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Research Involving Children

Purpose

The University has an ethical responsibility to protect the rights and welfare of human research subjects. The special vulnerability of children makes review of their involvement particularly important. Special ethical and regulatory standards have been defined for reviewing research involving children. The standards for research involving children have been codified into federal regulations found at Subpart D of 45 CFR 46 (Department of Health and Human Services regulations). Clinical trials that involve children as research subjects are also subject to specific regulations defined by the U.S. Food and Drug Administration found at Subpart D of 21 CFR 50 (U.S. Food and Drug Administration regulations).

Policy Narrative

All of the exemptions found in the NIU “Policies and Procedures for IRB Review of Research Involving the Use of Human Subjects” are applicable to research involving children with the following exception:

Research involving children may only be considered exempt under category 2 when the project is limited to normal education tests or observation of public behavior and the investigator does not participate in the activities being observed. This category does not apply to research involving survey or interview procedures.

I. DEFINITIONS

A. *CHILDREN* are persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted.

B. *ASSENT* means a child's affirmative agreement to participate in research. Mere failure to object should not, absent affirmative agreement, be construed as assent.

C. *PERMISSION* means the agreement of parent(s) or guardian to the participation of their child or ward in research.

D. *PARENT* means a child's biological or adoptive parent.

E. *GUARDIAN* means an individual who is authorized under applicable state or local law to consent on behalf of a child to general medical care.

F. WARD means a child who is placed in the legal custody of the state or other agency institution, or entity, consistent with applicable federal, state, or local law. For example, children under the protection of a court, child protective services, or under the care of a non-parental relative would be considered to be wards.

II. RESEARCH RISK CATEGORIES FOR RESEARCH INVOLVING CHILDREN

A. Research not involving greater than minimal risk

The Institutional Review Board (IRB) will approve research involving children which it finds to be no greater than minimal risk only if the IRB finds that adequate provisions are made for soliciting the assent of the children and the permission of their parents or guardians.

B. Research involving greater than minimal risk but presenting the prospect of direct benefit to the individual subjects

The IRB will approve research that it finds to be more than minimal risk to children is presented by an intervention or procedure that holds out the prospect of direct benefit for the individual subject, or by a monitoring procedure that is likely to contribute to the subject's well-being, only if the IRB finds that:

- (a) The risk is justified by the anticipated benefit to the subjects;
- (b) The relation of the anticipated benefit to the risk is at least as favorable to the subjects as that presented by available alternative approaches; and
- (c) Adequate provisions are made for soliciting the assent of the children and permission of their parents or guardians

C. Research involving greater than minimal risk and no prospect of direct benefits to individual subjects, but likely to yield generalizable knowledge about the subject's disorder or condition

The IRB will approve research when it finds that more than minimal risk to children is presented by an intervention or procedure that does not hold out the prospect of direct benefit for the individual subject, or by a monitoring procedure which is not likely to contribute to the well-being of the subject, only if the IRB finds that:

- (a) The risk represents a minor increase over minimal risk;
- (b) The intervention or procedure presents experiences to subjects that are reasonably commensurate with those inherent in their actual or expected medical, dental, psychological, social, or educational situations;
- (c) The intervention or procedure is likely to yield generalizable knowledge about the subjects' disorder or condition which is of vital importance for the understanding or amelioration of the subjects' disorder or condition; and
- (d) Adequate provisions are made for soliciting assent of the children and permission of their parents or guardians

D. Research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of children

The IRB may approve research which does not meet the requirements of risk categories A, B, and C as listed above only if the following conditions are met:

(a) The IRB finds that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children; and

(b) the protocol is referred to the U.S. Department of Health and Human Services (DHHS) and the Commissioner of Food and Drugs (FDA) where applicable, for review AND the DHHS and FDA, if applicable, determines that:

- (1) The research does in fact fall into one of the permissible categories as outlined above,
OR (2) The research represents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children, and the research will be conducted in accordance with sound ethical principles and adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians.

III. CONSENT, PARENT PERMISSION, AND ASSENT REQUIREMENTS

Assent of the Child

The IRB will determine that adequate provisions are made for soliciting the assent of the children, when in the judgment of the IRB the children are capable of providing assent. In determining whether children are capable of assenting, the IRB shall take into account the ages, maturity, and psychological state of the children involved. This judgment may be made for all children to be involved in research under a particular protocol, or for each child, as the IRB deems appropriate. If the IRB determines that the capability of some or all of the children is so limited that they cannot reasonably be consulted or that the intervention or procedure involved in the research holds out a prospect of direct benefit that is important to the health or well-being of the children and is available only in the context of the research, the assent of the children is not a necessary condition for proceeding with the research. Even where the IRB determines that the subjects are capable of assenting, the IRB may still waive the assent if one of the following conditions are met:

1. The IRB finds that

- (a) the project could not practicably be carried out without the waiver or alteration **and**
(b) the project is 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 these 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;

OR

2. The IRB finds that:

- (a) The research involves not more than minimal risks to the children;
(b) The waiver or alteration does not adversely affect the rights and welfare of the children;
(c) The research could not practicably be carried out without the waiver or alteration; **and**
(d) Whenever appropriate, the children will be provided with additional pertinent information after participation

Verbal assent may be approved when the research involves young children, children with poor literacy, or children with other conditions or limitations which may impact their ability to provide written assent. If appropriate for the child's cognition level, children giving oral assent may also be provided with a written information sheet to inform them about the research. If no information sheet or written assent is to be used, a script of the information that will be presented verbally must be included in the IRB application, and must be approved by the IRB before use.

Written assent forms may be used for children with appropriate maturity, cognition, and literacy. Assent forms must be written in language that is appropriate to the children giving assent.

The assent procedures must be approved by the IRB. When the IRB determines that assent is required, it will also determine whether and how assent must be documented.

Parental Permission from Parents or Guardians

Permission from one or both parents or guardians is required for children to participate in research unless one of the exceptions described in the section "Waiver of Permission of Parent or Guardian" (see below). The IRB will determine the number of parents or guardians that must provide permission for a child to participate in research based upon an assessment of the risks and benefits of the research. For research risk categories A and B (as described in the section II. of this policy) the IRB may determine that permission from one parent is sufficient. For risk categories B and C, permission of both parents must be obtained unless one parent is deceased, unknown, incompetent, or not reasonably available or when one parent has legal responsibility for the care and custody of the child subject. Permission by parents or guardians must be documented either in writing, or, if written permission is waived, in written notes in the research records.

Waiver of Permission of Parent or Guardian

If the IRB determines that a research protocol is designed for conditions or a subject population for which parental or guardian permission is not a reasonable requirement to protect the subjects (for example, neglected or abused children), it may waive the requirement for parent/guardian permission, provided an appropriate mechanism for protecting the children who will participate as subjects in the research is substituted, and provided further that the waiver is not inconsistent with federal, state, or local law. The choice of an appropriate mechanism would depend upon the nature and purpose of the activities described in the protocol, the risk and anticipated benefit to the research subjects, and their age, maturity, status, and condition.

The IRB may also waive parental/guardian permission if the IRB determines that the study meets the following conditions:

- (a) The research involves not more than minimal risks to the children;
- (b) The waiver or alteration does not adversely affect the rights and welfare of the children;
- (c) The research could not practicably be carried out without the waiver or alteration; **and**
- (d) Whenever appropriate, the parents will be provided with any pertinent information either before or after participation

Inclusion of Children Who are Wards of State or Any Other Agency, Institution, or Entity

Children who are wards of state or any other agency, institution, or entity can be included in research that is determined by the IRB to be no greater than minimal risk. They can also be included in research that is greater than minimal risk when the research has the potential to provide direct benefit to the ward.

Children who are wards may not participate in research that is considered to be more than minimal risk when there is no direct prospect of benefit to them unless the IRB determines that such research is:

1. related to their status as wards, or
2. conducted in schools, camps, hospitals, institutions, or similar settings in which the majority of children involved as subjects are not wards.

In studies which are deemed by the IRB to be greater than minimal risk with no prospect of direct benefits to the ward, the IRB will require appointment of an advocate for each child who is a ward, in addition to any other individual acting on behalf of the child as guardian or in loco parentis. One individual may serve as advocate for more than one child. The advocate must be an individual who has the background and experience to act in, and agrees to act in, the best interests of the child for the duration of the child's participation in the research. The advocate must not be associated with the research, the investigator(s), or the guardian organization in any other role than that of advocate for the child.

Assent and permission from the child's legal guardian is required unless such permission is waived (as described in the section "Waiver of Permission of Parent or Guardian" of this policy.)

Procedural History of the Policy

Approved by the convened Institutional Review Board and the VP for Research in January 2021.