

Guidance on IRB Approval of Research with Conditions

This guidance, when finalized, will represent OHRP's current thinking on this topic and should be viewed as recommendations unless specific regulatory requirements are cited. The use of the word *must* in OHRP guidance means that something is required under HHS regulations at 45 CFR part 46. The use of the word *should* in OHRP guidance means that something is recommended or suggested, but not required. An institution may use an alternative approach if the approach satisfies the requirements of the HHS regulations at 45 CFR part 46. OHRP is available to discuss alternative approaches by telephone at 240-453-6900 or 866-447-4777, or by email at ohrp@hhs.gov.

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Scope: This document applies to non-exempt human subjects research conducted or supported by HHS. It provides guidance on the authority of institutional review boards (IRBs) to approve research with conditions. In particular, OHRP offers guidance on the following topics:

[A. What actions can an IRB take when reviewing research?](#)

[B. What does *IRB approval with conditions* mean?](#)

[C. What circumstances preclude the IRB from approving research?](#)

[D. What circumstances permit the IRB to approve research with conditions?](#)

[E. How should the IRB handle changes to research that are proposed after the IRB has approved the research with conditions?](#)

[F. How do conditions on IRB approval at the time of initial review affect the initiation of research?](#)

[G. How do conditions on IRB approval at the time of continuing review, or at the time of review of proposed changes in previously approved research, affect ongoing research?](#)

[H. What must the IRB records include regarding the documentation of conditions of IRB approval of research?](#)

Target Audience: IRBs, investigators, HHS funding agencies, and others that may be responsible for the review, conduct, or oversight of human subjects research conducted or supported by HHS.

Regulatory Background:

An IRB must review proposed research, including proposed changes to previously approved 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, except when expedited review is authorized (45 CFR 46.108(b) and 46.103(b)(4)). In order for research to be approved, it must receive the approval of a majority of those members present at the meeting (45 CFR 46.108(b)).

IRBs reviewing research have the authority to approve, require modifications in (to secure approval), or disapprove the research (45 CFR 46.109(a)).

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 of categories of research that may be reviewed by the IRB through an expedited review procedure (see <http://www.hhs.gov/ohrp/humansubjects/guidance/expedited98.htm>);
- (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 the 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. (45 CFR 46.110).

HHS regulations at 45 CFR 46.102(h) define *IRB approval* as 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.

In order to approve research, IRBs must determine that all of the following requirements are satisfied in accordance with HHS regulations at 45 CFR 46.111:

- (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 45 CFR 46.116.
- (5) Informed consent will be appropriately documented, in accordance with, and to the extent required by 45 CFR 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.
- (8) 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

When applicable, IRBs must determine that the additional protections of subpart B (Additional Protections for Pregnant Women, Human Fetuses and Neonates Involved in Research), subpart C (Additional Protections Pertaining to Biomedical and Behavioral Research Involving Prisoners as Subjects) or subpart D (Additional Protections for Children Involved as Subjects in Research) of 45 CFR part 46 have been met.

Guidance:

A. What actions can an IRB take when reviewing research?

Given the authorities that IRBs have under HHS regulations at 45 CFR 46.109(a), when conducting an initial or continuing review of a research study, or a review of proposed changes to a previously approved research study, an IRB can take any of the following actions:

- (1) Approve the research study or proposed changes as submitted without any conditions;
- (2) Approve the research study or proposed changes with conditions;

(3) Defer or table the research study or proposed changes for further review at a future date; or

(4) Disapprove the research study or proposed changes.

B. What does *IRB approval with conditions* mean?

In the course of initial or continuing review of research, or review of proposed changes to previously approved research, IRBs often request that investigators (a) make specified changes to the research protocols or informed consent documents; or (b) submit clarifications or additional documents. When doing this, depending on the circumstances, the IRB is either:

(1) precluded from approving the research, as described in section C below; or

(2) permitted to approve the research with conditions, as described in section D below.

By *IRB approval with conditions*, OHRP means that at the time when the IRB reviews and approves a research study (or proposed changes to a previously approved research study), the IRB requires as a condition of approval that the investigator (a) make specified changes to the research protocol or informed consent document(s), or (b) submit clarifications or additional documents, such that, based on the assumption that the conditions are satisfied, the IRB is able to make all of the determinations required for approval under the HHS regulations at 45 CFR 46.111 and, if applicable, subparts B, C or D of 45 CFR part 46. With respect to research reviewed and approved with conditions by the IRB at a convened meeting, note that because the IRB is able to make all these determinations, the IRB may designate the IRB chairperson (and/or other individual(s)) to review responsive materials from the investigator and determine that the conditions have been satisfied, and further review by the IRB at a subsequent convened meeting would not be necessary.

C. What circumstances preclude the IRB from approving research?

Any time the IRB reviewing a research project cannot make one or more of the determinations required for approval by the HHS regulations at 45 CFR 46.111 and, if applicable, subparts B, C, or D of 45 CFR part 46, the IRB may not approve the research project. This applies to both initial and continuing review of research, and review of proposed changes to previously approved research. On the other hand, if the IRB is able to specify changes to the research protocol or informed consent document, or seek clarification of specific facts, that if made or provided would enable the IRB to make the required determination(s), then approval with conditions as described in section D below would be permissible.

For example, the IRB cannot approve a proposed research project undergoing initial review when the IRB (a) is unable to make the required determinations about research risks and benefits, the adequacy of privacy and confidentiality protections, or the adequacy of the informed consent process because the research protocol provides insufficient information related to these aspects

of the research, and (b) is unable to specify changes to the research protocol that if made would allow the IRB to make these required determinations.

When an IRB reviewing a research project at a convened meeting is unable to approve research because it cannot make the determinations required for approval, the IRB can either disapprove the project, or defer or table the project for further review at a future date. When deferring or tabling the project, the IRB, under its authority to require modifications in order for an investigator to secure approval, may require that the investigator (a) make changes to the protocol or informed consent documents, or (b) submit clarifications or additional documents prior to the next review. If the IRB defers or tables a research project and requires, for example, that the investigator make changes to the protocol prior to the next review, the research may not proceed until the IRB reviews the revised research project and approves it at a subsequent convened meeting.

When an IRB reviewing a research project under an expedited review procedure is unable to approve the project because the chairperson (or designated reviewer(s)) cannot make the determinations required for approval, the IRB chairperson (or designated reviewer(s)) can either refer the project to the IRB for further review and action at a convened meeting, or defer approval of the research project and require that the investigator (a) make changes to the protocol or informed consent documents, or (b) submit clarifications or additional documents prior to further review by the IRB chairperson (or designated reviewer(s)). Research may not be disapproved under an expedited review procedure (45 CFR 46.110(a)).

Examples of required changes or clarifications that generally would preclude the IRB from approving the research include the following:

- (1) providing a justification for using a placebo and withholding known effective treatment for a serious medical condition for subjects assigned to a control group;
- (2) providing a justification for enrolling children in the research and an explanation of how the research would satisfy the requirements of subpart D of 45 CFR part 46;
- (3) revising the study hypothesis and, accordingly, the study design;
- (4) providing a description of procedures that the control group will undergo; or
- (5) providing a plan to implement additional subject monitoring in order to reduce risks to subjects, given the number of serious adverse events that have occurred in study subjects since the prior IRB review.

D. What circumstances permit the IRB to approve research with conditions?

The IRB may approve research with conditions if, given scope and nature of the conditions, the IRB is able, based on the assumption that the conditions are satisfied, to make all of the determinations required for approval under the HHS regulations at 45 CFR 46.111 and, if applicable, subparts B, C or D of 45 CFR part 46. The authority to approve research with

conditions extends to the IRB's initial review of research, continuing review of research, and review of proposed changes to previously approved research. This authority also applies to IRB review of research at a convened meeting or under an expedited review procedure.

The IRB may require the following as conditions of approval of research:

- (1) Submission of clarification of facts (e.g., clarification that the research excludes children);
- (2) Submission of additional documentation (e.g., certificate of ethics training);
- (3) Precise language changes to protocol or informed consent documents; or
- (4) Substantive changes to protocol or informed consent documents along with clearly stated parameters that the changes must satisfy.

When the IRB approves research with conditions, verification procedures must be included as part of the IRB approval process, under which the IRB chairperson (and/or other individual(s) designated by the IRB) will review responsive materials from the investigator required by the IRB, and determine whether the conditions of approval have been satisfied (45 CFR 46.102(h)). The IRB's verification that the investigator has satisfied all conditions of approval stipulated by the IRB helps to ensure that the investigator does not initiate any research that is different from what was approved by the IRB (45 CFR 46.102(h)).

Individuals designated by the IRB to review responsive materials from the investigator and determine whether the IRB's conditions for approval have been satisfied should have appropriate expertise. Depending upon the nature of the required conditions, the IRB could designate any of the following individuals or groups of individuals to determine that the conditions of approval have been satisfied:

- The IRB chairperson;
- Another IRB member or group of IRB members with particular expertise or experience;
- The IRB administrator; and/or
- Another qualified IRB administrative staff person.

The following examples illustrate the types of conditions IRBs may stipulate when approving research, as well as the type of individual who may be designated by the IRB to determine that the conditions of approval have been satisfied:

- (1) Requiring submission of documentation of an endorsement letter from a department chair, as required by institutional policy, and designating the IRB administrator or other qualified IRB staff member to confirm receipt of the required documentation;
- (2) Requiring correction of minor grammatical and typographical errors in the informed consent document, and designating the IRB administrator or other qualified IRB staff

member to review the revised informed consent document and confirm that the required corrections were made;

- (3) Requiring that a listed investigator provide a copy of his approved clinical privileges/hospital staff appointment document in order to confirm that he has approval to perform the type of liver biopsies proposed in the research protocol at the institution where the research is to be conducted, and designating an IRB administrator to review this document and confirm the credentialing status of the listed investigator;
- (4) Requiring that the investigator re-locate in the informed consent document the statement “You will receive \$500 for participating in this study” from the “Benefits” section of the form to a separate section under the heading “Compensation,” and designating the IRB administrator to review the revised informed consent document and verify the re-location;
- (5) Requiring that the investigator add “a history of aspirin use in the past 14 days” to the exclusion criteria for subject enrollment in the research protocol, and designating an IRB administrator to review the revised protocol and verify that the stipulated language was added to the exclusion criteria;
- (6) Requiring the investigator to (a) confirm that any standard contrast material used in radiological procedures dictated by the research protocol will be limited to agents and dose levels specified in precise detail by the IRB, and (b) submit a revised protocol which includes the precise agents and dose levels, and designating an IRB administrator to review the revised protocol and verify that the changes made by the investigator match those specified by the IRB;
- (7) Requiring that the investigator modify the informed consent document to include standard template language used for research involving college psychology students, stating that comparable non-research alternatives for earning extra credit will be offered to students who choose not to participate in the research, and designating an IRB member to review the revised informed consent document and verify the addition;
- (8) Requiring the addition to the informed consent document of a description of the risks of a standard chemotherapy drug, where the risks are well-described in the research protocol, and designating an IRB member who is knowledgeable about those risks to review the revised informed consent document and confirm that the description of the risks is satisfactory;
- (9) Requiring revision of the research protocol to include a description of the type and amount of standard contrast material to be used in the radiological procedures dictated by the research protocol, and designating an IRB member who is a radiologist to review the revised protocol and ensure that the use of standard contrast material is medically appropriate;

- (10) Requiring simplification of the description of the study risks in the informed consent document to be at an 8th grade comprehension level, and designating the IRB chairperson to review the revised informed consent document and ensure that risks are accurately described and understandable at an 8th grade comprehension level;
- (11) Requiring that the research protocol be revised to include a plan for (a) informing subjects about the results of standard cardiac function tests dictated by the research protocol, and (b) referring subjects for appropriate clinical follow-up, and designating an IRB member who is a cardiologist to review the revised protocol and confirm that the plan is satisfactory.

E. How should the IRB handle changes to research that are proposed after the IRB has approved the research with conditions?

After research has been approved with conditions by the IRB, additional changes are sometimes proposed by the investigator or recommended by designated reviewers before all conditions have been satisfied and the protocol documents have been finalized. The process for handling such changes is the same as for changes that are proposed after protocol and informed consent documents have been finalized.

Protocol changes that are only administrative in nature (e.g., correction of typographical and spelling errors in the protocol) would not need additional IRB review.

Non-administrative changes that are “minor” may be reviewed by the IRB chairperson or by another experienced reviewer designated by the chairperson from among the members of the IRB under an expedited review procedure in accordance with 45 CFR 46.110(b)(2). OHRP notes that under 45 CFR 46.110(c), all members of the IRB must be advised of any such minor changes that are approved under an expedited review procedure.

Non-administrative changes that are more than minor would require further review by the IRB at a convened meeting.

OHRP recommends that institutions adopt policies for determining the types of changes in previously approved research that constitute “minor” changes which can be approved under an expedited review procedure, in contrast to greater than minor changes which require review by the IRB at a convened meeting.

F. How do conditions on IRB approval at the time of initial review affect the initiation of the research?

Whenever the IRB approves a research study with one or more conditions at the time of initial review, the effective date of the initial approval is the date on which the IRB chairperson (or any other individual(s) designated by the IRB) has reviewed and accepted as satisfactory any revised protocol or informed consent documents or any other responsive materials required by the IRB from the investigator. (For additional guidance on determining the effective dates of IRB approval and continuing review dates, see OHRP’s draft *Guidance on IRB Continuing Review of*

Research at <http://www.hhs.gov/ohrp/requests/>.) In these circumstances, no research study activities involving human subjects may be initiated until the conditions have been satisfied in the manner set forth by the IRB and the approval becomes effective.

Once the investigator has responded to the IRB's conditions, if the designated reviewer(s) determines that the responsive materials do not satisfy the conditions of approval stipulated by the IRB, then the IRB approval has not become effective, and the investigator may not proceed with the research. The investigator may submit additional revisions or material to the designated reviewer(s) in an attempt to satisfy the IRB's conditions, or may choose to submit a modified research proposal to the IRB. If the investigator chooses not to submit any additional revisions or materials to the designated reviewer(s), then the approval for the research activity would not become effective, and the investigator may not conduct the research study.

When someone other than the IRB chairperson is the designated reviewer and the designated reviewer and investigator are unable to agree on whether the responsive material provided by the investigator satisfies the conditions of approval, OHRP recommends that the designated reviewer and investigator consult with the IRB chairperson.

Finally, an IRB may allow an investigator to initiate some research activities after granting initial approval of a research study, while imposing conditions on the study that the investigator must adhere to after the initial approval becomes effective. For example, consider a research study where the following occurs:

- (1) The investigator proposes to enroll subjects ages 12-65.
- (2) The IRB approves the research for one year, requires that the investigator correct minor grammatical and typographical errors in the informed consent document as a condition of approval, and designates the IRB administrator to review the revised informed consent document and confirm that the required corrections were made.
- (3) Because the investigator did not provide sufficient information regarding the involvement of children and pregnant women, the IRB is unable to make the findings required for approval under subparts B and D of 45 CFR part 46. As a result, the IRB approves the research study only for involvement of non-pregnant adult subjects, and stipulates the following condition: the research may not involve pregnant women or children until the investigator submits additional information necessary for the IRB to make the findings required under subparts B and subpart D of 45 CFR part 46, and the IRB subsequently approves the involvement of pregnant women and children in the study. Note that when approving a research study with such a condition, the IRB must ensure that the study as initially approved without inclusion of the excluded subgroups satisfies all criteria for IRB approval under 45 CFR 46.111.

In this example, the initial IRB approval becomes effective once the investigator submits a revised informed consent document and the IRB administrator reviews and confirms that appropriate corrections have been made. Upon the approval becoming effective, the investigator may conduct research activities involving non-pregnant adults. However, the investigator may

not involve children or pregnant women in the research given the condition imposed by the IRB until (a) the investigator submits sufficient information necessary for the IRB to make the determinations required under subparts B and D; and (b) the IRB reviews this information, makes the required determinations, and approves the involvement of children and pregnant women in the study.

G. How do conditions on IRB approval at the time of continuing review, or at the time of review of proposed changes in previously approved research, affect ongoing research?

When approving research with conditions at the time of continuing review, or at the time of review of proposed changes to previously approved research, the IRB should be careful to specify whether any conditions need to be satisfied before an investigator can continue particular research activities related to those conditions. For example, if at the time of continuing review, the IRB requires the investigator to change the research protocol to include a specific new procedure for screening prospective subjects, the IRB could approve the research with the following condition: research activities involving currently enrolled subjects may continue, but no new subjects may be enrolled until a designated IRB member reviews a revised protocol and verifies that the protocol includes the new screening procedure.

Likewise, if at the time of continuing review, or at the time of review of proposed changes to previously approved research, the IRB requires that the investigator within 30 days (a) change the informed consent document to include a description of a newly identified risk, and (b) submit a written plan for informing currently enrolled subjects about the new risk, the IRB could approve the research with the following condition: research activities involving currently enrolled subjects may continue, but no new subject may be enrolled until a designated IRB member reviews a revised informed consent document and verifies that the description of the new risk has been added. Alternatively, the IRB could stipulate that no further research activities involving human subjects (including activities of already enrolled subjects) may occur after the date of the IRB's continuing review or the review of the protocol changes until the investigator has submitted, and the designated IRB member has reviewed and accepted as satisfactory, the revised informed consent document *and* the written plan for informing currently enrolled subjects about the new risk.

H. What must the IRB records include regarding the documentation of conditions of IRB approval of research?

When the IRB approves research with conditions, the IRB must document, both to the investigator and in the IRB minutes for research reviewed at a convened meeting or elsewhere in the IRB records for research reviewed under an expedited review procedure, the following:

- (1) All conditions that must be satisfied by the investigator (45 CFR 46.102(h), 45 CFR 46.109(d), and 45 CFR 46.115);
- (2) The date when the IRB chairperson (and/or other individual(s) designated by the IRB) determines that all conditions of IRB approval have been satisfied, the date when initial approval becomes effective, and the date by which continuing review must occur;

- (3) In the case of initial review, any conditions under which some research activities may be initiated (for example, the investigator may initiate research in non-pregnant adults, but not in pregnant women or children); and
- (4) In the case of continuing review and the review of proposed changes to previously approved research, any conditions that need to be satisfied before an investigator can continue particular research activities related to those conditions (45 CFR 46.115(a)).

All correspondence between the IRB and the investigator regarding the conditions of approval set forth by the IRB must be maintained in the IRB records (45 CFR 46.115(a)(4)).

Copies of all research proposals reviewed by the IRB and approved sample consent documents, including any revised protocol or informed consent documents submitted by the investigator in order to satisfy the conditions of approval stipulated by the IRB, also must be maintained in the IRB records (45 CFR 46.115(a)(1)).

If you have specific questions about how to apply this guidance, please contact OHRP by phone at (866) 447-4777 (toll-free within the U.S.) or (240) 453-6900, or by e-mail at ohrp@hhs.gov.