

TEXAS WOMAN'S UNIVERSITY

Institutional Review Board
Policies and Procedures

Texas Woman's University

Denton ♦ Dallas ♦ Houston

Office of Research and Sponsored Programs
(940) 898-3375

February 1, 2007

Dear Investigator:

As mandated by the Federal government through our Federalwide Assurance #FWA00000178, Texas Woman's University has developed and adopted policies and procedures for the conduct of research involving human participants. These policies and procedures, which assure we are in accord with federal regulations, apply to **all research involving human participants** conducted at or under the auspices of Texas Woman's University (TWU), whether or not the research is funded. The **mandatory** policies apply equally to **faculty, staff, and students**. For the purpose of these policies, research is defined as "a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge" Federal Policy ¶.102(d). This includes data collection which occurs in conjunction with classroom projects unless the work is done as a learning exercise for the student and will never be published or presented.

The goal of the review process is to protect human participants by insuring they are treated appropriately and to protect investigators by having an independent process verify that they are dealing properly with the human participants.

For investigators who are not accustomed to following human participants review policies, TWU's adoption of these policies will add a step to their research planning process. That is, before any research involving human participants can begin, the investigator must obtain approval from the Institutional Review Board (IRB) for the appropriate TWU campus or center. The IRBs meet on a regular basis to consider proposals. A schedule for the IRB meetings at your campus or center is available from the IRB website (<http://www.twu.edu/research/irb.html>).

It is important to note that there are three categories of review for research involving human participants--Exempt, Expedited, and Full Review--and it is the Chair of the IRB who determines which type of review process applies to a project. Who reviews the application, however, and how long it takes will vary according to the type of review required. When a research project requires Full Review, the application materials must be submitted on or before the deadline for the next meeting (available at the IRB website).

We are indebted to the material gathered by the Office of Protection from Research Risks (OPRR) at the National Institutes of Health and published in Protecting Human Research Participants: Institutional Review Board Guidebook (1993). For many of the ideas on the presentation of information, we acknowledge adaption of the handbook on IRB policies and procedures prepared by Central Michigan University (Spring 1994).

Because we recognize that the policies and procedures may produce many questions, we strongly encourage you to contact the Chair of the IRB on your campus or center if you would like further clarification.

Sincerely,

Dr. Jo Ann Engelbrecht, Director
Research and Sponsored Programs

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PART I: POLICIES

PROGRAM POLICIES

Texas Woman's University recognizes the need for investigations in which human beings may serve as research participants. The University acknowledges and accepts its responsibilities for insuring that the privacy, safety, health, and welfare of such participants are adequately protected. The University has established the Institutional Review Board (IRB) to review and to approve the adequacy of human participant protection. The IRB is composed of faculty and staff from varied disciplines as well as community members. The policies of the University with respect to research involving human participants are based on the following principles.

1. *Maintaining Participant Autonomy*

- Participation of human beings in research must be voluntary. Voluntary participation must occur as a result of free choice, without compulsion or obligation, based on disclosure of relevant information in a clear, concise, and understandable way. It is the responsibility of investigators to insure that participants understand the principles described and language used in the explanation of research projects. The investigators must also take care to avoid coercing individuals to participate in the study or to remain in the study.
- Adequate standards for informed consent must always be satisfied. The principle of informed consent is derived from the legal and ethical obligations of investigators to insure that prospective participants have sufficient understanding of the benefits and risks of their participation in the study to make an informed decision concerning participation.

2. *Maintaining the Safety of Participants*

- A paramount responsibility of investigators is to protect participants from physical and emotional discomfort, harm, or danger. The potential for benefit to others does not necessarily justify placing the participants of the study at risk. A research procedure may not be used if it is likely to cause serious and lasting harm to participants (e.g., physical or mental health problems).
- During the study, investigators must provide participants with clarification of the nature of the study and remove misconceptions that may arise.
- If an investigation uses deception, investigators are required to explain to the participants (i.e., debrief) the reasons for this deception and to restore the quality of the relationship with participants at the earliest possible time in the research procedure.
- Where research procedures result in undesirable consequences for participants, the investigators have the responsibility to detect and to remove or correct these consequences, including, where relevant, long-term after-effects.

- Where scientific or humane values justify delaying or withholding information, the investigators have a responsibility to insure that there are no damaging consequences to participants.
3. *Promoting Benefits to the Participants and the Larger Community*
- Wherever possible, research projects must be designed with the intent that the knowledge gained will benefit the participants and/or a larger community.
 - The benefits of the research must be made available to all participants in the study, regardless of their role in the research projects. For example, positive outcomes found for any treatment group must be made available to all participants at the completion of the study.
4. *Conducting Research in a Fair and Equitable Manner*
- The research must be designed to treat all individuals fairly. The selection of participants must be based on fair procedures and not overburden, over-utilize, or unfairly favor or discriminate against any participant pool.
5. *Honoring Commitments Made to Participants in a Study*
- The investigators must honor all commitments made to participants, contributors, or collaborators in a research project. Changes that are made in research design must be clearly presented to all individuals involved in the study. It is the responsibility of the investigators to insure that all parties clearly understand the commitments included in the agreement to participate in or to support the study.
 - Standards of confidentiality must be respected, particularly in research where this is guaranteed to participants. If there is a possibility that others may obtain access to any information about participants which has been gathered during the investigation, ethical research practice requires that this possibility, together with the plans for protecting confidentiality, be explained to participants as part of the procedure for obtaining informed consent.

The principles contained here are generally consistent with the (1) the Nuremberg Code; (2) the Declaration of Helsinki; (3) the National Commission for the Protection of Human Participants of Biomedical and Behavioral Research, "The Belmont Report," U.S. Public Health Service (see Appendix A); and (4) the Code of Federal Regulations (CFR), Title 45 (Public Welfare), Department of Health and Human Services, National Institutes of Health, and Office for Protection from Research Risks, Part 46 (Protection of Human Subjects), effective revision December 13, 2001 (see Appendix B). The CFR, Title 45, Part 46, Subpart A (46.101-46.124) provides federal policy for the protection of human participants in research; Subpart B (46.201-46.207) provides additional protections for pregnant women, human fetuses, and neonates involved in research; Subpart C (46.301-46.306) provides additional protections pertaining to biomedical and behavioral research involving prisoners as research participants; and Subpart D

(46.401-46.409) provides protections for children involved as participants in research. These codes and reports are on file and available in the TWU Office of Research and Sponsored Programs.

The interpretation and implementation of these policies are the responsibility of the IRB, which reports to the Director of the Office of Research and Sponsored Programs. Since all protocols require University certification that proposed research and training programs involving human participants comply with accepted IRB policies and procedures, it will be necessary to follow the approved review procedure outlined in Procedures (Part II of this document).

PART II: PROCEDURES

INSTITUTIONAL REVIEW BOARD PROCEDURES

A. INTRODUCTION

1. Responsibilities of the Institutional Review Board (IRB)

The responsibility for providing independent review and continuing surveillance of research involving the use of human participants is delegated by the TWU IRB. The IRB is an administrative body established to protect the rights and welfare of human research participants recruited to participate in research activities conducted under the auspices of the institution with which it is affiliated. The IRB has the authority to approve, require modification, or disapprove all research activities that fall within its jurisdiction, as specified by both the federal regulations and local institutional policy. Research that has been reviewed and approved by an external IRB may be subject to review and approval or disapproval by officials of this institution. However, those officials may not approve research if it has been disapproved by the IRB (Code of Federal Regulations, Title 45, Part 46, 46.112). The fundamental responsibilities of the IRB with regard to the use of human participants include determining the risks and potential benefits of investigations, ascertaining the appropriateness of the methods used to obtain consent, and protecting the rights and welfare of the individuals involved.

2. Responsibilities of the Principal Investigator and Research Team

Research project teams are responsible for the safe conduct of the research protocol in accordance with the regulations set forth by the IRB. Research project teams (including but not limited to principal investigators, research assistants, major advisors, and staff) conducting research with human participants will be required to successfully complete the training in the protection of human research participants. A link to an online training module is available at <http://www.twu.edu/research/irb.html>. The certificate of completion for training must be submitted to the IRB Office with any new IRB application or request for extension in order to obtain approval for any protocol involving human participants in research. This certificate of completion will remain valid for a period of three years and must be renewed at the beginning of each new three-year period in order to receive approval for any new research or extensions for continuing research. This required training applies to all levels of review: Exempt, Expedited, and Full Review studies.

This policy is implemented as a requirement of the terms and conditions of TWU's current Federalwide Assurance. The IRB Chairs, Director of the Office of Research and Sponsored Programs, Dean of the Graduate School and Research, and Provost have been involved in establishing educational and training oversight mechanisms. In order to fulfill the mandate as set forth by TWU's Federalwide Assurance, the above policy has been established.

3. Purpose of Guidelines

The following guidelines have been established to provide a mechanism for implementing the policies of the Code of Federal Regulations, Title 46, Part 46 and the University. These

guidelines outline the conditions under which participants may be at risk when they are involved in a research study. These guidelines also specify the requirements necessary in order to determine the appropriate level of review. Although the Code of Federal Regulations (Title 46, Part 46) form the basis for the Policies of the TWU IRB, in those cases where local policies may be more strict/restrictive than the Code of Federal Regulations, the TWU IRB policy will supersede Federal policy

B. DEFINITIONS

The following terms are defined as they relate to the review of research activities involving human participants.

1. Research

Research is a systematic investigation designed to test hypotheses, evaluate programs, draw conclusions, or contribute to generalizable knowledge. Research is usually described in a formal protocol that sets forth objectives and a set of procedures designed to reach those objectives.

2. Human Participants in Research

Human participants in research are living individuals about whom investigators (whether professionals or students) conducting research obtain (1) data through intervention or interaction with individuals, or (2) identifiable private information. Identifiable private information includes any acquired information via self-report, behavior, or observation in which the identity of research participants is or may readily be ascertained by the investigators or be associated with the information.

3. Risk

Human participants in research are considered to be at *risk* when exposed to the possibility of physical, psychological, or social harm as a direct consequence of involvement in research and its related activities. The determination of such risk is a matter of sound professional judgment and responsibility. Accountability for this determination of risk resides at all levels of the University review process, including with the investigators.

(a) Minimal Risk

Minimal risk means that 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 or during the performance of routine physical or psychological examinations or tests.

(b) Risk and the Applicability of This Policy

Risk and the applicability of this policy involve research procedures that may induce potentially harmful altered physical or psychological states or conditions. The most severe examples of placing participants at risk include the experimental use of the following procedures: surgical and biopsy procedures; the administration of drugs or radiation; the use of

indwelling catheters or electrodes; the requirement of unusual physical exertion; electric shock; intense sensory stimulation (e.g., light, sound); severe acceleration or deceleration; and subjection to deceit, public embarrassment, and/or humiliation. Risk also includes, but is not limited to, the possibility of embarrassment, loss of confidentiality, physical or psychological harm, physical or psychological discomfort, fatigue, loss of time, and monetary costs (e.g., transportation, childcare, time loss from work), topics of a sensitive nature, discomfort, anxiety, harassment, invasion of privacy, or emotional distress resulting from fear of self-disclosure, introspection, fear of the unknown, interacting with strangers, fear of eventual repercussions, and irritation at the type of questions being asked.

If an activity will expose individuals to risk, then the IRB will wish to be assured that (a) the rights and welfare of the individuals are adequately protected; (b) the methods used to obtain informed consent are adequate and appropriate; (c) the risks to individuals are outweighed by the potential benefits to individuals or society or by the importance of the knowledge to be gained; and (d) the study personnel are qualified to conduct the study, including any specialized procedures or testing.

(c) Additional Protections Against Risk

The Code of Federal Regulations, Title 45, Part 46, Subparts B, C, and D, delineates additional protections against risk afforded to special populations of research participants: pregnant women, human fetuses, and neonates (Subpart B); biomedical and behavioral research with prisoners (Subpart C); and children (Subpart D).

For pregnant women, human fetuses, and neonates, research is generally expected to hold out the prospect of direct benefit. If no such prospect of direct benefit is available, then the risk must be minimal and the purpose of the research must be the development of important biomedical knowledge which cannot be obtained by any other means.

For biomedical and behavioral research with prisoners, the selection of research participants must be fair to all prisoners and immune from arbitrary intervention by prison authorities, parole boards, or other prisoners. The benefits of the research must not be of such a magnitude that they impair the ability of prisoners to weigh the risks of the research in the limited choice environment of the prison.

For children, research is generally expected to hold out the prospect of direct benefit and minimal risk for individual participants. If no such prospect of direct benefit is available and the research involves greater than minimal risk, the interventions or procedures must be commensurate with ordinary medical, psychological, social, or educational situations and likely to yield important generalizable knowledge to further the understanding, prevention, or alleviation of a problem affecting the health or welfare of children. Adequate provision must be made to solicit permission of all children's parents or guardians. Whenever children in research projects are capable of providing assent (i.e., a child's affirmative agreement to participate in research), adequate provisions must be made to solicit such assent. Mere failure to object is not, in the absence of affirmative agreement, to be construed as assent.

(d) *Limits of the Policy*

This policy is not concerned with the ordinary risks of public or private living or the ordinary risks associated with admission to or employment with the University. This policy is not concerned with the risks inherent in professional practice, as long as these risks do not exceed the bounds of established and accepted procedures and standards of the profession, including innovative practices applied in the interest of individual patients, students, or clients.

4. Exempt

Activities that do not depart materially from events encountered in ordinary daily life may be determined by the IRB Chair to be *Exempt* from further review by the IRB. However, cases where these ordinary activities may impose physical or psychological discomfort, harassment (beyond levels encountered in daily life), invasion of privacy, a threat to the participants' dignity, or other foreseeable risks will require a Full or Expedited Review.

5. Protocol

Protocol is the description of research or related projects that is presented to the IRB for review. Research projects may encompass several individual investigations using related techniques or common themes. The proposed projects must be presented in sufficient detail to enable the IRB to determine whether adequate provisions have been made for the protection of the participants' rights and welfare.

6. Principal Investigator

The *Principal Investigator* (PI) is the person with primary responsibility for the research project. The PI may be a faculty member or a student, depending on the nature of the project. All research in which a student is the PI must be supervised by a faculty advisor.

7. University Administrative Units

The *University Administrative Units* are those offices at TWU that assume responsibility for submitting applications to sponsoring agencies external to the University: the Office of Research and Sponsored Programs, the Office of Vice President for Finance and Administration, and the Office of Institutional Development. The General Counsel and the Director for Research and Sponsored Programs head the administrative units that receive reports of research-related complications.

8. Certification

Certification is the official notification to sponsoring agencies and to the TWU Graduate School, by the Office of Research and Sponsored Programs, that research projects or activities involving human participants have been reviewed and approved by the IRB in accordance with these guidelines.

C. IMPLEMENTING GUIDELINES FOR THE TWU INSTITUTIONAL REVIEW BOARDS

1. Policy Development

Development of policy and its implementation related to research projects involving human participants shall be the responsibility of the TWU Institutional Review Boards. Three IRBs serve the TWU community: Denton campus, Dallas centers (Presbyterian and Parkland Hospitals), and Houston Center. Each IRB Chair will report to the Director of the Office of Research and Sponsored Programs.

2. IRB Membership

The IRB shall have at least five members with varying backgrounds to promote complete and adequate review of research activities commonly conducted by researchers at the institution. The IRB shall be sufficiently qualified, through the experience, expertise, and diversity of its members, including considerations of race, gender, cultural background, and sensitivity to community attitudes, to promote respect for the recommendations of the membership in safeguarding the rights and welfare of human participants. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable laws, and standards of professional conduct and practice. The IRB shall include persons knowledgeable in these areas. The IRB shall also include persons knowledgeable in working with individuals in vulnerable populations, such as children, prisoners, pregnant women, handicapped, or mentally disabled persons.

In addition to possessing the professional competence necessary to review specific research activities, the IRB membership will possess the attributes as stated below.

- (a) The IRB will be composed of both male and female members.
- (b) The IRB will be composed of members representing more than one profession.
- (c) The IRB will include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution.
- (d) The IRB will include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.
- (e) The IRB will not permit a member to participate in the initial or continuing review of any project in which that member has a conflicting interest, except to provide information as requested by the IRB.
- (f) The IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues which require expertise beyond or in addition to that available on the

IRB. These individuals may not vote with the IRB.

The IRB membership is appointed or re-appointed annually by the Vice President for Academic Affairs. IRB members will receive a letter of appointment or reappointment annually.

New Members

The Director of Research and Sponsored Programs, in consultation with the chair of the IRB and the members of the IRB, will solicit nominations, self-nominations, and names from the Faculty Senate committee volunteer list to fill vacant positions on the IRB. Although candidates need not have specific qualifications, in certain instances candidates with qualifications necessary to fill any gaps in expertise among the membership, or those necessary to maintain the federally mandated composition of the membership will be sought. All nominees are subject to approval by the Vice President for Academic Affairs.

When appointed to the IRB, members will be asked to serve for an initial three-year term. Reappointments for additional one-year terms, without limit, are permissible so long as the member continues to possess the necessary qualifications and adequately performs the duties required of IRB members. Those duties include but are not limited to regular attendance at convened meetings of the IRB, timely review of assigned IRB applications, and maintaining updated CV and training certificates. All reappointments are subject to approval by the Vice President for Academic Affairs.

If a member is unable to attend meetings for an extended period of time, for whatever reason, the IRB Chair must be informed in writing. If appropriate, a replacement will be appointed. Members may be removed from the IRB by the Chair or the Director of Research and Sponsored Programs for reasons of poor attendance or other manifestations of unwillingness or incapacity to serve the IRB adequately.

A list of IRB members, identified by name, earned degree, representative capacity, indications of experience (e.g., board certifications, licenses), and employment or relationship between each member and the institution, sufficient to describe each member's chief anticipated contributions to IRB deliberations, shall be provided to the Director of Research and Sponsored Programs at TWU, the Office for Protection from Research Risks, the National Institutes of Health, and the Department of Health and Human Services. Changes in IRB membership must also be reported to the Director of Research and Sponsored Programs and the agencies as listed above.

IRB Leadership (The following procedures relating to IRB leadership apply only to the Denton campus)

In order to maintain the highest level of the protection of human research participants, the IRB leadership will consist of three positions: chair, co-chair, and past chair.

IRB Chair – The IRB chair will be someone knowledgeable in both research and regulations relevant to protection of human participants in research. It is expected that the IRB chair will have served previously as co-chair of the IRB. In no case will an IRB chair be appointed who

has not previously served at least 24 months as a member of the IRB. The IRB chair will be appointed for an initial three-year term with the option for reappointment for a second two-year term. A term begins with the start of the fall semester of an academic year.

The process of appointment of a new IRB chair will be initiated in May of the final year of the term of the IRB chair. Nominations may be submitted either in writing or orally during the May meeting. All nominees will be announced at the end of the May meeting. Objections to a particular nominee by any IRB member should be submitted to the Director of Research and Sponsored Programs prior to the June meeting of the IRB. In the case where there is more than one favorable nominee, a written vote will be taken at the June meeting of the IRB. Votes may be submitted by email to the Director of Research and Sponsored Programs for those members unable to attend the June meeting. The final nominee for IRB chair will be submitted to the Director of Research and Sponsored Programs following the conclusion of the July meeting. The nominee for chair is subject to approval by the Vice President for Academic Affairs. It is suggested that TWU sponsor attendance at an OHRP sponsored training program for each new chair.

The process for the reappointment to a second term of the current IRB chair will be initiated by a vote of the IRB members at the May IRB meeting. Votes may be submitted by email to the Director of Research and Sponsored Programs for those members unable to attend the May meeting. If approved by a majority of the IRB members, the request for reappointment of the IRB chair will be submitted for approval to the Vice President for Academic Affairs. If the current chair does not wish to be reappointed, or the IRB membership or the Vice President for Academic Affairs does not approve the reappointment, then the procedures for selection of a new chair will be activated.

Duties of the IRB chair primarily consist of presiding over regular meetings of the IRB and reviewing exempt and other applications to the IRB as necessary.

IRB Co-Chair – The duties of the co-chair are primarily to assist the chair in carrying out the day-to-day functions of the IRB including but not limited to reviewing exempt applications, reviewing IRB requested changes to applications, and reviewing requests for extensions for expedited applications. The co-chair also assumes the responsibilities of chair when the chair must be absent

Nominations for co-chair will be accepted from the members of the IRB. The chair, in consultation with the Director of Research and Sponsored Programs, will select the nominee which will then be submitted to the full IRB for approval. Nominees for co-chair will have served on the IRB for 12 months prior to their appointment as co-chair. The term of appointment for the co-chair will be for one year with an option for reappointment for one additional year.

Past Chair – When the chair of the IRB has finished his or her final term as chair, the individual will serve as past chair for one year. The past chair will serve as a full voting member of the IRB. The duties as past chair will be to provide consultation on matters pertaining to the function of the IRB. After serving as past chair, a person has the option to remain on the IRB as a regular member

3. Guidelines for Review of Research

(a) IRB Operations

The IRB shall follow these written procedures as well as the requirements for the Protection of Human Participants in Research as specified in the Code of Federal Regulations, Title 45 (Public Welfare), Part 46 (Protection of Human Subjects).

The IRB shall meet as often as is necessary to provide initial and continuing reviews of research. Adequate minutes of all meetings and the monthly activity reports, which provide the results of reviews of research protocols submitted to the IRB, are sent to IRB members monthly for review and are maintained in the Office of Research and Sponsored Programs (Denton) and in the offices of the IRB chairs (Dallas and Houston centers). Except where Exempt or Expedited Review procedures are used, the review of proposed research at convened meetings will include a majority of IRB members, with at least one member whose primary concerns are in nonscientific areas. In order to approve the research, the protocol shall receive the support of a majority of those members present at the meeting. Members with a conflict of interest for a particular research protocol will absent themselves from all discussion (except as requested to provide information) and voting on that protocol. Where Exempt or Expedited Review procedures are used, at each IRB meeting the monthly activity report will be approved, modified, or disapproved by a majority of IRB members present. Also at each IRB meeting, the members will be notified of any adverse events reported for approved research protocols, and annual renewals of previously approved research protocols will be approved, modified, or disapproved by a majority of members present.

(b) IRB Functions

The primary function of the IRB is to review and to approve, require modifications in, or disapprove all research activities with human participants. The IRB will notify investigators and the appropriate University administrator, in writing, of its decision to approve, require modifications in, or disapprove the proposed research activities. When the IRB decides to disapprove research activities, it will include in the written notification a statement of the reasons for its decision and give the investigators an opportunity to respond in person or in writing. Continuing review of research will be conducted at intervals appropriate to the degree of risk, but not less than once per year. Decisions regarding continuing review of research more frequently than once a year will be assessed on an individual basis according to the degree of risk in any particular research activity.

The IRB must require that all human participants in research be given all relevant information about the research activities as part of the informed consent process. The IRB may require that additional information be provided to research participants, when in the IRB's judgment, the information would meaningfully add to the protection of the rights and welfare of the participants. The IRB will require documentation of informed consent or may waive documentation of informed consent in accordance with these guidelines (see Section 5, General Requirements for Obtaining Informed Consent for details of the informed consent process). The IRB has the authority to observe or have a third party observe the informed consent process and the research.

(c) *Criteria for Review*

The IRB reviews each protocol to determine that all of the following requirements are satisfied.

- (1) Risks to participants are minimized.
- (2) Risks to participants are reasonable in relation to anticipated benefits, if any, to participants and the importance of the knowledge that may reasonably be expected to result. The IRB considers only those risks and benefits that may result directly from participation in the research, and not risks or benefits that would likely result even if persons did not participate in the research.
- (3) Selection of participants is equitable. When considering the selection of participants, the IRB will be particularly cognizant of the purpose and setting of research involving vulnerable populations.
- (4) Informed consent will be sought from all prospective participants or the participants' legally authorized representatives.
- (5) Informed consent will be appropriately documented as deemed appropriate by the IRB.
- (6) The research plan makes adequate provision for monitoring the data collected to ensure the safety of participants as deemed appropriate by the IRB.
- (7) Adequate safeguards are provided to protect the privacy of participants and to maintain the confidentiality of data as deemed appropriate by the IRB.

(d) *Categories of Review*

(1) Exempt Review

Exempt Review applications may be submitted for studies that (a) involve no foreseeable risks to the participants; (b) do not involve a sensitive subject; or (c) do not involve minors (see below for exception). Exempt studies include research conducted in educational settings involving normal curriculum (even if minors are involved), and research conducted using archival data, provided that the information collected is anonymous (i.e., no names or other identifying information were collected or recorded). The TWU Institutional Review Board Chair (and not the faculty member or advisor) makes the final determination, based on federal guidelines, as to whether a project is **Exempt from further IRB review**. Exempt applications will be reviewed by one IRB member (usually the Chair), and the applicant can expect to receive a response from the IRB within two weeks.

For Exempt applications, the cover page, "Identification of Risk" page, and "Exempt

Studies Application Form” must be completed. Exempt Review **does not apply** when the research activities may expose the participants to physical or psychological discomfort, harassment (beyond levels encountered in daily life), invasion of privacy, threat to the participants' dignity, or other foreseeable risks. A listing of federally approved exemptions is provided below.

- 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.
- Research involving the use of educational tests (i.e., cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior, unless: (i) information obtained is recorded in such a manner that human participants can be identified, directly or through identifiers linked to the participants; and (ii) any disclosure of the human participants' responses outside the research could reasonably place the participants at risk of criminal or civil liability or be damaging to the participants' financial standing, employability, or reputation.
- Research involving the use of educational tests (i.e., cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior that is not exempt under paragraph(2) of this section, if: (i) the human participants are elected or appointed public officials or candidates for public office; or (ii) federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.
- 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 investigators in such a manner that participants cannot be identified, directly or through identifiers linked to the participants.
- Research and demonstration projects which are conducted by or subject to the approval of Department or Agency heads, and which are 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.
- Taste and food quality evaluation and consumer acceptance studies, (i) if wholesome foods without additives are consumed or (ii) 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.

(2) Expedited Review

The Institutional Review Board will use an **Expedited Review** procedure for categories of research established by the Department of Health and Human Services and published in the Federal Register. The TWU IRB Chair (and not the faculty member or advisor) makes the final determination based on federal guidelines as to whether projects may be reviewed using an Expedited process. Expedited applications may be submitted for studies that (a) involve minimal risks to the participants; (b) do not involve sensitive topics; or (c) do not use minors (see below for exceptions). Expedited studies include research using questionnaires, surveys, and interviews that are not anonymous (i.e., the participants can be identified). Expedited applications will be reviewed by three IRB members, and the applicants can expect to receive a response within three weeks. For Expedited applications, the cover page and the Application for Expedited and Full Review Studies must be completed.

An **Expedited Review does not apply** for research activities when the participants are under guardianship or institutionalized; such situations will require a Full Review. Federal regulations do not prohibit expedited review of studies involving minors. However, it is the policy of the TWU IRB that in studies that involve minors, only those studies that have loss of confidentiality as the primary risk qualify for expedited review. In all studies that involve minors (except those qualifying for exempt status), parental/guardian consent must be obtained. See Appendix C for guidelines concerning Categories of Research that may be reviewed by the IRB through an Expedited Review Procedure.

(3) Full Review

Except when an Expedited Review procedure is used or an application is determined by the IRB Chair to be Exempt from further review, the IRB will review all proposed research involving human participants at convened meetings in which a majority of the members of the IRB are present, including at least one member whose primary concerns are in nonscientific areas. In order for the research to be approved, it shall receive the approval of a majority of those members present at the meeting. **Full Review applications** must be submitted for studies that (a) involve more than just minimal risks to the participants; (b) involve a sensitive topic; or (c) involve minors unless exempt under federal policies. When the need exists to clarify research procedures or to answer questions regarding applications, the investigators may be asked to attend the relevant portion of an IRB meeting.

(4) Research Involving More Than One IRB

If research studies are conducted at another institution and must be reviewed by the other institution's IRB, the TWU IRB may accept the IRB approval from this other institution, if all of the participants are located at the institution where the IRB

approval has been or will be obtained. In this instance, the research projects will be classified as Exempt. The following items must be submitted by researchers who request an Exempt Review for research involving more than one IRB.

- a. A memo requesting that the TWU IRB accept the IRB approval from the other institution, which verifies that all participants will be located at the site where the original IRB approval was obtained.
- b. A copy of the cover page for the TWU IRB application (with original signatures).
- c. A copy of the approval letter from the other institution's IRB.
- d. A copy of all materials that have been approved by the other institution's IRB.

Please note that the TWU IRB may require more information or a more extensive review, if deemed necessary, and is not required to accept the approval from another institution's IRB.

(5) Review of Research Protocol Changes

The IRB requires all investigators to report any emergent problems and/or proposed procedural changes, and/or changes in principal investigators to the IRB Chair. No changes, except those necessary to eliminate apparent immediate hazards, shall be made without prior approval by the IRB. In the event any projects, which have not used human participants, find it necessary to include human participants, such use must be reviewed and approved by the IRB prior to the use of human participants.

(6) Continuing Program Reviews

All research protocols that have received an Expedited or Full Review by the IRB shall be reviewed periodically. In no instance may an interval between consecutive reviews exceed twelve months. In some cases, the interval between consecutive reviews may be less than twelve months, if the IRB determines that the level of risk warrants more frequent periods of review. All protocols initially reviewed as Expedited can receive an extension from the IRB Chair. Protocols initially reviewed as Full Review can only receive an extension at a convened meeting of the IRB except those meeting the exceptions outlined in Appendix C, Research category (8).

All research protocols that have received Exempt Reviews by the IRB are, by definition, exempt from further IRB review, unless changes are made to the research protocols (see Section 3(d) above).

(7) Review of Research for Sponsored Projects

The IRB expects to complete its action on research protocols prior to submission of the proposals to potential sponsors. In those exceptional instances wherein a review is

not completed prior to submission to potential sponsors, the review must be completed within the period of time specified by the sponsors, e.g., in the case of the National Institutes of Health, within thirty days following the proposal submission date.

(8) Classroom Projects Designed for Education regarding Research

It is the policy of the Institutional Review Board that all research involving human participants be submitted to the IRB for review. Class projects, for which the data gathered will be used strictly for educational purposes, are not considered research and do not require IRB review or approval. The data gathered for class projects will never be able to be used in any research capacity (e.g., thesis, dissertation, presentation, publication). If there is any chance that researchers may wish to use these data for research in the future, the researchers may choose to obtain IRB approval.

(9) Research at Institutions without a Standing IRB

It is the policy of the TWU Institutional Review Board to review only research in which a TWU faculty member serves as principal or co-investigator. TWU faculty members or students involved in research at institutions without an IRB who agree to submit the research protocol for review by the TWU IRB, must also agree to serve as principal or co-investigator for the study and assume all responsibilities of that role with regard to the policies and procedures of the TWU IRB.

(10) Research at TWU by investigators not affiliated with TWU

Investigators not affiliated with TWU who have research studies approved by another institution's IRB may recruit participants for their research at TWU. Recruitment of TWU faculty, staff, or students would not typically require the involvement of the TWU IRB. However, approval by class instructors, department chairs or deans may be necessary. Faculty, department chairs, or others granting approval for recruitment of TWU participants by non-TWU investigators should ensure that the research protocol has been approved by an appropriate IRB.

4. Evaluation of Risk

Individuals are considered to be at risk if they may be exposed to the possibility of harm: physical, psychological, or social. Risk includes, but is not limited to, the possibility of embarrassment, loss of confidentiality, physical or psychological harm, physical or psychological discomfort, fatigue, loss of time, and monetary costs (e.g., transportation, childcare, time lost from work). The most severe examples of placing participants at risk include the experimental use of the following procedures: surgical and biopsy procedures; the administration of drugs or radiation; the use of indwelling catheters or electrodes; the requirement of unusual physical exertion; electric shock; intense sensory stimulation (e.g., light, sound); severe acceleration or deceleration; subjection to deceit, public embarrassment, and/or humiliation. Also consider as risks: topics of a sensitive nature, discomfort, anxiety, harassment, invasion of privacy, or emotional distress resulting from fear of self-disclosure, introspection,

fear of the unknown, interacting with strangers, fear of eventual repercussions, and irritation at the type of questions being asked.

If an activity will expose individuals to risk, then the IRB will wish to be assured that (a) the rights and welfare of the individuals are adequately protected; (b) the methods used to obtain informed consent are adequate and appropriate; (c) the risks to individuals are outweighed by the potential benefits to individuals or society or by the importance of the knowledge to be gained; and (d) the study personnel are qualified to conduct the study, including any specialized procedures or testing.

In cases of great risk, the IRB may call qualified consultants from the faculty or other sources, as required. Consultation is considered particularly appropriate where the participants are to be recruited from vulnerable populations, such as prisoners, children, pregnant women, handicapped, or mentally disabled persons. In such instances, the investigators and the IRB will meet jointly with the consultants for an assessment of the risks and potential benefits of the proposed research. When the IRB believes that a legal opinion is needed, the IRB Chair will contact the University's General Counsel.

In cases of deception, wherein the participants are not fully informed in advance as to the intent of and/or procedures used in the research, provisions must be made for an adequate post-investigative explanation of the intent and/or procedures of the research (i.e., debriefing) immediately following the completion of each individual's participation in the research. When appropriate, referrals for professional consultation (e.g., psychological, medical) must be provided.

5. General Requirements for Obtaining Informed Consent

(a) Definition of Informed Consent

Informed Consent is the process of providing sufficient information to potential research participants about the research activities, such that the potential participant may freely choose, without undue inducement or any element of fraud, deceit, duress, or coercion, whether or not to participate in the research activities. Informed consent includes knowledge (i.e., information about the task, risks, benefits), voluntariness (i.e., freely chosen without coercion), and capacity (i.e., the legal authority to give permission).

(b) Basic Elements of Informed Consent

When seeking informed consent, the following information must be provided to all participants.

- (1) A statement that the study involves research.
- (2) An explanation of the purposes of the research.
- (3) The expected duration of the participation.

- (4) A description of the procedures and identification of any procedures that are experimental.
- (5) A description of all reasonably foreseeable risks or discomforts to participants.
- (6) A description of all reasonably foreseeable benefits to participants or others.
- (7) A disclosure of appropriate alternative procedures or courses of treatment, if any, that may be advantageous to participants.
- (8) A statement indicating that confidentiality of records identifying participants will be protected to the extent allowed by law.
- (9) A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefit to which participants are otherwise entitled, and participants may discontinue participation at any time without penalty or loss of benefit to which participants are otherwise entitled.
- (10) An explanation of whom to contact for answers to pertinent questions about the research, research participants' rights, and research-related injury.
- (11) For research involving more than minimal risk, an explanation as to whether compensation or medical treatment is available, if such physical injury occurs. The TWU IRB requires the following statements to be included as part of the informed consent process.

The researchers will try to prevent any problem that could happen because of this research. You should let the researchers know at once if there is a problem and they will help you. However, TWU does not provide medical services or financial assistance for injuries that might happen because you are taking part in this research.

You will be given a copy of this signed and dated consent form to keep. If you have any questions about the research study, you should ask the researchers; their phone numbers are at the top of this form. If you have questions about your rights as a participant in this research or the way this study has been conducted, you may contact the Texas Woman's University Office of Research and Sponsored Programs at 940-898-3375 or via e-mail at IRB@twu.edu.

When appropriate, any of the following additional elements of informed consent may be required by the IRB.

- (12) A statement that the treatment or procedure to be used may involve risks that are currently unforeseeable.
- (13) Anticipated circumstances under which the participants' involvement in the research may be terminated by investigators without the participants' consent.
- (14) Any additional costs to the participants that may result from their involvement in the research.

(15) The consequences of the participants' decision to withdraw from the research and procedures for orderly termination of participation.

(16) A statement that significant new findings developed during the course of the research, which may relate to participants' willingness to continue involvement in the research, will be provided to the participants.

(17) The approximate number of participants involved in the study.

The informed consent of participants must be obtained by methods that are adequate and appropriate. Informed consent, whether written or oral, must not include any exculpatory language through which participants are made to waive or to appear to waive any of their legal rights, including any release of the investigators, the University or its agents, or the sponsors from liability for negligence. The informed consent information must be provided to participants in language understandable to the participants. Understandable language is clear and unambiguous, including an appropriate reading level for participants and appropriate explanations for all technical terms.

(c) Documentation of Informed Consent

Informed consent must be documented by the use of a written consent form, which contains all of the required basic elements of informed consent, has been approved by the IRB, and has been signed by the participants or the participants' legally authorized representatives. A copy of the informed consent form must be provided to all participants. A copy of the informed consent document must be on file with the IRB. At the completion of all approved research projects, all signed informed consent documents must be placed on file with the IRB.

The IRB may waive the requirement for investigators to obtain signed, written informed consent from participants, if the IRB makes one of the following determinations.

(1) The only record linking participants to the research would be the consent document and the primary risk would be potential harm resulting from a breach of confidentiality.

(2) The research presents no foreseeable risk of harm to participants and involves no procedures for which written consent is normally required outside of a research context.

6. Special Considerations for Research Involving Vulnerable and other Populations

(a) Children (Minors under the age of 18)

The Code of Federal Regulations provides that educational and social research with children as participants may be considered Exempt and not require signed informed consent (see Section C.3.a of this document). Expedited and Full Review research studies involving children will require signed informed consent from parents or legal guardians (see Sections C.5.a, b, and c of this document).

The IRB must make adequate provisions for soliciting the **assent** of children, when in the best judgment of the IRB, the children are capable of providing assent. Assent refers to an

affirmative agreement by children (who cannot give legal consent) to participate in research. A mere failure to object, absent affirmative agreement, must not be construed as assent. In determining whether children are capable of assenting, the IRB will take into account the ages, levels of maturity, and psychological states of the children involved. The IRB may require assent of some or all of the children participating in research projects. If the IRB determines that some or all of the children in research studies cannot reasonably be expected to have the capacity to assent or the interventions or procedures involved in the research hold out the prospect of direct benefit that is important to the health or well-being of the children and is available only in the context of the research, then the assent of the children is not a necessary condition for proceeding with the research. Even where the IRB determines that the participants are capable of assenting, the IRB may still waive the assent requirement under circumstances in which consent may ordinarily be waived (see Section C.5 in this document).

(b) Prisoners

As prisoners may be under constraints due to their incarceration, which could impact their ability to make truly voluntary and uncoerced decisions whether or not to participate as participants in research, the IRB is obligated to provide additional safeguards for the protection of prisoners involved in research activities.

The Code of Federal Regulations mandates that the majority of IRB members have no association with the prisons involved in research (apart from IRB membership) and that at least one member of the IRB must be a prisoner or have the appropriate background to serve as a prisoner representative.

The selection of research participants must be fair to all prisoners and immune from arbitrary intervention by prison authorities, parole boards, or other prisoners. The risks involved in this research must be commensurate with risks that would be accepted by nonprisoner volunteers. The benefits of the research must not be of such a magnitude that they impair the ability of prisoners to weigh the risks of the research given the limited choice environment of the prison. Adequate assurance must be provided to the IRB that parole boards will not consider prisoners' decisions about participation in research in making decisions regarding parole. All prisoners must be clearly informed, in advance, that participation in the research will have no effect on their parole. Where the IRB finds a need for any sort of follow-up procedures following participation, adequate provisions for prisoners must be made, taking into account varying lengths of prisoners' sentences, in order to inform prisoner participants of the follow-up.

Biomedical and behavioral research involving prisoners as research participants may be conducted only if (a) the above requirements have been met; and (b) the proposed research involves solely the following purposes:

(1) possible causes, effects, and processes of criminal behavior or incarceration, with no more than minimal risk and inconvenience to participants;

(2) prisons, as institutional structures, or prisoners, as incarcerated persons, with no more than minimal risk and inconvenience to participants;

(3) conditions particularly impacting prisoners as a group, in that certain conditions are more prevalent in prisons than elsewhere (e.g., hepatitis, alcohol/drug addiction, sexual assaults), following consultation with appropriate experts and published notice in the Federal Register;

(4) practices with the intent and reasonable probability of improving the health or well-being of participants. Where prisoners are to be assigned to control groups in which they may not benefit from the research, consultation with appropriate experts and published notice in the Federal Register are required.

Except as provided above, biomedical or behavioral research will not involve prisoners as research participants.

(c) Pregnant Women, Fetuses, and Neonates

Research involving pregnant women, human fetuses, and neonates (i.e., newborns) is expected to present a reasonable opportunity to further the understanding, prevention, or alleviation of serious problems impacting the health or welfare of these populations. Research involving pregnant women, fetuses, and neonates is generally expected to hold out the prospect of direct benefit. If no such prospect of direct benefit is available, then the risk must be minimal and the purpose of the research must be the development of important biomedical and behavioral knowledge, which cannot be obtained by any other means. For pregnant women and fetuses, any risks associated with the research will be the least possible for achieving the objectives of the research. For neonates, no risks may be added as a result of the research. Researchers will not: (1) offer any form of inducement to terminate a pregnancy; (2) determine the timing, method, or procedure used to terminate a pregnancy; or (3) determine the viability of a neonate. Researchers conducting studies with these populations must follow sound ethical principles and follow all appropriate provisions regarding informed consent.

(d) Non-English Speaking

Department of Health and Human Services regulations for the protection of human participants require that informed consent information be presented "in language understandable to the subject". Thus participants who do not speak English should be presented with consent documents and other research related documents (such as questionnaires or cover letters) written in a language understandable to them. In addition any verbal explanation of the consent or research procedures should be presented in a language understandable to the participant. The IRB must receive all foreign language versions of the written documents as a condition of approval.

The IRB must also be fully informed as to the ability of the person performing the translations. By signing and submitting the IRB application the PI assures the IRB that any translated documents are accurate representations of the corresponding English documents. The IRB, at their discretion, may request additional information regarding translated documents. Translators involved only in translation of written documents are not required to fulfill the training requirement

7. Informing Participants about the Purpose of the Research and Use of Deception

The principal investigators must answer participants' questions about the research. In some research, it is not possible fully to inform the participants of the procedures without destroying the validity of the research. That is, under some circumstances if research participants have knowledge as to the purpose of the study, the outcome of the research will be dramatically altered. In assessing those studies that propose to mislead participants or use deception during data collection, the IRB has the responsibility of assuring that the rights and welfare of participants have not been violated. When participants are misled or deceived during data collection, a debriefing of participants immediately following the completion of the data collection is generally required. The debriefing must include detailed descriptions of the deception, the purpose of the deception, and the actual purpose of the research. If in the judgment of the IRB, the debriefing information could adversely affect subsequent data collection in the same study, the debriefing may be delayed for a reasonable period of time. However, if delay of debriefing could reasonably be expected to result in emotional distress to the participants, then it is mandatory that the participants receive a full debriefing immediately following participation. In research involving minor children or mentally disabled participants, the explanation or debriefing must be provided to the parents or guardians as well as to the participants.

8. Research Implications based on the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

Researchers who submit protocols in health and health-related professions are subject to the privacy standards for protected health information as established by the Health Insurance Portability and Accountability Act of 1996 (HIPAA). HIPAA provides regulations and guidelines for the transmission of health-related information and its security provisions. The requirements of HIPAA pertain to researchers who solicit access to all forms of health-related data, including the written notice of privacy practices as part of the informed consent process, storage and destruction processes for any data that could possibly identify a person, and access to all personal research data at the conclusion of the research process. Civil and criminal penalties for noncompliance include fines ranging from \$25,000 to \$250,000 and imprisonment for a maximum time of ten years. Researchers are expected to know the HIPAA guidelines as they pertain to their professions and to fully comply with all required privacy standards.

9. Suspension or Termination of Approval

The IRB has the authority to suspend or terminate approval of research that is not conducted in accordance with the IRB's requirements, is associated with unexpected serious harm to participants, or is delinquent in the submission of the materials required by the IRB for purposes of granting extensions (i.e., the term of approval for the research protocol has expired). Researchers must not collect data, in any form, when research studies have been suspended or terminated. Any data collected during the periods of suspension or termination shall be discarded and not used in any capacity for research projects. Any suspension or termination of approval will include a statement of the reasons for the IRB's action and will be reported promptly to investigators, the Department Chair, the Director of Research and Sponsored Programs, the Vice President for Academic Affairs, and in the case of a federal grant or grant application, the Secretary of the Department of Health and Human Services.

D. PROCEDURES FOR REVIEW

1. Initial Review of Research

(a) Submission of Application

The principal investigators submit applications in as many copies as required to the Chair of the IRB for the appropriate TWU campus. Please consult the appropriate application for detailed instructions on the submission of applications.

Applications submitted by a faculty member as principal investigator require the signature of the chair of the department or program. By signing the application, both the faculty member as principal investigator and the chair assert that they have read the application and approve both the content of the application and the proposed research study. Applications submitted by a student as principal investigator require the signature of both the faculty advisor and chair of the department or program (except at the Houston campus). By signing the application, both the student as principal investigator and the faculty advisor assert that they have read the application and approve both the content of the application and the proposed research study. Applications submitted with excessive grammatical errors, unclear writing or without needed information will be returned without review.

(b) Length of Time for Review

The amount of time that it takes for the IRB to respond to the application depends primarily on the level of review that the application must receive. One IRB member (usually the Chair) reviews Exempt applications, and applicants can expect to receive a response from the IRB within two weeks. Three IRB members review Expedited applications, and applicants can expect to receive a response from the IRB within three weeks. Full Review applications are reviewed by the entire IRB at its monthly meetings. The applicants can expect to receive a response from the IRB within a week after the meeting in which applications are reviewed.

Only the Chair of the IRB, or a person designated by the Chair, will notify the principal investigators of the IRB's decision on reviewed applications. The principal investigators must be available in person to the IRB to discuss protocols upon request. It is not considered sufficient for the IRB to discuss protocols with research associates, research assistants, or other representatives of the principal investigators.

(c) Possible Actions

The IRB may take one of four actions regarding proposed protocols: approval, conditional approval, deferred decision, or disapproval. An approval means that researchers have been granted permission to proceed with the research as proposed. A conditional approval means that specific changes have been requested and that protocols will be approved once the required changes have been made. The required changes will be reviewed by either the IRB, an ad hoc committee of the IRB (i.e., the Chair and two other IRB members), or the Chair, as determined by the IRB. A deferred decision means that additional information is needed before the IRB can make a decision regarding approval. Decisions to defer approval on protocols are made when the IRB is unable to satisfy its concerns regarding the rights and welfare of the research participants. Under these conditions, principal investigators are typically asked to attend an IRB

meeting in order to provide the IRB with the necessary information to make fully informed decisions regarding the protocols. Disapproval means that the IRB has determined that research participants' rights and welfare cannot be adequately protected in the protocol. As one IRB member cannot disapprove a protocol, all decisions for disapproval go to the full IRB for consideration.

2. Disposition and Distribution of Reviewed Materials

(a) Approved Protocols

- (1) When proposed protocols have been approved, the IRB Chair will document the approval in writing. This documentation of action is retained by TWU for a period of at least five years after the most recent approval date. Documentation may be retained longer than five years if required by terms and conditions of grants or contracts. The IRB Chair will distribute copies of the approval documentation to the:
 - (a) principal investigators;
 - (b) IRB;
 - (c) major professor, when the principal investigators are students;
 - (d) Graduate School, when the principal investigators are students;
 - (e) Office of Research and Sponsored Programs.
- (2) When protocols are part of proposals to be submitted for external or internal funding, the principal investigators must furnish evidence that the projects have received approval from the IRB as well as the date of the IRB approval to the sponsors of the research.
- (3) Researchers using human participants, wherein signed informed consent is required, must file all consent forms with the Chair of the IRB. Graduate students, who conduct master's or doctoral research in partial fulfillment of their degrees, will not be permitted to graduate until all signed informed consent forms have been filed with the IRB, and the Graduate School of the Texas Woman's University has been notified of the receipt of the signed consent forms.

(b) Disapproved Protocols

- (1) When proposed protocols are disapproved, the IRB Chair will document the disapproval, in writing, and will distribute copies of this documentation to principal investigators and the IRB. Every effort will be made by the IRB and the principal investigators to resolve concerns regarding those elements of protocols that resulted in disapproval. Principal investigators may submit revised protocols that incorporate all changes required by the IRB.
- (2) Principal investigators may appeal decisions of the IRB when protocols have been disapproved. In order to appeal disapproved protocols, principal investigators must submit a brief summary outlining the appeal and attend the IRB meeting, with full membership, in which the appeal is to be reviewed.

3. Interim Review Procedures

(a) Review of Proposed Changes in Research Projects

Researchers must notify the IRB Chair, in writing, of any proposed changes to approved protocols. The IRB Chair will determine whether the proposed changes warrant a Full Review. Typically, changes to protocols may be approved by the IRB Chair if the changes are considered minor changes. Changes are considered minor if they do not increase the risks to the participants. Any change to a study that increases the risks to participants can only be approved at a convened meeting of the IRB. If a Full Review is necessary, the Chair will present the changes for review to the IRB at the next scheduled meeting. If a Full Review is not required, the IRB Chair will review and approve or disapprove the changes. Disapproved changes will receive a Full Review. Principal investigators must not proceed with research projects until the IRB has given its approval for the proposed changes.

(b) Continuing Review of Research Programs

All principal investigators are responsible to initiate requests for continuing review of all research projects involving human participants, if the projects continue for a period of time greater than twelve months. Prior to the expiration date of the approvals, the IRB will send reminder notices of the expiration and annual/final reports to be completed by the principal investigators. When extensions of IRB approval are to be requested, researchers must return the reminder notices, indicating whether or not any changes have been made to the relevant research protocols, and the completed annual/final reports, indicating the number of participants enrolled, any adverse events experienced by participants, and the current status of research projects. Extension requests for Expedited studies will be reviewed by the IRB Chair. Extension requests for Full Review studies will be considered by the full membership of the IRB. The results of reviews for extensions on previously approved protocols will determine whether the research can continue under existing protocols.

4. IRB Records

The IRB will prepare and maintain adequate documentation of IRB activities, including the documentation listed below.

- Copies of all research proposals reviewed; scientific evaluations, if any, that accompany the proposals; approved informed consent documents; progress reports submitted by investigators; and reports of adverse events experienced by participants.
- Minutes of all IRB meetings in sufficient detail to show attendance at the meetings; actions taken by the IRB; votes on these actions, including the number of members voting for, against, and abstaining; the basis for changes in or disapproval of research; and a written summary of the discussion of controversial issues and resolutions.
- Records of continuing review activities.
- Copies of all correspondence between the IRB and the investigators.

- List of IRB members and copies of their vitas.
- Written procedures for the IRB.
- Statements of significant new findings provided to participants.

The records maintained by the IRB will be retained for at least five years after most recent approval of protocols, and the records will be accessible for inspection and copying by authorized representatives of the Department of Health and Human Services at reasonable times and in a reasonable manner.

PART III: APPENDICES

APPENDIX A.....	BELMONT REPORT
APPENDIX B.....	CODE OF FEDERAL REGULATIONS
APPENDIX C.....	CATEGORIES OF RESEARCH THAT MAY BE REVIEWED BY THE INSTITUTIONAL REVIEW BOARD THROUGH AN EXPEDITED REVIEW PROCEDURE
APPENDIX D.....	CODE OF ETHICS OF THE TEXAS WOMAN'S UNIVERSITY INSTITUTIONAL REVIEW BOARD

APPENDIX A
BELMONT REPORT

The Belmont Report

Office of the Secretary

Ethical Principles and Guidelines for the Protection of Human Subjects of Research

The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research

April 18, 1979

AGENCY: Department of Health, Education, and Welfare.

ACTION: Notice of Report for Public Comment.

SUMMARY: On July 12, 1974, the National Research Act (Pub. L. 93-348) was signed into law, there-by creating the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. One of the charges to the Commission was to identify the basic ethical principles that should underlie the conduct of biomedical and behavioral research involving human subjects and to develop guidelines which should be followed to assure that such research is conducted in accordance with those principles. In carrying out the above, the Commission was directed to consider: **(i)** the boundaries between biomedical and behavioral research and the accepted and routine practice of medicine, **(ii)** the role of assessment of risk-benefit criteria in the determination of the appropriateness of research involving human subjects, **(iii)** appropriate guidelines for the selection of human subjects for participation in such research and **(iv)** the nature and definition of informed consent in various research settings.

The Belmont Report attempts to summarize the basic ethical principles identified by the Commission in the course of its deliberations. It is the outgrowth of an intensive four-day period of discussions that were held in February 1976 at the Smithsonian Institution's Belmont Conference Center supplemented by the monthly deliberations of the Commission that were held over a period of nearly four years. It is a statement of basic ethical principles and guidelines that should assist in resolving the ethical problems that surround the conduct of research with human subjects. By publishing the Report in the Federal Register, and providing reprints upon request, the Secretary intends that it may be made readily available to scientists, members of Institutional Review Boards, and Federal employees. The two-volume Appendix, containing the lengthy reports of experts and specialists who assisted the Commission in fulfilling this part of its charge, is available as DHEW Publication No. (OS) 78-0013 and No. (OS) 78-0014, for sale by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Unlike most other reports of the Commission, the Belmont Report does not make specific recommendations for administrative action by the Secretary of Health, Education, and Welfare. Rather, the Commission recommended that the Belmont Report be adopted in its entirety, as a

statement of the Department's policy. The Department requests public comment on this recommendation.

National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research

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Ethical Principles & Guidelines for Research Involving Human Subjects

Scientific research has produced substantial social benefits. It has also posed some troubling ethical questions. Public attention was drawn to these questions by reported abuses of human subjects in biomedical experiments, especially during the Second World War. During the Nuremberg War Crime Trials, the Nuremberg code was drafted as a set of standards for judging physicians and scientists who had conducted biomedical experiments on concentration camp prisoners. This code became the prototype of many later codes⁽¹⁾ intended to assure that research involving human subjects would be carried out in an ethical manner.

The codes consist of rules, some general, others specific, that guide the investigators or the reviewers of research in their work. Such rules often are inadequate to cover complex situations; at times they come into conflict, and they are frequently difficult to interpret or apply. Broader ethical principles will provide a basis on which specific rules may be formulated, criticized and interpreted.

Three principles, or general prescriptive judgments, that are relevant to research involving human subjects are identified in this statement. Other principles may also be relevant. These three are comprehensive, however, and are stated at a level of generalization that should assist scientists, subjects, reviewers and interested citizens to understand the ethical issues inherent in research involving human subjects. These principles cannot always be applied so as to resolve beyond dispute particular ethical problems. The objective is to provide an analytical framework that will guide the resolution of ethical problems arising from research involving human subjects.

This statement consists of a distinction between research and practice, a discussion of the three basic ethical principles, and remarks about the application of these principles.

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Part A: Boundaries Between Practice & Research

A. Boundaries Between Practice and Research

It is important to distinguish between biomedical and behavioral research, on the one hand, and the practice of accepted therapy on the other, in order to know what activities ought to undergo review for the protection of human subjects of research. The distinction between research and practice is blurred partly because both often occur together (as in research designed to evaluate a therapy) and partly because notable departures from standard practice are often called "experimental" when the terms "experimental" and "research" are not carefully defined.

For the most part, the term "practice" refers to interventions that are designed solely to enhance the well-being of an individual patient or client and that have a reasonable expectation of success. The purpose of medical or behavioral practice is to provide diagnosis, preventive treatment or therapy to particular individuals.⁽²⁾ By contrast, the term "research" designates an

activity designed to test an hypothesis, permit conclusions to be drawn, and thereby to develop or contribute to generalizable knowledge (expressed, for example, in theories, principles, and statements of relationships). Research is usually described in a formal protocol that sets forth an objective and a set of procedures designed to reach that objective.

When a clinician departs in a significant way from standard or accepted practice, the innovation does not, in and of itself, constitute research. The fact that a procedure is "experimental," in the sense of new, untested or different, does not automatically place it in the category of research. Radically new procedures of this description should, however, be made the object of formal research at an early stage in order to determine whether they are safe and effective. Thus, it is the responsibility of medical practice committees, for example, to insist that a major innovation be incorporated into a formal research project.⁽³⁾

Research and practice may be carried on together when research is designed to evaluate the safety and efficacy of a therapy. This need not cause any confusion regarding whether or not the activity requires review; the general rule is that if there is any element of research in an activity, that activity should undergo review for the protection of human subjects.

Part B: Basic Ethical Principles

B. Basic Ethical Principles

The expression "basic ethical principles" refers to those general judgments that serve as a basic justification for the many particular ethical prescriptions and evaluations of human actions. Three basic principles, among those generally accepted in our cultural tradition, are particularly relevant to the ethics of research involving human subjects: the principles of respect of persons, beneficence and justice.

1. Respect for Persons. -- Respect for persons incorporates at least two ethical convictions: first, that individuals should be treated as autonomous agents, and second, that persons with diminished autonomy are entitled to protection. The principle of respect for persons thus divides into two separate moral requirements: the requirement to acknowledge autonomy and the requirement to protect those with diminished autonomy.

An autonomous person is an individual capable of deliberation about personal goals and of acting under the direction of such deliberation. To respect autonomy is to give weight to autonomous persons' considered opinions and choices while refraining from obstructing their actions unless they are clearly detrimental to others. To show lack of respect for an autonomous agent is to repudiate that person's considered judgments, to deny an individual the freedom to act on those considered judgments, or to withhold information necessary to make a considered judgment, when there are no compelling reasons to do so.

However, not every human being is capable of self-determination. The capacity for self-determination matures during an individual's life, and some individuals lose this capacity wholly or in part because of illness, mental disability, or circumstances that severely restrict liberty. Respect for the immature and the incapacitated may require protecting them as they mature or

while they are incapacitated.

Some persons are in need of extensive protection, even to the point of excluding them from activities which may harm them; other persons require little protection beyond making sure they undertake activities freely and with awareness of possible adverse consequence. The extent of protection afforded should depend upon the risk of harm and the likelihood of benefit. The judgment that any individual lacks autonomy should be periodically reevaluated and will vary in different situations.

In most cases of research involving human subjects, respect for persons demands that subjects enter into the research voluntarily and with adequate information. In some situations, however, application of the principle is not obvious. The involvement of prisoners as subjects of research provides an instructive example. On the one hand, it would seem that the principle of respect for persons requires that prisoners not be deprived of the opportunity to volunteer for research. On the other hand, under prison conditions they may be subtly coerced or unduly influenced to engage in research activities for which they would not otherwise volunteer. Respect for persons would then dictate that prisoners be protected. Whether to allow prisoners to "volunteer" or to "protect" them presents a dilemma. Respecting persons, in most hard cases, is often a matter of balancing competing claims urged by the principle of respect itself.

2. Beneficence. -- Persons are treated in an ethical manner not only by respecting their decisions and protecting them from harm, but also by making efforts to secure their well-being. Such treatment falls under the principle of beneficence. The term "beneficence" is often understood to cover acts of kindness or charity that go beyond strict obligation. In this document, beneficence is understood in a stronger sense, as an obligation. Two general rules have been formulated as complementary expressions of beneficent actions in this sense: **(1)** do not harm and **(2)** maximize possible benefits and minimize possible harms.

The Hippocratic maxim "do no harm" has long been a fundamental principle of medical ethics. Claude Bernard extended it to the realm of research, saying that one should not injure one person regardless of the benefits that might come to others. However, even avoiding harm requires learning what is harmful; and, in the process of obtaining this information, persons may be exposed to risk of harm. Further, the Hippocratic Oath requires physicians to benefit their patients "according to their best judgment." Learning what will in fact benefit may require exposing persons to risk. The problem posed by these imperatives is to decide when it is justifiable to seek certain benefits despite the risks involved, and when the benefits should be foregone because of the risks.

The obligations of beneficence affect both individual investigators and society at large, because they extend both to particular research projects and to the entire enterprise of research. In the case of particular projects, investigators and members of their institutions are obliged to give forethought to the maximization of benefits and the reduction of risk that might occur from the research investigation. In the case of scientific research in general, members of the larger society are obliged to recognize the longer term benefits and risks that may result from the improvement of knowledge and from the development of novel medical, psychotherapeutic, and social procedures.

The principle of beneficence often occupies a well-defined justifying role in many areas of

research involving human subjects. An example is found in research involving children. Effective ways of treating childhood diseases and fostering healthy development are benefits that serve to justify research involving children -- even when individual research subjects are not direct beneficiaries. Research also makes it possible to avoid the harm that may result from the application of previously accepted routine practices that on closer investigation turn out to be dangerous. But the role of the principle of beneficence is not always so unambiguous. A difficult ethical problem remains, for example, about research that presents more than minimal risk without immediate prospect of direct benefit to the children involved. Some have argued that such research is inadmissible, while others have pointed out that this limit would rule out much research promising great benefit to children in the future. Here again, as with all hard cases, the different claims covered by the principle of beneficence may come into conflict and force difficult choices.

3. Justice. -- Who ought to receive the benefits of research and bear its burdens? This is a question of justice, in the sense of "fairness in distribution" or "what is deserved." An injustice occurs when some benefit to which a person is entitled is denied without good reason or when some burden is imposed unduly. Another way of conceiving the principle of justice is that equals ought to be treated equally. However, this statement requires explication. Who is equal and who is unequal? What considerations justify departure from equal distribution? Almost all commentators allow that distinctions based on experience, age, deprivation, competence, merit and position do sometimes constitute criteria justifying differential treatment for certain purposes. It is necessary, then, to explain in what respects people should be treated equally. There are several widely accepted formulations of just ways to distribute burdens and benefits. Each formulation mentions some relevant property on the basis of which burdens and benefits should be distributed. These formulations are (1) to each person an equal share, (2) to each person according to individual need, (3) to each person according to individual effort, (4) to each person according to societal contribution, and (5) to each person according to merit.

Questions of justice have long been associated with social practices such as punishment, taxation and political representation. Until recently these questions have not generally been associated with scientific research. However, they are foreshadowed even in the earliest reflections on the ethics of research involving human subjects. For example, during the 19th and early 20th centuries the burdens of serving as research subjects fell largely upon poor ward patients, while the benefits of improved medical care flowed primarily to private patients. Subsequently, the exploitation of unwilling prisoners as research subjects in Nazi concentration camps was condemned as a particularly flagrant injustice. In this country, in the 1940's, the Tuskegee syphilis study used disadvantaged, rural black men to study the untreated course of a disease that is by no means confined to that population. These subjects were deprived of demonstrably effective treatment in order not to interrupt the project, long after such treatment became generally available.

Against this historical background, it can be seen how conceptions of justice are relevant to research involving human subjects. For example, the selection of research subjects needs to be scrutinized in order to determine whether some classes (e.g., welfare patients, particular racial and ethnic minorities, or persons confined to institutions) are being systematically selected simply because of their easy availability, their compromised position, or their manipulability, rather than for reasons directly related to the problem being studied. Finally, whenever research supported by public funds leads to the development of therapeutic devices and procedures,

justice demands both that these not provide advantages only to those who can afford them and that such research should not unduly involve persons from groups unlikely to be among the beneficiaries of subsequent applications of the research.

Part C: Applications

C. Applications

Applications of the general principles to the conduct of research leads to consideration of the following requirements: informed consent, risk/benefit assessment, and the selection of subjects of research.

1. Informed Consent. -- Respect for persons requires that subjects, to the degree that they are capable, be given the opportunity to choose what shall or shall not happen to them. This opportunity is provided when adequate standards for informed consent are satisfied.

While the importance of informed consent is unquestioned, controversy prevails over the nature and possibility of an informed consent. Nonetheless, there is widespread agreement that the consent process can be analyzed as containing three elements: information, comprehension and voluntariness.

Information. Most codes of research establish specific items for disclosure intended to assure that subjects are given sufficient information. These items generally include: the research procedure, their purposes, risks and anticipated benefits, alternative procedures (where therapy is involved), and a statement offering the subject the opportunity to ask questions and to withdraw at any time from the research. Additional items have been proposed, including how subjects are selected, the person responsible for the research, etc.

However, a simple listing of items does not answer the question of what the standard should be for judging how much and what sort of information should be provided. One standard frequently invoked in medical practice, namely the information commonly provided by practitioners in the field or in the locale, is inadequate since research takes place precisely when a common understanding does not exist. Another standard, currently popular in malpractice law, requires the practitioner to reveal the information that reasonable persons would wish to know in order to make a decision regarding their care. This, too, seems insufficient since the research subject, being in essence a volunteer, may wish to know considerably more about risks gratuitously undertaken than do patients who deliver themselves into the hand of a clinician for needed care. It may be that a standard of "the reasonable volunteer" should be proposed: the extent and nature of information should be such that persons, knowing that the procedure is neither necessary for their care nor perhaps fully understood, can decide whether they wish to participate in the furthering of knowledge. Even when some direct benefit to them is anticipated, the subjects should understand clearly the range of risk and the voluntary nature of participation.

A special problem of consent arises where informing subjects of some pertinent aspect of the research is likely to impair the validity of the research. In many cases, it is sufficient to indicate to subjects that they are being invited to participate in research of which some features will not

be revealed until the research is concluded. In all cases of research involving incomplete disclosure, such research is justified only if it is clear that (1) incomplete disclosure is truly necessary to accomplish the goals of the research, (2) there are no undisclosed risks to subjects that are more than minimal, and (3) there is an adequate plan for debriefing subjects, when appropriate, and for dissemination of research results to them. Information about risks should never be withheld for the purpose of eliciting the cooperation of subjects, and truthful answers should always be given to direct questions about the research. Care should be taken to distinguish cases in which disclosure would destroy or invalidate the research from cases in which disclosure would simply inconvenience the investigator.

Comprehension. The manner and context in which information is conveyed is as important as the information itself. For example, presenting information in a disorganized and rapid fashion, allowing too little time for consideration or curtailing opportunities for questioning, all may adversely affect a subject's ability to make an informed choice.

Because the subject's ability to understand is a function of intelligence, rationality, maturity and language, it is necessary to adapt the presentation of the information to the subject's capacities. Investigators are responsible for ascertaining that the subject has comprehended the information. While there is always an obligation to ascertain that the information about risk to subjects is complete and adequately comprehended, when the risks are more serious, that obligation increases. On occasion, it may be suitable to give some oral or written tests of comprehension.

Special provision may need to be made when comprehension is severely limited -- for example, by conditions of immaturity or mental disability. Each class of subjects that one might consider as incompetent (e.g., infants and young children, mentally disable patients, the terminally ill and the comatose) should be considered on its own terms. Even for these persons, however, respect requires giving them the opportunity to choose to the extent they are able, whether or not to participate in research. The objections of these subjects to involvement should be honored, unless the research entails providing them a therapy unavailable elsewhere. Respect for persons also requires seeking the permission of other parties in order to protect the subjects from harm. Such persons are thus respected both by acknowledging their own wishes and by the use of third parties to protect them from harm.

The third parties chosen should be those who are most likely to understand the incompetent subject's situation and to act in that person's best interest. The person authorized to act on behalf of the subject should be given an opportunity to observe the research as it proceeds in order to be able to withdraw the subject from the research, if such action appears in the subject's best interest.

Voluntariness. An agreement to participate in research constitutes a valid consent only if voluntarily given. This element of informed consent requires conditions free of coercion and undue influence. Coercion occurs when an overt threat of harm is intentionally presented by one person to another in order to obtain compliance. Undue influence, by contrast, occurs through an offer of an excessive, unwarranted, inappropriate or improper reward or other overture in order to obtain compliance. Also, inducements that would ordinarily be acceptable may become undue influences if the subject is especially vulnerable.

Unjustifiable pressures usually occur when persons in positions of authority or commanding

influence -- especially where possible sanctions are involved -- urge a course of action for a subject. A continuum of such influencing factors exists, however, and it is impossible to state precisely where justifiable persuasion ends and undue influence begins. But undue influence would include actions such as manipulating a person's choice through the controlling influence of a close relative and threatening to withdraw health services to which an individual would otherwise be entitled.

2. Assessment of Risks and Benefits. -- The assessment of risks and benefits requires a careful array of relevant data, including, in some cases, alternative ways of obtaining the benefits sought in the research. Thus, the assessment presents both an opportunity and a responsibility to gather systematic and comprehensive information about proposed research. For the investigator, it is a means to examine whether the proposed research is properly designed. For a review committee, it is a method for determining whether the risks that will be presented to subjects are justified. For prospective subjects, the assessment will assist the determination whether or not to participate.

The Nature and Scope of Risks and Benefits. The requirement that research be justified on the basis of a favorable risk/benefit assessment bears a close relation to the principle of beneficence, just as the moral requirement that informed consent be obtained is derived primarily from the principle of respect for persons. The term "risk" refers to a possibility that harm may occur. However, when expressions such as "small risk" or "high risk" are used, they usually refer (often ambiguously) both to the chance (probability) of experiencing a harm and the severity (magnitude) of the envisioned harm.

The term "benefit" is used in the research context to refer to something of positive value related to health or welfare. Unlike, "risk," "benefit" is not a term that expresses probabilities. Risk is properly contrasted to probability of benefits, and benefits are properly contrasted with harms rather than risks of harm. Accordingly, so-called risk/benefit assessments are concerned with the probabilities and magnitudes of possible harm and anticipated benefits. Many kinds of possible harms and benefits need to be taken into account. There are, for example, risks of psychological harm, physical harm, legal harm, social harm and economic harm and the corresponding benefits. While the most likely types of harms to research subjects are those of psychological or physical pain or injury, other possible kinds should not be overlooked.

Risks and benefits of research may affect the individual subjects, the families of the individual subjects, and society at large (or special groups of subjects in society). Previous codes and Federal regulations have required that risks to subjects be outweighed by the sum of both the anticipated benefit to the subject, if any, and the anticipated benefit to society in the form of knowledge to be gained from the research. In balancing these different elements, the risks and benefits affecting the immediate research subject will normally carry special weight. On the other hand, interests other than those of the subject may on some occasions be sufficient by themselves to justify the risks involved in the research, so long as the subjects' rights have been protected. Beneficence thus requires that we protect against risk of harm to subjects and also that we be concerned about the loss of the substantial benefits that might be gained from research.

The Systematic Assessment of Risks and Benefits. It is commonly said that benefits and risks must be "balanced" and shown to be "in a favorable ratio." The metaphorical character of these terms draws attention to the difficulty of making precise judgments. Only on rare occasions will

quantitative techniques be available for the scrutiny of research protocols. However, the idea of systematic, nonarbitrary analysis of risks and benefits should be emulated insofar as possible. This ideal requires those making decisions about the justifiability of research to be thorough in the accumulation and assessment of information about all aspects of the research, and to consider alternatives systematically. This procedure renders the assessment of research more rigorous and precise, while making communication between review board members and investigators less subject to misinterpretation, misinformation and conflicting judgments. Thus, there should first be a determination of the validity of the presuppositions of the research; then the nature, probability and magnitude of risk should be distinguished with as much clarity as possible. The method of ascertaining risks should be explicit, especially where there is no alternative to the use of such vague categories as small or slight risk. It should also be determined whether an investigator's estimates of the probability of harm or benefits are reasonable, as judged by known facts or other available studies.

Finally, assessment of the justifiability of research should reflect at least the following considerations: **(i)** Brutal or inhumane treatment of human subjects is never morally justified. **(ii)** Risks should be reduced to those necessary to achieve the research objective. It should be determined whether it is in fact necessary to use human subjects at all. Risk can perhaps never be entirely eliminated, but it can often be reduced by careful attention to alternative procedures. **(iii)** When research involves significant risk of serious impairment, review committees should be extraordinarily insistent on the justification of the risk (looking usually to the likelihood of benefit to the subject -- or, in some rare cases, to the manifest voluntariness of the participation). **(iv)** When vulnerable populations are involved in research, the appropriateness of involving them should itself be demonstrated. A number of variables go into such judgments, including the nature and degree of risk, the condition of the particular population involved, and the nature and level of the anticipated benefits. **(v)** Relevant risks and benefits must be thoroughly arrayed in documents and procedures used in the informed consent process.

3. Selection of Subjects. -- Just as the principle of respect for persons finds expression in the requirements for consent, and the principle of beneficence in risk/benefit assessment, the principle of justice gives rise to moral requirements that there be fair procedures and outcomes in the selection of research subjects.

Justice is relevant to the selection of subjects of research at two levels: the social and the individual. Individual justice in the selection of subjects would require that researchers exhibit fairness: thus, they should not offer potentially beneficial research only to some patients who are in their favor or select only "undesirable" persons for risky research. Social justice requires that distinction be drawn between classes of subjects that ought, and ought not, to participate in any particular kind of research, based on the ability of members of that class to bear burdens and on the appropriateness of placing further burdens on already burdened persons. Thus, it can be considered a matter of social justice that there is an order of preference in the selection of classes of subjects (e.g., adults before children) and that some classes of potential subjects (e.g., the institutionalized mentally infirm or prisoners) may be involved as research subjects, if at all, only on certain conditions.

Injustice may appear in the selection of subjects, even if individual subjects are selected fairly by investigators and treated fairly in the course of research. Thus injustice arises from social, racial, sexual and cultural biases institutionalized in society. Thus, even if individual researchers are

treating their research subjects fairly, and even if IRBs are taking care to assure that subjects are selected fairly within a particular institution, unjust social patterns may nevertheless appear in the overall distribution of the burdens and benefits of research. Although individual institutions or investigators may not be able to resolve a problem that is pervasive in their social setting, they can consider distributive justice in selecting research subjects.

Some populations, especially institutionalized ones, are already burdened in many ways by their infirmities and environments. When research is proposed that involves risks and does not include a therapeutic component, other less burdened classes of persons should be called upon first to accept these risks of research, except where the research is directly related to the specific conditions of the class involved. Also, even though public funds for research may often flow in the same directions as public funds for health care, it seems unfair that populations dependent on public health care constitute a pool of preferred research subjects if more advantaged populations are likely to be the recipients of the benefits.

One special instance of injustice results from the involvement of vulnerable subjects. Certain groups, such as racial minorities, the economically disadvantaged, the very sick, and the institutionalized may continually be sought as research subjects, owing to their ready availability in settings where research is conducted. Given their dependent status and their frequently compromised capacity for free consent, they should be protected against the danger of being involved in research solely for administrative convenience, or because they are easy to manipulate as a result of their illness or socioeconomic condition.

(1) Since 1945, various codes for the proper and responsible conduct of human experimentation in medical research have been adopted by different organizations. The best known of these codes are the Nuremberg Code of 1947, the Helsinki Declaration of 1964 (revised in 1975), and the 1971 Guidelines (codified into Federal Regulations in 1974) issued by the U.S. Department of Health, Education, and Welfare Codes for the conduct of social and behavioral research have also been adopted, the best known being that of the American Psychological Association, published in 1973.

(2) Although practice usually involves interventions designed solely to enhance the well-being of a particular individual, interventions are sometimes applied to one individual for the enhancement of the well-being of another (e.g., blood donation, skin grafts, organ transplants) or an intervention may have the dual purpose of enhancing the well-being of a particular individual, and, at the same time, providing some benefit to others (e.g., vaccination, which protects both the person who is vaccinated and society generally). The fact that some forms of practice have elements other than immediate benefit to the individual receiving an intervention, however, should not confuse the general distinction between research and practice. Even when a procedure applied in practice may benefit some other person, it remains an intervention designed to enhance the well-being of a particular individual or groups of individuals; thus, it is practice and need not be reviewed as research.

(3) Because the problems related to social experimentation may differ substantially from those of biomedical and behavioral research, the Commission specifically declines to make any policy determination regarding such research at this time. Rather, the Commission believes that the

problem ought to be addressed by one of its successor bodies.

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*If you have questions about human subject research, click ohrp@osophs.dhhs.gov
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Updated July 21, 2000

APPENDIX B

CODE OF FEDERAL REGULATIONS



Regulations and Ethical Guidelines

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Authority: 5 U.S.C. 301; Sec. 474(a), 88 Stat. 352 (42 U.S.C. 2891-3(a)).

Note: As revised, Subpart A of the DHHS regulations incorporates the Common Rule (Federal Policy) for the Protection of Human Subjects (56 FR 28003). Subpart D of the DHHS regulations has been amended at Section 46.401(b) to reference the revised Subpart A.

The Common Rule (Federal Policy) is also codified at

7 CFR Part 1c	Department of Agriculture
10 CFR Part 745	Department of Energy
14 CFR Part 1230	National Aeronautics and Space Administration
15 CFR Part 27	Department of Commerce
16 CFR Part 1028	Consumer Product Safety Commission
22 CFR Part 225	International Development Cooperation Agency, Agency for International Development
24 CFR Part 60	Department of Housing and Urban Development
28 CFR Part 46	Department of Justice
32 CFR Part 219	Department of Defense
34 CFR Part 97	Department of Education
38 CFR Part 16	Department of Veterans Affairs
40 CFR Part 26	Environmental Protection Agency
45 CFR Part 690	National Science Foundation
49 CFR Part 11	Department of Transportation

**TITLE 45
CODE OF FEDERAL REGULATIONS
PART 46**

PROTECTION OF HUMAN SUBJECTS

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**Revised June 18, 1991
Effective August 19, 1991**

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Subpart A	Federal Policy for the Protection of Human Subjects (Basic DHHS Policy for Protection of Human Research Subjects)
	Source: 56 FR 28003, June 18, 1991.

§46.101 To what does this policy apply?

(a) Except as provided in paragraph (b) of this section, this policy applies to all research involving human subjects conducted, supported or otherwise subject to regulation by any Federal Department or Agency which takes appropriate administrative action to make the policy applicable to such research. This includes research conducted by Federal civilian employees or military personnel, except that each Department or Agency head may adopt such procedural modifications as may be

appropriate from an administrative standpoint. It also includes research conducted, supported, or otherwise subject to regulation by the Federal Government outside the United States.

(1) Research that is conducted or supported by a Federal Department or Agency, whether or not it is regulated as defined in [§46.102](#)(e), must comply with all sections of this policy.

(2) Research that is neither conducted nor supported by a Federal Department or Agency but is subject to regulation as defined in [§46.102](#) (e) must be reviewed and approved, in compliance with [§46.101](#), [§46.102](#), and [§46.107](#) through [§46.117](#) of this policy, by an Institutional Review Board (IRB) that operates in accordance with the pertinent requirements of this policy.

(b) Unless otherwise required by Department or Agency heads, research activities in which the only involvement of human subjects will be in one or more of the following categories are exempt from this policy: ¹

(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:

(i) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) 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.

(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 (b)(2) of this section, if:

(i) the human subjects are elected or appointed public officials or candidates for public office; or (ii) 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 subjects cannot be identified, directly or through identifiers linked to the subjects.

(5) Research and demonstration projects which are conducted by or subject to the approval of Department or Agency heads, and which are 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.

(6) Taste and food quality evaluation and consumer acceptance studies, (i) if wholesome foods without additives are consumed or (ii) 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.

(c) Department or Agency heads retain final judgment as to whether a particular activity is covered by this policy.

(d) Department or Agency heads may require that specific research activities or classes of research activities conducted, supported, or otherwise subject to regulation by the Department or Agency but not otherwise covered by this policy, comply with some or all of the requirements of this policy.

(e) Compliance with this policy requires compliance with pertinent Federal laws or regulations which provide additional protections for human subjects.

(f) This policy does not affect any State or local laws or regulations which may otherwise be applicable and which provide additional protections for human subjects.

(g) This policy does not affect any foreign laws or regulations which may otherwise be applicable and which provide additional protections to human subjects of research.

(h) When research covered by this policy takes place in foreign countries, procedures normally followed in the foreign countries to protect human subjects may differ from those set forth in this policy. [An example is a foreign institution which complies with guidelines consistent with the World Medical Assembly Declaration (Declaration of Helsinki amended 1989) issued either by sovereign states or by an organization whose function for the protection of human research subjects is internationally recognized.] In these circumstances, if a Department or Agency head determines that the procedures prescribed by the institution afford protections that are at least equivalent to those provided in this policy, the Department or Agency head may approve the substitution of the foreign procedures in lieu of the procedural requirements provided in this policy. Except when otherwise required by statute, Executive Order, or the Department or Agency head, notices of these actions as they occur will be published in the **Federal Register** or will be otherwise published as provided in Department or Agency procedures.

(i) Unless otherwise required by law, Department or Agency heads may waive the applicability of some or all of the provisions of this policy to specific research activities or classes or research activities otherwise covered by this policy. Except when otherwise required by statute or Executive Order, the Department or Agencyhead shall forward advance notices of these actions to the Office for Protection from Research Risks, National Institutes of Health, Department of Health and Human

Services (DHHS), and shall also publish them in the **Federal Register** or in such other manner as provided in Department or Agency procedures.¹

¹ Institutions with DHHS-approved assurances on file will abide by provisions of Title 45 CFR Part 46 Subparts A-D. Some of the other departments and agencies have incorporated all provisions of Title 45 CFR Part 46 into their policies and procedures as well. However, the exemptions at 45 CFR 46.101(b) do not apply to research involving prisoners, fetuses, pregnant women, or human in vitro fertilization, Subparts B and C. The exemption at 45 CFR 46.101(b)(2), for research involving survey or interview procedures or observation of public behavior, does not apply to research with children, **Subpart D**, except for research involving observations of public behavior when the investigator(s) do not participate in the activities being observed.

§46.102 Definitions.

(a) *Department or Agency head* means the head of any Federal Department or Agency and any other officer or employee of any Department or Agency to whom authority has been delegated.

(b) *Institution* means any public or private entity or Agency (including Federal, State, and other agencies).

(c) *Legally authorized representative* means an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject's participation in the procedure(s) involved in the research.

(d) *Research* means a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program which is considered research for other purposes. For example, some demonstration and service programs may include research activities.

(e) *Research subject to regulation*, and similar terms are intended to encompass those research activities for which a Federal Department or Agency has specific responsibility for regulating as a research activity, (for example, Investigational New Drug requirements administered by the Food and Drug Administration). It does not include research activities which are incidentally regulated by a Federal Department or Agency solely as part of the Department's or Agency's broader responsibility to regulate certain types of activities whether research or non-research in nature (for example, Wage and Hour requirements administered by the Department of Labor).

(f) *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research obtains

- (1) data through intervention or interaction with the individual, or
- (2) identifiable private information.

Intervention includes both physical procedures by which data are gathered (for example, venipuncture) and manipulations of the subject or the subject's environmen

that are performed for research purposes. *Interaction* includes communication or interpersonal contact between investigator and subject. *Private information* includes information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.

(g) *IRB* means an Institutional Review Board established in accord with and for the purposes expressed in this policy.

(h) *IRB approval* means the determination of the IRB that the research has been reviewed and may be conducted at an institution within the constraints set forth by the IRB and by other institutional and Federal requirements.

(i) *Minimal risk* means that 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 or during the performance of routine physical or psychological examinations or tests.

(j) *Certification* means the official notification by the institution to the supporting Department or Agency, in accordance with the requirements of this policy, that a research project or activity involving human subjects has been reviewed and approved by an IRB in accordance with an approved assurance.

§46.103 Assuring compliance with this policy -- research conducted or supported by any Federal Department or Agency.

(a) Each institution engaged in research which is covered by this policy and which is conducted or supported by a Federal Department or Agency shall provide written assurance satisfactory to the Department or Agency head that it will comply with the requirements set forth in this policy. In lieu of requiring submission of an assurance, individual Department or Agency heads shall accept the existence of a current assurance, appropriate for the research in question, on file with the Office for Protection from Research Risks, National Institutes of Health, DHHS, and approved for Federalwide use by that office. When the existence of an DHHS-approved assurance is accepted in lieu of requiring submission of an assurance, reports (except certification) required by this policy to be made to Department and Agency heads shall also be made to the Office for Protection from Research Risks, National Institutes of Health, DHHS.

(b) Departments and agencies will conduct or support research covered by this policy only if the institution has an assurance approved as provided in this section, and only if the institution has certified to the Department or Agency head that the research has been reviewed and approved by an IRB provided for in the assurance, and will be subject to continuing review by the IRB. Assurances applicable to federally supported or conducted research shall at a minimum include:

(1) A statement of principles governing the institution in the discharge of its responsibilities for protecting the rights and welfare of human

subjects of research conducted at or sponsored by the institution, regardless of whether the research is subject to Federal regulation. This may include an appropriate existing code, declaration, or statement of ethical principles, or a statement formulated by the institution itself. This requirement does not preempt provisions of this policy applicable to Department- or Agency-supported or regulated research and need not be applicable to any research exempted or waived under [§46.101](#) (b) or (i).

(2) Designation of one or more IRBs established in accordance with the requirements of this policy, and for which provisions are made for meeting space and sufficient staff to support the IRB's review and recordkeeping duties.

(3) A list of IRB members identified by name; earned degrees; representative capacity; indications of experience such as board certifications, licenses, etc., sufficient to describe each member's chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the institution; for example: full-time employee, part-time employee, member of governing panel or board, stockholder, paid or unpaid consultant. Changes in IRB membership shall be reported to the Department or Agency head, unless in accord with §46.103(a) of this policy, the existence of a DHHS-approved assurance is accepted. In this case, change in IRB membership shall be reported to the Office for Protection from Research Risks, National Institutes of Health, DHHS.

(4) Written procedures which the IRB will follow (i) for conducting its initial and continuing review of research and for reporting its findings and actions to the investigator and the institution; (ii) for determining which projects require review more often than annually and which projects need verification from sources other than the investigators that no material changes have occurred since previous IRB review; and (iii) for ensuring prompt reporting to the IRB of proposed changes in a research activity, and for ensuring that such changes in approved research, during the period for which IRB approval has already been given, may not be initiated without IRB review and approval except when necessary to eliminate apparent immediate hazards to the subject.

(5) Written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials, and the Department or Agency head of (i) any unanticipated problems involving risks to subjects or others or any serious or continuing noncompliance with this policy or the requirements or determinations of the IRB; and (ii) any suspension or termination of IRB approval.

(c) The assurance shall be executed by an individual authorized to act for the institution and to assume on behalf of the institution the obligations imposed by this policy and shall be filed in such form and manner as the Department or Agency head prescribes.

(d) The Department or Agency head will evaluate all assurances submitted in accordance with this policy through such officers and employees of the Department or

Agency and such experts or consultants engaged for this purpose as the Department or Agency head determines to be appropriate. The Department or Agency head's evaluation will take into consideration the adequacy of the proposed IRB in light of the anticipated scope of the institution's research activities and the types of subject populations likely to be involved, the appropriateness of the proposed initial and continuing review procedures in light of the probable risks, and the size and complexity of the institution.

(e) On the basis of this evaluation, the Department or Agency head may approve or disapprove the assurance, or enter into negotiations to develop an approvable one. The Department or Agency head may limit the period during which any particular approved assurance or class of approved assurances shall remain effective or otherwise condition or restrict approval.

(f) Certification is required when the research is supported by a Federal Department or Agency and not otherwise exempted or waived under [§46.101](#) (b) or (i). An institution with an approved assurance shall certify that each application or proposal for research covered by the assurance and by [§46.103](#) of this policy has been reviewed and approved by the IRB. Such certification must be submitted with the application or proposal or by such later date as may be prescribed by the Department or Agency to which the application or proposal is submitted. Under no condition shall research covered by [§46.103](#) of the policy be supported prior to receipt of the certification that the research has been reviewed and approved by the IRB. Institutions without an approved assurance covering the research shall certify within 30 days after receipt of a request for such a certification from the Department or Agency, that the application or proposal has been approved by the IRB. If the certification is not submitted within these time limits, the application or proposal may be returned to the institution.

(Approved by the Office of Management and Budget under Control Number 9999-0020.)

§§46.104--46.106 [Reserved]

§46.107 IRB membership.

(a) Each IRB shall have at least five members, with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution. The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members, including consideration of race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. If an IRB regularly reviews research that involves a vulnerable category of subjects, such as children, prisoners, pregnant women, or handicapped or mentally disabled persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these subjects.

(b) Every nondiscriminatory effort will be made to ensure that no IRB consists entirely of men or entirely of women, including the institution's consideration of qualified

persons of both sexes, so long as no selection is made to the IRB on the basis of gender. No IRB may consist entirely of members of one profession.

(c) Each IRB shall include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.

(d) Each IRB shall include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution.

(e) No IRB may have a member participate in the IRB's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.

(f) An IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues which require expertise beyond or in addition to that available on the IRB. These individuals may not vote with the IRB

§46.108 IRB functions and operations.

In order to fulfill the requirements of this policy each IRB shall:

(a) Follow written procedures in the same detail as described in [§46.103](#)(b)(4) and to the extent required by [§46.103](#)(b)(5).

(b) Except when an expedited review procedure is used (see [§46.110](#)), review proposed research at convened meetings at which a majority of the members of the IRB are present, including at least one member whose primary concerns are in nonscientific areas. In order for the research to be approved, it shall receive the approval of a majority of those members present at the meeting

§46.109 IRB review of research.

(a) An IRB shall review and have authority to approve, require modifications in (to secure approval), or disapprove all research activities covered by this policy.

(b) An IRB shall require that information given to subjects as part of informed consent is in accordance with [§46.116](#). The IRB may require that information, in addition to that specifically mentioned in [§46.116](#), be given to the subjects when in the IRB's judgment the information would meaningfully add to the protection of the rights and welfare of subjects.

(c) An IRB shall require documentation of informed consent or may waive documentation in accordance with [§46.117](#).

(d) An IRB shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure IRB approval of the research activity. If the IRB decides to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in

writing.

(e) An IRB shall conduct continuing review of research covered by this policy at intervals appropriate to the degree of risk, but not less than once per year, and shall have authority to observe or have a third party observe the consent process and the research.

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§46.110 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.

(a) The Secretary, HHS, has established, and published as a Notice in the **Federal Register**, a [list of categories](#) of research that may be reviewed by the IRB through an expedited review procedure. The list will be amended, as appropriate, after consultation with other departments and agencies, through periodic republication by the Secretary, HHS, in the Federal Register. A copy of the list is available from the Office for Protection from Research Risks, National Institutes of Health, DHHS, Bethesda, Maryland 20892.

(b) An IRB may use the expedited review procedure to review either or both of the following:

(1) some or all of the research appearing on the list and found by the reviewer(s) to involve no more than minimal risk,

(2) minor changes in previously approved research during the period (of one year or less) for which approval is authorized.

Under an expedited review procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB. In reviewing the research, the reviewers may exercise all of the authorities of the IRB except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the non-expedited procedure set forth in [§46.108\(b\)](#).

(c) Each IRB which uses an expedited review procedure shall adopt a method for keeping all members advised of research proposals which have been approved under the procedure.

(d) The Department or Agency head may restrict, suspend, terminate, or choose not to authorize an institution's or IRB's use of the expedited review procedure.

§46.111 Criteria for IRB approval of research.

(a) In order to approve research covered by this policy the IRB shall determine that all of the following requirements are satisfied:

(1) Risks to subjects are minimized: (i) by using procedures which are consistent with sound research design and which do not unnecessarily expose subjects to risk, and (ii) whenever appropriate, by using procedures already being performed on the subjects for diagnostic or

treatment purposes.

(2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research). The IRB should not consider possible long-range effects of applying knowledge gained in the research (for example, the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility.

(3) Selection of subjects is equitable. In making this assessment the IRB should take into account the purposes of the research and the setting in which the research will be conducted and should be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.

(4) Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with, and to the extent required by [§46.116](#).

(5) Informed consent will be appropriately documented, in accordance with, and to the extent required by [§46.117](#).

(6) When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.

(7) When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.

(b) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

§46.112 Review by institution.

Research covered by this policy that has been approved by an IRB may be subject to further appropriate review and approval or disapproval by officials of the institution. However, those officials may not approve the research if it has not been approved by an IRB.

§46.113 Suspension or termination of IRB approval of research .

An IRB shall have authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects. Any suspension or termination or approval shall include a statement of the reasons for the IRB's action and shall be reported promptly to the investigator, appropriate institutional officials, and the

Department or Agency head.

(Approved by the Office of Management and Budget under Control Number 9999-0020.)

§46.114 Cooperative research.

Cooperative research projects are those projects covered by this policy which involve more than one institution. In the conduct of cooperative research projects, each institution is responsible for safeguarding the rights and welfare of human subjects and for complying with this policy. With the approval of the Department or Agency head, an institution participating in a cooperative project may enter into a joint review arrangement, rely upon the review of another qualified IRB, or make similar arrangements for avoiding duplication of effort.

§46.115 IRB records.

(a) An institution, or when appropriate an IRB, shall prepare and maintain adequate documentation of IRB activities, including the following:

(1) Copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators, and reports of injuries to subjects.

(2) Minutes of IRB meetings which shall be in sufficient detail to show attendance at the meetings; actions taken by the IRB; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution.

(3) Records of continuing review activities.

(4) Copies of all correspondence between the IRB and the investigators.

(5) A list of IRB members in the same detail as described in [§46.103](#)(b)(3).

(6) Written procedures for the IRB in the same detail as described in [§46.103](#)(b)(4) and [§46.103](#)(b)(5).

(7) Statements of significant new findings provided to subjects, as required by [§46.116](#)(b)(5).

(b) The records required by this policy shall be retained for at least 3 years, and records relating to research which is conducted shall be retained for at least 3 years after completion of the research. All records shall be accessible for inspection and copying by authorized representatives of the Department or Agency at reasonable times and in a reasonable manner.

(Approved by the Office of Management and Budget under Control Number 9999-0020.)

§46.116 General requirements for informed consent.

Except as provided elsewhere in this policy, no investigator may involve a human being as a subject in research covered by this policy unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or the representative shall be in language understandable to the subject or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the representative is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator, the sponsor, the institution or its agents from liability for negligence.

(a) Basic elements of informed consent. Except as provided in paragraph (c) or (d) of this section, in seeking informed consent the following information shall be provided to each subject:

(1) a statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental;

(2) a description of any reasonably foreseeable risks or discomforts to the subject;

(3) a description of any benefits to the subject or to others which may reasonably be expected from the research;

(4) a disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;

(5) a statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;

(6) for research involving more than minimal risk, an explanation as to whether any compensation and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained;

(7) an explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subject; and

(8) a statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

(b) additional elements of informed consent. When appropriate, one or more of the following elements of information shall also be provided to each subject:

(1) a statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable;

(2) anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent;

(3) any additional costs to the subject that may result from participation in the research;

(4) the consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;

(5) A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject; and

(6) the approximate number of subjects involved in the study.

(c) An IRB may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth above, or waive the requirement to obtain informed consent provided the IRB finds and documents that:

(1) the research or demonstration project is to be conducted by or subject to the 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 practicably be carried out without the waiver or alteration.

(d) An IRB may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth in this section, or waive the requirements to obtain informed consent provided 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; and

(4) whenever appropriate, the subjects will be provided with additional pertinent information after participation.

(e) The informed consent requirements in this policy are not intended to preempt any applicable Federal, State, or local laws which require additional information to be disclosed in order for informed consent to be legally effective.

(f) Nothing in this policy is intended to limit the authority of a physician to provide emergency medical care, to the extent the physician is permitted to do so under applicable Federal, State, or local law.

(Approved by the Office of Management and Budget under Control Number 9999-0020.)

§46.117 Documentation of informed consent.

(a) Except as provided in paragraph (c) of this section, informed consent shall be documented by the use of a written consent form approved by the IRB and signed by the subject or the subject's legally authorized representative. A copy shall be given to the person signing the form.

(b) Except as provided in paragraph (c) of this section, the consent form may be either of the following:

(1) A written consent document that embodies the elements of informed consent required by §46.116. This form may be read to the subject or the subject's legally authorized representative, but in any event, the investigator shall give either the subject or the representative adequate opportunity to read it before it is signed; or

(2) A short form written consent document stating that the elements of informed consent required by §46.116 have been presented orally to the subject or the subject's legally authorized representative. When this method is used, there shall be a witness to the oral presentation. Also, the IRB shall approve a written summary of what is to be said to the subject or the representative. Only the short form itself is to be signed by the subject or the representative. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary shall be given to the subject or the representative, in addition to a copy of the short form.

(c) An IRB may waive the requirement for the investigator to obtain a signed consent form for some or all subjects if it finds either:

(1) That 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. 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) That 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.

In cases in which the documentation requirement is waived, the IRB may require the investigator to provide subjects with a written statement regarding the research. (Approved by the Office of Management and Budget under Control Number 9999-0020.)

§46.118 Applications and proposals lacking definite plans for involvement of human subjects.

Certain types of applications for grants, cooperative agreements, or contracts are submitted to departments or agencies with the knowledge that subjects may be involved within the period of support, but definite plans would not normally be set forth in the application or proposal. These include activities such as institutional type grants when selection of specific projects is the institution's responsibility; research training grants in which the activities involving subjects remain to be selected; and projects in which human subjects' involvement will depend upon completion of instruments, prior animal studies, or purification of compounds. These applications need not be reviewed by an IRB before an award may be made. However, except for research exempted or waived under [§46.101](#) (b) or (i), no human subjects may be involved in any project supported by these awards until the project has been reviewed and approved by the IRB, as provided in this policy, and certification submitted, by the institution, to the Department or Agency.

§46.119 Research undertaken without the intention of involving human subjects.

In the event research is undertaken without the intention of involving human subjects, but it is later proposed to involve human subjects in the research, the research shall first be reviewed and approved by an IRB, as provided in this policy, a certification submitted, by the institution, to the Department or Agency, and final approval given to the proposed change by the Department or Agency.

§46.120 Evaluation and disposition of applications and proposals for research to be conducted or supported by a Federal Department or Agency.

(a) The Department or Agency head will evaluate all applications and proposals involving human subjects submitted to the Department or Agency through such officers and employees of the Department or Agency and such experts and consultants as the Department or Agency head determines to be appropriate. This evaluation will take into consideration the risks to the subjects, the adequacy of protection against these risks, the potential benefits of the research to the subjects and others, and the importance of the knowledge gained or to be gained.

(b) On the basis of this evaluation, the Department or Agency head may approve or disapprove the application or proposal, or enter into negotiations to develop an approvable one.

§46.121 [Reserved]

§46.122 Use of Federal funds.

Federal funds administered by a Department or Agency may not be expended for research involving human subjects unless the requirements of this policy have been satisfied.

§46.123 Early termination of research support: Evaluation of applications and proposals.

(a) The Department or Agency head may require that Department or Agency support for any project be terminated or suspended in the manner prescribed in applicable program requirements, when the Department or Agency head finds an institution has materially failed to comply with the terms of this policy.

(b) In making decisions about supporting or approving applications or proposals covered by this policy the Department or Agency head may take into account, in addition to all other eligibility requirements and program criteria, factors such as whether the applicant has been subject to a termination or suspension under paragraph (a) of this section and whether the applicant or the person or persons who would direct or has/have directed the scientific and technical aspects of an activity has/have, in the judgment of the Department or Agency head, materially failed to discharge responsibility for the protection of the rights and welfare of human subjects (whether or not the research was subject to Federal regulation).

§46.124 Conditions.

With respect to any research project or any class of research projects the Department or Agency head may impose additional conditions prior to or at the time of approval when in the judgment of the Department or Agency head additional conditions are necessary for the protection of human subjects.

Subpart B	Additional Protections for Pregnant Women, Human Fetuses and Neonates Involved in Research
	Source: Federal Register: November 13, 2001 (Volume 66, Number 27 Rules and Regulations, Page 56775 -56780, from the Federal Register Online via GPO Access [wais.access.gpo.gov] [DOCID:fr13no01 -9].

§46.201 To what do these regulations apply?

(a) Except as provided in paragraph (b) of this section, this subpart applies to all research involving pregnant women, human fetuses, neonates of uncertain viability, or nonviable neonates conducted or supported by the Department of Health and Human Services (DHHS). This includes all research conducted in DHHS facilities by any person and all research conducted in any facility by DHHS employees.

(b) The exemptions at Sec. 46.101(b)(1) through (6) are applicable to this subpart.

(c) The provisions of Sec. 46.101(c) through (i) are applicable to this subpart. Reference to State or local laws in this subpart and in Sec. 46.101(f) is intended to include the laws of federally recognized American Indian and Alaska Native Tribal Governments.

(d) The requirements of this subpart are in addition to those imposed under the other subparts of this part.

§46.202 Definitions.

The definitions in Sec. 46.102 shall be applicable to this subpart as well. In addition, as used in this subpart:

(a) Dead fetus means a fetus that exhibits neither heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles, nor pulsation of the umbilical cord.

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

(c) Fetus means the product of conception from implantation until delivery.

(d) Neonate means a newborn.

(e) Nonviable neonate means a neonate after delivery that, although living, is not viable.

(f) Pregnancy encompasses the period of time from implantation until delivery. A woman shall be assumed to be pregnant if she exhibits any of the pertinent presumptive signs of pregnancy, such as missed menses, until the results of a pregnancy test are negative or until delivery.

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

(h) 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 this subpart. If a neonate is viable then it may be included in research only to the extent permitted and in accordance with the requirements of subparts A and D of this part.

§46.203 Duties of IRBs in connection with research involving pregnant women, fetuses, and neonates.

In addition to other responsibilities assigned to IRBs under this part, each IRB shall review research covered by this subpart and approve only research which satisfies the conditions of all applicable sections of this subpart and the other subparts of this part.

§46.204 Research involving pregnant women or fetuses.

Pregnant women or fetuses may be involved in research if all of the following conditions are met:

(a) Where scientifically appropriate, preclinical studies, including studies on pregnant animals, and clinical studies, including studies on nonpregnant women, have been conducted and provide data for assessing potential risks to pregnant women and fetuses;

(b) 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 which cannot be obtained by any other means;

(c) Any risk is the least possible for achieving the objectives of the research;

(d) If the research holds out the prospect of direct benefit to the pregnant woman, the prospect of a direct benefit both to the pregnant woman and the fetus, or no prospect of benefit for the woman nor the fetus when 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, her consent is obtained in accord with the informed consent provisions of subpart A of this part;

(e) 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 accord with the informed consent provisions of subpart A of this part, except that the father's consent need not be obtained if he is unable to consent because of unavailability, incompetence, or temporary incapacity or the pregnancy resulted from rape or incest.

(f) Each individual providing consent under paragraph (d) or (e) of this section is fully informed regarding the reasonably foreseeable impact of the research on the fetus or neonate;

(g) For children as defined in Sec. 46.402(a) who are pregnant, assent and permission are obtained in accord with the provisions of subpart D of this part;

(h) No inducements, monetary or otherwise, will be offered to terminate a pregnancy;

(i) Individuals engaged in the research will have no part in any decisions as to the timing, method, or procedures used to terminate a pregnancy; and

(j) Individuals engaged in the research will have no part in determining the viability of a neonate

§46.205 Research involving neonates.

(a) Neonates of uncertain viability and nonviable neonates may be involved in research if all of the following conditions are met:

(1) Where scientifically appropriate, preclinical and clinical studies have been conducted and provide data for assessing potential risks to neonates.

(2) Each individual providing consent under paragraph (b)(2) or (c)(5) of this section is fully informed regarding the reasonably foreseeable impact of the research on the neonate.

(3) Individuals engaged in the research will have no part in determining the viability of a neonate.

(4) The requirements of paragraph (b) or (c) of this section have been met as applicable.

(b) Neonates of uncertain viability. Until it has been ascertained whether or not a neonate is viable, a neonate may not be involved in research covered by this subpart unless the following additional conditions have been met:

(1) The IRB determines that:

(i) The research holds out the prospect of enhancing the probability of survival of the neonate to the point of viability, and any risk is the least possible for achieving that objective, or

(ii) The purpose of the research is the development of important biomedical knowledge which cannot be obtained by other means and there will be no added risk to the neonate resulting from the research; and

(2) The legally effective informed consent of either parent of the neonate or, if neither parent is able to consent because of unavailability, incompetence, or temporary incapacity, the legally effective informed consent of either parent's legally authorized representative is obtained in accord with subpart A of this part except that the consent of the father or his legally authorized representative need not be obtained if the pregnancy resulted from rape or incest.

(c) Nonviable neonates. After delivery nonviable neonate may not be involved in research covered by this subpart unless all of the following additional conditions are met:

(1) Vital functions of the neonate will not be artificially maintained;

(2) The research will not terminate the heartbeat or respiration of the neonate;

(3) There will be no added risk to the neonate resulting from the research;

(4) The purpose of the research is the development of important biomedical knowledge that cannot be obtained by other means; and

(5) The legally effective informed consent of both parents of the neonate is obtained in accord with subpart A of this part, except that the waiver and alteration provisions of Sec. 46.116(c) and (d) do not apply. However, if either parent is unable to consent because of unavailability, incompetence, or temporary incapacity, the informed consent of one parent of a nonviable neonate will suffice to meet the requirements of this paragraph (c)(5), except that the consent of the father need not be obtained if the pregnancy resulted from rape or incest. The consent of a legally authorized representative of either or both of the parents of a nonviable neonate will not suffice to meet the requirements of this paragraph (c)(5).

(d) Viable neonates. A neonate, after delivery, that has been determined to be viable is included in research only to the extent permitted by and in accord with the requirements of subparts A and D of this part.

§46.206 Research involving, after delivery, the placenta, the dead fetus or fetal material.

(a) Research involving, after delivery, the placenta; the dead fetus; macerated fetal material; or cells, tissue, or organs excised from a dead fetus, shall be conducted only

accord with any applicable Federal, State, or local laws and regulations regarding such activities.

(b) If information associated with material described in paragraph (a) of this section is recorded for research purposes in a manner that living individuals can be identified, directly or through identifiers linked to those individuals, those individuals are research subjects and all pertinent subparts of this part are applicable.

§46.207 Research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of pregnant women, fetuses, or neonates.

The Secretary will conduct or fund research that the IRB does not believe meets the requirements of Sec. 46.204 or Sec. 46.205 only if:

(a) 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

(b) The Secretary, after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, ethics, law) and following opportunity for public review a comment, including a public meeting announced in the Federal Register, has determined either:

(1) That the research in fact satisfies the conditions of Sec. 46.204, as applicable; or

(2) The following:

(i) 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;

(ii) The research will be conducted in accord with sound ethical principles; and

(iii) Informed consent will be obtained in accord with the informed consent provisions of subpart A and other applicable subparts of this part.

§46.208 ACTIVITIES DIRECTED TOWARD FETUSES *IN UTERO* AS SUBJECTS.

(a) No fetus *in utero* may be involved as a subject in any activity covered by this subpart unless: (1) the purpose of the activity is to meet the health needs of the particular fetus and the fetus will be placed at risk only to the minimum extent necessary to meet such needs, or (2) the risk to the fetus imposed by the research is minimal and the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means.

(b) An activity permitted under paragraph (a) of this section may be conducted only if the mother and father are legally competent and have given their informed consent, except that the father's consent need not be secured if: (1) his identity or whereabouts cannot reasonably be ascertained, (2) he is not reasonably available, or (3) the pregnancy resulted from rape.

§46.209 ACTIVITIES DIRECTED TOWARD FETUSES *EX UTERO*, INCLUDING NONVIABLE FETUSES, AS SUBJECTS.

(a) Until it has been ascertained whether or not a fetus *ex utero* is viable, a fetus *ex utero* may not be involved as a subject in an activity covered by this subpart unless:

(1) there will be no added risk to the fetus resulting from the activity, and the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means, or

(2) the purpose of the activity is to enhance the possibility of survival of the particular fetus to the point of viability.

(b) No nonviable fetus may be involved as a subject in an activity covered by this subpart unless:

(1) vital functions of the fetus will not be artificially maintained,

(2) experimental activities which of themselves would terminate the heartbeat or respiration of the fetus will not be employed, and

(3) the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means.

(c) In the event the fetus *ex utero* is found to be viable, it may be included as a subject in the activity only to the extent permitted by and in accordance with the requirements of other subparts of this part.

(d) An activity permitted under paragraph (a) or (b) of this section may be conducted if the mother and father are legally competent and have given their informed consent, except that the father's informed consent need not be secured if: (1) his identity or whereabouts cannot reasonably be ascertained, (2) he is not reasonably available, or (3) the pregnancy resulted from rape.

§46.210 ACTIVITIES INVOLVING THE DEAD FETUS, FETAL MATERIAL, OR THE PLACENTA.

Activities involving the dead fetus, macerated fetal material, or cells, tissue, or organs excised from a dead fetus shall be conducted only in accordance with any applicable State or local laws regarding such activities.

§46.211 MODIFICATION OR WAIVER OF SPECIFIC REQUIREMENTS.

Upon the request of an applicant or offeror (with the approval of its Institutional Review Board), the Secretary may modify or waive specific requirements of this subpart, with the approval of the Ethical Advisory Board after such opportunity for public comment as the Ethical Advisory Board considers appropriate in the particular instance. In making such decisions, the Secretary will consider whether the risks to the subject are so outweighed by the sum of the benefit to the subject and the importance of the knowledge to be gained as to warrant such modification or waiver and that such benefits cannot be gained except through a modification or waiver. Any such modifications or waivers will be published as notices in the **Federal Register**.

Subpart C	Additional DHHS Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners as Subjects
	Source: 43 FR 53655, Nov. 16, 1978.

§46.301 Applicability.

(a) The regulations in this subpart are applicable to all biomedical and behavioral research conducted or supported by the Department of Health and Human Services involving prisoners as subjects.

(b) Nothing in this subpart shall be construed as indicating that compliance with the procedures set forth herein will authorize research involving prisoners as subjects, to the extent such research is limited or barred by applicable State or local law.

(c) The requirements of this subpart are in addition to those imposed under the other subparts of this part.

§46.302 Purpose.

Inasmuch as prisoners may be under constraints because of their incarceration which could affect their ability to make a truly voluntary and uncoerced decision whether or not to participate as subjects in research, it is the purpose of this subpart to provide additional safeguards for the protection of prisoners involved in activities to which this subpart is applicable.

§46.303 Definitions.

As used in this subpart:

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

(b) "DHHS" means the Department of Health and Human Services.

(c) "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.

(d) "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.

§46.304 Composition of Institutional Review Boards where prisoners are involved.

In addition to satisfying the requirements in [§46.107](#) of this part, an Institutional

Review Board, carrying out responsibilities under this part with respect to research covered by this subpart, shall also meet the following specific requirements:

(a) A majority of the Board (exclusive of prisoner members) shall have no association with the prison(s) involved, apart from their membership on the Board.

(b) At least one member of the Board shall be a prisoner, or a prisoner representative with appropriate background and experience to serve in that capacity, except that where a particular research project is reviewed by more than one Board only one Board need satisfy this requirement.

§46.305 Additional duties of the Institutional Review Boards where prisoners are involved.

(a) In addition to all other responsibilities prescribed for Institutional Review Boards under this part, the Board shall review research covered by this subpart and approve such research only if it finds that:

(1) the research under review represents one of the categories of research permissible under [§46.306](#)(a)(2);

(2) 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;

(3) the risks involved in the research are commensurate with risks that would be accepted by nonprisoner volunteers;

(4) 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 provides to the Board 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;

(5) the information is presented in language which is understandable to the subject population;

(6) 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; and

(7) where the Board 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 examination or care, taking into account the varying lengths of individual prisoners' sentences, and for informing participants of this fact.

(b) The Board shall carry out such other duties as may be assigned by the Secretary.

(c) The institution shall certify to the Secretary, in such form and manner as the Secretary may require, that the duties of the Board under this section have been fulfilled.

§46.306 Permitted research involving prisoners.

(a) Biomedical or behavioral research conducted or supported by DHHS may involve prisoners as subjects only if:

(1) the institution responsible for the conduct of the research has certified to the Secretary that the Institutional Review Board has approved the research under [§46.305](#) of this subpart; and

(2) in the judgment of the Secretary the proposed research involves solely the following:

(A) 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;

(B) 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;

(C) research on conditions particularly affecting prisoners as a class (for example, 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 has consulted with appropriate experts including experts in penology, medicine, and ethics, and published notice, in the **Federal Register**, of his intent to approve such research; or

(D) research on practices, both innovative and accepted, which 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 protocols approved by the IRB to control groups which may not benefit from the research, the study may proceed only after the Secretary has consulted with appropriate experts, including experts in penology, medicine, and ethics, and published notice, in the **Federal Register**, of the intent to approve such research.

(b) Except as provided in paragraph (a) of this section, biomedical or behavioral research conducted or supported by DHHS shall not involve prisoners as subjects.

Subpart D	Additional DHHS Protections for Children Involved as Subjects Research
	Source: 48 FR 9818, March 8, 1983; 56 FR 28032, June 18, 1991.

§46.401 To what do these regulations apply?

(a) This subpart applies to all research involving children as subjects, conducted or supported by the Department of Health and Human Services.

(1) This includes research conducted by Department employees, except that each head of an Operating Division of the Department may adopt such nonsubstantive, procedural modifications as may be appropriate from an administrative standpoint.

(2) It also includes research conducted or supported by the Department of Health and Human Services outside the United States, but in appropriate circumstances, the Secretary may, under paragraph (i) of [§46.101](#) of Subpart A, waive the applicability of some or all of the requirements of these regulations for research of this type.

(b) Exemptions at [§46.101](#)(b)(1) and (b)(3) through (b)(6) are applicable to this subpart. The exemption at [§46.101](#)(b)(2) regarding educational tests is also applicable to this subpart. However, the exemption at [§46.101](#)(b)(2) for research involving survey or interview procedures or observations of public behavior does not apply to research covered by this subpart, except for research involving observation of public behavior when the investigator(s) do not participate in the activities being observed.

(c) The exceptions, additions, and provisions for waiver as they appear in paragraphs (c) through (i) of [§46.101](#) of [Subpart A](#) are applicable to this subpart.

§46.402 Definitions.

The definitions in [§46.102](#) of Subpart A shall be applicable to this subpart as well. In addition, as used in this subpart:

(a) "Children" are persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted.

(b) "Assent" means a child's affirmative agreement to participate in research. Mere failure to object should not, absent affirmative agreement, be construed as assent.

(c) "Permission" means the agreement of parent(s) or guardian to the participation of their child or ward in research.

(d) "Parent" means a child's biological or adoptive parent.

(e) "Guardian" means an individual who is authorized under applicable State or local law to consent on behalf of a child to general medical care.

§46.403 IRB duties.

In addition to other responsibilities assigned to IRBs under this part, each IRB shall review research covered by this subpart and approve only research which satisfies the conditions of all applicable sections of this subpart.

§46.404 Research not involving greater than minimal risk.

DHHS will conduct or fund research in which the IRB finds that no greater than minimal risk to children is presented, only if the IRB finds that adequate provisions are made for soliciting the assent of the children and the permission of their parents or guardians, as set forth in [§46.408](#).

§46.405 Research involving greater than minimal risk but presenting the prospect of direct benefit to the individual subjects.

DHHS will conduct or fund research in which the IRB finds that more than minimal risk to children is presented by an intervention or procedure that holds out the prospect of direct benefit for the individual subject, or by a monitoring procedure that is likely to contribute to the subject's well-being, only if the IRB finds that:

- (a) the risk is justified by the anticipated benefit to the subjects;
- (b) 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
- (c) adequate provisions are made for soliciting the assent of the children and permission of their parents or guardians, as set forth in [§46.408](#).

§46.406 Research involving greater than minimal risk and no prospect of direct benefit to individual subjects, but likely to yield generalizable knowledge about the subject's disorder or condition.

DHHS will conduct or fund research in which the IRB finds that more than minimal risk to children is presented by an intervention or procedure that does not hold out the prospect of direct benefit for the individual subject, or by a monitoring procedure which is not likely to contribute to the well-being of the subject, only if the IRB finds that:

- (a) the risk represents a minor increase over minimal risk;
- (b) the intervention or procedure presents experiences to subjects that are reasonably commensurate with those inherent in their actual or expected medical, dental, psychological, social, or educational situations;
- (c) the intervention or procedure is likely to yield generalizable knowledge about the subjects' disorder or condition which is of vital importance for the understanding or amelioration of the subjects' disorder or condition; and
- (d) adequate provisions are made for soliciting assent of the children and permission of their parents or guardians, as set forth in [§46.408](#).

§46.407 Research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of children.

DHHS will conduct or fund research that the IRB does not believe meets the requirements of [§46.404](#), [§46.405](#), or [§46.406](#) only if:

(a) 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 children; and

(b) the Secretary, after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, education, ethics, law) and following opportunity for public review and comment, has determined either:

(1) that the research in fact satisfies the conditions of [§46.404](#), [§46.405](#), or [§46.406](#), as applicable, or (2) the following:

(i) the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children;

(ii) the research will be conducted in accordance with sound ethical principles;

(iii) adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians, as set forth in [§46.408](#).

§46.408 Requirements for permission by parents or guardians and for assent by children.

(a) In addition to the determinations required under other applicable sections of this subpart, the IRB shall determine that adequate provisions are made for soliciting the assent of the children, when in the judgment of the IRB the children are capable of providing assent. In determining whether children are capable of assenting, the IRB shall take into account the ages, maturity, and psychological state of the children involved. This judgment may be made for all children to be involved in research under a particular protocol, or for each child, as the IRB deems appropriate. If the IRB determines that the capability of some or all of the children is so limited that they cannot reasonably be consulted or that the intervention or procedure involved in the research holds out a prospect of direct benefit that is important to the health or well-being of the children and is available only in the context of the research, the assent of the children is not a necessary condition for proceeding with the research. Even where the IRB determines that the subjects are capable of assenting, the IRB may still waive the assent requirement under circumstances in which consent may be waived in accord with [§46.116](#) of [Subpart A](#).

(b) In addition to the determinations required under other applicable sections of this subpart, the IRB shall determine, in accordance with and to the extent that consent is required by [§46.116](#) of [Subpart A](#), that adequate provisions are made for soliciting the permission of each child's parents or guardian. Where parental permission is to be

obtained, the IRB may find that the permission of one parent is sufficient for research to be conducted under [§46.404](#) or [§46.405](#). Where research is covered by [§46.406](#) and [§46.407](#) and permission is to be obtained from parents, both parents must give their permission unless one parent is deceased, unknown, incompetent, or not reasonably available, or when only one parent has legal responsibility for the care and custody of the child.

(c) In addition to the provisions for waiver contained in [§46.116](#) of [Subpart A](#), if the IRB determines that a research protocol is designed for conditions or for a subject population for which parental or guardian permission is not a reasonable requirement to protect the subjects (for example, neglected or abused children), it may waive the consent requirements in Subpart A of this part and paragraph (b) of this section, provided an appropriate mechanism for protecting the children who will participate as subjects in the research is substituted, and provided further 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.

(d) Permission by parents or guardians shall be documented in accordance with and to the extent required by [§46.117](#) of [Subpart A](#).

(e) When the IRB determines that assent is required, it shall also determine whether and how assent must be documented.

§46.409 Wards.

(a) Children who are wards of the State or any other agency, institution, or entity can be included in research approved under [§46.406](#) or [§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 involved as subjects are not wards.

(b) If the research is approved under paragraph (a) of this section, the IRB 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 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 investigator(s), or the guardian organization.

APPENDIX C

CATEGORIES OF RESEARCH THAT MAY BE REVIEWED BY THE INSTITUTIONAL REVIEW BOARD THROUGH AN EXPEDITED REVIEW PROCEDURE

**Categories of Research That May Be Reviewed by the
Institutional Review Board (IRB) through an
Expedited Review
Procedure¹**

Applicability

(A) Research activities that (1) present no more than minimal risk to human subjects, and (2) involve only procedures listed in one or more of the following categories, may be reviewed by the IRB through the expedited review procedure authorized by [45 CFR 46.110](#) and 21 CFR 56.110. The activities listed should not be deemed to be of minimal risk simply because they are included on this list. Inclusion on this list merely means that the activity is eligible for review through the expedited review procedure when the specific circumstances of the proposed research involve no more than minimal risk to human subjects.

(B) The categories in this list apply regardless of the age of subjects, except as noted.

(C) The expedited review procedure may not be used where identification of the subjects and/or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the subjects= financial standing, employability, insurability, reputation, or be stigmatizing, unless reasonable and appropriate protections will be implemented so that risks related to invasion of privacy and breach of confidentiality are no greater than minimal.

(D) The expedited review procedure may not be used for classified research involving human subjects.

(E) IRBs are reminded that the standard requirements for informed consent (or its waiver, alteration, or exception) apply regardless of the type of review--expedited or convened--utilized by the IRB.

(F) Categories one (1) through seven (7) pertain to both initial and continuing IRB review.

Research Categories

(1) Clinical studies of drugs and medical devices only when condition (a) or (b) is met.

(a) Research on drugs for which an investigational new drug application (21 CFR Part 312) is not required. (Note: Research on marketed drugs that significantly increases the risks or decreases the acceptability of the risks associated with the use of the product is not eligible for expedited review.)

(b) Research on medical devices for which (i) an investigational device exemption application (21 CFR Part 812) is not required; or (ii) the medical device is cleared/approved for marketing and the medical device is being used in accordance with its cleared/approved labeling.

(2) Collection of blood samples by finger stick, heel stick, ear stick, or venipuncture as follows:

(a) from healthy, nonpregnant adults who weigh at least 110 pounds. For these subjects, the amounts drawn may not exceed 550 ml in an 8 week period and collection may not occur more frequently than 2 times per week; or

(b) from other adults and children², considering the age, weight, and health of the subjects, the collection procedure, the amount of blood to be collected, and the frequency with which it will be collected. For these subjects, the amount drawn may not exceed the lesser of 50 ml or 3 ml per kg in an 8 week period and collection may not occur more frequently than 2 times per week.

(3) Prospective collection of biological specimens for research purposes by noninvasive means.

Examples: (a) hair and nail clippings in a nondisfiguring manner; (b) deciduous teeth at time of exfoliation or if routine patient care indicates a need for extraction; (c) permanent teeth if routine patient care indicates a need for extraction; (d) excreta and external secretions (including sweat); (e) uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue; (f) placenta removed at delivery; (g) amniotic fluid obtained at the time of rupture of the membrane prior to or during labor; (h) supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques; (i) mucosal and skin cells

collected by buccal scraping or swab, skin swab, or mouth washings; (j) sputum collected after saline mist nebulization.

(4) Collection of data through noninvasive procedures (not involving general anesthesia or sedation) routinely employed in clinical practice, excluding procedures involving x-rays or microwaves. Where medical devices are employed, they must be cleared/approved for marketing. (Studies intended to evaluate the safety and effectiveness of the medical device are not generally eligible for expedited review, including studies of cleared medical devices for new indications.)

Examples: (a) physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy; (b) weighing or testing sensory acuity; (c) magnetic resonance imaging; (d) electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, ultrasound, diagnostic infrared imaging, doppler blood flow, and echocardiography; (e) moderate exercise, muscular strength testing, body composition assessment, and flexibility testing where appropriate given the age, weight, and health of the individual.

(5) Research involving materials (data, documents, records, or specimens) that have been collected, or will be collected solely for nonresearch purposes (such as medical treatment or diagnosis). (NOTE: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. [45 CFR 46.101\(b\)\(4\)](#). This listing refers only to research that is not exempt.)

(6) Collection of data from voice, video, digital, or image recordings made for research purposes.

(7) Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language, communication, cultural beliefs or practices, and social behavior) or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies. (NOTE: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. [45 CFR 46.101\(b\)\(2\)](#) and (b)(3). This listing refers only to research that is not exempt.)

(8) Continuing review of research previously approved by the convened IRB as follows:

(a) where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects; or

(b) where no subjects have been enrolled and no additional risks have been identified; or

(c) where the remaining research activities are limited to data analysis.

(9) Continuing review of research, not conducted under an investigational new drug application or investigational device exemption where categories two (2) through eight (8) do not apply but the IRB has determined and documented at a convened meeting that the research involves no greater than minimal risk and no additional risks have been identified.

¹ An expedited review procedure consists of a review of research involving human subjects by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB in accordance with the requirements set forth in [45 CFR 46.110](#).

² Children are defined in the HHS regulations as "persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted." [45 CFR 46.402\(a\)](#).

Source: 63 FR 60364-60367, November 9, 1998.

[Policy and Assurances](#) | [OHRP Home Page](#)

*If you have questions about human subject research, click ohrp@osophs.dhhs.gov
If you have questions/suggestions about this web page, click [Webmaster](#)*

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APPENDIX D
CODE OF ETHICS

CODE OF ETHICS OF THE
TEXAS WOMAN'S UNIVERSITY
INSTITUTIONAL REVIEW BOARD

To insure that adequate safeguards are included and respected, the following policies, procedures, and principles shall apply to research, including student projects, which involve human participants at Texas Woman's University.

1. Participants' legal rights will be respected; their rights to dignity, privacy, and comfort will be considered in approving proposed research.
2. The potential for direct benefits of the research must outweigh any inherent risks to the individual participants.
3. Adequate provisions must be made for all procedures, professional attention, and facilities necessary for the protection of individuals as research participants.
4. Research involving human participants must be supervised by scientifically qualified persons.
5. Participation of human participants in any experiment must be voluntary. The right to withdraw at any time must be provided. Adequate and appropriate information must be provided for participants to make considered judgments regarding consent.
6. Research programs that involve human participants must be reviewed by and receive approval from the formally constituted Institutional Review Board (IRB) prior to their initiation. Continuing research programs are subject to periodic review, to be carried out at least on an annual basis.
7. In some instances, students may be involved in course activities, such as questioning, participating in physically stressing experiments, observing, and/or interacting with other individuals. The course instructors are responsible for determining whether such activity is classified as research or instructional methodology. IRB approval is required and must be obtained for those activities determined to be research. Instructors who have doubts concerning the classification of these activities are encouraged to obtain the guidance of the Institutional Review Board regarding these activities, even though they may, by custom, be considered primarily an educational methodology.
8. The interpretation and implementation of these policies are the responsibility of the Institutional Review Board. The IRB shall serve as the University Board of Review in compliance with the requirements of federal agencies. It is mandatory, for both the protection of the investigators and the participants, that the policies, principles, and procedures detailed in this document be closely implemented without exception.
9. University approval does not legally obviate the researchers' liability in the case of a claim of the violation of human rights.

Texas Woman's University
Addendum to IRB Policies and Procedures

Reporting Incidents to the IRB and OHRP

The IRB is responsible for ensuring that incidents associated with IRB approved research projects are reported according to federal, state and institutional requirements. Incidents include: adverse events, unanticipated problems involving risks to participants or others, and serious or continuing noncompliance with regulations.

(a) Definitions:

Adverse event: any untoward or unfavorable occurrence in a human subject, including any abnormal sign, symptom, or disease, temporally associated with the subject's participation in the research, whether or not considered related to the subject's participation in the research. Adverse events encompass both physical and psychological harms.

Internal adverse events: adverse events experienced by subjects enrolled by an investigator at TWU whether as a part of a multi-center study or solely as a TWU study.

External adverse events: adverse events experienced by subjects enrolled by investigators at other institutions engaged in a multi-center study in which TWU is participating.

Unanticipated problem: any incident, experience, adverse event, or outcome that meets all of the following criteria:

- a. Unexpected given the described procedures, informed consent, and population characteristics.
- b. Related or possibly related to participation in the research.
- c. Suggests that participants are placed at greater risk than previously known.

Noncompliance: failure to comply with federal or state regulations or TWU policies governing research with human participants or the requirements or determinations of the IRB. The IRB will evaluate the degree of noncompliance on a case-by-case basis.

(b) Reporting Procedures:

- TWU investigators shall verbally report adverse events, unanticipated problems, or noncompliance to the IRB Office within two (2) working days of the incident and shall submit a completed IRB Incident Report form to the IRB Office within five (5) working days. The IRB may require the investigator to notify the research sponsor (if a funded project).
- The IRB Incident Report Form shall include: name of principal investigator, title of research project, federal award information (if applicable), a detailed description of the incident, and a detailed description of actions or plans to address incidents
- The IRB shall promptly report unanticipated problems and serious or continuing noncompliance to the Director of the ORSP. ORSP shall prepare required reports to

OHRP and the supporting HHS agency head. The time frame for reporting will be based on the nature and severity of the incident and be in accordance with applicable 45 CFR 46 regulations or the *OHRP Guidance on Reviewing and Reporting Unanticipated Problems Involving Risks to Subjects or Others and Adverse Events*.

- When reviewing reports of unanticipated problems, the IRB shall consider whether the affected research protocol still satisfies the requirements for IRB approval and whether risks to subjects are still minimized and reasonable in relation to the anticipated benefits to the participants and the importance of the knowledge that may reasonably be expected to result.
- Reports to OHRP on unanticipated problems and serious or continuing noncompliance and HHS agency heads shall include: name of the institution, name of principal investigator, title of the research project, federal award information (if applicable), a detailed description of the incident, actions TWU is taking or plans to take to address the problem (e.g., protocol revision, suspension of subject enrollment, termination of research).

The IRB has authority to require, as a condition of continued approval by the IRB, submission of more detailed information by the investigator(s) or the sponsor about any adverse event or unanticipated problem occurring in a research protocol.

Any proposed changes to a research study in response to an unanticipated problem must be reviewed and approved by the IRB before being implemented, except when necessary to eliminate apparent immediate hazards to subjects. If the changes are more than minor, the changes must be reviewed and approved by the convened IRB.

Suspension or Termination of Approval

The IRB has the authority to suspend or terminate approval of research that is not conducted in accordance with the IRB's requirements, is associated with unexpected serious harm to participants, adverse events, unanticipated problems, or is delinquent in the submission of the materials required by the IRB for purposes of granting extensions (i.e., the term of approval for the research protocol has expired). Researchers must not collect data, in any form, when research studies have been suspended or terminated. Any data collected during the periods of suspension or termination shall be discarded and not used in any capacity for research projects. Any suspension or termination of approval will include a statement of the reasons for the IRB's action and will be reported promptly to investigators, the Department Chair, the Director of Research and Sponsored Programs, the Vice President for Academic Affairs, and in the case of a federal grant or grant application, the Secretary of the Department of Health and Human Services.