Do I need to submit to IRB?

It is recommended that any investigator review the entire common rule before initiating a study. This document is intended to serve as a quick reference. All definitions can be found in Subpart A of Part 46 of Title 45. Everything appearing in **bold** is quoted from 45 CFR 46.

1) If you are using data/information collected from or about living persons, you may need to submit an application to the IRB. The following information comes from Title 45 of the CFR, Part 46:

(l) *Research* means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. For example, some demonstration and service programs may include research activities. For purposes of this part, the following activities are deemed not to be research:

(1) Scholarly and journalistic activities (*e.g.,* oral history, journalism, biography, literary criticism, legal research, and historical scholarship), including the collection and use of information, that focus directly on the specific individuals about whom the information is collected.

(2) Public health surveillance activities, including the collection and testing of information or biospecimens, conducted, supported, requested, ordered, required, or authorized by a public health authority. Such activities are limited to those necessary to allow a public health authority to identify, monitor, assess, or investigate potential public health signals, onsets of disease outbreaks, or conditions of public health importance (including trends, signals, risk factors, patterns in diseases, or increases in injuries from using consumer products). Such activities include those associated with providing timely situational awareness and priority setting during the course of an event or crisis that threatens public health (including natural or man-made disasters).

(3) Collection and analysis of information, biospecimens, or records by or for a criminal justice agency for activities authorized by law or court order solely for criminal justice or criminal investigative purposes.

(4) Authorized operational activities (as determined by each agency) in support of intelligence, homeland security, defense, or other national security missions.

The above activities are not considered research to be reviewed by an IRB. Ethnographies and some qualitative research methods may qualify as research. The primary determining factor is whether the results of the investigation are meant to be generalized to a larger population or simply a description of the persons being studied.

2) Categories of review

A) Exempt

This category name implies that no review is necessary. However, a PI may not make this determination. Most institutions, including this one, require that the IRB determine exemption status. However, exempt studies are not subject to the same post approval monitoring policies as those studies which are reviewed at higher levels. The following are exemption categories that may be used:

(1) Research, conducted in established or commonly accepted educational settings, that specifically involves normal educational practices that are not likely to adversely impact students' opportunity to learn required educational content or the assessment of educators who provide instruction. This includes most research on regular and special education instructional strategies, and research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

(2) Research that only includes interactions involving educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior (including visual or auditory recording) if at least one of the following criteria is met:

(i) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects;

(ii) Any disclosure of the human subjects' responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, educational advancement, or reputation; or

(iii) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the determination required by §46.111(a)(7).

(3)(i) Research involving benign behavioral interventions in conjunction with the collection of information from an adult subject through verbal or written responses (including data entry) or audiovisual recording if the subject prospectively agrees to the intervention and information collection and at least one of the following criteria is met:

(A) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects;

(B) Any disclosure of the human subjects' responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, educational advancement, or reputation; or

(C) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the determination required by §46.111(a)(7).

(ii) For the purpose of this provision, benign behavioral interventions are brief in duration, harmless, painless, not physically invasive, not likely to have a significant adverse lasting impact on the subjects, and the investigator has no reason to think the subjects will find the interventions offensive or embarrassing. Provided all such criteria are met, examples of such benign behavioral interventions would include having the subjects play an online game, having them solve puzzles under various noise conditions, or having them decide how to allocate a nominal amount of received cash between themselves and someone else.

(iii) If the research involves deceiving the subjects regarding the nature or purposes of the research, this exemption is not applicable unless the subject authorizes the deception through a prospective agreement to participate in research in circumstances in which the subject is informed that he or she will be unaware of or misled regarding the nature or purposes of the research.

(4) Secondary research for which consent is not required: Secondary research uses of identifiable private information or identifiable biospecimens, if at least one of the following criteria is met:

(i) The identifiable private information or identifiable biospecimens are publicly available;

(ii) Information, which may include information about biospecimens, is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be

ascertained directly or through identifiers linked to the subjects, the investigator does not contact the subjects, and the investigator will not re-identify subjects;

(iii) The research involves only information collection and analysis involving the investigator's use of identifiable health information when that use is regulated under 45 CFR parts 160 and 164, subparts A and E, for the purposes of "health care operations" or "research" as those terms are defined at 45 CFR 164.501 or for "public health activities and purposes" as described under 45 CFR 164.512(b); or

(iv) The research is conducted by, or on behalf of, a Federal department or agency using government-generated or government-collected information obtained for nonresearch activities, if the research generates identifiable private information that is or will be maintained on information technology that is subject to and in compliance with section 208(b) of the E-Government Act of 2002, 44 U.S.C. 3501 note, if all of the identifiable private information collected, used, or generated as part of the activity will be maintained in systems of records subject to the Privacy Act of 1974, 5 U.S.C. 552a, and, if applicable, the information used in the research was collected subject to the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 et seq.

(5) Research and demonstration projects that are conducted or supported by a Federal department or agency, or otherwise subject to the approval of department or agency heads (or the approval of the heads of bureaus or other subordinate agencies that have been delegated authority to conduct the research and demonstration projects), and that are designed to study, evaluate, improve, or otherwise examine public benefit or service programs, including 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. Such projects include, but are not limited to, internal studies by Federal employees, and studies under contracts or consulting arrangements, cooperative agreements, or grants. Exempt projects also include waivers of otherwise mandatory requirements using authorities such as sections 1115 and 1115A of the Social Security Act, as amended.

(i) Each Federal department or agency conducting or supporting the research and demonstration projects must establish, on a publicly accessible Federal Web site or in such other manner as the department or agency head may determine, a list of the research and demonstration projects that the Federal department or agency

conducts or supports under this provision. The research or demonstration project must be published on this list prior to commencing the research involving human subjects.

(6) Taste and food quality evaluation and consumer acceptance studies:

(i) If wholesome foods without additives are consumed, or

(ii) If a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or 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.

(7) Storage or maintenance for secondary research for which broad consent is required: Storage or maintenance of identifiable private information or identifiable biospecimens for potential secondary research use if an IRB conducts a limited IRB review and makes the determinations required by §46.111(a)(8).

(8) Secondary research for which broad consent is required: Research involving the use of identifiable private information or identifiable biospecimens for secondary research use, if the following criteria are met:

(i) Broad consent for the storage, maintenance, and secondary research use of the identifiable private information or identifiable biospecimens was obtained in accordance with §46.116(a)(1) through (4), (a)(6), and (d);

(ii) Documentation of informed consent or waiver of documentation of consent was obtained in accordance with §46.117;

(iii) An IRB conducts a limited IRB review and makes the determination required by §46.111(a)(7) and makes the determination that the research to be conducted is within the scope of the broad consent referenced in paragraph (d)(8)(i) of this section; and (iv) The investigator does not include returning individual research results to subjects as part of the study plan. This provision does not prevent an investigator from abiding by any legal requirements to return individual research results.

Please note that signed consent forms or documentation of consent is not required for research at the exempt level; however, a consent process (which often includes a consent form without signature lines) is still needed.

B) Expedited

This level of review takes place when a study does not qualify for exempt status, but does not involve protected populations (minors, pregnant women and/or their unborn children, prisoners, populations with impaired capacity to make reasonable decisions, e.g. persons with intellectual disabilities) and participation in the study is deemed to be minimal risk.

OHRP provides the following activities as examples of studies that may be approved at the expedited level:

> **F. The expedited review procedure may not be used for classified research involving human subjects.**
>
> **G. Unless an IRB determines otherwise, continuing review of research is not required for research eligible for and approved by expedited review in accordance with §__.109(f)(1)(i).**
>
> **1. Research involving the use of drugs and medical devices only when condition (a) or (b) is met.**
>
> > **a. Research involving use of "over-the-counter" drugs, when used within their approved indications and dosages, and exempt from the IND requirements of 21 CFR 312.**
> >
> > **b. Research involving use of medical devices exempt from the IDE requirements of 21 CFR 812.1**
>
> **2. The collection of blood specimens for research purposes using techniques consistent with routine clinical practice to minimize pain and risk of infection and within the following limits: (a) from adults whose health will not be adversely affected by the blood draws who weigh at least 50 kg, the amounts collected should not exceed 550 ml in an 8-week period; or (b) from children2 and other adults whose health will not be adversely affected by the blood draws, the amounts collected should not exceed the lesser of 150 ml or 3 ml per kg in an 8-week period. Examples: Finger stick, heel stick, ear stick, venipuncture, collection of blood from an indwelling peripheral venous catheter (not including a PICC line) placed for research purposes, or collection of blood from an indwelling catheter already in place for clinical purposes.**

3. Prospective collection of biological specimens, excluding blood, for research purposes by noninvasive means and not requiring sedation for research purposes.

> **Examples: (a) tissues and fluids that the body produces continuously or sheds as a normal process (including hair, nails), which are collected in a non-disfiguring manner; (b) deciduous teeth at time of exfoliation; (c) excreta and external secretions (including sweat, urine, stool); (d) uncannulated saliva; (e) placenta removed at delivery; (f) amniotic fluid obtained at the time of rupture of the membrane prior to or during labor; (g) supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques; (h) mucosal and skin cells collected by buccal scraping or mouth washings; (i) sputum collected after saline mist nebulization**

4. Prospective collection of biological specimens, excluding blood, for research purposes by minimally invasive means and not requiring sedation for research purposes.

> **Examples: (a) tissues from non-facial, non-genital skin punch biopsy with allowable local anesthesia and limited to 2mm in diameter and not requiring sutures; (b) Specimens collected by swab (nasal, oral, urethral, vaginal, rectal); (c) teeth if routine patient care indicates a need for extraction.**

5. Collection of additional information or biological specimens, excluding blood, for research purposes during procedures already being performed for clinical purposes, provided the additional collection does not introduce more than a minimal increase in risk, pain or discomfort over that imposed by the underlying procedure. When extension of general anesthesia is required, it must meet the criteria for minimal risk.

> **Examples: (a) collection of additional bodily fluids and tissues (e.g., peritoneal fluid, bone marrow or cerebrospinal fluid); (b) tissue collected from pap smears; (c) collection of additional clinical information (e.g., vital signs, electroencephalography or echocardiography).**

6. Collection of information for research purposes through noninvasive procedures and interventions routinely employed in clinical practice and not requiring general anesthesia or sedation.

> **Examples: (a) physical sensors that are applied either to the surface of the body or used at a distance; (b) testing sensory acuity; (c) magnetic resonance**

imaging without use of contrast agent and using magnet and sequence parameters within accepted clinical use guidelines; (d) electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, ultrasound, diagnostic infrared imaging, Doppler blood flow, and transthoracic echocardiography; (e) measures of cognitive functioning; (f) exposure to ionizing radiation with a total effective dose not exceeding 0.1 mSv (the amount typically associated with a single chest x-ray) provided appropriate shielding techniques are employed.4

7. Collection of information for research purposes through activities performed by persons in daily life in individuals and groups whose health will not be adversely affected by the activities.

Examples: (a) moderate exercise, muscular strength testing, body composition assessment, and flexibility testing; (b) measures of symptoms, mobility, range of motion, quality of life and activities of daily living in patient and non-patient populations by clinical or other trained personnel (e.g., nurses, physicians, social workers, physical and occupational therapists); (c) manipulations of diet and lifestyle; (d) measuring height, weight, circumference; (e) assessment of reading levels.

8. Activities at statistical and data coordinating centers or biospecimen repositories that are not responsible for the primary oversight of the primary data collection activities and are not involved in the primary collection of information or specimens, which may be ongoing at other sites.

9. Collection of information from voice, video, digital, or image recordings made for research purposes that are not exempt under §__.104(d).

10. Research that only includes interaction involving (1) educational tests (cognitive, diagnostic, aptitude, achievement); (2) survey procedures, interview procedures, or observation of public behavior (including visual and auditory recording) not eligible for exemption under §__.104(d)(2) either because there are risks to subjects other than informational risks, or because the informational risks are not addressed as specified under §__104(d)(2)(i) through (iii); (3) other data collection procedures (e.g., written or computer-assisted interactions or assessments) where the subject provides self-reports for the purposes of the research and/or may choose what data to provide; (4) non-invasive physical or behavioral tasks or manipulation of the subject's

environment; and (5) observations of individual group behavior where the subject is a voluntary participant in the behavior and is aware that data are being collected.

11. Benign behavioral interventions that are not eligible for exemption under §__.104(d)(3) because they (a) involve children as subjects; (b) involve individuals with impaired decision-making capacity; (c) are conducted without the prospective agreement of the subject, including interventions involving deception; (d) are not brief in duration, or; (e) are not limited to verbal or written responses by the subject, data entry by the subject, or observation of the subject.

12. Creation and maintenance of subject databases to which subjects have provided prospective informed consent or informed consent has been waived by an IRB and does not qualify for exemption under §__.104(d)(7). Examples: (a) collection of identifiable information for the purpose of establishing subject pools; (b) disease-specific patient registries; (c) screening protocols including interviews, questionnaires and minimally invasive physical assessments, when performed for research purposes, that could not be expedited under one of the categories listed above.

13. Secondary research uses of identifiable private information or identifiable biospecimens that are not exempt under §__.104(d)(4) because (a) the identifiable private information or identifiable biospecimens are not publicly available; (b) information, which may include information about biospecimens, is recorded by the investigator in such a manner that the identity of human subjects can be readily ascertained directly or through identifiers linked to the subjects, or the investigator intends to contact the subjects or will re-identify subjects; (c) research use of identifiable health information not regulated under 45 CFR parts 160 and 164, subparts A and E.

14. Research involving the use of identifiable private information or identifiable biospecimens for secondary research use that is not exempt under §__.104(d)(8) because the investigator includes returning individual research results to subjects as part of the study plan.

Continuing Review of Previously Approved Research

15. Research previously approved by the convened IRB and not otherwise eligible for expedited review under categories (1) through (13) above, where one of the following conditions apply:

a. the research remains active only for long-term follow-up of subjects; or

b. no subjects have been enrolled at sites under the purview of the reviewing IRB and no additional risks have been identified; or

c. the IRB has determined and documented at a convened meeting that the research involves no greater than minimal risk (including, when applicable, a non-significant risk (NSR) determination was initially made by a convened IRB for research involving investigational medical devices), and no additional risks have been identified. In such cases, the exemption from further continuing review at §109(f)(1)(i) does not apply.

Key to the determination of expedited status is that the research is considered minimal risk but does not qualify as exempt. In short, any intervention that is long term or involves collection of biological data including specimens, performance measures, physical characteristics, or how well someone functions intellectually (as opposed to how they are functioning at a point in time) require review at the expedited level or higher.

C) Convened (formerly Full-Board)

All other research will be reviewed by the convened board. This includes research that is deemed to be greater than minimal risk. Minimal risk is defined as the risks encountered in daily activities.

Note regarding broad consent: Broad consent is needed for any data that may be stored for long periods of time and may be linked back to participants at some point in the future by any current method or those not yet devised if those data/biospecimens are to be used in future research outside the scope defined in the original consent document. If broad consent is not obtained data and/or biospecimens from participants may not be used in any other research in the future. There are guidelines for what must be included in an informed consent document. If these guidelines are met, the document is then referred to as a broad consent document. It is recommended that broad consent should be used for any biospecimen or data that a PI may wish to use for future studies. A PI should note that there are additional requirements that must be met for broad consent, and those requirements are specific for the type of data/biospecimens that are being retained.