

Guidance and Procedures Number: 2

Title: Determining Which Research Activities Require UCLA OPRS/IRB Review

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I. Overview

This guideline outlines the considerations for determining when research activities require UCLA OPRS/IRB review. The considerations include but are not limited to determining whether the research is “human research” as defined by both federal and state regulations, the course and scope of the duties of the UCLA investigator, and whether any UCLA facilities, patients or personnel will be accessed. Examples of research that require IRB review as well as activities that may not require IRB review are included in this policy.

UCLA researchers conducting human subject research must obtain UCLA IRB approval or certification of exemption from IRB review prior to engaging in interventions or interactions with human subjects in research or obtaining identifiable private information about living individuals for the purpose of conducting research. The overarching UCLA Policy that describes the Protection of Human Subjects in Research is UCLA Policy 991 posted on the [UCLA Administrative Policies and Procedures](#) website and is also linked to [OPRS HRPP Policy #1](#).

III. Definitions

A. Definition of Research

1. ***DHHS Regulations define research*** as a systematic investigation,¹ including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge ² (45 CFR 46.102(d)).

¹ Activities are not research if they *do not* involve a systematic approach involving a predetermined method for studying a specific topic, answering a specific question, testing a specific hypothesis, or developing theory.

Examples of systematic investigations include, but are not limited to: observational studies; interviews; surveys; test development; or program evaluation.

Examples of activities that would not normally be considered systematic investigations include, but are not limited to: (a) training activities (e.g., individuals being trained to perform a certain technique or therapy such as art therapy, psychoanalysis, oral history techniques) provided that the training activities and/or the activities performed by people during the training are not designed to develop or contribute to generalizable knowledge; and (b) classroom exercises involving living individuals or private identifiable data about living individuals where the objective of the activity is to teach proficiency in performing certain tasks or using specific tools or methods and the activity is not designed to develop or contribute to generalizable knowledge.

² Activities are not research if they *are not* designed to contribute to generalizable knowledge.

Examples of activities that are typically not generalizable include: (a) Biographies and service or course evaluations, unless they can be generalized to other individuals; (b) Services, courses, or concepts where it is not the intention to share them beyond the UCLA community; (c) Classroom exercises solely to fulfill course requirements or to train students in the use of particular methods or devices; and (d) Quality Assurance activities designed to continuously improve the quality or performance of a department or program where it is not the intention to share them beyond the UCLA community.

2. **FDA Regulations define clinical investigation** as any experiment that involves a test article and one or more human subjects, and that either must meet the requirements for prior submission to the FDA under section 505(i) or 520(g) of the act, or need not meet the requirements for prior submission to the Food and Drug Administration under these sections of the act, but the results of which are intended to be later submitted to, or held for inspection by the Food and Drug Administration as part of an application for a research or marketing permit. (21 CFR 50.3(c), 21 CFR 56.103(c), 21 CFR 312.3(b), and 21 CFR 812.3(h))
 - **Test article:** is defined by the FDA in 21 CFR 50.3(j) and 56.102(l) as any drug (including a biological product for human use), medical device for human use, human food additive, color additive, electronic product, or any other article subject to FDA regulations.

B. Definition of Human Subject

1. **DHHS Regulations define human subject** as 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 (45 CFR 46.102(f)).³
 - 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.
 - 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.
2. **FDA Regulations define a human subject** as an individual who becomes a participant in research, either as a recipient of the test article or as a control (21 CFR 50.3(g), 21 CFR 56.103(e), 21 CFR 312.3(b), and 21 CFR 812.3(p)).
 - A subject may be either a healthy individual or a patient.
 - If the research involves a medical device, individuals are considered "subjects" when they participate in an investigation, either as an individual on whom or on whose specimen an investigational device is used or as a control.
- 3. **California law** requires IRB review and approval for research using individually identifiable information from death data files held by the State Registrar, local registrars, and county

³ Data and private information may include specimens with personal identifiable information attached (See [HRPP Guidance & Procedure #39: Research Involving Use of Human Specimens, and Specimen Banking](#)).

recorders. There are also specific California requirements for the IRB review of stem cell research, as described in Section IV.B.7 below.

- E. **Personal Identifiable Information (PII)** is defined as data or other information which otherwise identifies, an individual or provides information about an individual in a way that is reasonably likely to enable identification of a specific person and make personal information about them known. Personal information includes, but is not limited to, information regarding a person's home or other personal address, social security number, driver's license, marital status, financial information, credit card numbers, bank accounts, parental status, sex, race, religion, political affiliation, personal assets, medical conditions, medical records or test results, home or other personal phone numbers, non-university address, employee number, personnel or student records and so on.
- F. **Protected Health Information (PHI)** is defined as any individually identifiable health information collected or created as a consequence of the provision of health care by a covered entity, in any form, including verbal communications. The 18 identifiers that are considered PHI are included in [HRPP Guidance & Procedure #49: Health Insurance Portability and Accountability Act \(HIPAA\)](#).
- G. **Human Research:** Any research that involves human subjects as defined in 45 CFR 46.102(f) or any clinical investigation that involves humans as defined by the FDA.
- H. **Exempt Human Subjects Research:** Research that involves human subjects as defined in 45 CFR 46.102(f) and meets the conditions outlined under [HRPP Guidance & Procedure #5: Certification of Exemption from IRB Review](#).

III. OPRS/IRB Jurisdiction

The following requirements apply to all types of research involving human subjects, including chart reviews, retrospective studies, access to data banks and repositories, collection and/or use of human biological specimens from living individuals and, of course, research involving direct contact with human subjects, including compassionate use protocols and emergency use requests. Human research that is exempt from IRB review under Federal regulations must be submitted to the OPRS for formal certification of exemption.

- A. All UCLA-affiliated faculty and staff who are conducting research involving human subjects within the course and scope of their duties, as well as UCLA students who are conducting research involving human subjects within the course of their studies, regardless of the source of the funding, or even when no funds are involved, are required without exception to have prior approval from the IRB or prospective certification of the research as being exempt from IRB review.
- B. Regardless of percent of effort, prior approval of the IRB is required, without exception, when human subject research studies conducted by UCLA faculty, staff or students access any UCLA or UCLA-affiliated facilities, patients, personnel, or students and/or when the human research is supported by extramural funds granted to or applied for through the Regents of the University of California or for Research conducted with UCLA funding off-campus, at non-UCLA sites.
- C. All non-UCLA investigators involved in human subjects research that access any UCLA facilities, patients or personnel (faculty, staff or students) must submit an application for Administrative Review to the UCLA OPRS/IRB for a determination of whether proposed research involving human subjects falls within the UCLA OPRS/IRB jurisdiction and requires UCLA IRB review and approval or certification of exemption from IRB review.

IV. Examples of Activities That Require UCLA IRB Review

- A. **Human research:** The UCLA IRBs review all human research meeting the above definitions and under its jurisdiction as described above.
- B. **More specific examples of research activities** that require IRB review and approval or certification of exemption from IRB review:
1. **Secondary analysis of data and/or specimens which include PII or PHI:** The use of existing personal identifiable information about living individuals, such as data collected from medical or academic records, for research purposes may constitute human research as defined by this policy and the federal regulations.
 2. **Recruitment and screening activities:** IRB approval is required *before* recruitment or screening for a human research project begins.
 4. **Pilot studies:** Pilot studies that meet the definition of human research, regardless of the number of subjects enrolled or the duration of the studies, require UCLA IRB review and approval or Certification of Exemption from IRB review.
 5. **UCLA student-conducted research:** UCLA student-conducted research which includes activities that meet the definition of human research requires IRB review and approval or Certification of Exemption from IRB review. Thesis or dissertation projects conducted to meet the requirements of a graduate degree *are* usually considered generalizable and therefore meet the regulatory definition of research. Such thesis or dissertation projects require IRB review and approval when the research being conducted involves human subjects. Please refer to [HRPP Guidance & Procedure #4: Research Conducted by UCLA Students](#) for more information.
 6. **Academic presentation, publication:** Living individuals commonly provide private identifiable information about themselves for non-research purposes. Such data represent useful information for investigators. Investigators who want to access such information for research purposes with the intent to present, publish or disseminate the data in academic/professional medical or at academic/professional meetings or settings are required to obtain UCLA IRB review and approval, Certification of Exemption from UCLA IRB review, or a determination that the activity is not human research prior to accessing the data for research purposes.
 7. **Human stem cell research:** California law and [UCLA policy](#) require that, regardless of funding source, the IRB review studies that involve the following:
 - Clinical research in which humans are given stem cells or related products; *or*,
 - Research-related interventions or interactions with cell donors (including the donation of blastocysts or gametes for the purpose of creating human embryonic stem cells (hESCs)); *or*,
 - Cells or lines provided to UCLA with identifiers (including direct or indirect codes) that could be used to identify the donors.
 8. **Research Using State of California-Produced Death Data Files Containing PII:** The State requires that researchers have a “valid scientific interest” in order for the IRB to approve such a study. See [California Health and Safety Code 102231](#) for a detailed discussion of the requirements for such research.

V. Examples of Research Activities that May or Do Not Require UCLA IRB Review:

- A. **Analysis of Data or Specimens that Do Not Include PII or PHI:** Under specific limited circumstances, research involving only unidentifiable or coded private information or specimens may not fit the definition of human research and therefore may not require IRB review or certification as exempt from IRB review. The determination is made and certified by the Principal Investigator. To guide the research community in making this determination there are various tools (including a decision tree) available to the research community post on the OPRS Human Research.

Generally, if researchers are using data or specimens that do not include PII or PHI, were not collected specifically for purposes of the study, are not being used in research covered by the FDA and the researchers do not have access to the code linking the data to PII or PHI, then the research may not required UCLA IRB review or exemption from IRB review. See the [self-certification form](#) for the specific questions that will guide researchers in this determination.

- B. **Studies Using Public Data Sets:** If the data and/or specimens are publicly available, then the project does not meet the definition of “human research.” Therefore, neither IRB review nor certification of exemption from IRB review is required. However, note that the term “publicly available” means that the general public can obtain the data/biological specimens. Sources are not considered “publicly available” if access to the data/specimen source is limited to researchers. Please also review [HRPP Guidance & Procedure #42: Research Involving Public Use Data Files](#) for more detailed guidance.
- C. **Individual Case studies:** In general, the review of medical records for publication of "case reports" of three or fewer patients is *not* considered human-subject research and does *not* typically require IRB review and approval because case reporting on a small series of patients does not involve the formulation of a research hypothesis that is subsequently investigated prospectively and systematically for publication or presentation.
- D. **Quality Improvement Activities:** Most quality improvement efforts are not research subject to the DHHS protection of human subject regulations. However, in some cases quality improvement activities are designed to accomplish a research purpose as well as the purpose of improving the quality of care, and in these cases the regulations for the protection of subjects in research (45 CFR part 46) may apply. See the [OHRP Quality Improvement Activities Frequently Asked Questions](#) for guidance.
- E. **Studies Using Established Cell Lines:** If an established cell line does not include either direct or indirect identifiers of donors, the UCLA IRB does not consider research conducted with that established cell line to be human subjects research. Therefore, neither certification of exemption from IRB review nor IRB approval of the proposed research is required.
- F. **Oral History Activities** *in general* which are solely designed to create a record of specific historical events and, as such, are not intended to contribute to generalizable knowledge are not considered research. Please refer to [UCLA HRPP Guidance, “Oral History and Human Subjects Research”](#) for additional guidance regarding how to evaluate whether oral history activities meet the regulatory definition of research.
- G. **Use of Cadaveric Specimens:** The use of specimens only from cadavers does not meet the definition of human research.

VI. UCLA Principal Investigator Responsibilities Related to IRB Determinations

The Principal Investigator is responsible for:

- A. Making the initial determination as to whether a proposed research activity is human research and, therefore, falls within the UCLA IRB jurisdiction. If unsure, he or she must consult with the OPRS IRB.
- B. Submitting an application to the IRB for review and approval or certification as exempt from IRB review before initiating, modifying, or extending any research project using human subjects.
- C. Replying in a timely manner to all UCLA IRB requests for additional information.

Regulations:

45 CFR 46.102
21 CFR 50.3
21 CFR 56.102 and 56.103
21 CFR 312.3(b)
21 CFR 812.3(h)
California Health and Safety Code 102231
California Health and Safety Code Section 125119(a)(1)

References:

- FDA, *IRB Information Sheets: [Use of Investigational Products When Subjects Enter a Second Institution](#)*, September 1998.
- OHRP Guidance: [Engagement of Institutions in Human Subjects Research](#), October 2008.
- OHRP Guidance: on [Research Involving Coded Private Information or Biological Specimens](#), October 16, 2008.
- [OHRP Human Subject Regulations Decision Charts](#), September 24, 2004.
- California Senate Bill No. 1260, Chapter 483

- UCLA Policy 991: Protection of Human Subjects in Research
- UCLA Policy Memorandum, "Change in Institutional Review Board (IRB) Requirements for Human Embryonic Stem Cell (hESC) Research," January 4, 2007.
- *OPRS/HRPP Guidance and Procedures #4: Research Conducted by UCLA Students*
- *OPRS/HRPP Guidance and Procedures # 5: Certification of Exemption from IRB Review.*
- *OPRS/HRPP Guidance and Procedures # 39: Research Involving Use of Human Specimens and Specimen Banking.*
- *OPRS/HRPP Guidance and Procedures #49: Health Insurance Portability and Accountability Act (HIPAA).*
- *UCLA Human Research News*, "Oral History and Human Subjects Research," December 10, 2003