

Informed Consent

Part Two: Vulnerable Populations



Informed Consent: Vulnerable Populations

- Concept of Vulnerable Populations
- Additional Requirement for Informed Consent

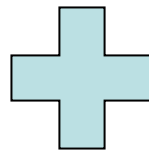
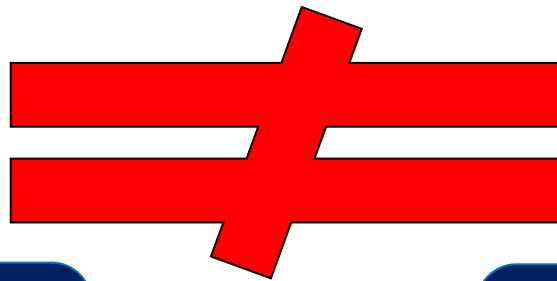


Informed Consent & Vulnerable Populations

Informed Consent



Respect for Persons



Voluntariness

Comprehend
Information



Vulnerable Populations

- Federal Regulations:
 - Pregnant Women, Human Fetuses & Neonates
 - Children
 - Prisoners
- Additional:
 - Decisionally Impaired Adults
 - College Students
 - Employees

(HHS 45 CFR 46, 2009; FDA 21 CFR 50, 2013; OHSP Policy 601, 2015; OHSP Policy 602, 2015; OHSP Policy 603, 2014; OHSP Policy 604, 2014)



Pregnant Women & Human Fetuses

- If pregnant women or fetus involved, the risks to the fetus caused solely by the study intervention must either:
 - a) Hold out prospect of direct benefit for woman or fetus

OR

 - b) No direct benefit, risk to fetus must be minimal & purpose is important to biomedical knowledge and cannot be obtained by other means

(HHS 45 CFR 46, 2009; OHSP Policy 602, 2015)



Pregnant Women & Human Fetuses

- Obtaining Consent:

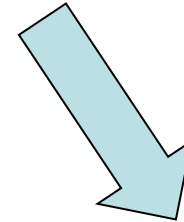
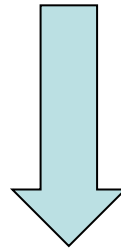
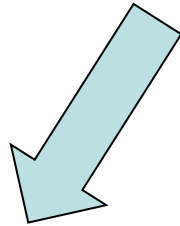
Regulation/ Risk Level	Definition	Consent Requirements
45 CFR 46. <u>204(d)</u>	<ul style="list-style-type: none"> Prospect of direct benefit to pregnant woman; Prospect of direct benefit to both pregnant women & fetus; OR No prospect of direct benefit for women nor fetus & minimal risk & important to biomedical knowledge 	Consent from Pregnant Woman
45 CFR 46. <u>204(e)</u>	Prospect of direct benefit solely to fetus	Consent from Pregnant Woman & <u>F</u> ather

(HHS 45 CFR 46, 2009; OHSP Policy 602, 2015)



Neonates

Neonates



Neonates of
Uncertain
Viability

Nonviable
Neonates

Viable
Neonates

(HHS 45 CFR 46, 2009; OHSP Policy 602, 2015)



Neonates

- Neonates of uncertain viability
 - ONLY when IRB determines:
 - a) Prospect of enhancing probability of survival & risk is least possible
 - OR
 - a) Purpose is important to biomedical knowledge & cannot be obtained by other means & no added risk
- Obtain consent from either parent (45 CFR 46.205[b])

(HHS 45 CFR 46, 2009; OHSP Policy 602, 2015)



Neonates

- Nonviable Neonates
 - ONLY permitted when:
 - a) Vital functions not artificially maintained;
 - b) Research will not terminate heartbeat or respiration;
 - c) No added risk to neonate;
 - AND**
 - d) Purpose is important to biomedical knowledge & cannot be carried out by other means
- Obtain consent from both parents (45 CFR 46.205[c])
- Viable Neonates → Children's Regulations



Children

- NYS: Minor = under 18
- Assent of child and permission of the parent or legal guardian
 - Parent = biological or adoptive parent
 - Legal guardian = someone legally authorized to consent on behalf of child
- If either refuses, the child cannot be enrolled

(HHS 45 CFR 46, 2009; FDA 21 CFR 50, 2013; OHSP Policy 601, 2015)



Children

- IRB Review: Are there adequate provisions for obtaining assent & permission?
- Obtaining Parent Permission:

Regulation/ Risk Level	Definition	Consent Requirements
45 CFR 46. <u>404</u>	Research not involving greater than minimal risk.	Parent Permission (1 parent) & Assent of the child
45 CFR 46. <u>405</u>	Research involving greater than minimal risk but presenting the prospect of <u>direct benefit</u> to the individual subject.	Parent Permission (1 parent) & Assent of the child

(HHS 45 CFR 46, 2009; FDA 21 CFR 50, 2013; OHSP Policy 601, 2015)



Children

- Obtaining Parent Permission Cont'd:

Regulation/ Risk Level	Definition	Consent Requirements
45 CFR 46. <u>406</u>	Research involving a minor increase over minimal risk and presents <u>no prospect of direct benefit</u> to individual subjects, but is likely to yield generalizable knowledge about the subjects' disorder or condition.	Parent Permission (<u>both parents</u>) & Assent of the child
45 CFR 46. <u>407</u>	Research not otherwise approvable which represents an opportunity to understand, prevent or alleviate a serious problem affecting the health or welfare of children...("All other research")	Parent Permission (<u>both parents</u>) & Assent of the child **FEDERAL APPROVAL



Children

- **Obtaining Assent:**
 - Age, maturity & psychological state
- **UR Guidelines for Documentation:**
 - 13-17 year olds: Parent Permission & Written Assent
 - 8-12 year olds: Parent Permission & Oral Assent
 - 7 & under: Parent Permission; No assent required
- **Goal: permits subjects to opt out if parent(s) opt in**
- **Subject turns 18 → Re-consent**

(HHS 45 CFR 46, 2009; FDA 21 CFR 50, 2013; OHSP Policy 601, 2015)



Children

- Assent of child may not be necessary if the IRB determines that:

- Capability of some or all of the children is so limited that they cannot reasonably be consulted

OR

- The intervention or procedures 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

→ Still obtain parental permission

(HHS 45 CFR 46, 2009; FDA 21 CFR 50, 2013; OHSP Policy 601, 2015)



Obtaining Consent/Permission from 2 Parties

- 2 parties (2 parents or 1 pregnant woman & father) → regs specify circumstances when only 1 party permitted

E.g.) Children: “Both parents must give permission unless one parent is deceased, unknown, incompetent, or not reasonably available, or when only one parent has legal responsibility for the care and custody of the child.”

- If either party refuses, the subject cannot be enrolled
- If only one → document why

(HHS 45 CFR 46, 2009; FDA 21 CFR 50, 2013; OHSP Policy 601, 2015; OHSP Policy 602, 2015)



Prisoners

→ May be under constraints that could affect their ability to make a truly voluntary decision

Prisoner = any individual involuntarily confined or detained in a penal institution

(HHS 45 CFR 46, 2009; OHSP Policy 603, 2014)



Prisoners

- Regulations:
 - Information must be presented in a language understandable to the subject population
 - Prisoners must be clearly informed, in advance, that participating will have no effect on parole
- Apply to individuals who are prisoners at outset or who become incarcerated after enrollment

(HHS 45 CFR 46, 2009; OHSP Policy 603, 2014)



Prisoners

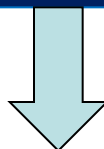
- What if...
 - a) Subject becomes a prisoner
 - STOP research activities
 - Notify IRB; if subject will continue IRB will re-review (prisoner requirements must be satisfied)
 - b) Subject is a minor
 - Satisfy prisoner & minor requirements



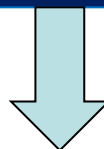
Decisionally Impaired Adults

Federal Regulations:
Permit LAR but defer to state for definition

(LAR: Legally Authorized Representative)



NY State Law:
Permit LAR but do not define



University of Rochester Policy

(OHSP Policy 604, 2014)



Decisionally Impaired Adults

- Categories of research which may permit consent by LAR:
 - 1) Minimal risk studies
 - 2) Research involving greater than minimal risk that presents the prospect of direct benefit
 - 3) Research involving a minor increase over minimal risk, with no prospect of direct benefit to individual subjects but may benefit the class of subjects (**additional approvals required)

Decisionally Impaired Adults

- Consent Capacity:
 - Can subject understand the study procedures? Investigational nature of treatments? Research procedures vs. standard care?
 - If...
 - Capacity → subject provides consent
 - No capacity → notify subject of determination; identify & obtain permission from LAR
 - **If there are no provisions in IRB approved protocol for enrolling, subject cannot be enrolled

(OHSP Policy 604, 2014; RSRB Guideline for Assessing Consent Capacity in Adults with Decisional Impairment, 2014)

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Decisionally Impaired Adults

- If...
 - Subject re-gains capacity → Obtain consent from subject
 - Subject loses capacity over the course of study participation
 - Protocol must include provisions for identifying research proxy at outset & conduct ongoing capacity assessments
 - If/When subject loses capacity → Obtain permission from LAR for continued participation

(OHSP Policy 604, 2014; RSRB Guideline for Assessing Consent Capacity in Adults with Decisional Impairment, 2014)



College Students & Employees

- Minimize Undue Influence
 - Someone else on study team recruit?
 - Can participation be complete anonymously?
- Provide Alternatives to Participation
 - E.g., Paper? Attend additional lecture?
- Consent Process:
 - Student: Won't affect class standing/grades
 - Employee: Won't affect employment standing; Participation NOT part of job duties
 - Both: No special consideration for participation



- Part Three:
 - Developing informed consent process
 - Drafting consent documents
 - Documenting informed consent
 - Issues after approval
- **Questions?**

Call RSRB @ 275-2398 & ask to speak to your RSRB Specialist.



Additional Resources

- OHSP/RSRB Website: www.rochester.edu/ohsp
 - OHSP Policies
 - Investigator Guidance
 - Recruitment & Informed Consent Guidance
 - Consent Templates
- Belmont Report:
<http://www.hhs.gov/ohrp/humansubjects/guidance/belmont.html>
- DHHS Regulations (45 CFR 46):
<http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.html>
- FDA Regulations (21 CFR 50):
<http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcfr/CFRSearch.cfm?CFRPart=50>



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- Protection of Human Subjects, FDA 21 CFR 50 (Revised 2013, April 1). Retrieved August 1, 2014 from <http://www.accessdata.fda.gov/scripts/cdrh/cfdocs/cfcr/CFRSearch.cfm?CFRPart=50&showFR=1>
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