GUIDANCE ON THE IRB PROCESS FOR HUD OFFICE OF HEALTHY HOMES AND LEAD HAZARD CONTROL GRANTEES

Key Points:

- An "IRB" or "Institutional Review Board" is a committee that reviews and approves research protocols involving human subjects. The IRB ensures the ethical and safe treatment of study participants.

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

- HUD grantees are required to obtain IRB approval of their research protocols if the study involves human subjects. For example, a HUD grantee would need IRB approval of the research protocol before interviewing parents of children with elevated blood lead levels.
- Routine delivery of lead abatement services, in a manner that does not involve research, is generally exempt from the Common Rule and does not require IRB approval.

- When in doubt about whether an IRB needs to review a certain activity, you should ask – in this order – whether the activity (1) is funded by HUD's Office of Healthy Homes and Lead Hazard Control, (2) meets the definition of research, (3) involves human subjects, and (4) is exempt under the Common Rule. Many institutions also have their own IRB with an IRB office that is available to answer questions.

What is the "Common Rule?"

The Common Rule is a federal regulation that sets forth requirements on the protection of human subjects in research. HUD adopted the Common Rule in 24 Code of Federal Regulations (CFR) 60.101 which refers readers to the regulation text at 45 CFR part 46, Subpart A. Because HUD has adopted the Common Rule to guide the proper conduct of human subjects research, HUD grantees are required to follow these guidelines for all research conducted, supported or otherwise subject to regulation by HUD. The Common Rule formalized requirements for requiring researchers to obtain a research subject's informed consent prior to beginning the research. The Common Rule also introduced IRB review and approval of human subjects research to bolster protections for research participants.

What is an IRB?

An “IRB” is the acronym for “Institutional Review Board,” which is a committee that reviews and approves research protocols involving human subjects. The IRB ensures the ethical and safe treatment of study participants. Usually, an IRB is an internal committee within the university, set up to review research proposals for their compliance with federal, state, institutional, and any other applicable guidelines for research involving human subjects. Virtually all Academic Medical Centers and Universities have IRBs and some institutions have several, with specialized interests, to review specific projects. There are also independent IRBs that can review research protocols if a Medical Center or University doesn’t have one. Independent IRBs, however, are not affiliated with the institution asking for the review.

How will I know if my activity needs to be reviewed by an IRB?

One way to determine whether your activity needs to be reviewed by an IRB is by asking your institution’s IRB or IRB office, if the institution has one. Another way to make this determination is by following a sequential assessment:

(1) Does the activity involve *research?*

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

The word **generalizable** is key. It implies use of scientific principles and methods, hypothesis testing, and/or statistical analysis. If an investigator initiates a project with the intent of developing generalizable knowledge, HUD considers this activity research.

If yes, proceed to question (2). If no, the Common Rule does not apply to the activity.

(2) Is the research conducted or supported by HUD or under an applicable assurance of compliance with the Common Rule?

If yes, proceed to question (3). If no, the Common Rule does not apply to the activity.

(3) Does the activity involve *human subjects*?

> *Human subject* means a living individual about whom an investigator (whether professional or student) conducting research obtains data through intervention or interaction with the individual, or 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 **environment** that are performed for research purposes. [Bolding added for emphasis.] *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).

If yes, proceed to question (4). If no, the Common Rule does not apply to the activity.

(4) Is the activity exempt under the Common Rule at 45 CFR 46.101(b)?

Some research funded by HUD's Office of Healthy Homes and Lead Hazard Control may be exempt from the Common Rule even if it involves human subjects. An IRB or an institutional official may make the determination about whether a project is exempt or non-exempt.

The Common Rule lists several exemptions, but the following exempt activities may be particularly relevant to research funded by HUD's Office of Healthy Homes and Lead Hazard Control:

> 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. [45 CFR 46.101(b)(4)]

If yes, the Common Rule does not apply. If no, then the Common Rule does apply and an IRB will need to be involved in reviewing and approving the research protocol.

With over 10 sites collaborating on my lead remediation research project, can just one IRB review the project?

Yes. When multiple organizations are collaborating on a project, it may be useful to consider a single IRB approach. OHRP has issued guidance to help inform whether consideration of such an approach is acceptable. Institutions contemplating such an approach should consult with OHPR before tacking any such steps. OHRP guidance (http://www.hhs.gov/ohrp/humansubjects/guidance/irb-rely.htm) from 1991 states:

> "Several options for IRB arrangements are available which OPRR has found to comply with the letter and intent of both 45 CFR 46.114 and the regulations as a whole. Institutional sites that are geographically close enough to comfortably contribute membership to a common IRB can share in bearing the costs of operation while simultaneously providing reviews for protocols that may be used by physicians at some or all of the sites. This approach results in one IRB that can be equally cited as their own IRB of record by all sites that contribute to its membership.
>
> "A second approach is for one IRB with unique expertise, a legal or administrative preference for involvement, or otherwise to host reviews for other nearby institutional

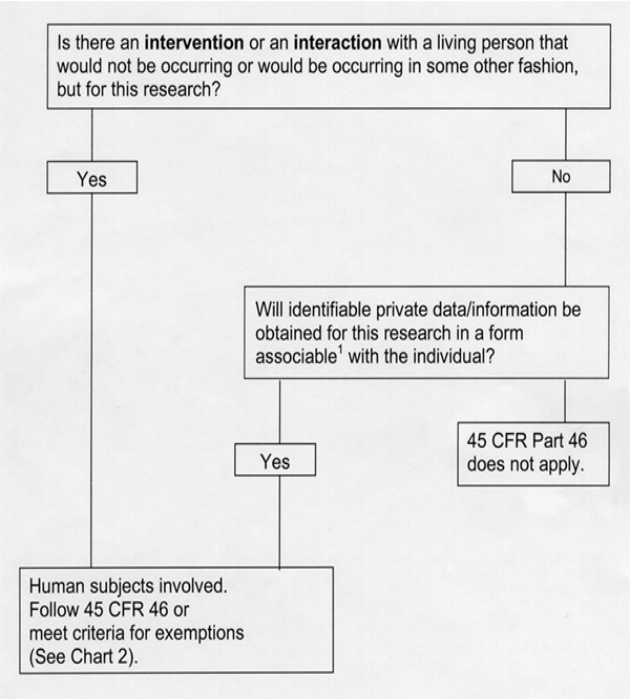
sites with consultant representation from each site present for all initial and continuing reviews of protocols jointly used by these sites. In this approach only the hosting institution has its own IRB. The other sites rely on another's IRB but in such a way as not to defeat the intent of 45 CFR 46. OPRR understands the propriety of considering and approving reliance on another's IRB when a plausible case is made apparent. For example, an IRB with a suitably diversified membership might exist at one site to host IRB reviews for another site due to: (1) the cosmopolitan nature of the host site; (2) a wide catchment area from which patients and subjects are referred to it, (3) or reasons as may otherwise be of a compelling and pertinent nature. However, institutional constraints are less easily accounted for between institutions when there is little or no intimate understanding of each other's staff, equipment, policy, practices, and legal issues. Each case deserves individual consideration."

Are decision trees available to help me determine if my HUD-sponsored study using existing lead data involves non-exempt human subjects research?

Yes. The Office for Human Subjects Protections (OHRP), formerly known as the Office for Protection from Research Risks (OPRR), provides the following graphic aids to clarify portions of these human subject regulations. These materials can also be found at http://www.hhs.gov/ohrp/humansubjects/guidance/decisioncharts.htm.

Chart 1: Definition of Human Subject at Section 46.102(f)

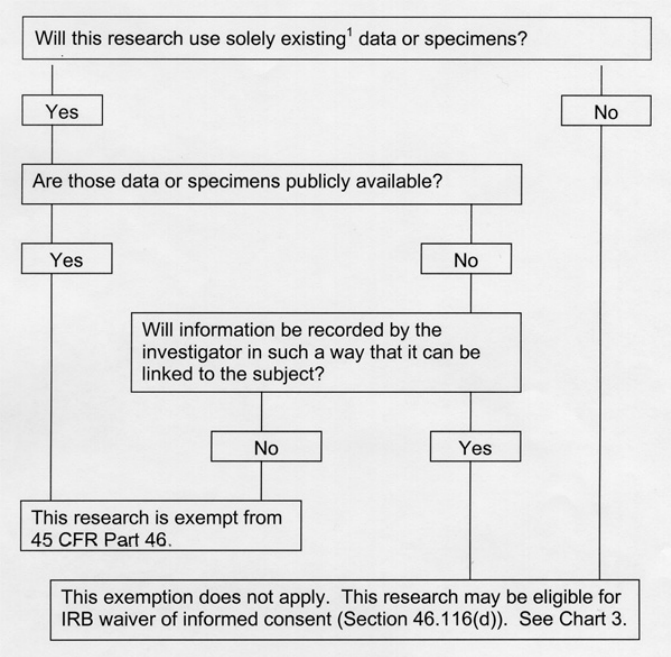
Is the definition of "human subject" at Section 46.102(f) met in this research activity?



[1] That is, the identity of the subject is or may readily be ascertained or associated with information.

Chart 2: Exemption at Section 46.101(b)(4) regarding research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens.

Is the research exempt in accordance with Section 46.101(b)(4)? The regulations at 45 CFR Part 46 do not apply to this type of research if the criteria for exemption under Section 46.101(b)(4) are met.



[1] "Existing" means collected (i.e., on the shelf) prior to the research for a purpose other than the proposed research. It includes data or specimens collected in research and non research activities.

What will an IRB review be like?

There are two methods of review that IRBs may employ: a full board review or an expedited review. The full board review occurs when more than half of the IRB members are present to review and discuss research protocols. Generally, there is a deadline prior to the date the IRB will convene at which point all submissions must be received. Depending on the frequency of full IRB meetings and the number of protocols to review, there may be a wait for review of a project, so it is prudent to be aware of the IRB schedule. In certain cases, the IRB may also elect to use a mechanism called expedited review where a subset of the full board reviews a given project. Activities that are eligible for expedited review can be found in 45 CFR 46.110 and 21 CFR 56.110. These categories are published and updated in the *Federal Register*. The current list of categories has been published at 63 *Federal Register* 60364 (November 9, 1998). A copy of the list is available at http://www.hhs.gov/ohrp/humansubjects/guidance/expeditied98.htm.The decision about whether a program qualifies for expedited review is made by the IRB. Consult your IRB to determine if your program is eligible.

The IRB will review the proposed project to determine if federal, state, and local laws are being met and whether the research proposed will ensure the safety and well being of research participants. It is charged with looking for provisions to protect the privacy of the subjects and confidentiality of the data, with additional safeguards for vulnerable populations (children). The IRB also looks to see that risks are minimized, and that selection of subjects is equitable. If it deems the risks are minimal and if the research cannot practicably be conducted any other way, the IRB has the authority to waive informed consent.

What is informed consent?

Informed consent is the research subject's permission to participate in the research. An informed consent document provides research subjects with a description of the study and of its anticipated risks and benefits, and a description of how the confidentiality of records will be protected, among other things. A researcher generally is required to obtain the individual's informed consent (usually through their signature on an informed consent form) if the activity involves HUD-funded, non-exempt human subjects research for which the consent requirement has not been waived.

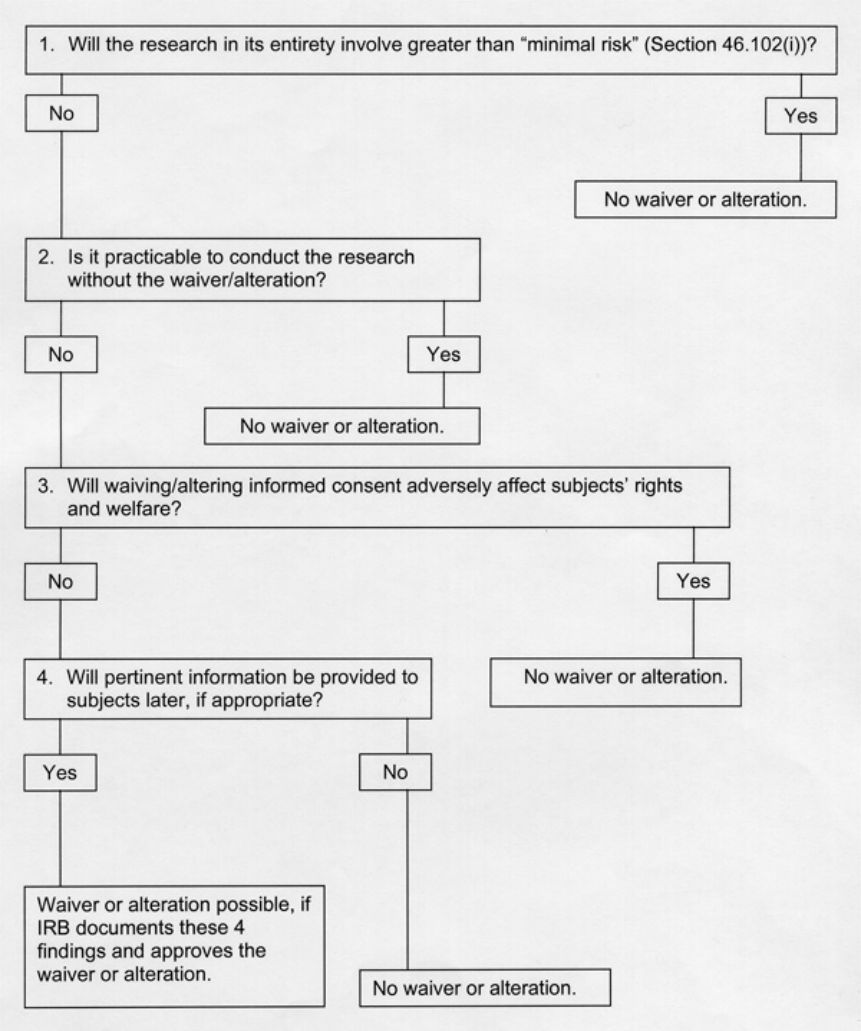
If the research requires informed consent, the IRB or the research institution usually has an available format for the informed consent document. The Common Rule also requires the IRB to review informed consent documents before they are given to the potential research participant, so the IRB will work with the researcher to ensure that all the elements deemed necessary are included. Informed consents, after approved by the IRB, must be obtained from all study participants (i.e., for a family study, adult members of the household are asked for their informed consent while children may be asked for their assent).

Informed consent is a process, not just a form. Information must be presented in lay language to enable the prospective participant to understand the process and procedure of the study. For example, potential participants should understand the benefits that they may accrue, including the fact that, in some cases there is no direct benefit to the individual, but the benefit may accrue to the community or to society as a whole. They should also understand any risks that participation in the study might entail. It is incumbent on the investigator to help the participant understand the consent document; if necessary, translations of the document into other languages may be required. The participant must be able to understand that the **decision to participate is voluntary and that they may withdraw from the study at any time without penalty or loss of benefits**. [Bolding added for emphasis.]

For HUD-funded studies, if research assistants or community workers obtain informed consent, they must be trained in the proper way to do so. They also must understand the importance of respecting the privacy and confidentiality of the study participants. The investigator should keep the informed consent and other study information in locked files and data in secured computer databases.

What factors will an IRB consider when reviewing a request to waive the informed consent requirement?

An IRB may approve a request to waive the informed consent requirements as long as certain criteria are met. The OHRP provides the following graphic aid to clarify the waiver provisions of the human subject regulations. This chart can also be found at http://www.hhs.gov/ohrp/humansubjects/guidance/decisioncharts.htm.



Are there special protections for research involving children?

Some institutions that conduct HUD-funded research also conduct research sponsored by an agency in another U.S. Department, for example, the Department of Health and Human Services' Centers for Disease Control and Prevention (CDC). In addition to the Common Rule, CDC-funded research involving living children is subject to a special set of protections for children – known as Subpart D of 45 CFR part 46. (HUD has not adopted Subpart D.) An institution that conducts HUD-funded research may also have to comply with Subpart D of 45 CFR part 46, if

for example, that institution also performs CDC-funded research. Researchers may wish to contact their IRB or IRB office for guidance on whether to apply the Subpart D protections.

Regulatory requirements aside, research involving children poses a unique challenge as children are considered a vulnerable population, and the ability of parents to consent to research involving their children is sometimes questioned. This may be a particular issue in studies known as "non-therapeutic" where the child does not receive a direct treatment or medication to improve his or her health. Another consideration is whether the intervention involves more than "minimal risk," which is defined as, "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." With few exceptions, interventions that pose only minimal risk to children are considered permissible, unless there is a direct therapeutic benefit to the child. OHRP guidance on research involving children can be found at http://www.hhs.gov/ohrp/children/.