Chart 2: Is the Research Involving Human Subjects Eligible for Exemption Under 45 CFR 46.101(b)?

Has HHS prohibited exemption of the human subjects research? (All research involving prisoners, some research involving children.)

[Footnote 1 to 45 CFR 46.101(b) 45 CFR 46.401(b)]

September 24, 2004

NO
Will the only** involvement of human subjects be in one or more of the following categories?

Research conducted in established or commonly accepted educational settings, involving normal educational practices?

YES → Exemption 45 CFR 46.101(b)(1) may apply. → Go to Chart 3

AND/OR

Research involving the use of educational tests, survey procedures, or observation of public behavior?

YES → Exemption 45 CFR 46.101(b)(2) or (b)(3) may apply. → Go to Chart 4

AND/OR

Research involving collection or study of existing data, documents, records, or pathological or diagnostic specimens?

YES → Exemption 45 CFR 46.101(b)(4) may apply. → Go to Chart 5

AND/OR

Research studying, evaluating, or examining public benefit or service programs*

YES → Exemption 45 CFR 46.101(b)(5) may apply. → Go to Chart 6

AND/OR

Research involving taste and food quality evaluation or consumer acceptance studies?

YES → Exemption 45 CFR 46.101(b)(6) may apply. → Go to Chart 7

NO

No exemptions to 45 CFR part 46 apply. Provisions of 45 CFR subpart A apply, and subparts B, C and D also apply if subjects are from covered vulnerable populations. → Go to Chart 8
Chart 3: Does Exemption 45 CFR 46.101(b)(1) (for Educational Settings) Apply?

From Chart 2

Is the research only conducted in *established or commonly accepted* educational settings? (Including but not limited to schools and colleges. May include other sites where educational activities regularly occur.)

- **NO**
  - Research is not exempt under 45 CFR 46.101(b)(1).
  - Go to Chart 8

- **YES**
  - Does the research study involve only *normal education practices*? (Such as research on regular and special education instructional strategies, or research on effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.)
  - **NO**
  - Research is exempt under 45 CFR 46.101(b)(1) from all 45 CFR part 46 requirements.
  - **YES**

September 24, 2004
Chart 4: Does Exemption 45 CFR 46.101(b)(2) or (b)(3) (for Tests, Surveys, Interviews, Public Behavior Observation) Apply?

From Chart 2

Does the research involve only the use of educational tests, survey procedures, interview procedures, or observation of public behavior?

- **YES**
  - Does the research involve children to whom 45 CFR part 46, subpart D applies?
    - **YES**
      - The information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and could any disclosure of the human subjects' responses outside the research reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation?
        - **YES**
          - Research is exempt under 45 CFR 46.101(b)(2).
        - **NO**
          - Research is exempt under 45 CFR 46.101(b)(3) exemption might apply.
    - **NO**
      - However, the 45 CFR 46.101(b)(3) exemption might apply.

- **NO**

  Research is not exempt under 45 CFR 46.101(b)(2) or (b)(3).

  Go to Chart 8

September 24, 2004

Does the research involve survey procedures, interview procedures, or observation of public behavior where the investigator participates in the activities being observed? (45 CFR 46.401(d))

- **YES**
  - Are the human subjects elected or appointed public officials or candidates for public office? ( Applies to senior officials, such as mayor or school superintendent, rather than a police officer or teacher. )
    - **YES**
      - Research is exempt under 45 CFR 46.101(b)(3) from all 45 CFR part 46 requirements.
    - **NO**
      - Does any Federal statute require without exception that the confidentiality of personally identifiable information will be maintained throughout the research and thereafter?
        - **YES**
          - Research is exempt under 45 CFR 46.101(b)(2) from all 45 CFR part 46 requirements.
        - **NO**
          - Research is not exempt under 45 CFR 46.101(b)(2) or (b)(3).
Chart 5: Does Exemption 45 CFR 46.101(b)(4)
(for Existing Data Documents and Specimens) Apply?

From Chart 2

Does the research involve only the collection or
study of existing data, documents, records,
pathological specimens, or diagnostic
specimens? *

("Existing" means existing before the research is
proposed to an institutional official or the IRB to
determine whether the research is exempt.)

YES

Are these sources publicly available?

YES

Research is exempt under 45 CFR
46.101(b)(4) from all 45 CFR part 46
requirements.

NO

Will information be recorded by the investigator in such a
manner that the subjects cannot be identified, directly
or through identifiers linked to

the subjects?

YES

NO

Research is not exempt under 45 CFR
46.101(b)(4) from 45 CFR part 46
requirements.

Go to Chart 8

* Note: See OHRP guidance on research use of stored data or tissues and on stem cells at
http://www.hhs.gov/ohrp/policy/index.html#tissues and stem, and on coded data or specimens at http://www.hhs.gov/ohrp/policy/index.html#coded for further information on those topics.

September 24, 2004
Chart 6: Does Exemption 45 CFR 46.101(b)(5) (for Public Benefit or Service Programs) Apply?

From Chart 2

Is the research or demonstration project conducted or approved by the Department or Agency Head?

YES

Does the research or demonstration project involve only the study, evaluation, or examination of:

- Public benefit or service programs;

NO

Procedures for obtaining benefits or services under public benefit or service programs;

YES

NO

Possible changes in or alternatives to public benefit or service programs or to procedures for obtaining benefits or services under public benefit or service programs;

YES

NO

Possible changes in methods or levels of payment for benefits or services under those public benefit or service programs?

YES

NO

Research is not exempt under 45 CFR 46.101(b)(5).

Research is exempt under 45 CFR 46.101(b)(5) from all 45 CFR part 46 requirements.*

Go to Chart 8

*Note: See OHRP guidance on exemptions at http://www.hhs.gov/ohrp/policyindex.html#exempt for further description of requirements for this exemption.

September 24, 2004
Chart 7: Does Exemption 45 CFR 46.101(b)(6) (for Food Taste and Acceptance Studies) Apply?

From Chart 2

Does the research involve only a *taste and food quality* evaluation or a food *consumer acceptance* study?

- **YES**
  - Are *wholesome foods without additives* consumed?
    - **YES**
      - Research is exempt under 45 CFR 46.101(b)(6) from all 45 CFR part 46 requirements.
    - **NO**
      - Is food consumed that contains a *food ingredient, 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?
        - **YES**
          - Research is exempt under 45 CFR 46.101(b)(6).
        - **NO**
          - Research is not exempt under 45 CFR 46.101(b)(6).

- **NO**

Go to Chart 8

September 24 2004
Chart 8: May the IRB Review Be Done by Expedited Procedures Under 45 CFR 46.110?*

* Note: See expedited review categories and OHRP guidance on the use of expedited review procedures at http://www.hhs.gov/ohrp/policy/index.html#expedited for further information on expedited review.

From Chart 2, 3, 4, 5, 6, or 7

Has the research been previously reviewed and approved by the IRB?

YES

Is the review a continuing review? [45 CFR 46.110(c)]

NO

Does the research present no more than minimal risk to human subjects? and does the research involve only procedures included in categories 1 through 7 on the list of categories of research that may be reviewed through an expedited review procedure? [45 CFR 46.110(b)(1)]

YES

Is the research classified? [Paragraph (D) of Categories of Research That May Be Reviewed By an IRB through an Expedited Review Procedure.]

NO

Could identification of subjects put them at risk of criminal or civil liability, or be socially or economically damaging? [Paragraph (C) of Categories.]

YES

Are measures in place to make risks no more than minimal?

GO TO CHART 10

NO

Research is eligible for IRB review through expedited procedures: Agency head may restrict, suspend, terminate or choose not to authorize an institution's or IRB's use of the expedited review procedure. [45 CFR 46.110(b)]

NO

Does the review involve a minor change in approved research during the (one year or less) period of approval? [45 CFR 46.110(c)(3)]

YES

Review by convened IRB is required.

NO

Go to Chart 9

September 24, 2004
Chart 9: Can Continuing Review be Done by Expedited Procedures Under 45 CFR 46.110?

*Note: See expedited review categories, OHRP guidance on the use of expedited review procedures and on continuing review at http://www.hhs.gov/ohrp/policy/index.html#expedited and referencing for further information on expedited review.

From Chart 8

Has the research been previously reviewed and approved by the IRB using expedited procedures?

NO

Have conditions changed such that the research is no longer eligible for expedited review (e.g., protocol change, or experience shows research to be of greater than minimal risk)?

NO

Go to Chart 10

YES

Review by convened IRB is required.

YES

Research is eligible for IRB review through expedited procedures.

YES

Have any additional risks been identified since IRB review at a convened meeting?

NO

Does the research at this site remain active only for long-term follow-up of subjects?

YES

Has the IRB determined and documented at a convened meeting that the research involves no greater than minimal risk?

NO

(c) Are the remaining research activities at this site limited to data analysis?

NO

Is the research conducted under an IND or IDE?

September 24, 2004

(b) Have no subjects been enrolled at this site?

NO

and Have no additional risks been identified anywhere?

YES

Category 8

(a) For this site:
Is the research permanently closed to enrollment of new subjects?

and
Have all subjects completed all research-related interventions?

and
Does the research at this site remain active only for long-term follow-up of subjects?

NO

Category 9

http://www.hhs.gov/ohrp/policy/checklists/decisioncharts.html

10/28/2013
Chart 10: Can Informed Consent Be Waived or Consent Elements Be Altered Under 45 CFR 46.116(c) or (d)?**

**Note: If subjects include children to whom 45 CFR part 46, subpart D applies, an alternative provision for waiver of parental permission might apply. (See 45 CFR 46.406(c)(5))

From Chart 8 or D

Will the research or demonstration project be conducted by or subject to the approval of state or local government officials? [45 CFR 46.116(c)(1)]

NO

Will the research involve greater than minimal risk, as defined in Section 46.102? [45 CFR 46.116(c)(1)]

NO

Is it practicable to conduct the research without the waiver or alteration? [45 CFR 46.116(c)(3)]

NO

Will waiving or altering the informed consent adversely affect the subjects’ rights and welfare? [45 CFR 46.116(c)(2)]

NO

Will pertinent information be provided to subjects later, if appropriate? [45 CFR 46.116(c)(3)]

NO

Waiver of informed consent or alteration of consent elements is allowed if IRB documents these findings and approves waiver or alteration.

NO

Go to Chart 11

YES

Is the project designed to study, evaluate, or otherwise examine: (i) Public benefit of 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? [45 CFR 46.116(c)(1)]

NO

Is it practicable to conduct the research without the waiver or alteration? [45 CFR 46.116(c)(2)]

NO

If informed consent is not waived entirely

YES

No waiver of informed consent or alteration of consent elements is allowed.*

* Note: See OHRP guidance on informed consent requirements in emergency research at http://www.hhs.gov/ohrp/policy/index.html#emergency for further information on emergency research informed consent waiver. September 24, 2004
Chart 11: Can Documentation of Informed Consent Be Waived Under 45 CFR 46.117(c)?

From Chart 10

Would the consent document be the only record linking the subject and the research and would the principal risk be potential harm resulting from a breach of confidentiality? [45 CFR 46.117(c)(1)]

NO

Does the research present no more than minimal risk and involve no procedures for which written consent is normally required outside the research context? [45 CFR 46.117(e)(2)]

NO

IRB may NOT waive the requirement for a signed consent form for any subjects.

YES

YES

IRB may waive the requirement for a signed consent form for some or all subjects.

NO

If IRB Allows Waiver of Documentation Under 45 CFR 46.117(e)(1)

Investigator will ask each subject if he or she wants documentation linking the subject with the research. [45 CFR 46.117(c)(3)]

AND

IRB may require investigator to provide subjects with a written statement regarding the research. [45 CFR 46.117(e)]

Subject's wishes will govern whether informed consent is documented. [45 CFR 46.117(e)(1)]

AND

September 24, 2004
Chart 12: Determining if and Adverse Event is Reportable

The flow chart below provides an algorithm for determining whether an adverse event represents an unanticipated problem that needs to be reported under HHS regulations at 45 CFR part 46.

1. Is the adverse event unexpected in nature, severity, or frequency? (NO)
2. Is the adverse event related or possibly related to participation in the research? (NO)
3. Does the adverse event suggest that the research places subjects or others at a greater risk of physical or psychological harm than was previously known or recognized? NOTE: If the adverse event is serious, the answer is always YES. (YES)

Report the adverse event as an unanticipated problem under 45 CFR part 46

The adverse event is not an unanticipated problem and need not be reported under 45 CFR part 46

STOP