

## Tip Sheet 1: Criteria for Approval of Research

### **Related Accreditation Elements: II.2.D., II.2.E., II.2.H., II.3.A., II.3.B., II.3.C., II.3.D., II.3.E., II.3.F., II.3.G., II.4.A., II.4.B., and II.4.C.**

Organizations should have policies and procedures that help the IRB or EC determine whether research meets criteria for approval. Criteria for approval of research are spelled out in the laws, regulations, codes, or guidance that an Organization must follow. This Tip Sheet is based on the regulatory criteria for approval found in 45 CFR 46.111, 116, and 117 of the Department of Health and Human Services (DHHS) regulations and 21 CFR 50, 56.111. of the Food and Drug Administration (FDA) regulations, as well as additional requirements in the AAHRPP standards.

Organizations that adhere to other laws or regulations or to international standards, such as the ICH-GCP Guideline (E6), should incorporate those criteria into their policies and procedures.

### **Recommended Content:**

1. Cite or repeat the applicable laws, regulations, codes, or guidance under which the IRB or EC determines whether the criteria for approval of research are met.
2. Be specific when describing or defining the criteria that the IRB or EC must consider.
3. Emphasize that, to approve a research protocol or plan, the IRB or EC must determine that all the criteria are met.
4. Include provisions to train staff and IRB or EC members on the criteria.

### **Please note:**

1. To approve research under 45 CFR 46.111 or 21 CFR 56.111, the convened IRB or EC or reviewer using the expedited procedure must determine that the research satisfies all the requirements set forth below.
2. The criteria for review must be used to approve research for initial review, continuing review, and review of modifications.

**To approve research, the IRB or EC must determine that all of the following criteria are satisfied:**

*Risks to Participants*

1. Risks to participants are minimized by using procedures which are consistent with sound research design and which do not unnecessarily expose participants to risk.
2. Risks to participants are minimized whenever appropriate, by using procedures already being performed on the participants for diagnostic or treatment purposes.
3. Risks to participants are reasonable in relation to anticipated benefits, if any, to participants, and the importance of the knowledge that may reasonably be expected to result.

*Selection of Participants*

1. Selection of participants is equitable taking into account the purposes of the research, the setting in which the research will be conducted, the special problems of research involving vulnerable populations, the selection criteria, and the recruitment procedures.

*Safety monitoring*

1. When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of participants.

*Privacy*

1. When appropriate, there are adequate provisions to protect the privacy of participants.

*Confidentiality*

1. When appropriate, there are adequate provisions to maintain the confidentiality of data.

*Vulnerable populations*

1. When some or all of the participants 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 are included in the study to protect the rights and welfare of these participants. (Note: Subpart B of the DHHS regulations specifies additional protections for pregnant women; Subpart C of the DHHS regulations, for prisoners; and Subpart D of the DHHS and FDA regulations, for children.)

*Consent*

1. Consent will be sought from each prospective participant or the participant's legally authorized representative in keeping with the criteria outlined below.

**The process for obtaining consent must incorporate all of the following:**

1. The Researcher will obtain the legally effective informed consent of the participant or the participant's legally authorized representative.
2. Consent will be sought only under circumstances that provide the prospective participant or the representative sufficient opportunity to consider whether or not to participate.
3. Consent will be sought only under circumstances that minimize the possibility of coercion or undue influence.
4. The information that is given to the participant or the representative shall be in language understandable to the participant or the representative.
5. The informed consent does not include any exculpatory language through which the participant or the representative is made to waive or appear to waive any of the participant's legal rights.
6. The informed consent does not release or appear to release the Researcher, the sponsor, the institution, or its agents from liability for negligence.

**Information that must be provided as part of the interaction with the participant and in the documentation of the consent process, unless waived or altered:**

1. A statement that the study involves research.
2. An explanation of the purposes of the research.
3. The expected duration of the participant's participation.
4. A description of the procedures to be followed.
5. Identification of any procedures which are experimental.
6. A description of any reasonably foreseeable risks or discomforts to the participant.
7. A description of any benefits to the participant or to others which may reasonably be expected from the research.
8. A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the participant.
9. A statement describing the extent, if any, to which confidentiality of records identifying the participant will be maintained.
10. An explanation of whom to contact for answers to pertinent questions about the research.
11. An explanation of whom to contact for answers to pertinent questions about the research participant's rights.
12. An explanation of whom to contact in the event of a research-related injury to the participant.
13. Contact information for the research team for questions, concerns, or complaints. (AAHRPP Standard III.1.G)
14. Contact information for someone independent of the research team for problems, concerns, questions, information, or input. (AAHRPP Standard I.4.A)
15. A statement that participation is voluntary.
16. A statement that refusal to participate will involve no penalty or loss of benefits to which

the participant is otherwise entitled.

17. A statement that the participant may discontinue participation at any time without penalty or loss of benefits to which the participant is otherwise entitled.

***For FDA-regulated research:***

1. A statement that notes the possibility that the FDA may inspect the records.

***For research involving more than minimal risk:***

1. An explanation as to whether any compensation is available if injury occurs.
2. If compensation is available, what it consists of, or where further information may be obtained.
3. An explanation as to whether any medical treatments are available if injury occurs.
4. If medical treatments are available if injury occurs, what it consists of, or where further information may be obtained.

***Additional information, to be provided to each participant, when appropriate:***

1. A statement that the particular treatment or procedure may involve risks to the participant which are currently unforeseeable.
2. A statement that if the participant is or may become pregnant the particular treatment or procedure may involve risks to the embryo or fetus that are currently unforeseeable.
3. Anticipated circumstances under which the participant's participation may be terminated by the Researcher without regard to the participant's consent.
4. Any additional costs to the participant that may result from participation in the research.
5. The consequences of a participant's decision to withdraw from the research.
6. Procedures for orderly termination of participation by the participant.
7. A statement that significant new findings developed during the course of the research which may relate to the participant's willingness to continue participation will be provided to the participant.
8. The approximate number of participants involved in the study.
9. The amount and schedule of all payments to the participant. (AAHRPP Element II.5.B)

**The consent process may be waived or altered under one of two sets of conditions:**

1. Most common set of conditions for a waiver or alteration
  - a. The research involves no more than minimal risk to the participants.
  - b. The waiver or alteration will not adversely affect the rights and welfare of the participants.
  - c. The research cannot practicably be carried out without the waiver or alteration.
  - d. Whenever appropriate, the participants will be provided with additional pertinent information after participation.

- e. The research is not FDA-regulated.
- 2. Less common set of conditions for a waiver or alteration
  - a. The research or demonstration project is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine public benefit or service programs; procedures for obtaining benefits or services under those programs; possible changes in or alternatives to those programs or procedures; or possible changes in methods or levels of payment for benefits or services under those programs.

### **Documenting the consent process:**

Consent is usually documented in a form that embodies the basic and appropriate additional elements of disclosure. The participant or the participant's legally authorized representative will sign (and date for FDA-regulated research) the consent document. A copy of the consent document will be given to the person signing the consent document. The Researcher will give either the participant or the legally authorized representative adequate opportunity to read the consent document before it is signed.

- 1. Some laws and regulations permit a short form to be used:
  - a. The consent document states that the elements of disclosure required by regulations had been presented orally to the participant or the participant's legally authorized representative.
  - b. A written summary embodies the basic and appropriate additional elements of disclosure.
  - c. There will be a witness to the oral presentation.
  - d. For participants who do not speak the maternal language (e.g., English), the witness is conversant in both the maternal language and the language of the participant.
  - e. The participant or the participant's legally authorized representative will sign (and date for FDA-regulated research) the consent document.
  - f. The witness will sign both the short form and a copy of the summary.
  - g. The person actually obtaining consent will sign a copy of the summary.
  - h. A copy of the short form will be given to the participant or the representative.
  - i. A copy of the summary will be given to the participant or the representative.

**The requirement to document the consent process may be waived under one of two sets of conditions:**

1. Condition 1
  - a. The research presents no more than minimal risk of harm to participants.
  - b. The research involves no procedures for which written consent is normally required outside of the research context.
  - c. The oral or written information provided to participants includes all required and appropriate additional elements of consent disclosure.
  - d. The IRB or EC has determined whether the participant should be provided written information.
2. Condition 2
  - a. The only record linking the participant and the research will be the consent document.
  - b. The principal risk will be potential harm resulting from a breach of confidentiality.
  - c. Each participant will be asked whether the participant wants documentation linking the participant with the research, and the participant's wishes will govern.
  - d. The research is not FDA-regulated.
  - e. The oral or written information provided to participants includes all required and appropriate additional elements of consent disclosure.
  - f. The IRB or EC has determined whether the participant should be provided written information.

**Additional considerations for initial review:**

1. Should review be obtained more often than annually?
2. If this is a multi-site research study, is the management of information that might be relevant to the protection of participants adequate? (AAHRPP Element II.2.H.)

**Additional considerations for continuing review:**

1. Should review be obtained more often than annually?
2. Should verification be obtained from sources other than the Researcher that no material changes have taken place since prior IRB or EC review?
3. Is the consent document accurate and complete?
4. If information has arisen that might affect the willingness of participants to continue to take part in the research, will it be provided to those participants?

**Additional considerations for review of modifications to previously approved Research:**

1. If information has arisen that might affect the willingness of participants to continue to take part in the research, will it be provided to those participants?