. The children are not capable of providing assent based on their age, maturity or psychological state.
2. The intervention or procedure holds the prospect of direct benefit that is important to the health or well-being of the child and is available only within the context of the research and the capability of the children is so limited that they cannot reasonably be consulted.
3. Assent can be waived using the criteria for waiver of the consent process.

12.4.6 Waiver of Permission Requirements for Research Involving Children

Generally, written documentation of parental permission is required when recruiting and enrolling subjects who are children. The documentation must signify “active” permission in which the parent specifically signs the document granting permission for the child to participate in the research. “Passive” permission, in which the researcher assumes that if the permission form is not returned the parent has granted implied permission, is not allowable.

However, the IRB will consider requests for a waiver of the requirement for parental permission and/or a waiver of the requirement to obtain written documentation of consent on a case-by-case basis, determine if a waiver is appropriate and/or permissible under 45 CFR 46.408(c), and document its findings and determination. The IRB may determine that the research protocol is designed for conditions or for a subject population for which parental permission is not a reasonable requirement to protect the subjects and may approve a waiver, provided that an appropriate mechanism for protecting the children who will participate as subjects in the research is substituted and the waiver is consistent with federal, state, and local law.

If the research will be conducted in a school setting, a waiver of the requirement for parental
permission and/or the requirement for written documentation of parental permission may not be allowable under the requirements of the Protection of Pupil Rights Amendment.

12.4.7 Reimbursements to Children and/or Parents

For many studies, especially those conducted in schools, reimbursement is generally not appropriate. However, if a researcher believes that reimbursement is appropriate, the following general guidelines, as described in Section 4.8, should be adhered to:

1. Any compensation should not be contingent upon the subject completing the study, but should accrue as the study progresses.
2. Unless it creates undue inconvenience or a coercive practice, compensation to subjects who withdraw from the study should be made at the time they would have completed the study, had they not withdrawn.
3. Compensation given as a “bonus” or incentive for completing the study is technically acceptable to the FDA, provided that the amount is not coercive. However, this sort of compensation is usually viewed by the IRB as coercive. The IRB is responsible for determining if the amount is not so large as to be coercive or represent undue influence.
4. The amount of compensation should be clearly set forth in the assent and parental permission forms.

When considering the amount of reimbursement to be given to a child and/or the child’s parents, special consideration must be given to ensure that the child does not simply assent to participate based on the amount or type of reimbursement. In addition, the amount of reimbursement should not be so large that the parents would provide undue pressure on the child to assent to participate. The PI should consider that the type or amount of reimbursement may be coercive in some situations and not coercive in others and make every effort to establish a reimbursement amount and schedule that will not be a factor in the child’s decision whether to participate or the parent’s decision to give permission for a child’s participation.

12.4.8 When a Child Reaches the Age of Consent While Enrolled in a Study

Informed consent should be viewed as an ongoing process throughout the duration of a research project. When a child who was enrolled in research with parental or guardian permission subsequently reaches the legal age of consent (18 years old in Texas) to the procedures involved in ongoing research, the subject’s participation in the research is no longer regulated by the requirements of 45 CFR Part 46, Subpart D regarding parental or guardian permission and subject assent.

Unless the IRB determines that the requirements for obtaining informed consent can be waived, the PIs should seek and obtain legally effective informed consent as described in Section 6 for the now-adult subject for any ongoing interactions or interventions with the subject. This is because the prior parental permission and child assent are not equivalent to legally effective informed consent for the now-adult subject. However, the IRB could approve a waiver of informed consent, if it finds and documents that the criteria for waiver are met.

Similarly, if the research does not involve any ongoing interactions or interventions with the subjects, but continues to meet the regulatory definition of “human subjects research” (e.g., continued analysis of specimens or data for which the subject’s identity is readily available to the PI), it would be necessary for the PI(s) to seek and obtain legally effective informed consent of the now-adult subjects. The IRB may consider, if appropriate, a waiver of the requirements for obtaining informed consent in order for the subjects to continue to participate in the research.
12.4.9 Wards

Children who are wards of the state or any other agency, institution, or entity can be included in research approved under 45 CFR 46.406 or 45 CFR 46.407 only if such research is:

1. Related to their status as wards; or
2. Conducted in schools, camps, hospitals, institutions, or similar settings in which the majority of children as subjects are not wards.

Research approved for inclusion of wards under 45 CFR 46.406 or 45 CFR 46.407 shall require appointment of an advocate for each child who is a ward, in addition to any other individual acting on behalf of the child as a guardian or in loco parentis. One individual may serve as advocate for more than one child. The advocate shall be an individual who has the background and experience to act in, and agrees to act in, the best interests of the child for the duration of the child’s participation in the research and who is not associated in any way (except in the role as advocate or member of the IRB) with the research, the PI(s), or the guardian organization.

12.5 Other Vulnerable Populations

Although there are no specific regulations governing the inclusion of other groups of vulnerable persons in research, there are other vulnerable populations that may be approached for enrollment in research protocols. A vulnerable population is one in which there is potential for real or perceived coercion or undue influence for subjects to enroll in the study or the subjects may be incapable of fully understanding the potential risks of the research. In all cases, the IRB must consider the possibility and justification for including these subjects in the proposed research and safeguards to protect their rights and welfare. The reference for vulnerable populations in 12.5.1 and 12.5.2 are not all inclusive.

12.5.1 Research Involving Decisionally Impaired Adults

Special procedures for IRB review and approval apply to research activities involving potential research subjects who, for a wide variety of reasons, are incapacitated to the extent that their decision-making capabilities are diminished or absent. Impaired capacity is not limited to individuals with neurologic, psychiatric, or substance abuse problems. Conversely, individuals with these problems should not be presumed to be cognitively impaired.

The following guidelines are taken from a document produced by the OHRP as “Points to Consider”. The OHRP intends that these points be considered by IRBs and PIs in their effort to protect research subjects.

Initially, the PI must assess whether or not the study could be performed utilizing competent subjects (those without impaired decision making capacity) and determine that competent persons are not suitable for the proposed research. PIs must demonstrate to the IRB that there is a compelling reason to include incompetent individuals or persons with impaired decision making capacity as subjects by considering the following:

1. Incompetent persons or persons with impaired decision making capacity are not being proposed as subjects simply because they were readily available;
2. The proposed research entails no significant risks, tangible or intangible, or if the research presents some probability of harm, there is at least a greater probability of direct benefit to the subject;
3. The research does not impose a risk of injury, unless the research is intended to benefit each subject and the probability of benefit is greater than the probability of harm;
4. Procedures are devised to ensure that subjects’ legally authorized representative (LAR) are well informed regarding their roles and obligations to protect incompetent subjects or persons with impaired decision making capacity;

5. LARs will be told that their obligation is to try to determine what the prospective subject would do if competent, or if the prospective subject’s wishes cannot be determined, what they think is in the incompetent person’s best interest.

Potential or actual research subjects who are decisionally-impaired may not understand the difference between research and treatment or the PI’s role as both clinician and PI. Therefore, it is essential that the consent process clearly indicate the differences between individualized treatment and research and between the roles of clinician and PI. Mental or decisional impairment may include, but is not necessarily limited to, psychiatric disorders, organic impairments, developmental disorders, persons under the influence of drugs or alcohol, persons with traumatic injuries, and women in labor.

The following are a list of general guidelines to be considered:

1. Each IRB includes at least one voting member, independent of the research and with appropriate professional background, knowledge, and experience in working with individuals with questionable decision-making capacity. The IRB will also consider including additional voting members from the community, perhaps representatives of patient advocacy groups.

2. PIs should be sensitive to differing levels of capacity and use assessment methods tailored to the specific situation. Also important is the PI’s timing of the assessment in order to avoid periods of heightened vulnerability. Both the IRB and PIs must recognize that decision-making capacity may fluctuate and require ongoing assessment throughout the course of the research.

3. Responsibilities of the IRB are significant and will reflect heightened vigilance in reviewing protocols proposing to include this vulnerable population. As such, not all projects proposing to include decisionally-impaired persons should or will be approved by the IRB.

4. As the level of impairment increases, along with an increase in risks and discomforts, safeguards should also increase proportionate to the severity of the impairment. Provisions for additional safeguards should be in place prior to involving subjects in more than minimal risk research when the subjects’ decision-making capacity is impaired. PIs should provide ongoing efforts to enhance the subjects’ understanding and appreciation of their role in the research.

5. IRBs and PIs should be creative in choosing appropriate protections. Other options that may be used to provide additional protections may include:

   a. Use of an independent monitor to assess the potential subject’s decision-making capacity or to be present during subject recruitment and the consent process. If the impairment in decision-making capacity is based on a diagnosis of mental illness, the PI should obtain consultation with a psychiatrist or licensed psychologist.

   b. Use of a family member or other LAR as a surrogate for research decisions. This must be approved by the IRB and should be documented on the consent form. The representative should be authorized to give permission for “medical care including research.”

6. The autonomy of the individual with impaired decision-making capacity should be respected. Their assent to participate in the research should be obtained, whenever possible, and their decision to withdraw from a study at any time should be honored.

7. Use of an advance directive for research may be considered.

8. Since informed consent is an ongoing process throughout the course of the research, a written summary of important information about the research may be useful when provided on a regular basis. Communication between PIs and their staff and the participants and their families is critical.

9. Individuals with impaired decision-making capacity may need more time to consider the information they are given regarding the research. Information should be provided
incrementally to facilitate understanding. Planned waiting periods to allow potential participants to consult with family members about whether to participate or not may be useful.

10. IRBs and PIs must strive for a balance that maximizes potential benefits, recognizes individual autonomy, and minimizes risks associated with the research.

12.5.2 Educationally/Economically Disadvantaged

According to the Federal regulations at 45 CFR 46.111(b), when some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as the educationally or economically disadvantaged, additional safeguards must be included in the study to protect the rights and welfare of these subjects. The IRB will review protocols that are likely to include educationally/economically disadvantaged subjects for special risks that may be present for this group, i.e., the potential for undue influence/coercion in recruitment or enrollment, the potential for enrolling more subjects from this group than from other groups because of their vulnerability, etc.
Section 13: Community-Based Research

13.1 Purpose

With increased focus of funding agencies and researchers on approaches to public health research and the influence of social and political systems on behavioral and health outcomes, there is increased potential for more faculty to become involved in community-based research. Due to this increased interest and focus, it is important for the University, researchers, and even the IRB to understand the distinctions along a continuum of community-based research. As with research involving individuals, all parties to the research, especially the IRB, must consider both individual and community interests, risks, and potential benefits.

13.1.1 Principles for Community-Based Research

The University recognizes the importance of research conducted within communities. When conducting or participating in these research activities, the University desires to engage the community, strengthen community linkages, and respect community values. Human research has historically been guided by principles relating to risk and benefits to the individual research subject. Community-based research has interaction with the community that goes beyond interactions with individual potential research subjects and, therefore, requires consideration of the risks and benefits to the stakeholder community.

Because there is a continuum of involvement between University researchers and communities, a single set of guidelines is not appropriate. However, all research involving communities should follow best practices for respectful and productive relationships. The following principles, in addition to those principles for human subjects research, then guide the research: The following principles are in addition to those principles for all human subjects research.

1. Principles of community-based research necessitate that the researcher:
   a. Should be aware and respectful of community interests that go beyond those of individual potential research subjects
   b. Identify potential community stakeholders as well as individual research subjects.
   c. Inform the community stakeholders and potential research subjects about the research.
   d. Invite feedback regarding concerns about the research from community stakeholders and individual potential research subjects.

2. Principles for basic community partnership necessitate that the researcher should do all of the above, plus:
   a. Respect the community partner’s interest in the project and be open to ways that the community might benefit or want to use the information.
   b. Disseminate research findings to both community stakeholders and individual research subjects.

3. Principles for close community partnership research (sometimes referred to as Community-based Participatory Research or CBPR) will want to do all of the above along with:
   a. Having the research topic address a community-defined need, question or problem, and strive to combine knowledge with action to achieve necessary changes.
   b. Recognizing the research as a partnership and be open to the guidance of community insight and experience.
   c. Having the partnership appropriately balance power and decision-making between the researchers and the community participants in a way that is mutually acceptable.
   d. Partners making clear and open communication an ongoing priority by striving to understand each other’s needs and self-interests.
   e. Partners recognizing race, ethnicity, class, and other aspects of culture matter and talk openly about these issues.
f. Feedback among all stakeholders in the partnership, with the goals of continuously improving the partnership and its outcomes.
g. Realizing partnerships can dissolve and plan a process for closure.

13.2 References

University of Minnesota, Clinical Trials Office. Performance of Community-Based Research: Guidance Statement.

http://www.ctsi.umn.edu/prod/groups/ahc/@pub/@ahc/@ctsi/documents/content/ahc_content_404955.docx


Section 14: Transnational Research

14.1 General Researcher Considerations

It is a relatively common occurrence that University researchers will perform human subjects research outside the borders of the United States. When performing human subjects research in foreign countries, expectations of the University are that the research activities are consistent with the ethical principles set forth in the University Human Research Protection Plan (HRPP) and provide levels of subject protections equivalent to those provided when performing human subjects research at the University. It is also expected that researchers will comply with local laws and take into account the cultural context of the country in which the research is taking place. For additional information review International Research.

When performing human subjects research in other countries, University researchers are expected to comply with U.S. regulations and guidelines and any applicable regulations of the country in which the research is performed. In addition, for biomedical research there are international guidelines that may be applicable and with which the University researchers should be familiar; e.g., The Declaration of Helsinki, the International Conference of Harmonization – Good Clinical Practice (E6) Guidelines and the International Ethical Guidelines for Biomedical Research Involving Human Subjects published by the Council for International Organizations for Medical Sciences.

Special Note: If you are or will be conducting research outside of the United States, please be aware that UT currently has an international travel policy that involves approval for student/faculty/staff travel to areas of high risk. Please refer to the official UT Travel Policy to Restricted Regions for more details, and to see whether your travel requires review.

14.2 Specific Principal Investigator Considerations

Federal regulations for oversight of transnational research, as well as expectations of the HRPP accrediting body, the Association for Accreditation of Human Research Protection Programs (AAHRPP) require that when conducting transnational research the researcher:

1. Will provide the same or equivalent protections to human subjects in research conducted in other countries.
   a. The protections need not be the same as provided in the U.S. but should be equal in function or effect.
   b. Subject autonomy and dignity should be respected.
   c. Protections should encompass the ethical principles of respect for person, beneficence, and justice.
2. Is aware of local laws, regulations, political and socio-economic factors, and cultural context in all locations where the research is conducted.
   a. Researchers must have sufficient knowledge of the local context to enable carrying out of the research in ways that protect the rights and welfare of subjects.
   b. Knowledge of the local context may influence all aspects of the research design.
3. Will comply with local laws and adhere to cultural norms.
4. Will demonstrate whether the university or researcher has permission to conduct research in the country by local ethics committee review and approval or by certification (approval) by the local government when there is no local ethics committee.

Post-approval monitoring of transnational research will follow the same procedures used for monitoring of locally conducted research as described in Section 3.18. Due to budget constraints, monitoring will usually consist of a face-to-face meeting with the investigator to discuss the conduct of the research.
14.3 General Reviewer Considerations

There are also requirements and expectations for reviewing proposed transnational research. Generally:

1. IRBs or Ethics Committees (ECs) must ensure that equivalent protections are provided to research subjects enrolled in research in another country, and;
2. IRBs and ECs will make determinations and decisions based on laws and knowledge of the country in which the research will be conducted, such as:
   a. If there are laws or guidance related to human research subject protections.
   b. If there are other laws that will need to be factored into the research.
   c. If the local or government has their own required approvals.

Reviewers should review the U.S. Department of Health & Human Services International Compilation of Human Subjects Protections for more information on making these determinations.

14.4 Specific Principal Investigator and Reviewer Considerations

More specifically, IRB reviewers and the IRB will require certain information in order to fulfill the requirements and this information should be addressed in the submitted protocol. For example, the information provided should include but not be limited to:

1. Whether the researcher speaks the language of the country in which participants will be enrolled and the research will be conducted. If the researcher does not speak the local language, describe how communication with the research subjects will be accomplished.
2. Whether the researcher is familiar with the local customs and culture or whether a local collaborator will be used and the involvement of the local collaborator will have in the conduct of the research.
3. Whether the subjects will be paid and, if paid, the amount and how it relates to the local economy and subject income.
4. If consent will be obtained, how or from whom will consent be obtained along with the following information, if applicable:
   a. Describe local customs/culture in which the subject might not have the autonomy to provide consent and a family member or other person will be providing consent to participate.
   b. How the researcher will assure that there is no coercion for participation if a person other than the subject will be providing consent.
5. If written documentation of consent will be obtained, and:
   a. If so, a description of how or from whom the consent will be translated.
   b. If not, a description of how consent will be documented or if there are cultural/other prohibitions regarding use of consent forms.
6. Describe how the privacy for the subjects and confidentiality of their research data will be assured and if there is a local custom that research data be revealed to someone other than the subject.
7. Describe how the communications with the University IRB/local EC will be achieved for requesting amendments or reporting unanticipated problems.
8. For student researchers, a description how the academic advisor/faculty sponsor will oversee conduct of the research.
14.5 Exemptions

1. A great deal of research in the social and behavioral sciences poses no more than minimal risk to subjects and may qualify for exemption. Performance of research in another country does not exclude the research from consideration for exemption.
2. There may be other factors, specific to the locale that would disqualify the research from exemption.
3. Even in exempt research, informed consent, parental permission, and child assent may be ethically appropriate and/or required under local law.

14.6 Risk Assessment

The IRB must assure, perhaps through consultation with experts, that the risk assessment is accurate for the foreign site. Research methods that have minimal risk in the U.S. might have greater than minimal risk when conducted at certain foreign sites. The following must be given consideration:

1. Questions that might be innocuous in the U.S. could be offensive at certain foreign sites.
2. Assuring and maintaining confidentiality may be difficult in other countries.
3. Breach of confidentiality in the research locale could have dangerous consequences.
4. Depending on political and other factors, there may be dangers to the researcher.

14.7 Informed Consent

1. The informed consent process must honor local custom.
   a. Some cultures may have a different authority structure for consent.
   b. The local consent structure may seem coercive and clash with the researcher’s, reviewer’s, or IRB/EC’s views on autonomy.
2. Surrogate consent/permission should not substitute for a subject’s informed consent unless the IRB/EC has approved an alteration or waiver to the consent process.
3. The consent process/form should, unless waived by the IRB/EC, contain all required elements of informed consent.
4. Consent is best obtained using the language that is most familiar to the subjects taking into account:
   a. Some languages/dialects are not written.
   b. Subjects may be unable to read.
   c. There may be words in the foreign language that do not translate to/from English.
   d. If researchers are not fluent in the local language, interpreters/translators who are fluent should be used.
5. Documentation of consent may be difficult because:
   a. Subjects may be illiterate.
   b. In some cultures, it may be inappropriate to ask for a signature.
   c. There may be legal implications when signing documents.
   d. Subjects may be suspicious, distrustful, or fearful they are giving up their rights when asked to sign documents.
6. Alternate consent procedures may have to be considered such as:
   a. Use of pictures, video, or computers.
   b. Alternate forms of documentation such as thumbprints.

14.8 International Research Involving Children

The following should be considered when the research involves children:
1. In the locale of the research, when a child is considered an adult.
2. The relationship between parents and their children in the specific country.
3. Acceptable and effective parental permission processes.
4. If child assent is acceptable/permissible by local custom.
5. If there are laws pertaining to orphans.

14.9 Communication with IRB/Ethics Committee and Faculty Sponsor

With the research occurring outside of the country there should be consideration on how the communication between the researcher and the University will take place. The protocol should describe the following:

1. How communication will occur with the University IRB and the local EC.
2. How ongoing review, amendments, or reporting of unanticipated problems or complaints will be handled and by whom.
3. If it is a student researcher abroad, the student’s knowledge of the country and how the student will communicate with their faculty advisor.
4. List local contact in case Principal Investigator or faculty sponsor cannot be reached.
Section 15: Research Using Deceptive or Incomplete Disclosure

15.1 Background and Rationale

Research involving deception and incomplete disclosure involves intentionally communicating information to research subjects in a way that produces false beliefs. Obfuscation or withholding information at the outset of a study is also considered deception. Any research in which information is withheld until subjects have participated to some degree should be considered as a deception study. This type of research methodology is sometimes used to:

1. Improve study validity,
2. Assure study integrity, or
3. Allow data collection that would otherwise be unobtainable because of defensiveness, shame, etc.

15.2 General Guidelines

The following are general guidelines regarding the design, review and conduct of studies involving deception and incomplete disclosure:

1. Use of deception and incomplete disclosure is usually only acceptable for studies that are minimal risk.
2. The use of deception/incomplete disclosure should have no adverse effects on the well-being of subjects.
3. The IRB must be supplied with sufficient information to determine that the value of the research outweighs the risk of waiving some aspects of the requirement for full disclosure in the informed consent process. (See Section 6.7 Waiver of Informed Consent and Waiver of Documentation of Consent)
4. There is no reasonable alternative to scientifically and effectively address the research question without the use of deception/incomplete disclosure.
5. Subjects are not deceived about any aspect of the study that would alter their willingness to participate.
6. As soon as it is appropriate, debriefing should be accomplished and the deception/incomplete disclosure explained to subjects.
7. When appropriate, subjects should be informed prospectively of the use of deception/incomplete disclosure and consent to its use.
8. During debriefing inform subjects of their right to withdraw their data, if they wish, and how that will be accomplished.

15.3 Principal Investigator Requirements

To assist the IRB in its review and determination of the appropriateness of the research study, Principal Investigator(s) should address the following items in the relevant documents:

1. Explain the reason(s) for use of deception/incomplete disclosure in the study design. Specifically, address why complete disclosure would compromise the scientific validity of the study.
2. Describe the extent of the deception/incomplete disclosure in detail and how it relates to the study aims and design.
3. Justify and discuss how the proposed research, involving deception/incomplete disclosure involves no more than minimal risk to subjects. Consider all levels of increased risk subjects could experience as a result of the deception/incomplete disclosure methodology.
4. Justify and discuss why there are no feasible or scientifically valid alternative methods, which
do not involve deception/incomplete disclosure, to conduct the research.
5. Describe the methods for prompt disclosure to debrief subjects. This should be accomplished
   as soon as possible after subjects complete research related activities. Also describe how you
   will assure that subjects leave the study setting with a clear and accurate understanding of the
deception/incomplete disclosure and the reasons for using this methodology. If debriefing is
not planned, justify why.

15.4 Potential Risks

There are several potential risks associated with use of deception/incomplete disclosure and these
should be considered when designing the study:

1. Subjects may feel that they were coerced to act against their will. If so and if they had been
   completely informed, they may have chosen not to participate.
2. Subjects may feel ashamed, guilty, stressed, or embarrassed because they now have
   knowledge about themselves that they otherwise would not have known or would not want to
   know.
3. Subjects may feel a loss of control that will cause distrust and suspicion regarding human
   subjects research in general.
4. The research may undermine the trust in professional standards governing human subjects
   research.
Section 16: Research Utilizing Surveys and Internet Research

16.1 Survey Research

Research utilizing surveys, varying from brief and informal to lengthy and large scale questionnaires designed for large samples, has been one of the most used data collection tools in the social sciences. What was once done using paper-based surveys is now being accomplished using the Internet and, due to the relative ease of Internet distribution, results in a large increase in the number of surveys people are asked to complete. Some researchers feel that over-surveying has led to survey fatigue and a widespread decrease in survey response rates. Therefore, to ease the potential for survey fatigue and to assure a good response rate for the survey, consideration should be given to:

1. Choose a target audience and attempt to limit the people who will receive the survey to those that will provide data most relevant.
2. Have clarity and brevity in the communications. Be clear regarding why the participants are getting the survey, how long it will take to complete and how the data will be used.
3. Have efficient survey design; the survey should be no longer than absolutely necessary.

Regardless of how surveys are distributed, the IRB must review the proposed research, including the survey, to evaluate subject recruitment methods, the informed consent process and document, data collection and storage methods, risks of participation, and other features of the research to assure adequate subject protections. Therefore, the appropriate IRB forms must be completed and submitted. Research involving the use of surveys is usually minimal risk and can be reviewed by an expedited process or deemed exempt from IRB review, unless the survey questions are sensitive, potentially provoking psychological distress or could potentially result in civil or criminal actions against a subject.

As stated previously, there is always a requirement to obtain informed consent from research subjects. Researchers must discuss the study purpose, procedures, potential risks and benefits, the voluntary nature of participation, researcher contact information if subjects have questions, and the other required elements of informed consent. However, the regulations allow the IRB to approve a waiver or alteration of the consent process in which some of the required elements may be omitted and/or the method of obtaining and documenting consent altered (See Section 6.7 Waiver of Informed Consent and Waiver of Documentation of Consent).

For research utilizing surveys, approval is usually granted for an informed consent process that includes a consent document in the form of a cover letter that is at the beginning of the survey. In this consent cover letter, subjects are informed about the study and told that they can opt out of the research simply by not continuing to the survey questions and they may withdraw at any time by exiting the survey. The requirement for obtaining written documentation of consent (a signature) is waived as subjects agree to participate is signified by completing the survey.

Researchers who utilize e-mail surveys must add the following information to their message:

1. The words “Research” should be in the “Subject” line.
2. The message should state at the outset where the e-mail addresses were obtained.
3. Include either a statement that there will be no future mailings or an “opt-out” message that directs the researcher to remove the subject’s name from future mailings.
4. If there will be future e-mails, add the statement, “If you do not respond to this survey or return the “opt-out” message, you will receive repeat e-mail messages X times during the next Y weeks.
5. Include a contact e-mail address and telephone number in the last sentence of the e-mail message.
6. Use a “blind copy format” so that the list of recipients will not appear in the message header.

16.2 Internet Research

Internet communication is extensively used and provides access to an enormous amount of information to “Internet communities.” Access to these communities and the information associated with them raises a number of ethical questions and challenges for researchers and IRB. Perhaps the biggest challenges that are faced relate to privacy and informed consent. In an AAAS workshop on the topic of Internet research, workshop attendees provided a list of recommendations for improving “the quality of Internet research while promoting adherence to sound ethical research practices” and take privacy and informed consent concerns into consideration.

In their research proposals, University researchers should, at a minimum describe:

1. The Internet methods and technology that will be used to interact with “Internet communities.”
2. Potential risks and benefits of the research and how risks will be minimized.
3. The informed consent process that will be used, i.e., how Internet community members will be informed that research data is being collected, how community members can “opt-out” of having their data collected, etc. or justify why a waiver from the requirement to obtain informed consent is appropriate.
4. The methods they will use to assure protection of privacy for subjects and how confidentiality of the data will be provided.

Proposals for Internet research may meet criteria for exemption from IRB review. However, other issues may dictate a higher, more stringent level of review such as:

1. The complexity of reducing potential risks.
2. Protecting privacy and confidentiality.
3. Obtaining true informed consent.
4. Justifying a waiver.
Section 17: Genetic Materials

17.1 Collection and Storage of Genetic Materials

For the purpose of this manual, "Genetic Materials" are defined as human tissue samples (saliva, blood, serum, tumor, etc.) on which genetic-related research, such as identification and location of specific genes, study of gene products, inherited human traits, or identification and analysis of DNA mutations, may be performed.

It should be noted that research involving genetic materials may require the Institution Biosafety Committee approval prior to beginning the research.

17.1.1 Previously Acquired Samples

1. Previously acquired samples and genetic material, collected without identifiers may be used, without further IRB approval, if future use was generally discussed in the original consent form.
2. If identifiers are present, experiments not described in current protocols must be submitted for IRB review.

17.1.2 Prospectively Acquired Anonymous Samples

For research in which samples (blood, tissue, saliva, etc.) will be prospectively acquired without identification, the following issues must be presented in the consent form and discussed with the research subjects.

1. How anonymity of the samples will be accomplished. Some basic information, such as age and gender, may be retained with the sample;
2. Ownership of genetic material (usually the University);
3. The general scope of the investigations, but new avenues of investigation in the future are permissible if this possibility is presented and explained during the consent process;
4. Whether the sample or its genetic material will be shared by other investigators
5. That information specific to individual subject cannot be shared due to sample de-identification. However, information that accrues from the study that is valuable to society will be shared through publications.

17.1.3 Identified Samples

As for research acquiring anonymous samples, research utilizing samples collected with identifiers must clearly presented in the consent form and discussed with research subjects. The following issues should be considered and discussed as appropriate:

1. If genetic material is linked to the donor by specific identifiers, ownership of the material will generally remain with the institution. If a commercial use is anticipated for the genetic material, the individual must be notified. The general policy of ownership should be stated in the consent form using the following wording:

"I understand that additional or "leftover" (blood, serum, tumor, etc.) tissue may be used for future research which may result in financial gain for the University and the Principal Investigator. I also understand that my donated tissue will be one of many that are used in the research and it will be virtually impossible to attribute findings to any one sample. I
understand, however, that I am not otherwise waiving any of my legal rights by participating in this study."

2. If identifiers are present, new experiments (not described in the original consent form) must be reviewed by the IRB and new consent obtained from the research subject regardless of the details of ownership.

3. The Principal Investigator may include a provision in the consent form for new experiments not requiring new consent if identifiers are irrevocably removed from the samples. If the PI anticipates future experiments without identifiers, this possibility should be presented in the original consent form. The methods for removal of identifiers must be approved by the IRB. Removal of identifiers must not be employed as a method of avoiding ownership issues.

4. A satisfactory method for sharing or withholding information gained by the research must be in the research protocol and clearly indicated in the consent form.

5. Details for sharing or not sharing the genetic material with other investigators must be present in the protocol and clearly indicated in the consent form.

6. The length of time the genetic material will be maintained must be indicated in the consent form.
Section 18: Stem Cell Research

18.1 Human Embryonic Stem Cells (See Section 2: Definitions)

18.1.1 Applicable Guidance, Regulations, and Laws

In March 2009, previous restrictions for use of federal funding for human embryonic stem cells (hESC) derivation and research were removed and/or reduced by the President. In order to facilitate research using hESC, the National Institute of Health (NIH) created a Human Embryonic Stem Cell Registry listing those lines that are eligible for use in NIH funded research.

The NIH has updated and published “Guidelines for Human Embryonic Stem Cell Research” that offers a set of ethical standards for performance for research with hESC.

All clinical research involving stem cell-derived test articles is subject to US Food and Drug Administration (FDA) regulations at 21 CFR Parts 312 and 812, regardless of the source of funding. This research is also subject to FDA’s IRB and informed consent regulations at 21 CFR Parts 50 and 56. Clinical investigations involving the transplantation of cells or test articles derived from hESC or fetal tissue into human recipients is subject to Public Law 103-43, “Research on Transplantation of Fetal Tissue”. Other federal, state, or local laws may also apply to transplantation or other research involving these cells or test articles.

18.1.2 Human Embryonic Germ Cells Derived from Fetal Tissue

Research involving the derivation or utilization of human embryonic germ cells from fetal tissue must also comply with the fetal tissue transplantation research statutes and may be conducted with federal funding support.

Research deriving or utilizing human embryonic germ cells from fetal tissue should comply with the informed consent law applicable to fetal tissue transplantation research. The informed consent process should inform potential donors, pursuant to making the decision whether to donate fetal tissue for research purposes, with the following information:

1. A statement that fetal tissue will be used to derive human pluripotent stem (hPS) cells for research that may include human transplantation research.
2. A statement that the donation is made without any restriction or direction regarding the individual(s) who may be the recipient(s) of transplantation of the cells derived from the fetal tissue.
3. A statement as to whether or not information that could identify the donors of the fetal tissue, directly or through identifiers linked to the donors, will be removed prior to the derivation or the use of hPS cells.
4. A statement that derived cells and/or cell lines may be kept for many years.
5. A disclosure of the possibility that the results of research on hPS cells may have commercial potential, and a statement that the donor will not receive financial or any other benefits from any such future commercial development; and
6. A statement that the research is not intended to provide direct medical benefit to the donor.

18.1.3 Ineligible Research Involving hESC or Human Induced Pluripotent Stem Cells

1. Research in which hESC (even if derived from embryos donated in accordance with federal guidelines) or human induced pluripotent stem cells (hiPSC) are introduced into non-human primate blastocysts.
2. Research involving the breeding of animals where the introduction of hESCs (even if derived from embryos donated in accordance with federal guidelines) or hiPSC may contribute to the germ line.

**Other Research Not Eligible for NIH Funding**

1. NIH funding of the derivation of stem cells from human embryos is prohibited by the annual appropriations ban on funding human embryo research (Section 509, Omnibus Appropriations Act, 2009, Prb. L. 111-8, 3/11/09) otherwise known as the Dickey amendment.
2. Research using hESCs derived from other sources, including somatic cell nuclear transfer, parthenogenesis, and/or IVF embryos created for research purposes.

**18.2 Research with Adult Stem Cells**

Generally, the collection or derivation of human multi-potent and pluripotent stem cells from sources other than embryos does not involve the same issues as encountered with hESC and is subject to the guidance and regulations for sampling any tissue from human research subjects. The use of the cells, however, may raise ethical issues similar to those encountered with hESC. The National Academies Press guide for hESC research contains a section on [non-embryo derived hPS cells](#) and lists several considerations when working with adult stem cells.

**18.3 IRB Review Requirements**

The following criteria apply concerning the requirement for IRB review of proposed research:

1. *In vitro* research involving stem cells from which the identity of the donor cannot readily be ascertained by the investigator is not considered to be human subjects research and is not subject to IRB review. This assumes that the investigator and research institution do not have access to private information related to the cell line and that the holder of the identifiable private information related to the cell line has agreed that such information will not be released.
2. Research involving cells that have already been derived and established, where the donor may be identified, including cells that retain links (such as a code) to identifying information, is considered to be human subjects research and is required to undergo IRB review and approval.
Section 19: Health Record Research

19.1 Purpose

The following is the IRB policy concerning research involving the study of medical records or other forms of protected health information (PHI) (See Section 2: Definitions). The policy is not intended to supersede any current medical records guidelines or other policies concerning PHI.

19.2 Use of Protected Health Information

Research projects may involve the collection, disclosure, or use of PHI and such studies raise issues of confidentiality that must be carefully addressed by the investigator and the official custodian of the records. At some institutions, it likely that PIs will desire to use individual’s PHI, collected at that institution, for research purposes. In these cases, potential subjects should:

1. Be informed of this possibility upon entry into the institution; and
2. Be given an opportunity to either provide or decline authorization to allow use of their PHI for research purposes.

If authorization is not obtained initially and, depending upon the design of the study, federal (HIPAA) (See Section 2: Definitions) or state law may require the investigator to obtain specific authorization for the use of the PHI in that particular study. The specific, approved HIPAA-related authorization verbiage can be found in the HIPAA Research Authorization. The verbiage may be modified slightly, but it is advised that the suggested wording be used as much as possible. If the use or disclosure of PHI involves minimal risk for the subjects, a request for waiver of the requirement for signed authorizations may be requested (See Section 19.5).

19.3 De-identified PHI

PHI can be used or disclosed for research purposes if it has been de-identified and linkage back to a specific subject would not be possible. National Institutes of Health Department of Health Regulations at 45 CFR 164.514(e) provides more details for de-identified information.

19.4 Identifiable PHI

Research use or disclosure of identifiable PHI with authorization of the research subject is permitted. Providing that use or disclosure is for only the PHI that was originally authorized. In order to use or disclose additional information, the PI would either have to obtain authorization or request a waiver of the requirements to obtain authorization.

To use or disclose identifiable PHI without authorization of the research subject, the PI must accomplish one of the following:

1. Complete and submit a Request for the Use of Protected Health Information for obtaining authorization for use of PHI.
2. Provide written documentation that the use or disclosure of PHI is solely used to design a research protocol or to assess feasibility of conducting a study.
3. Document that the use or disclosure is solely for research on the PHI of decedents.
19.5 Waiver of the Requirement for Obtaining Authorization

The IRB must review requests for waiver (Request for the Use of Protected Health Information) of the requirement for obtaining authorization for use and disclosure of PHI. If a waiver is approved, the IRB must notify the investigator in writing of its determination. PIs must maintain in their files the letter from the IRB which, in addition to the other required information listed below, identifies the IRB and the date on which the waiver or alteration of the requirements to obtain authorization was approved by the IRB. The letter should also include a statement that the IRB has determined that the waiver or alteration satisfies the following criteria:

1. The use or disclosure of PHI involves no more than minimal risk to the research subjects;
2. The alteration or waiver will not adversely affect the privacy rights and welfare of the subjects;
3. The research cannot practicably be conducted without the alteration or waiver;
4. The research could not practicably be conducted without access to or the use of the PHI;
5. The privacy risks to individuals whose PHI is to be used or disclosed are reasonable in relation to the anticipated benefits, if any, to the individuals, and the importance of the knowledge that may reasonably be expected to result from the research;
6. There is an adequate plan to protect the identifiers from improper use and disclosure;
7. There is an adequate plan to destroy the identifiers at the earliest possible opportunity consistent with the conduct of the research, unless there is a health or research justification for retaining the identifiers, and;
8. There are adequate written assurances that the PHI will not be reused or disclosed to any other person or entity, except as required by law, for authorized oversight of the research project, or for other research for which the use or disclosure of PHI would be permitted by this policy.

The IRB letter should also contain a brief description of the PHI for which use or access has been determined by the IRB to be necessary, a statement that the waiver or alteration was approved by Expedited Review or at a convened meeting, and the letter should be signed by the IRB Chair or the Chair’s designee.
Section 20: Human Tissue and Data Repositories for Research Use

20.1 Applicability

This section does not apply to principal investigators (PI) who collect biological fluids or other types of human tissue for analysis as a part of a specific research project. A human tissue or data repository is a collection of tissue samples or data with the intent of establishing a relatively large collection of data or tissue that will be accessed by other investigators who may or may not be located at the University.

20.2 Review and Oversight

The U.S. Department of Health & Human Services (HHS), Office of Human Research Protections (OHRP) requires operation of data and tissue repositories be overseen by an IRB. The IRB must review, approve the procedures and conditions under which data and/or tissue specimens are collected, stored, and shared, and ensure that there are adequate provisions to protect the privacy of subjects and maintain the confidentiality of data. As part of its oversight responsibility, the IRB must review and approve a tissue and/or data collection protocol, or section of a protocol, and an informed consent document relating to the collection of the tissue specimens and/or data. For specific OHRP guidance refer to http://www.hhs.gov/ohrp/policy/reposit.html.

20.3 Considerations and Requirements

20.3.1 IRB Review

Collection of data or tissue for storage in a repository must be reviewed and approved by the IRB. The IRB is familiar with the particular circumstances of the local research setting and must weigh considerations like local professional and community standards, institutional policies and resources, and the needs of differing subject populations. An IRB application must be submitted and, along with the standard requirements, address 1) what data or tissue is being collected; 2) a description and location and operation of the repository; 3) the type(s) of research that will be conducted using the data or tissue; 4) the conditions under which data and/or specimens will be released to recipient-investigators; and 5) the procedures to be used by during collection, storage, and release of the data or tissue for protecting the privacy of subjects and maintaining the confidentiality of data.

20.3.2 Informed Consent Documentation

1. Written documentation of informed consent (consent form) should be obtained from each donor subject. The “Template Consent Form for Tissue or Data Repository” should be used in addition to any other consent forms or the information may be included in a consent form that describes the entire research project.

2. Included among the basic elements of informed consent should be a clear description of 1) the operation of the cell repository; 2) the specific types of research to be conducted; 3) conditions under which data and specimens will be released to recipient-investigators; and 4) procedures for protecting the privacy of subjects and maintaining the confidentiality of data. Informed consent information describing the nature and purposes of the research should be as specific as possible. Where human genetic research is anticipated, informed consent information should include information about the consequences of DNA typing, and the consent form should also include a section for the participant to choose whether or not to allow the specimen to be used in genetic research.

3. Informed consent documents may not include any exculpatory language through which subjects are made to waive or appear to waive any legal rights.
4. The informed consent document should also contain an acknowledgement that collector-investigators and the repository are prohibited from providing recipient investigators with access to the identities of donor-subjects or to information through which the identities of donor-subjects could be readily ascertained.

20.3.3 Submittal Agreements

A written submittal agreement for tissue collectors should require written informed consent of the donor-subjects utilizing an informed consent document approved by the local IRB. It should also contain an acknowledgment that collectors are prohibited from providing recipient-investigators with access to the identities of donor-subjects or to information through which the identities of donor-subjects may readily be ascertained.

20.3.4 Usage Agreements

Investigators are encouraged to obtain a written usage agreement from recipient investigators that states the following: “Recipient acknowledges that the conditions for use of this research material are governed by the IRB overseeing the repository in accordance with HHS regulations at 45 CFR 46. Recipient agrees to comply fully with all such conditions and to report promptly to the repository any proposed changes in the research project and any unanticipated problems involving risks to donor-subjects or others. Recipient remains subject to applicable State or local laws or regulations and institutional policies that provide additional protections for human subjects.”

20.3.5 Certificate of Confidentiality

It is highly recommended that, for federally funded projects, a Certificate of Confidentiality is obtained to protect the confidentiality of repository specimens and data.

20.4 Repository Requirements

1. The research material may be only utilized in accordance with the conditions stipulated by the IRB overseeing the repository. Any additional use of this material requires prior review and approval by the IRB overseeing the repository, and where appropriate, by an IRB at the recipient site.
2. Recipient investigators may never be given information that would allow identification/re-identification of specimens of data to a specific donor.
3. A covered entity’s use or disclosure of PHI to create a research database or repository, and the use or disclosure of the PHI from the database or repository for a future research purpose are each considered as a separate research activity under the Health Insurance Portability and Accountability Act (HIPAA) Privacy Rule. In general, the Privacy Rule requires authorization for each activity unless an IRB waives or alters the authorization requirement. A single authorization can cover uses and disclosures for multiple activities of a specific research study, including the collection and storage of data and or tissue specimens. However, a compound authorization is not allowed where the provision of research-related treatment, payment, or eligibility for benefits is conditioned on only one of the authorizations and not the other. For example, if an investigator conducts a clinical trial that also involves collection of tissues and data (PHI) for storage in a central repository for future research use, the actual future research use would require the investigator to obtain a separate authorization for use and disclosure of PHI or a waiver of the requirement for IRB authorization.
Section 21: Data and Safety Monitoring in Research

21.1 General

For research involving human subjects, federal regulations require that, when appropriate, research plans make adequate provisions for monitoring data to ensure the safety of research participants. The regulations do not specify when or how this monitoring should be accomplished. For each study, researchers and the IRB must determine the type and level of monitoring required to assure subject safety and well-being.

21.2 Requirement for a Data and Safety Monitoring Plan

**Minimal Risk Studies** - Much of the research conducted at the University pertains to social and behavioral sciences and is generally considered to be not greater than minimal risk. Thus, many research studies may not be required to establish a Data and Safety Monitoring Plan (DSMP). However, sponsors or the IRB may require DSMPs regardless of risk. In all research, regardless of whether a formal data and safety monitoring plan is required, investigators are responsible for providing ongoing oversight to protect the safety and welfare of study participants.

**Greater Than Minimal Risk** - All human subjects research involving the use of drugs, biologics, or devices require a DSMP. For other types of interventional human subjects research involving greater than minimal risk, a DMSP should be strongly considered and may be required by the IRB.

21.3 Types of Data and Safety Monitoring Plans

The methods and amount of monitoring required are somewhat dictated by the type and magnitude of risk involved, the population to be studied, and the complexity of the research, and can range from monitoring by the researcher or a group of researchers to the establishment of a Data and Safety Monitoring Board (DSMB).

**Monitoring by an individual investigator** – for studies that involve small numbers of research participants at a single site and interventions unlikely to lead to major changes in risks and benefits. Close, continuous monitoring by the researcher and prompt reporting of unanticipated problems to the IRB and sponsor are generally considered to be adequate.

**Monitoring by a group of investigators** – for studies where assessments may require additional expertise or objectivity from individual(s) who may or may not be directly involved with the design and/or conduct of the study. Studies overseen by a monitoring group of this type are generally short-term in nature, study endpoints do not include serious events, and risks to participants can be assessed through simple comparisons.

**Data and Safety Monitoring Board (or Committee)** – for studies involving large numbers of research participants, particularly vulnerable populations, multiple performance sites, blinded study groups, particularly high-risk interventions or when sophisticated data monitoring/statistical analysis is required. FDA regulated studies generally require establishment of a DSMB.

21.4 Components of DSMPs

Investigators are encouraged to utilize the DSMP Template, and should assure that the following issues are addressed in the plan:

1. The type of data or events that are to be captured under the monitoring provisions.
2. The frequency of assessments of data or events captured by the monitoring provisions (e.g., at certain points in time or after enrollment of a certain number of subjects).
3. The entity or person(s) responsible for monitoring the data collected, including data related to unanticipated problems and adverse events and their respective roles in the research activities (i.e., PIs, research coordinators, statisticians, independent medical monitor, etc.).
4. Procedures for monitoring study progress including specifics of how monitoring the data and safety of subjects will occur.
5. Procedures for minimizing research-related risk.
6. Procedures for analysis and interpretation of the data.
7. The procedures and time frames for reporting adverse events and unanticipated problems to the monitoring entity.
8. The definition of specific triggers or stopping rules that will dictate when some action is required and what the range of possible actions will be.
9. Reporting mechanisms/procedures for the data monitor and others who will communicate the outcome of the reviews of the monitoring entity with the IRBs, the study sponsor (if applicable), the PIs and other appropriate officials.
10. How data accuracy and protocol compliance will be assured.

21.5 IRB Review of DSMP

**Initial Review** – For clinical research trials including drugs, biologics, or interventions of any kind, the IRB will review the submitted DSMP to assure adequacy for protection of subjects from risks to the extent possible.

In order to approve research in which the IRB considers whether the provisions for monitoring data to ensure the safety of research participants are appropriate, the IRB must determine that the research plan makes adequate provisions for monitoring the data. In the review, the IRB might consider provisions such as:

- For studies that do not have or are not required to have a data monitoring committee (DMC) and are blinded, have multiple sites, enroll vulnerable populations or employ high-risk interventions, the IRB will carefully review the DSMP and determine whether a DMC is needed.
- If not using a DMC and, if applicable, whether there are statistical tests for analyzing data to determine whether harm to participants may be occurring.
- Provisions for the oversight of safety data, such as requiring a DMC.

**Continuing Review** – Researchers with DSMPs should submit information indicating that monitoring occurred as described in the research protocols. If a DSMP was not initially required, researchers should submit a summary of unanticipated problems along with any new information or literature that may be relevant to the research.
Section 22: Protocol Deviations and Noncompliance

22.1 Reporting to the IRB

When a protocol deviation or incident of noncompliance (See Section 2 – Definitions) becomes known to a researcher, they must complete and submit a Protocol Deviation or Noncompliance Report to the Office of Research Support (ORS). Upon receipt, an IRB Program Coordinator will review the report and bring it to the attention of a Designated Expedited Reviewer. Review of the report will determine the seriousness of the deviation and whether or not the deviation is an incident of noncompliance. The PI will be notified of the results of the review and if further action is necessary (e.g., a protocol amendment).

Allegations of protocol deviations and incidents of noncompliance may also be reported by someone other than the researcher through telephone calls, letters, e-mails, or any other method of communication and may be made to the ORS office, the ORS Director, ORS Assistant Director, or the IRB Chair. However, it is expected that researchers and research staff promptly self-report protocol deviations or incidents of noncompliance regardless of whether the incident is minor, sporadic, serious, or continuing. All reports and allegations of noncompliance will be thoroughly investigated by the IRB.

22.2 Response to Report

22.2.1 Inquiry

Upon receipt of a report or allegation of noncompliance, the ORS Director will be notified. An IRB Program Coordinator will prepare an e-mail or letter to the researcher responsible for the research in question informing them of the allegation and requesting a response to the allegation within 5-7 work days. Upon receipt of the researcher’s response, the allegation and response will be discussed with the ORS Director and IRB Chair or Vice Chair, if necessary. The ORS Director will then determine whether the allegation has a basis in fact or whether further information is needed. If it appears that the allegation has a basis in fact or if it cannot be determined if there is a basis in fact, an IRB investigation is initiated as described in section 22.2.2. If the allegation has no basis in fact, no further action is taken under this policy.

If the noncompliance is clearly neither serious nor continuing, and there is a corrective action plan that can be readily implemented to prevent recurrence, then the matter may be handled as a protocol deviation.

22.2.2 IRB Investigation

Reported protocol deviations or incidents of noncompliance with a basis in fact, or if it cannot be determined if there is a basis in fact, may be the subject of further inquiry. If deemed necessary by the IRB Chair, an ad hoc subcommittee of the IRB may be appointed and may include any or all of the following: IRB Chair, IRB Vice Chair, ORS Director, ORS Assistant Director, Senior Program Coordinator, other IRB members whose presence is deemed as essential and the IRB Program Coordinator responsible for the researcher’s department. It will be determined whether anyone assigned to the ad hoc subcommittee has a conflict of interest with the investigator or the research that is the subject of the inquiry and, if a conflict exists, assign other members to replace those with the conflict. The ad hoc subcommittee investigation will be accomplished as soon as possible, but should be concluded within 30 days. The IRB Chair may elect to immediately suspend the research, pending results of the investigation, in order to protect the safety, rights, or welfare of subjects.
In the event that the investigation finds evidence that federal, state, or local regulations or policies and/or any restrictions, requirements, stipulations, or determinations of the IRB have not been adhered to, the ORS Director or IRB Chair shall brief the IRB at the next scheduled convened meeting or at a specially convened meeting regarding the details of noncompliance. Applicable documents (may include the study protocol, consent form(s), initial application, description of alleged noncompliance, and results of the investigation) pertaining to the incident and the investigation will be sent to IRB members prior to the meeting. Members are expected to review all documents prior to the meeting.

At a convened meeting, the IRB will then determine if the incident of noncompliance was serious or ongoing and what restrictions, conditions, or other remedial actions are necessary to resolve the noncompliance and the procedures required to prevent future occurrences. Within 7 days of the IRB’s determination, the researcher is notified in writing of the requirements necessary to assure compliance with the restrictions and/or determinations of the IRB and the IO and other organizational officials are also notified of the IRB’s determination. Notification of regulatory agencies, as applicable, will be accomplished according to Section 24.2. All documents relating to the investigation will be retained by the IRB Office in a secure location and will be made available to authorized individuals for further reference. Records are held for at least three years.

### 22.2.3 Examples of Serious and Ongoing/Continuing Noncompliance

1. **Serious noncompliance affects or will likely affect the rights and welfare of subjects.**
   - Examples of serious noncompliance include:
     a. Initiation of human research related activities without IRB review and approval.
     b. Modifications to an IRB-approved study without prior IRB approval except to eliminate immediate hazards to the subjects.
     c. Continuation of research activities after the expiration date of IRB approval.

2. **Ongoing/Continuing noncompliance is a repeated pattern of noncompliance that is likely to continue without intervention.**
   - Examples of:
     a. Multiple reports of an investigator failing to follow regulations and/or IRB procedures.
     b. The investigator frequently allows studies to lapse.
     c. Multiple instances of an investigator using invalid or unapproved documents.
     d. The investigator fails to follow a directive or corrective action established by the IRB.

### 22.2.4 Possible IRB Actions

1. **Research Suspension:** Suspension is when research activities are suspended due to serious concerns regarding investigator noncompliance. For example, subjects may be at increased risk due to inappropriate investigator actions. The investigator will be notified in writing of such a determination and any other actions required. The suspension will be reported to appropriate individuals and agencies as described in Section 24.

2. **Research Termination:** Termination of research activities occurs when the issues of noncompliance cannot be resolved. The investigator will be notified in writing of such a determination and the termination will be reported to appropriate individuals and agencies as described in Section 24.

3. **Other possible IRB actions include:**
   - Notification of current subjects when the information may relate to subjects’ willingness to continue to participate in the research.
   - Modification of the protocol.
   - Modification of the information disclosed during the consent process.
   - Providing additional information to past subjects.
   - Requiring current subjects to re-consent to participate.
   - Modification of the continuing review schedule.
   - Monitoring of the research or the consent process.
   - Referral to other organizational entities.
Note: If an IRB suspends or terminates a protocol, the IRB must:

a. Consider whether procedures for withdrawal of enrolled subjects take into account their rights and welfare.
b. Consider whether current subjects should be informed of the suspension or termination.
c. Require any adverse events or outcomes of withdrawal to be reported to the IRB.

22.2.5 Noncompliance that is Not Serious or Ongoing

If the IRB determines at a convened meeting that the incident of noncompliance was neither serious nor ongoing, the IRB may establish a corrective action plan that requires the researcher and/or research staff to attend specialized training. Additionally, the PI may be requested to assist in arranging specialized training for a wider departmental audience to address possible misunderstandings of policies and procedures that led to or could lead to similar incidents of noncompliance. Incidents of noncompliance that were not found to be serious or ongoing will be in the IRB minutes and reported to the Institutional Officer (IO), but will not be reported to federal regulatory agencies.

22.2.6 Reporting to IO and Others

If the incidents of noncompliance are serious or ongoing, and/or the IRB determines that a protocol must be suspended or terminated, the incidents and IRB actions must be reported to the IO and the applicable regulating agency. (See Section 24).
Section 23: Suspensions and Terminations

23.1 Reasons for Suspension or Termination

Common reasons for suspending or terminating a research protocol or research activities include, but are not limited to, instances when the research:

1. Has led to or is associated with an unexpected increase in risks of harm to subjects.
2. Is associated with subject injuries.
3. Is not being conducted in accordance with IRB requirements (researcher noncompliance).

The IRB may suspend or terminate research based on information received during its continuing review, from the findings of the Quality Improvement visit, or from complaints made to the IRB.

23.2 Authority to Suspend or Terminate Research Activities

23.2.1 Principal Investigator

As the “front line” in subject protections, a principal investigator (PI) should always be aware of subject safety issues and should suspend research activities on a study in order to remove immediate hazards to subjects. If it is apparent that hazards cannot be eliminated by modification of various aspects of the study (e.g., the study design or inclusion/exclusion criteria) the study should be terminated. PIs must notify the IRB in writing immediately after suspending research activities or terminating a study. The notification should contain information on the facts leading to the decision for the action, a plan for notifying and safely withdrawing current subjects, if applicable, that considers whether the plan takes the subjects rights and welfare into account and, if applicable, a plan for notifying former subjects of the suspension/termination and any follow-up that may be required to assure their ongoing safety. The IRB will review reports of suspensions or terminations, determine what, if any further actions are required on the part of the PI, and report the suspension/termination to the IO and others as described in Section 24 of this manual.

23.2.2 IRB Chair

The IRB Chair (and the Vice Chair if so delegated) can suspend or terminate IRB approval of a study, prior to discussion by the IRB, in order to remove immediate hazards to subjects or in the event there is sufficient evidence of noncompliance by the research team and that the noncompliance results in increased risk for subjects. The IRB Chair must consider protection of the rights and welfare of currently enrolled subjects (e.g., making arrangements for medical or other care of subjects). The PI will be notified of the decision immediately and be required to submit a response to the IRB Chair’s concerns. At a convened meeting of the IRB, the IRB Chair will report the suspension/termination, discuss the reasons for the decision, review the PI’s response to the suspension/termination and lead an IRB discussion of the action, response, and possible further required actions. Possible further actions imposed by the IRB may include requiring the PI to submit a plan for notifying and safely withdrawing current subjects, a plan for notifying former subjects of the suspension/termination and any follow-up that may be required to assure their ongoing safety, if applicable, and a requirement that all adverse events or outcomes resulting from the research or the suspension/termination are reported to the IRB. A report of the suspension/termination will be submitted to the Institutional Official (IO) and others as described in Section 24 of this manual.

23.2.3 IRB

The IRB, at a convened meeting, may suspend research activities or terminate as a result of the following:
1. Reports of unanticipated problems involving risks to subjects and others (including adverse events).
2. Other reports that relate to subject safety in a particular protocol.
3. Reports of serious or ongoing non-compliance by the PI and/or research team.

The PI will be notified of the decision immediately and be required to submit a response to the IRB’s concerns. At a subsequent convened meeting of the IRB, the IRB will review the PI’s response to the suspension/termination, discuss the response and possible further actions required to lift the suspension or rescind the decision to terminate the research. Possible further actions imposed by the IRB might include requiring the PI to submit a plan for notifying and safely withdrawing current subjects and a plan for notifying former subjects of the suspension/termination and any follow-up that may be required to assure their ongoing safety, if applicable, and a requirement that all adverse events or outcomes resulting from the research or the suspension/termination are reported to the IRB. A report of the suspension/termination will be submitted to the IO and others as described in Section 24 of this manual.

23.2.4 Institutional Officer and Departmental Review Committee

IO and Departmental Review Committee (DRC) may suspend a research activity or study.

23.3 Notification of Suspension or Termination

In the event of a suspension or termination of approval, the IRB or person directing the suspension or termination will inform the investigator in writing. If immediate action is required, the person imposing the suspension or termination may give the directive verbally to the PI and the letter will follow. If the IRB did not suspend or terminate the research, members will be notified at the next convened meeting. Letters to the PI will be sent within five working days of the effective date of suspension or termination. Such letters will include:

1. The effective date of suspension or termination.
2. If notification was initially done verbally the letter will reference the date of verbal notification.
3. The reason for the suspension or termination.
4. Identification of the research activity, in whole or in part, that must stop or suspension.
5. Any corrective action or clarification that must occur.
6. If the reason for suspension may bear on the participant’s decision to continue participation, a directive that currently enrolled participants will be informed of the suspension.
7. For terminations, a directive that all currently enrolled participants will be informed of the termination.
8. If applicable, a directive of how to deal with any currently enrolled participants.
9. A direction to the PI regarding to whom to submit responses.

23.4 Lifting a Suspension or Termination

Only the IRB can lift a suspension using either the expedited review process or full board review. If the DRC or IO imposed the suspension, that person is responsible for notifying the IRB Chair in writing when they are satisfied that all concerns, that led the suspension, have been satisfied and recommend lifting the suspension. That person must attach a copy of the responses from the PI to the letter to the IRB. The IRB Chair may use the expedited review process to lift a suspension that was directed under the following conditions:

1. That was directed by the Chair.
2. That was directed by the IO, providing the documentation noted above is received.
3. That was directed by the convened board when the board specifically delegates to the IRB Chair the authority to lift the suspension.
4. Otherwise, the convened IRB will determine whether to lift a suspension.

The IRB will send written notification to the PI when the suspension is lifted. The letter will be prepared by the IRB staff, reviewed and signed by the Chair, and sent out by the staff. The IRB staff will also send a copy of the letter lifting the suspension to all entities who received a copy of the notification of suspension (see section 24.2.3).
Section 24: Reporting Requirements

24.1 Requirements for Researchers to Report to the IRB

The following is a comprehensive list of events/issues that must be promptly (within 5 days of becoming aware of them) reported to the IRB:

1. Unanticipated problems involving risks to subjects or others,
2. Protocol deviations,
3. Incidents of noncompliance with the regulations, IRB policies, or determinations of the IRB,
4. Self-imposed or sponsor-imposed protocol suspensions or terminations,
5. Premature study completion,
6. Multi-center safety reports,
7. Study monitor reports,
8. Internal (to the University) or external audit reports,
9. Subject complaints,
10. Any other issue/event that could affect the safety or well-being of subjects.

Notifying the IRB does not relieve the researcher from his/her responsibility to notify the sponsor and/or FDA, if applicable.

24.2 Reporting Requirements for the Institution

24.2.1 General

There are several instances when federal regulations require reporting of events to the IO and regulatory and sponsoring agencies. The sub-sections below describe requirements and procedures used to report unanticipated problems involving risks to subjects and others, incidents of serious and/or continuing noncompliance and suspensions and terminations of research activities. Procedures for determinations of unanticipated problems involving risks to subjects and others, incidents of serious and/or continuing noncompliance, and suspensions and terminations of research activities are described in detail in other sections of this manual. The IRB Chair or ORS Director shall be responsible for preparing and submitting reports of unanticipated problems involving risks to subjects and others, incidents of serious and/or continuing noncompliance, and suspensions and terminations of research activities.

24.2.2 Notification of the IO

Reporting to the IO should be accomplished within five (5) business days after determination by the IRB that an event represents an unanticipated problem involving risks to subjects and others, an incident of serious and/or continuing noncompliance or a suspension or termination of research activities.

24.2.3 Notification of Regulatory and Sponsoring Agencies

Upon receipt of IRB reports of unanticipated problems involving risks to subjects and others, incidents of serious and/or continuing noncompliance, and suspensions and terminations of research activities, the IO will review the report and forward (or return to the ORS Director for forwarding) it to the appropriate regulatory agency or agencies, if applicable under the University’s Federal-Wide Assurance and/or FDA regulations. Reports of unanticipated problems involving risks to subjects and others, incidents of serious and/or continuing noncompliance, and suspensions and terminations of research activities should be sent to the following entities within 7 days of receipt of the IRB’s report:
1. OHRP (if the research is funded by NIH).
2. FDA (if the study is subject to FDA regulations).
3. The PI.
4. PI’s Chairperson and/or Dean.
5. The faculty advisor, if applicable.
6. The Office of Sponsored Programs (if funded).
7. The sponsor (if funded).
8. Contract Research Organization, if applicable.
9. The complainant, if known and requests a copy (for allegations of non-compliance).

24.2.4 Contents of the Report

Reports should contain the following information:

1. The nature of the event (unanticipated problem involving risks to subjects and others, incident of serious and/or continuing noncompliance, or suspension or termination of research activities).
2. Name of the institution conducting the research.
3. Title of the research protocol and/or grant proposal in which the problem occurred.
4. Name of the PI.
5. The number assigned to the protocol by the IRB and the number of any applicable federal award, grant, contract, or cooperative agreement.
6. A detailed description of the problem including findings of the organization and the reasons for the IRB’s determination.
7. Actions the institution is taking or plans to take to address the problem (e.g., revise the protocol, suspend subject enrollment, terminate the research, revise the informed consent document, inform enrolled subjects, increase monitoring, etc.).
8. Plans or actions taken to prevent future occurrence of similar problems.
Section 25: Additional Requirements for Federal Agency Funded Research

25.1 Department of Defense (DoD)

When following DoD regulations, the definition of minimal risk based on the phrase, “ordinarily encountered in daily life of during the performance of routine physical or physiological examination or tests” shall not be interpreted to include the inherent risks certain categories of human subjects face in their everyday life. For example, the risks imposed in research involving human subjects focused on a special population should not be evaluated against the inherent risks encountered in their work environment (e.g., emergency responder, pilot, soldier in a combat zone) or having a medical condition (e.g., frequent medical tests or constant pain).

Also, as a practice, the University of Texas at Austin does not currently conduct non-exempt, classified, human subject research. However, if practice changes, the University will follow the requirements of DoD Directive 3216.02 when conducting such research.

Research involving pregnant women, prisoners and children is subject to DHHS Subparts B, C and D.

- For purposes of applying Subpart B, the phrase “biomedical knowledge” shall be replaced with “generalizable knowledge”.
- The applicability of Subpart B is limited to research involving pregnant women as participants in research that is more than minimal risk and includes interventions or invasive procedures to the woman or the fetus or involving fetuses or neonates as participants.
- Research involving prisoners cannot be reviewed by the expedited review process.
- When the IRB reviews research involving prisoners, at least one prisoner representative must be present for quorum.
- In addition to allowable categories of research on prisoners in Subpart C, epidemiological research is also allowed when:
  - The research describes the prevalence or incidence of a disease by identifying all cases or studies potential risk factor association for a disease.
  - The research presents no more than minimal risk.
  - The research presents no more than an inconvenience to the participant.

If a participant becomes a prisoner and if the researcher asserts to the IRB that it is in the best interest of the prisoner-participant to continue to participate in the research while a prisoner, the IRB chair may determine that the prisoner-participant may continue to participate until the convened IRB can review the request to approve a change in the research protocol and until the organizational official and DoD Component office review the IRB’s approval to change the research protocol. Otherwise, the IRB chair shall require that all research interactions and interventions with the prisoner-participant (including obtaining identifiable private information) cease until the convened IRB can review the request to approve a change in the research protocol. The convened IRB, upon receipt of notification that a previously enrolled human participant has become a prisoner, shall promptly re-review the research protocol to ensure that the rights and well-being of the human participant, now a prisoner, are not in jeopardy. The IRB should consult with a subject matter expert, having the expertise of a prisoner representative, if the IRB reviewing the research protocol does not have a prisoner representative. If the prisoner-participant can continue to consent to participate and is capable of meeting the research protocol requirements, the terms of the prisoner-participant’s confinement does not inhibit the ethical conduct of the research and there are no other significant issues preventing the research involving human participants from continuing as approved, the convened IRB may approve a change in the study to allow this prisoner-participant to continue to participate in the research. This approval is limited to the individual prisoner-participant and does not allow recruitment of prisoners as participants.
• Research involving a detainee as a human participant is prohibited.
• This prohibition does not apply to research involving investigational drugs and devices when
  the same products would be offered to US military personnel in the same location for the same
  condition.

Research involving children cannot be exempt.

If consent is to be obtained from the experimental subject’s legal representative, the research must
intend to benefit the individual participant.

• The determination that research is intended to be beneficial to the individual experimental
  subject must be made by the IRB.

25.1.1 Scientific Review

DoD requires scientific review prior to IRB review for all new DoD supported human research.
Review by Departmental Review Committees (DRC) meets this requirement. The IRB will accomplish
the scientific review. DoD also requires that all substantive amendments to approved DoD research
involving human subjects receive scientific review prior to IRB review. The IRB will complete the
scientific review. In the event that the IRB lacks adequate expertise to conduct scientific or scholarly
review, the IRB may rely on outside experts to conduct this review (See Section 5.2.3).

25.1.2 Education Requirements

DoD requires that all individuals involved in the “design, conduct, or approval of human subjects
research” complete human subjects research training. The University’s requirements for mandatory
and continuing education meet the requirements. The DoD component may evaluate the University’s
education policies to ensure the personnel are qualified to perform the research, based on the
complexity and risk of the research.

25.1.3 Research Monitor Required: More than Minimal Risk Studies

For DoD funded research involving greater than minimal risk to subjects, appointment of an
independent research monitor is required, although the IRB or Institutional Official can require this for
a portion of the research or studies involving no more than minimal risk, if appropriate. The following
are additional IRB considerations:

• There may be more than one research monitor if different skills or experience are needed.
• The monitor may be an ombudsman or a member of the data and safety monitoring board.
• The IRB must approve a written summary of the monitors’ duties, authorities and
  responsibilities and the IRB or HRPP official shall communicate with research monitors to
  confirm their duties, authorities and responsibilities.
• The duties of the research monitor are determined on the basis of specific risks or concerns
  about the research, such as:
    o Perform oversight functions such as observing recruitment and enrollment procedures,
      observing the consent process, observing study interventions and interactions,
      reviewing monitoring plans and reports of unanticipated problems involving risks to
      participants or others, reviewing aspects of data matching, collection and analysis.
    o Discuss the research protocol with researchers, interview participants and consult with
      others outside the study.
    o Report observations and findings to the IRB or designated official.

The research monitor has the authority to:
1. Stop a research study in progress.
2. Remove individuals from the study.
3. Take any steps to protect the safety and well-being of subjects until the IRB can assess the research monitor’s report.

The PI may identify a candidate for the position of research monitor, taking into account the nature and disciplinary focus of the study and the likely type of expertise required. The IRB will consider the nomination along with ensuring that the research monitor has the appropriate experience and expertise, and is independent of the research team. The monitor should be named in the research protocol and the informed consent document in the Privacy and Confidential section (the monitor will have access to individually identifiable data).

### 25.1.4 Research Involving International Citizen Populations

For research conducted internationally, refer to Section 14: Transnational Research. This section must meet the DoD requirements. This includes taking into consideration subject populations, the cultural context, the languages understood by the human subjects, identifying and considering local laws, regulations, customs, and practices. In addition, determinations are made as to whether the sponsoring DoD Component requires an additional ethics review by the host country or a local DoD IRB with host country representation.

### 25.1.5 Waiver of Consent and Exception from Informed Consent in Emergency Medicine

If a research subject meets the definition of “experimental subject,” (An activity, for research purposes where there is an intervention or interaction with a living individual for the primary purpose of obtaining data regarding the effect of the intervention or interaction.), DoD regulations prohibit a waiver of consent unless the PI obtains a waiver from the Assistant Secretary of Defense for Research and Engineering. The Assistant Secretary of Defense for Research and Engineering may waive the requirements for obtaining informed consent when all of the following are met:

- The research is necessary to advance the development of a medical product for the military services;
- The research might directly benefit the individual experimental subject;
- The research is conducted in compliance with all other applicable laws and regulations;

The IRB may waive the consent process if the research does not meet the definition of “experimental subject.” DoD regulations prohibit an exception from informed consent in emergency medicine research unless the PI obtains a waiver from the Assistant Secretary of Defense for Research and Engineering.

### 25.1.6 Multi-site or Collaborative Research Requirements

Any investigator developing a proposal for DoD funding or other support that involves collaborating institutions needs to consult the sponsoring DoD component to identify additional requirements for multi-site research. When conducting multi-site research, a formal agreement between organizations is required to specify the roles and responsibilities of each party.

### 25.1.7 Provisions for Research Related Injury

The PI is responsible for informing the IRB if there are any additional requirements from the DoD Component regarding the provision of care in the case of a research-related injury. If the DoD Component has stricter requirements than the Common Rule or the University’s policies, the verbiage will need to be discussed with the University’s Legal Affairs Office and the Associate Vice President.
25.1.8 Research Involving US Military Personnel as Research Subjects

If any research includes U.S. military personnel as subjects:

- Officers are not permitted to influence the decision of their subordinates;
- Officers and non-commissioned officers may not be present at the time of recruitment;
- Officers and senior non-commissioned officers have a separate opportunity to participate;
- When recruitment involves a percentage of a unit, an independent ombudsman must be present;
- Federal employees while on duty and non-federal persons may be compensated for blood draws for research up to $50 for each blood collection;
- Unless military personnel who are research subjects are on leave status during their participation, they may not receive compensation for their participation.
- Non-Federal personnel may be compensated for research participation other than blood draws in a reasonable amount as approved by the IRB according to local prevailing rates and the nature of the research.

The research protocol must include a plan for subject recruitment that incorporates additional safeguards to minimize undue influence from individuals within a potential subject’s chain of command. The PI is required to consult with the sponsoring DoD component to determine appropriate recruitment plans.

25.1.9 Research Involving Prisoners of War

Under no circumstances shall the IRB approve research involving prisoners of war, as defined by the specific DoD Component.

25.1.10 Additional DoD Review Prior to Initiation of the Study

After the IRB completes its review and issues approval, the PI will need to submit documentation of IRB approval, the risk level, and the expiration date of the research to the DoD component funding or otherwise supporting the study. The DoD may also request additional documentation to verify compliance with federal and DoD policies, including minutes related to the research.

Surveys performed on DoD personnel must be submitted reviewed and approved by the DoD after the research protocol is reviewed and approved by the IRB.

Investigators may not initiate the study until the human research protection officer within the sponsoring DoD Component reviews and approves the study.

25.1.11 Reporting Requirements

The following must be promptly reported to the DoD-specific component’s human research protection official or office (30 days or less):

- When significant changes to the research are approved by the IRB.
- Results of continuing IRB review.
- Change(s) in reviewing IRB.
25.1.12 Records Accessibility

Records documenting compliance (or noncompliance) with DoD regulations will be made accessible for inspection and copying by DoD representatives at reasonable times and in a reasonable manner.

25.2 Department of Education (ED)

25.2.1 Family Educational Rights and Privacy Act (FERPA) 34 CFR Part 99

The Family Educational Rights and Privacy Act is a Federal law that protects the privacy of student education records. In general, schools must have written permission from the parent or eligible student in order to release any information from a student's education record. However, FERPA allows schools to disclose personally identifiable information from an education record of a student without consent if the disclosure is to organizations conducting studies for, or on behalf of, educational agencies or institutions to:

1. Develop, validate, or administer predictive tests.
2. Administer student aid programs.
3. Improve instruction.

The IRB must verify compliance with US Department of Education regulations that schools are required to develop and adopt policies in conjunction with parents regarding the following:

- Any applicable procedures for granting a request by a parent for reasonable access to a survey within a reasonable period of time after the request is received.
- Any applicable procedures for granting a request by a parent for reasonable access to instructional material received.
- The collection, disclosure or use of personal information collected from students for the purpose of marketing or for selling that information (or otherwise providing that information to others for that purpose), including arrangements to protect student privacy that are provided by the agency in the event of such collection, disclosure or use.
- The right of a parent of a student to inspect, upon request of the parent, any instrument used in the collection of personal information, before the instrument is administered or distributed to a student.
- Any applicable procedures for granting a request by a parent for reasonable access to such instrument within a reasonable period of time after the request is received.

25.2.2 Exception to Written Permission for Records Release under FERPA

Requests for exception (waiver) to written permission from parents or assent of students for records release are reviewed by IRB Program Coordinators with recommendations to the IRB reviewer for protocols undergoing expedited review or for protocols requiring review by a convened IRB. A school district or postsecondary institution that uses this exception is required to enter into a written agreement with the University or with the investigator conducting the research that specifies:

1. The determination of the exception.
2. The purpose, scope, and duration of the study.
3. The information to be disclosed.
4. That information from education records may only be used to meet the purposes of the study stated in the written agreement and must contain the current requirements in 34 CFR 99.31(a)(6) on re-disclosure and destruction of information.
5. That the study will be conducted in a manner that does not permit personal identification of parents and students by anyone other than representatives of the university with legitimate interests.
6. That the University is required to destroy or return all personally identifiable information when no longer needed for the purposes of the study.
7. The time period during which the university must either destroy or return the information.
8. Education records may be released without consent under FERPA if all personally identifiable information has been removed including:
   a. Student’s name and other direct personal identifiers, such as the student’s social security number or student number.
   b. Indirect identifiers, such as the name of the student’s parent or other family members; the student’s or family’s address, and personal characteristics or other information that would make the student’s identity easily traceable, date and place of birth, and mother’s maiden name.
   c. Biometric records, including one or more measurable biological or behavioral characteristics that can be used for automated recognition of an individual, including fingerprints, retina and iris patterns, voiceprints, DNA sequence, facial characteristics, and handwriting.
   d. Other information that, alone or in combination, is linked or linkable to a specific student that would allow a reasonable person in the school community, who does not have personal knowledge of the relevant circumstances, to identify the student with reasonable certainty.

25.2.3 Protection of Pupil Rights Amendment PRPA (34 CFR Part 98)

25.2.3.1 Informed Consent/Parental Permission Requirements

Research funded by the Department of Education must comply with additional protections under PRPA, 34 CFR Part 98. No student shall be required, as part of any research project, to submit without prior consent to surveys, psychiatric examination, testing, or treatment, in which the primary purpose is to reveal information concerning one or more of the following:

1. Political affiliations.
2. Mental and psychological problems potentially embarrassing to the student or his or her family.
3. Sex behavior and attitudes.
4. Illegal, anti-social, self-incriminating, and demeaning behavior.
5. Critical appraisals of other individuals with whom the student has close family relationships.
6. Legally recognized privileged and analogous relationships, such as those of lawyers, physicians, and ministers.
7. Religious practices, affiliations, or beliefs of the student or student’s parent.
8. Income, other than that required by law to determine eligibility for participation in a program or for receiving financial assistance under a program.

As used above, prior consent means prior consent of the student, if the student is an adult or emancipated minor; or prior written consent of the parent or guardian, if the student is an un-emancipated minor. Schools and contractors must obtain prior written parental consent before minor students are required to participate in any ED-funded survey, analysis, or evaluation.
25.2.3.2 Parental Access to Instructional Material Used in a Research or Experimentation Program

All instructional material—including teachers' manuals, films, tapes, or other supplementary instructional material—which will be used in connection with any research or experimentation program or project shall be available for inspection by the parents or guardians of the children engaged in such program or project. As used above:

**Research or experimentation program or project** means any program or project in any program under in any research that is designed to explore or develop new or unproven teaching methods or techniques.

**Children** means persons not above age 21 who are enrolled in research not above the elementary or secondary education level, as determined under state law where the research is taking place.

25.2.4 Additional Requirements for School Research Not Funded by the ED

Even if the research is not funded by the ED, the IRB will verify compliance with ED regulations regarding the following:

1. The right of parents to inspect, upon request, a survey created by a third party before the survey is administered or distributed by a school to students.
2. Arrangements to protect student privacy in the event of the administration of a survey to students, including the right of parents to inspect, upon request, the survey, if the survey contains one or more of the same eight items of information noted above.
3. The right of parents to inspect, upon request, any instructional material used as part of the educational curriculum for students.
4. The administration of physical examinations or screenings that the school may administer to students.

25.2.5 Other Conditions Pertaining to Waivers of Parent Permission or Informed Consent

The IRB may waive the requirement for obtaining consent from a parent or legal guardian if:

1. The research meets the provisions for waiver in Section 6.7 of the IRB Policies and Procedures Manual [45 CFR 46.116(d)(1-4)] and if the IRB determines that the research protocol is designed for conditions or a subject population for which parental or guardian permission is not a reasonable requirement to protect the subjects (for example, neglected or abused children).
2. An appropriate mechanism for protecting the children who will participate as subjects in the research is substituted, and that the waiver is not inconsistent with federal, state, or local law. The choice of an appropriate mechanism would depend upon the nature and purpose of the activities described in the protocol, the risk and anticipated benefit to the research subjects, and their age, maturity, status, and condition.

25.3 Department of Energy (DoE)

The IRB reviews and approves the “Checklist for IRBs to Use in Verifying That HHS Protocols are in Compliance with DOE Requirements” submitted by the researchers to verify compliance with the DOE requirements for the protection of Personally Identifiable Information.
25.3.1 Personally Identifiable Information

In accordance with the Privacy Act, the DoE has established requirements for the protection of Personally Identifiable Information (PII) with the DoE Privacy Program (DoE Order 206.1), DoE Manual (M) for Identifying and Protecting Official Use Only Information (DoE M 471.3-1), and DoE Cyber Security Incident Management Manual (DoE M 205.1-8).

25.3.2 Description of Processes

Research protocols must include description of processes for:

1. Keeping PII confidential.
2. Releasing of PII, where required, only under a procedure approved by the IRB and DoE.
3. Using PII only for purposes of the DoE approved research.
4. Handling and marking documents containing PII as “containing PII” or “containing PHI.”
5. Establishing reasonable administrative, technical, and physical safeguards to prevent unauthorized use or disclosure of PII.
6. Making no further use or disclosure of the PII except when approved by the responsible IRB and DoE, where applicable, and then only:
   a. In an emergency affecting the health and safety of any individual.
   b. For use in another research project under these same conditions and with DoE written authorization.
   c. For disclosure to a person authorized by the DoE program office for the purpose of an audit related to the project.
   d. When required by law.
7. Protecting PII data stored on removable media (CD, DVD, USB Flash Drives, etc.) using encryption products that are Federal Information Processing Standards (FIPS) 140-2 certified.
8. Using passwords to protect PII in conjunction with FIPS 140-2 certified encryption that meet the current DoE password requirements cited in DoE Guide 205.3.1.
9. Sending removable media containing PII, as required, by express overnight service with signature and tracking capability, and shipping hard copy documents double wrapped via express overnight service.
10. Encrypting data files containing PII that are being sent by e-mail with FIPS 140-2 certified encryption products.
11. Sending passwords that are used to encrypt data files containing PII separately from the encrypted data file, i.e. separate e-mail, telephone call, separate letter.
12. Using FIPS 140-2 certified encryption methods for websites established for the submission of information that includes PII.
13. Using two-factor authentication for logon access control for remote access to systems and databases that contain PII. Two-factor authentication is contained in the National Institute of Standards and Technology (NIST) Special Publication 800-63 Version 1.0.2 found at: http://csrc.nist.gov/publications/nistpubs/800-63/SP800-63V1_0_2.pdf
14. In addition to other reporting requirements, reporting the loss or suspected loss of PII immediately upon discovery to:
   a. DoE Project Officer
   b. IRB
15. Classified projects that use PII must also comply with all the requirements for conducting classified research.

25.3.3 Researcher Reporting Requirements

Researchers must report, as soon as possible but always within 30 days, the following to the human subject research program manager:
• Any significant adverse events, unanticipated risks and complaints about research, with a description of any corrective actions taken or to be taken.
• Any suspension or termination of IRB approval of research.
• Any significant non-compliance with HRPP procedures or other requirements.

Any compromise of personally identifiable information must be reported within 2 days of determining that there was a compromise.

25.4 Department of Justice (DoJ)

25.4.1 Principal Investigator Responsibilities

Principal Investigators (PIs) who are recipients of funds from the NIJ are required to comply with the DoJ regulations at 28 CFR 46 (Protection of Human Subjects) which include the following additional requirements:

1. Obtain a privacy certificate approved by the NIJ Human Subjects Protection Officer. Information about Privacy Certificates may be found at the NIJ website at www.ojp.usdoj.gov/nij/funding/humansubjects/welcome.htm.
2. Include a statement in the informed consent document under the section dealing with confidentiality that confidentiality can only be broken if the subject reports the probability of immediate harm to self or others.
3. Submit a copy of the IRB approval as well as supporting documentation of the IRB’s institutional affiliation, assurance, etc. to the NIJ prior to initiation of any research activities that are not exempt from the requirements of 28 CFR 46.
4. Submit supporting documentation of the IRB’s approval of the research meeting the criteria for exemption under 28 CFR 46.101(b).
5. Sign and maintain an Employee Confidentiality Statement for themselves and their research staff. A model employee confidentiality statement can be found at www.ojp.usdoj.gov/nij/funding/humansubjects/employee-confidentiality.htm.
6. Send a copy of all de-identified data, including copies of the informed consent document, data collection instruments, surveys and other relevant research materials to the National Archive of Criminal Justice Data.

25.4.2 Bureau of Prisons

Additional requirements for prospective researchers to obtain approval to conduct research within the Bureau are described at 28 CFR Part 512. Although some research may be exempt from 28 CFR part 46 under 46.101(b)(5), as determined by the Office of Research and Evaluation (ORE) of the Bureau, no research is exempt from 28 CFR Part 512. However, implementation of Bureau programmatic or operational initiatives made through pilot projects is not considered to be research. The following additional requirements are included in 28 CFR Part 512:

1. Obtain review of the research proposal by the Bureau of Research Review Board.
2. Sign an agreement to adhere to the provisions of the Bureau under 28 CFR 512.
3. Respect the rights, health, and human dignity of individuals involved in the research.
4. Adhere to applicable provisions of the Privacy Act of 1974 and regulations pursuant to this act.
5. Provide a research project design that contributes to the advancement of knowledge about corrections.
6. Provide a research project design that is compatible with both the operation of the prison facilities and protection of human subjects.
7. Observe the rules of the institution in which the research is conducted;
8. Provide a research project design that does not involve medical experimentation, cosmetic research, or pharmaceutical testing.

9. Provides documentation that:
   a. Risks to participants are minimized and risks are reasonable in relation to the anticipated benefits;
   b. Selection of participants within any one organization is equitable; and
   c. Incentives may not be offered to help persuade inmates to participate, unless snacks or soft drinks are consumed at the test setting.
   d. Reasonable accommodations such as nominal monetary recompense for time and effort may be offered to non-confined research subjects who are both:
      i. No longer in the Bureau custody, and
      ii. Participating in authorized research being conducted by Bureau employees or contractors.

10. Provide documentation of experience in the area of study of the proposed research.

11. Provide documentation of review of related literature.

12. Provide documentation that research records will be destroyed or individual identifiers will be removed from the records after the research is completed;

13. Assume responsibility as the investigator for actions of any research staff engaged to participate in the project.

14. Provide documentation for maintaining confidentiality of data preliminary to the research, during and after the conclusion of the research by assuring:
   a. Records are not in an individually identifiable form.
   b. Advance written assurance has been provided to the Bureau that the records will be used solely for statistical research or reporting.

15. Agree not to provide research information that identifies a subject to any person (i.e. cannot be admitted as evidence or used for any purpose in any action, suit, or other judicial, administrative, or legislative proceeding) without the subject’s prior written consent to release the information.

16. Agree not to maintain records electronically that contain non-disclosable information directly traceable to a specific person at the institution (NOTE: Computerized data records may only be maintained at an official DoJ site).

17. Negotiate arrangements, prior to the beginning of the data collection of the project, to provide non-identifiable computerized data on individual subjects along with documentation to the ORE if requested.

18. Obtain informed consent of subjects prior to initiating the research activity (See Section 6).

19. Submit planned methodological changes in the research to the IRB for review and approval prior to initiation and revise study procedures in accordance with the new methodology, if required.

20. Provide, at least yearly, a report on the progress of the research and at least one report of findings to the ORE Chief.

21. Acknowledge the Bureau participation in any publication of the results.

22. Include a disclaimer in the results for publication that the approval or endorsement of the published material is an expression of the policies or view of the Bureau.

23. Provide, at least 12 working days before any report of findings to be released, one (1) copy of the report, which shall include an abstract of the findings, to each of the following:
   a. Chairperson of the BRRB.
   b. The regional Bureau Director.
   c. The warden of each institution which provided data or assistance.

24. Submit two (2) copies of the results of the research project for informational purposes only to the ORE Chief prior to submission for publication.
25.4.3 Research Proposals

When submitting a research proposal to the Bureau, the PI shall provide the following information in the proposal:

1. A summary statement which includes:
   a. Name(s) and current affiliation(s) of the researcher(s).
   b. Title of the study.
   c. Purpose of the project.
   d. Location of the project
   e. Methods to be employed.
   f. Anticipated results.
   g. Duration of the study.
   h. Number of subjects (staff/inmates) required and amount of time required from each
   i. Indication of risk or discomfort involved as a result of participation.

2. A comprehensive statement which includes:
   b. Detailed description of the research method.
   c. Significance of anticipated results and their contribution to the advancement of knowledge;
   d. Specific resources required from the Bureau;
   e. Description of all possible risks, discomforts, and benefits to individual subjects or a class of subjects, and a discussion of the likelihood that the risks and discomforts will actually occur;
   f. Description of steps taken to minimize any risks.
   g. Description of physical and/or administrative procedures to be followed to:
      i. Ensure the security of any individually identifiable data that are being collected for the project, and
      ii. Destroy research records or remove individual identifiers from those records when the research has been completed.
   h. Description of any anticipated effects of the research project on institutional programs and operations; and
   i. Relevant research materials such as vitae, endorsements, sample informed consent statements, questionnaires, and interview schedules.
   j. A statement regarding assurances and certification required by 28 CFR part 46, if applicable.

25.4.4 Informed Consent

Before commencing a research project requiring participation by staff or inmates, the researcher shall give each participant a written informed consent statement containing the following information (The researcher may not be required to obtain the signature if the researcher can demonstrate that the only link to the subject's identity is the signed statement of informed consent or that there is significantly more risk to the subject if the statement is signed.):

1. Identification of the PI(s);
2. Objectives of the research project;
3. Procedures to be followed in the conduct of research;
4. Purpose of each procedure;
5. Anticipated uses of the results of the research;
6. A statement of benefits reasonably to be expected;
7. A declaration concerning discomfort and risk, including a description of anticipated discomfort and risk;
8. A statement that participation is completely voluntary and that the participant may withdraw consent and end participation in the project at any time without penalty or prejudice (the inmate will be returned to regular assignment or activity by staff as soon as practicable);

9. A statement regarding the confidentiality of the research information and exceptions to any guarantees of confidentiality required by federal or state law. For example, a researcher may not guarantee confidentiality when the subject indicates intent to commit future criminal conduct or harm himself/herself or someone else, or, if the subject is an inmate, indicates intent to leave the facility without authorization. Under the privacy certificate investigators and research staff do not have to report child abuse unless the participant signs another consent form to allow child abuse reporting.

10. A statement that participation in the research project will have no effect on the inmate participant's release date or parole eligibility;

11. An offer to answer questions about the research project; and

12. Appropriate additional information as needed to describe adequately the nature and risks of the research.

25.5 Environmental Protection Agency (EPA)

25.5.1 Research Involving Intentional Exposure of Any Human Subjects

The EPA does not conduct or support research involving intentional exposure of any human subjects who is a pregnant woman (and therefore her fetus), a nursing woman, or a child. Other adults who voluntarily choose to participate are protected under the EPA’s rule, “Protections for Subjects in Human Research”, which requires proposed protocols describing intentional exposures be reviewed by EPA and its Human Studies Review Board.

25.5.2 Observational Research Involving Pregnant Women and Fetuses

The EPA requires application of 40 CFR 26 Subpart B to provide additional protections to pregnant women as subjects in observational research, i.e., research that does not involve intentional exposure to any substance.

25.5.3 Observational Research of Children Not Involving Greater Than Minimal Risk

The EPA requires application of 40 CFR 26 Subpart D to provide additional protections to children as subjects in observational research, i.e., research that does not involve intentional exposure to any substance.

25.5.4 Observational Research of Children Involving Greater Than Minimal Risk

Observational research involving greater than minimal risk but presenting the prospect of direct benefit to the individual subjects is allowable only if the IRB finds that (See Section 12.4):

1. The intervention or procedure holds out the prospect of direct benefit to the individual subject or is likely to contribute to the subject's well-being;
2. The risk is justified by the anticipated benefit to the subjects;
3. The relation of the anticipated benefit to the risk is at least as favorable to the subjects as that presented by available alternative approaches; and
4. Adequate provisions are made for soliciting the assent of the children and permission of their parents or guardians.
25.5.5 Final Review by EPA

EPA policy requires submission of IRB determinations and approval to the EPA Human Subjects Research Review official for final review and approval before the research can begin.

25.5.6 Research Not Conducted or Supported By Any Federal Agency

For research not conducted or supported by any federal agency that has regulations for protecting human research participants and for which the intention of the research is submission to the EPA, the EPA regulations protecting human research participants apply, including:

1. EPA extends the provisions of the 40 CFR 26 to human research involving the intentional exposure of non-pregnant, non-nursing adults to any substance.
2. EPA prohibits the intentional exposure of pregnant women, nursing women, or children to any substance.