



Title:	Determining when Activities are Research or Research Involving Human Research Participants
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Responsible Office:	Institutional Review Office (IRO)
Responsible Official:	Meghan Scott, IRO Director
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	<i>Signature/date</i>

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3.00	01-21-2019
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POLICY STATEMENT

It is the policy of the Fred Hutchinson Cancer Research 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 participants (also referred to as “human subjects”), with the exception of research that exclusively involves de-identified information or biospecimens obtained from an IRB pre-reviewed source.

DEFINITIONS

See *IRB Glossary of Terms and Acronyms* (050) for full definitions of the following:

Engaged in Research

Exempt

Expedited Review

Expedited Reviewer

Full Committee Review

Human Subject

Human Subjects Research

IRB Pre-reviewed Source

Minimal Risk

Not Human Subjects (NHS) Research

Research (includes “clinical investigation”)

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 Subjects research. PIs engaged in research must comply with applicable federal regulations, including the Common Rule.

INDIVIDUALS AFFECTED BY THIS POLICY

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.

PROCEDURES

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 ¹
- “Clinical investigation” under Food and Drug Administration (FDA) regulations ²
- “Research” under Washington State Law ³

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

Investigators may use the *Research Assessment Form* (0433) to help decide whether a project is research. Using this tool, if a project is assessed to be research, the investigator should proceed with

¹ HHS: 45 CFR 46.102(l)

² FDA: 21 CFR 50.3(c)

³ RCW: 42.48.010(4)

submitting the applicable new Application for Review 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.

For guidance on the types of activities that are generally not considered research, see <https://extranet.fredhutch.org/en/u/irb/submissionstotheirb/is-it-research.html>.

IRO staff will follow this guidance when processing requests for projects that are not research. The IRO will keep track of projects submitted to IRO and deemed not to be research in IR File 6007.

2. Is It Human Subjects 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. Therefore, after deciding a project is research, the PI will follow *IRB Policy 2.1 New Application* (028) to prepare a new research application for submission to the IRO.

All IRB determinations shall be communicated in writing to the PI and IRO contact according to *IRB Policy 1.8 Approval Date Guidelines and Turnaround Times* (06).

a. Not Human Subjects Research

NHS 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 NHS determination. If the research does not meet the criteria for NHS, the investigator will be notified.

If the investigator disagrees with the assessment that a project does not meet the criteria for NHS, the application will be sent to a convened IRB meeting for consideration.

Note, research which exclusively involves the use of de-identified information or biospecimens obtained from a source on the *IRB Pre-reviewed Sources of De-identified Human Specimens and/or Data* (0332) list is presumptively considered Not Human Subjects Research and the PI does not need to submit the research activity for review and independent determination of NHS by IRO staff or an Expedited Reviewer.

If the investigator's research proposal has been determined by the IRB to meet the criteria for NHS research and the research plan changes during the course of the research, the PI must resubmit the research with a new application to the IRO to evaluate whether the proposal still meets the criteria for NHS.

b. Human Subjects Research

For research that satisfies the definitions of Human Subjects 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.

An Expedited Reviewer will use the *IRB Member Checklist (071)* to evaluate the application and additional documents, as outlined in *IRB Policy 2.1 New Application (028)* to ensure the research:

- fits the definition of "Research";
- involves "Human Subjects";
- falls under one of the eight Exempt Categories of research;⁴
- 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; and,
- 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).⁵

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

ii. *Minimal Risk Qualifying for Expedited Review:*

The Expedited Reviewer will use the *IRB Member Checklist (071)* and the *IRB Member Consent Process and Documentation Checklist (072)* to evaluate the application and additional documents, as outlined in *IRB Policy 2.1 New Application (028)* to ensure the research:

- fits the definition of "Research";
- involves "Human Subjects";
- involves types of activities which are considered Minimal Risk and fall within the expedited review research categories as defined by federal regulations; and,^{6 7}
- does not involve participants who are known to be prisoners.

The Expedited 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 the *IRB Member Checklist (071)* and the *IRB Member Consent Process and Documentation Checklist (072)* to evaluate the application and additional documents, as outlined in *IRB Policy 2.1 New Application (028)* 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.

⁴ HHS: 45 CFR 46.104(d)

⁵ HHS: 45 CFR 46.104(b)(2)

⁶ HHS: 45 CFR 46.110; FDA: 21 CFR 56.110

⁷ OHRP Guidance: Expedited Review Categories

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.⁸

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, which must include the IRB’s oversight of the research and the responsibilities each institution will undertake to ensure compliance with the Common Rule.⁹

Fred Hutch maintains an active Federalwide Assurance (refer to *IRB Policy 1.2 Federalwide Assurance* [016]), and applies HHS regulations to all research at Fred Hutch. All IRB reliance arrangements comply with federal regulations, as described in *IRB Policy 2.24 IRB Reliance Agreements* (0178).

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*

⁸ OHRP Guidance: Engagement of Institutions in Human Subjects Research

⁹ HHS: 45 CFR 46.103(a), __.103(d), __.103(e)

Human Subjects Assurance Identification/IRB Certification/Declaration of Exemption form (formerly known as the Optional 310 Form) or using a Certification Letter (0228). Refer to IRB Policy 2.18 Funding Source Document Review (07).

SUPPORTING DOCUMENTS

IRB Policy 1.2 Federalwide Assurance (016)
IRB Policy 1.8 Approval Date Guidelines and Turnaround Times (06)
IRB Policy 2.1 New Application (028)
IRB Policy 2.18 Funding Source Document Review (07)
IRB Policy 2.24 IRB Reliance Agreements (0178)
Certification Letter (0228)
IRB Glossary of Terms and Acronyms (050)
IRB Member Checklist (071)
IRB Member Consent Process and Documentation Checklist (072)
IRB Pre-Reviewed Sources of De-identified Human Specimens and/or Data (0332)
Research Assessment Form (0433)

REFERENCES

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)