

**Institutional Review Board**

<b>Title:</b>	Determining when Activities are Research or Human Research
<b>Version:</b>	1.00
<b>Effective Date:</b>	February 3, 2025
<b>Responsible Office:</b>	Institutional Review Office (IRO)
<b>Responsible Official / Approved By:</b>	Meghan Scott, IRO Director

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**POLICY STATEMENT**

It is the policy of the Fred Hutchinson Cancer Center (Fred Hutch) that principal investigators (PIs) may decide whether a project constitutes “research” as defined in this Policy. If a project meets this Policy’s definition of “research,” it must be submitted to the Institutional Review Office (IRO). PIs may not independently determine that a research project does not involve “human research” (also referred to as “human subjects research”), with the exception of research that exclusively involves de-identified information or biospecimens obtained from an IRB pre-reviewed source. It is also the policy of Fred Hutch that PIs may not independently determine that a research project is Exempt from IRB review (“Exempt determination”), without exception. An IRB member designated by the IRB (“Designated Reviewer”) makes the Exempt determinations for the institution.

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**DEFINITIONS**

See *HRP-001 - Glossary of Terms and Acronyms* for full definitions of the following:

***Designated Reviewer***

***Engaged in Research***

***Exempt***

***Expedited Reviewer***

***Full Committee Review***

***Human Subject***

***Human Research***

***IRB Pre-reviewed Source***

***Minimal Risk***

***Not Human Subjects (NHS) Research***

***Research*** (*includes “clinical investigation”*)

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**PRINCIPLES/OVERVIEW**

The IRB is charged with reviewing all research governed by the Human Research Protection Program (HRPP) of Fred Hutch. The IRO is authorized to determine whether an activity is research and/or Not Human research. PIs engaged in research must comply with applicable federal regulations, including the Common Rule.

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## INDIVIDUALS AFFECTED BY THIS POLICY

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The contents of this Policy apply to IRO staff, IRB members, employees of Fred Hutch and investigators from other institutions who submit research studies to the Fred Hutch IRB for review and approval.

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## PROCEDURES

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### 1. Is It Research? Determining Whether a Project Is Research

When considering whether a project needs IRB review or not, the first step is to decide if the project is research. Projects at Fred Hutch are considered research if they meet any of the [definitions of research](#):

- “Research” under the federal Common Rule<sup>1</sup>
- “Clinical investigation” under Food and Drug Administration (FDA) regulations<sup>2</sup>
- “Research” under Washington State Law<sup>3</sup>

Fred Hutch generally applies the Common Rule to all research activities. Therefore, in general, the Common Rule definition should be considered first.

Investigators may use *HRP-273 - FORM - Research Assessment* to help decide whether a project is research. Using this tool, if a project is assessed to be research, the investigator should proceed with submitting the applicable IRB Application to the IRB. If the project is assessed not to be research, the PI may proceed with the project without need to contact the IRO. However, the IRO may be consulted if the PI seeks guidance or needs written documentation from the IRO that a project is not research. To request a formal determination by the IRO, the PI will create a New Study submission in Hutch IRB and attach *HRP-273 - FORM - Research Assessment* as the “Protocol”.

For guidance on the types of activities that are generally not considered research, see the IRB webpage [Is It Research?](#)

IRO staff will follow this guidance when processing requests for projects that are not research. The IRO will send a formal letter to the PI, Primary Contact, and PI Proxies to inform them of the decision as to whether the project meets the definition of “research.”

### 2. Is It Human Research? Determining Whether a Project Involves Human Subjects

Research involving [human subjects](#) must receive IRB approval to be conducted.

At Fred Hutch, investigators may not independently decide research does not involve human subjects, with the exception of research that exclusively involves de-identified information or biospecimens obtained from [an IRB pre-reviewed source](#). Therefore, after deciding a project is research, the PI will generally follow *HRP-121 - POLICY - New Application* to prepare a new research application for submission to the IRO.

All IRB determinations will be communicated in writing through Hutch IRB to the PI, Primary Contact, and PI Proxies according to *HRP-110 - POLICY - Approval Date Guidelines and Turnaround Times*.

#### a. Not Human Research (NHR)

*NHR determinations are only made for investigators whose primary appointment is at Fred Hutch. If an investigator’s primary appointment is at another institution, he/she should contact that institution’s IRB for assistance.*

IRO staff or an Expedited Reviewer will assess the research to determine whether it involves human subjects according to federal regulations, Washington state law, or any other applicable state or local laws or regulations. If the research is assessed to not involve human subjects, the research will receive an NHR determination. If the research does not meet the criteria for NHR, the investigator will be notified.

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<sup>1</sup> HHS: 45 CFR 46.102(l)

<sup>2</sup> FDA: 21 CFR 50.3(c)

<sup>3</sup> RCW: 42.48.010(4)

If the investigator disagrees with the IRO staff assessment that a project does not meet the criteria for NHR, the application will be sent to an Expedited reviewer for consideration.

Note, research which exclusively involves the use of de-identified information or biospecimens obtained from a source on the *HRP-151 - IRB Pre-Reviewed Sources of De-Identified Human Specimens and/or Data* list is presumptively considered Not Human Research and the PI does not need to submit the research activity for review and independent determination of NHR by IRO staff or an Expedited Reviewer.

If the investigator's research proposal has been determined by the IRO or IRB to meet the criteria for NHR and the research plan changes during the course of the research, the PI must submit a Modification to the study record in Hutch IRB. The IRO will evaluate whether the proposal still meets the criteria for NHR.

b. Human Research

For research that satisfies the definitions of Human Research, the IRB will determine that:

- the proposed research is Exempt from federal human research subjects protection regulations as outlined in 45 CFR 46.104, or
- the proposed research is Minimal Risk and qualifies for Expedited Review, or
- the proposed research is more than minimal risk and requires Full Committee Review.

i. *Exempt from IRB review:*

*Exempt determinations are only made for investigators whose primary appointment is at Fred Hutch. If an investigator's primary appointment is at another institution, he/she should contact that institution's IRB for assistance.*

A Designated Reviewer will use *HRP-442 - CHECKLIST - IRB Member* to evaluate the application and additional documents, as outlined in *HRP-121 - POLICY - New Application* to ensure the research:

- fits the definition of "Research;"
- involves "Human Subjects;"
- falls under one of the eight Exempt Categories of research; <sup>4</sup>
- does not involve human biological specimens or information/data that will be used to support the marketing of a FDA regulated drug, biologic, or device product;
- does not involve participants who are known to be prisoners (except for research aimed at involving a broader subject population that only incidentally includes prisoners); and <sup>5</sup>
- provides adequate provisions to protect the privacy of research participants and the confidentiality of identifiable data, if applicable<sup>6</sup>.

If a Designated Reviewer determines the proposed research does not meet the exempt criteria established or is determined to be more than minimal risk, they will work with IRO staff to communicate this to the investigator, who will need to change the type of request (e.g., revise the submission to request Expedited review or full Committee review). If the investigator disagrees with the Designated Reviewer's determination, the submission can be referred to the full IRB for consideration.

ii. *Minimal Risk Qualifying for Expedited Review:*

The Designated Reviewer will use *HRP-442 - CHECKLIST - IRB Member* to evaluate the application and additional documents, as outlined in *HRP-121 - POLICY - New Application* to ensure the research:

- fits the definition of "Research;"
- involves "Human Subjects;"

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<sup>4</sup> HHS: 45 CFR 46.104(d)

<sup>5</sup> HHS: 45 CFR 46.104(b)(2)

<sup>6</sup> 45 CFR 46.111(a)(8)(iii)

- involves types of activities which are considered Minimal Risk and fall within the expedited review research categories as defined by federal regulations; and<sup>7 8</sup>
- does not involve participants who are known to be prisoners.

The Designated Reviewer will forward any proposed research for Full Committee Review if they determine the proposed research does not meet the criteria established or is assessed to be more than minimal risk.

*iii. More than Minimal Risk requiring Full Committee Review:*

The IRB will use *HRP-442 - CHECKLIST - IRB Member* to evaluate the application and additional documents, as outlined in *HRP-121 - POLICY - New Application* to ensure the research:

- fits the definition of “Research;”
- involves “Human Subjects;” and,
- meets the approval criteria for activities which are considered more than Minimal Risk.

### 3. Is Fred Hutch “Engaged in Research”?

If a project is assessed to be non-exempt human subjects research and it is funded, in whole or in part, by a federal department or agency that has adopted or applies the Common Rule, the research must comply with the Common Rule. According to the Common Rule, the institution(s) “engaged” in that research must make certain assurances to the funding agency regarding compliance with the Common Rule. Sometimes there is uncertainty whether Fred Hutch is engaged in the research because it is only taking part in or coordinating certain aspects of the research.

Fred Hutch is considered engaged in non-exempt human subjects research when the research is supported by Department of Health and Human Services (HHS) or any of its agencies (including, for example, the National Institutes of Health [NIH]), or any other federal department or agency that has adopted or applies the Common Rule, and Fred Hutch employees or agents obtain any of the following for the purposes of the research project:

- data about the subjects of the research through intervention or interaction with them;
- identifiable private information about the subjects of the research; or
- the informed consent of human subjects for the research.

Employees and agents, including students, are individuals performing institutionally designated activities and acting on behalf of the institution or exercising institutional authority or responsibility.<sup>9</sup>

In general, Fred Hutch is considered to be engaged in human subjects research whenever it receives a direct award (i.e., prime awardee) to support such research, even if all of the human subjects activities will be performed by agents or employees of another institution. In general, simply informing potential subjects about a research study is not considered engagement in research. Also, providing written information about a research study, including how to contact the investigators for information and enrollment, and seeking and obtaining prospective subjects' permission for investigators to contact them are not considered engagement in research. However, obtaining informed consent from a research participant is considered engagement in research.

For additional examples of scenarios that either would or would not result in an institution being engaged in research, refer to [OHRP Guidance: Engagement of Institutions in Human Subjects Research](#).

a. When Fred Hutch Is “Engaged in Research”

When Fred Hutch is engaged in research, the activities being conducted at Fred Hutch must be reviewed and approved by an IRB. Fred Hutch must: 1) provide assurance to the funding department or agency that the institution complies with the Common Rule; 2) provide certification to the department or agency that the research is reviewed and approved by the IRB; and 3) if the IRB of record is an IRB other than the Fred Hutch IRB, document the IRB reliance arrangement,

<sup>7</sup> HHS: 45 CFR 46.110; FDA: 21 CFR 56.110

<sup>8</sup> OHRP Guidance: Expedited Review Categories

<sup>9</sup> OHRP Guidance: Engagement of Institutions in Human Subjects Research

which must include the IRB’s oversight of the research and the responsibilities each institution will undertake to ensure compliance with the Common Rule.<sup>10</sup>

Fred Hutch maintains an active Federalwide Assurance (refer to *HRP-115 - POLICY - Federalwide Assurance*), and applies HHS regulations to all research at Fred Hutch. All IRB reliance arrangements comply with federal regulations, as described in *HRP-130 - POLICY - IRB Reliance Agreements*.

The IRO Director will provide certification of IRB review when requested by the investigator or others, as needed. Documentation of certification can be provided on the federal *Protection of Human Subjects Assurance Identification/IRB Certification/Declaration of Exemption* form (formerly known as the Optional 310 Form) or using *HRP-592 - TEMPLATE LETTER - Certification*. Refer to *HRP-134 - POLICY - Funding Source Document (FSD) Review*.

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## **SUPPORTING DOCUMENTS**

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HRP-001 - Glossary of Terms and Acronyms  
HRP-110 - POLICY - Approval Date Guidelines and Turnaround Times  
HRP-115 - POLICY - Federalwide Assurance  
HRP-121 - POLICY - New Application  
HRP-130 - POLICY - IRB Reliance Agreements  
HRP-134 - POLICY - Funding Source Document (FSD) Review  
HRP-151 - IRB Pre-Reviewed Sources of De-Identified Human Specimens and/or Data  
HRP-273 - FORM - Research Assessment  
HRP-442 - CHECKLIST - IRB Member  
HRP-592 - TEMPLATE LETTER - Certification

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## **REFERENCES**

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45 CFR 46.104  
45 CFR 46.109  
45 CFR 46.110  
21 CFR 56.109  
21 CFR 56.110  
Revised Code of Washington (“RCW”) Chapter 70.02  
OHRP Guidance: Engagement of Institutions in Human Subjects Research  
OHRP Guidance: Expedited Review Categories  
OHRP Guidance: Human Subject Regulations Decision Charts  
OHRP Guidance: Research Involving Coded Private Information or Biological Specimens  
OHRP Guidance: Quality Improvement Activities FAQ  
Protection of Human Subjects Assurance Identification/IRB Certification/Declaration of Exemption form (formerly known as the Optional 310 Form)

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## **VERSION HISTORY**

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<b>Version</b>	<b>Effective Date</b>
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<sup>10</sup> HHS: 45 CFR 46.103(a), \_\_.103(d), \_\_.103(e)