

**Institutional Review Board
DoD Research Policy and Procedure**

Effective: 5/25/2016

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Version: 1

Responsibility: OIRB

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Policy

When conducting DoD research, FDA (21CFR50 & 56) and DHHS (45CFR46) human subjects research regulations apply, however when Human Research is conducted or funded by the Department of Defense (DOD), this Organization commits to also apply the Department of Defense (DOD) Directive 3216.02, which includes the requirement to apply 45 CFR §46 Subparts B, C, and D. This Organization will comply with the terms of the DFARS clause or comparable language used in the agreement with the Department of Defense (DOD) Component supporting the research involving human subjects.

DoD Research is research:

- that is funded or sponsored by the Department of Defense,
- involving collaboration with any component of DoD,
- using property, facilities or other DoD resources, or
- when the subject recruitment is targeted at DoD personnel (whether civilian and/or military).

Definitions

The following definitions apply to DoD research:

Research involving an **Experimental subject**: An activity, for research purposes, where there is an intervention or interaction with a human subject for the primary purpose of obtaining the effect of the intervention or interaction (32 CFR 219.102(f)).

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Prisoner of war: any person captured, detained, held or otherwise under the control of Department of Defense personnel (military or civilian, or contractor employee). Such persons include: Enemy prisoners, civilian internees, retained persons, and lawful and unlawful enemy combatants. Such persons do not include Department of Defense personnel being held for law enforcement purposes.

Procedure

A. Educational Requirements

Initial and continuing research ethics education is required for all personnel who conduct, review, approve, oversee, support, or manage human participants' research.

- a. If there are specific DoD educational requirements or other certification requirements for study personnel, the Office of Clinical Research (OCR) will ensure those requirements are met (See OCR [Human Subjects Protection and Ethics Education Policy](#))

B. Informed Consent

- a. Funds appropriated to the Department of Defense may not be used for research involving a human being as an experimental subject unless—
 - i. the informed consent of the subject is obtained in advance; or
 - ii. in the case of research intended to be beneficial to the subject, the informed consent of the subject or a legal representative of the subject is obtained in advance.
- b. When the research meets the DoD definition of "Research Involving a Human Being as an Experimental Subject," the IRB may not waive the consent process (this prohibition does not apply to screening of records to identify possible subjects).
- c. The Secretary of Defense may waive the prohibition with respect to a specific research project to advance the development of a medical product necessary to the armed forces if the research project may directly benefit the subject and is carried out in accordance with all other applicable laws.
- d. Exception from Informed Consent (EFIC)
 - i. DoD regulations prohibit an exception from informed consent in planned emergency medicine research unless the PI obtains a waiver from the Secretary of Defense.

C. Inclusion of Vulnerable Populations

- a. US Military Personnel
 - i. Service members must follow their command policies regarding the requirement to obtain command permission to participate in research involving human subjects while on-duty or off-duty.
 - ii. The IRB will confirm the following additional protections are in place to minimize undue influence (as applicable):
 - 1. Officers are not permitted to influence the decision of their subordinates.
 - 2. Officers and senior non-commissioned officers may not be present at the time of recruitment.
 - 3. Officers and senior non-commissioned officers have a separate opportunity to participate.
 - 4. When recruitment involves a percentage of a unit, an independent ombudsman is present.
 - iii. Limitations on dual compensation:

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1. Prohibit an individual from receiving pay of compensation for research during duty hours.
2. US military personnel may be compensated for research if the participant is involved in the research when not on duty
3. Federal employees while on duty and non-Federal persons may be compensated for blood draws for research up to \$50 for each blood draw.
4. Non-Federal persons may be compensated for research participation other than blood draws in a reasonable amount as approved by the IRB according to local prevailing rates and the nature of the research.
- iv. Survey Research
 5. Survey/questionnaire research involving DoD personnel must receive IRB approval prior to final approval by an additional level of DoD which typically is required.
 6. The PI must submit surveys and all required documentation relevant to survey research review to the requesting DoD Component. (SECNAVINST 3900.39D, para. 6e; OPNAVINST 5300.8B)
- b. Pregnant Women
 - i. DoD research involving pregnant women is subject to the DHHS Subpart B.
 - ii. For purposes of applying Subpart B to DoD research, the phrase “biomedical knowledge” shall be interpreted as “generalizable knowledge.”
 - iii. The applicability of Subpart B is limited to research involving pregnant women as participants in research that is more than minimal risk and includes interventions or invasive procedures to the woman or the fetus; or involves fetuses or neonates as participants.
 - iv. Fetal DoD research must comply with the US Code Title 42, Chapter 6A, Subchapter III, Part H, 289g.
- c. Children
 - i. DoD research involving children is subject to the DHHS Subpart D.
 - ii. DoD research involving children cannot be exempt
- d. Prisoners
 - i. DoD research involving prisoners is subject to the DHHS Subpart C.
 - ii. DoD research involving prisoners cannot be reviewed by the expedited procedure.
 - iii. When the IRB reviews research involving prisoners, at least one prisoner representative must be present for quorum.
 - iv. In addition to allowable categories of research on prisoners in Subpart C, the following two additional categories are allowable:
 1. epidemiological research is also allowable when:
 - a. The research describes the prevalence or incidence of a disease by identifying all cases or studies potential risk factor association for a disease.
 - b. The research presents no more than minimal risk.
 - c. The research presents no more than an inconvenience to the participant.
 - d. Prisoners are not the focus of the research

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2. Research involving human subjects that would meet the criteria described in 32 CFR 219.101(b) can be conducted, but must be approved by a convened IRB and meet the requirements of subpart C, DODI 3216.02, and other applicable requirements.
- v. When a previously enrolled human subject becomes a prisoner and the relevant research protocol was not reviewed and approved by the IRB to include prisoners, the PI should promptly notify the IRB.
 1. The prisoner participant may continue only if:
 - a. the researcher asserts to the IRB that it is in the best interest of the prisoner-participant to continue to participate in the research while a prisoner, and
 - b. the IRB chair determines that the prisoner-participant may continue to participate until the convened IRB can review this request to approve a change in the research protocol and until the organizational official and DoD Component office review the IRB's approval to change the research protocol.
 2. Otherwise, the IRB chair shall require that all research interactions and interventions with the prisoner-subject (including obtaining identifiable private information) cease until the convened IRB can review this request to approve a change in the research protocol.
 3. The convened IRB shall promptly re-review the research protocol to ensure that the rights and wellbeing of the human subject, now a prisoner, are not in jeopardy.
 - a. The IRB should consult with a subject matter expert having the expertise of a prisoner representative if the IRB reviewing the research protocol does not have a prisoner representative.
 - b. If the prisoner participant can continue to consent to participate and is capable of meeting the research protocol requirements, the terms of the prisoner participant's confinement does not inhibit the ethical conduct of the research, and there are no other significant issues preventing the research involving human participants from continuing as approved, the convened IRB may approve a change in the study to allow this prisoner-participant to continue to participate in the research. This approval is limited to the individual prisoner-participant and does not allow recruitment of prisoners as participants.
 4. This type of request for change in the research protocol cannot be reviewed and approved by the IRB using expedited review procedure.
 5. The research involving human subjects does not have to meet one of the six allowable categories of research involving prisoners (described in subparagraph 7.b.(2) of the DODI 3216.02).
 6. For all DoD research involving human subjects, the applicable DoD Component office conducting the reviews must concur with the IRB before the human subject can continue to participate while a prisoner.
 7. If the research involving human subjects is conducted by a non-DoD institution, the non-DoD institution shall promptly report all decisions in this matter to the HRPO.
- e. Adult subjects unable to provide informed consent
 - i. Adult subjects will be enrolled after a legally authorized representative provides consent

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- ii. If consent is to be obtained from the experimental subjects' legal representative, the research must intend to benefit the individual participants.
 - iii. The determination that research is intended to be beneficial to the individual experimental subjects must be made by an IRB.
- f. Prisoners of War
 - i. Research involving prisoners of war is prohibited unless:
 - 1. The activities are covered by investigational new drug or investigational device provisions for the purpose of diagnosis or treatment of a medical condition in a patient, and
 - 2. Such treatment (e.g., an investigational new drug) may be offered to detainees with the detainees' informed consent when the medical products are subject to FDA regulations investigational new drugs or investigational medical devices, and
 - 3. Only when the same product would be offered to members of the U.S. Military Services in the same location for the same medical condition and only when consistent with established medical practice involving investigational drugs and devices.
- D. Compensation for Research Related Injury
 - a. All non-exempt research involving human subjects shall, at a minimum, meet the requirement of section 219.116(a)(6). The Common Rule does not require payment or reimbursement of medical expenses, provision of medical care, or compensation for research-related injuries. However, components of the Department of Defense might have stricter requirements for research-related injury than the DHHS regulations. Disclosure for research-related injury follow the requirements of the DoD.
- E. Scientific Merit
 - a. For non-exempt research, the IRB considers the scientific merit of the research.
 - b. The IRB may rely on outside experts to provide an evaluation of the scientific merit.
- F. Reporting

The following shall be promptly (within 30 days) reported to the DoD human research protection officer (HRPO) through the PI or by the OIRB:

 - a. The following approvals must be sent to the HRPO for an administrative review of the research before human subject research activities may begin:
 - i. Initial IRB approval of the research including risk level
 - ii. IRB approval of significant changes to the research protocol
 - iii. IRB continuing review approval.
 - b. When there is a change of reviewing IRB
 - c. Any IRB determinations of serious or continuing noncompliance for any DoD research
 - d. Any IRB determinations of unanticipated problems involving risks to participants or others for any DoD research
 - e. Any suspension or termination of DoD research
 - f. Notifications by any Federal department, agency or national organization that any part of the HRPP is under investigation for cause involving a DoD research protocol.
- G. Recordkeeping
 - a. Records will be maintained such that document compliance or non-compliance with DoD requirements shall be made accessible for inspection and copying by representatives of the DoD

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at reasonable times and in a reasonable manner as determined by the supporting DoD component.

References

Definitions (see [Glossary](#))

Regulatory (see [Policy on Policies Policy and Procedure](#))