

Western University of Health Sciences
Institutional Review Board Manual



Institutional Review Board Manual

IRB 00003016
FWA00003774

Western University of Health Sciences
Institutional Review Board Manual

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SECTION 1.0

List of Terms, Acronyms and Definitions

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|------------------------------|--|
| 45 CFR 46 | Code of Federal Regulations, Title 45. Public Welfare Department of Health and Human Services. Part 46. Protection of Human Subjects (revised January 2009). |
| Administrative Review | An action taken by the Chair or Vice Chair on protocols that are structurally inadequate or impossible to follow as written. |
| Anonymity | No identifying information (e.g., name, IP address etc.) is collected from the subject, therefore, the responses cannot be linked to a specific subject. Can include aspects where the research does not have interaction with the subjects. |
| Assent | A minor subject's active affirmation of wanting to participate |
| CITI | Collaborative Institutional Training Initiative |
| Clinical Trial | A research study in which one or more human subjects are prospectively assigned to one or more interventions (which may include placebo or other control) to evaluate the effects of those interventions on health-related biomedical or behavioral outcomes. |
| Common Rule | The criteria used to judge whether or not a research study involving human research subjects can be approved are found at 45 CFR 46 of the Department of Health and Human Services federal regulations. These regulations are common to most federal agencies and are, thus, referred to as the "Common Rule." |
| Confidentiality | Only the investigator (or members of the research team) can identify information from individual subjects. |
| Consent | A voluntary agreement to participate in research after the subject has had sufficient information to make an informed decision. |
| DHHS | Department of Health and Human Services |
| Directly identifiable data | Data that are labeled with unique identifiers that allow the researcher to ascertain the identity of the subject. |
| FDA | Food and Drug Administration |
| FERPA | Family Educational Rights and Privacy Act |
| Generalized Knowledge | Scholarly work products that are intended to have a direct impact on others or the discipline. |
| HIPAA | Health Insurance Portability and Accountability Act |
| Indirectly identifiable data | Data that cannot be linked to a specific subject, either through means where the data were never coded, the data key was destroyed/removed, etc. |
| Investigator | The person that holds primary responsibility for the conduct of human research at one or more sites. |
| IRB | An institutional review board established in accord with and for the purposes of this policy [45 CFR 46.102(g)] |
| MOU | Memorandum of Understanding |
| OHRP | The Office of Human Research Protection |

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| PI | Principal Investigator |
| WesternU | Western University of Health Sciences |

SECTION 2.0

Introduction

Institutions that conduct federally funded research¹ using humans as research subjects² are required by federal law to establish a committee responsible for reviewing such proposed research to ensure that the rights and welfare of the subjects are protected. The rules governing human subject research are described in the Code of Federal Regulations (CFR) at [45 CFR 46](#).

To comply with these regulations, Western University of Health Sciences (WesternU) has established the Institutional Review Board for the Protection of Human Subjects, "the IRB".³ IRB policies described in this manual include the minimum guidelines established by federal regulations as well as policies established by WesternU for research conducted at WesternU. For example, federal regulations require compliance only for projects funded by, or regulated by, federal agencies whereas the WesternU IRB requires that all research involving human subjects, whether funded or regulated by an external organization or not, must comply with WesternU policies and federal regulations. IRB policies also comply with additional regulations that may be required by specific federal agencies, e.g., the Food and Drug Administration, when a particular regulation applies to a research project to be funded by that agency.

These policies and procedures are considered to be in effect immediately upon approval by the IRB and remain in effect and enforceable until otherwise amended or repealed.

^{1,2,3} See federal definitions for "research" [[45 CFR 46.102\(d\)](#)] "subjects" [[45 CFR 46.102\(f\)](#)] and "IRB" [[45 CFR 46.102\(g\)](#)]

Enactment: The policies, procedures and guidelines contained in this document are considered to be in effect immediately upon approval by the IRB and remain in effect and enforceable until otherwise amended or repealed. IRB policies, procedures and guidelines are in effect for all university personnel from the moment personnel become officially affiliated with WesternU (contractual start date) until they are no longer officially affiliated with WesternU in any capacity. Policies, procedures, and guidelines are subject to change through revisions in relevant Federal law, directives from OHRP and WesternU rulings.

2.1 What is Research?

What Activities Require IRB Review?

Any systematic investigation involving human subjects that is designed to develop or contribute to generalizable knowledge requires IRB review. This includes investigations conducted by faculty,

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students, staff, or others associated with WesternU *as well as investigations conducted elsewhere by any representative of WesternU.*

Research as Defined by the DHHS: “a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge”.

Research as Defined by the FDA: “any experiment that involves a test article and one or more human subjects, and that meets any one of the following:

- the requirements for prior submission to the Food and Drug Administration under section 505(i) of the Federal Food, Drug, and Cosmetic Act, meaning any use of a drug other than the use of an approved drug in the course of medical practice;
- the requirements for prior submission to the Food and Drug Administration under section 520(g) of the Federal Food, Drug, and Cosmetic Act, meaning any activity that evaluates the safety or effectiveness of a device; OR
- Any activity the results of which are intended to be later submitted to, or held for inspection by, the Food and Drug Administration as part of an application for a research or marketing permit.”

Activities that meet these definitions may be funded or unfunded, or may be conducted as a component of another program not usually considered research. For example, demonstration and service programs may include evaluation components that constitute research activities under this definition.

Human Subject as Defined by the DHHS: a living individual about whom an investigator (whether a professional or student) conducting research obtains:

- (1) Data through intervention or interaction with the individual, or
- (2) Identifiable private information.

Human Subject as Defined by the FDA: an individual who is or becomes a subject in research, either as a recipient of the test article or as a control. A subject may be either a healthy human or a patient. A human subject includes an individual on whose specimen (identified or unidentified) a medical device is used.

Section [45 CFR 46.102](#) of the DHHS regulations also defines the following terms:

Intervention: procedures or manipulations of the subject or the subject’s environment that are performed for research purposes (e.g., venipuncture, drug administration, changes in teaching methods).

Interaction: communication or interpersonal contact between an investigator and subject.

Private Information: information about behavior that occurs in a context in which an individual can reasonably expect that no observation or recording is taking place, and information which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record). Private information must be individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the

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investigator or associated with the information) in order for obtaining the information to constitute research involving human subjects.

Identifiable Information: information that is individually identifiable (i.e., the identity of the subject is or may readily be ascertained by the investigator or associated with the information).

Other Circumstances or Considerations

Precedent and practice have established the principle that certain kinds of activities that might be called "human participant research" do not require review for the protection of human participants. The following kinds of activities that do not require such review include, but may not be limited to:

- Accepted and established service relationships between professionals and clients where the activity is designed solely to meet the needs of the client;
- Research using only historical documents; and
- Research using only archaeological materials or other historical or pre-historical artifacts.

Pilot studies, pre-tests, and other "preliminary" investigations are considered research and must be reviewed unless they fall into one of the excluded categories listed above.

Classroom activities may include instructing students in research methodologies and techniques. If the sole purpose of the activity is to teach students research techniques or methodology and not to develop or contribute to generalizable knowledge, it is not considered to be research. However, if students will practice research methodologies on human beings, students should be instructed in the ethical conduct of such activities.

Educational research that examines changes in teaching methods or activities, where students are the study subjects, meets the definition of human subjects research and is subject to prior IRB review and approval.

Quality improvement and quality assurance activities conducted solely for the intent of maintaining or improving quality of services provided by an institution, likewise, are not considered research activities. However, if the data collected are generalizable and are to be shared outside of the institution through discussion, presentation, or publication, the activity qualifies as research. Sometimes, data from a quality improvement or quality assurance activity become of interest to the external community after they have been analyzed. In these cases, the research use of the data collected for another purpose must be reviewed.

There may be situations when an investigator is uncertain about whether or not a project meets the definition of research and requires IRB review and approval. In such cases, WesternU utilizes a process known as *Request for Determination (RFD)*. Projects that may be suitable for RFD consideration include, but are not limited to, quality improvement activities, structured literature reviews, or projects that exclusively rely on de-identified secondary data. Contact the IRB office for additional information.

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The RFD process would not apply to investigators anticipating exempt status. An IRB protocol application must still be submitted.

The IRB, upon review, reserves the right to seek additional information for the RFD or direct the investigator to submit the protocol application.

2.2 Ethical Principles

In the oversight of all Human Research, WesternU follows the ethical principles outlined in the April 18, 1979 report of The National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research titled “Ethical Principles and Guidelines for the Protection of Human Subjects of Research,” also known as “The Belmont Report”. These principles are:

Respect for persons: Research participants should understand as completely as possible what is to be done to them, what information will be gathered about them and what the potential risks and benefits are if participating in a research study. The participant must give his/her consent freely, without pressure or inappropriate inducement. This is indicated by voluntary and informed consent.

Beneficence: The IRB is charged with deciding if risks to a participant are outweighed by the combination of potential benefits to the individual subject and the importance of the knowledge to be gained from the study. In other words, an appropriate balance must exist between potential benefits of the research to the subject and/or to society and the risks assumed by the subject.

Justice: There must be fair procedures and outcomes in the selection of research subjects and the risks and potential benefits should be evenly spread.

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SECTION 3.0

Statement of Principles and Purpose

Persons conducting research involving human subjects have an ethical and professional obligation to ensure the safety, protection, and rights of participants. Through the IRB and the Office of the Vice President for Research and Biotechnology, WesternU intends to assist investigators engaged in human subject research to conduct their research along ethical guidelines reflecting professional as well as community standards. This institution recognizes its duty and obligation to protect the rights and welfare of human subjects of research regardless of the source of funding.

WesternU is obligated to ensure that ALL research involving human subjects meets the regulations established by the United States Code of Federal Regulations (CFR), although not all possible contingencies have been foreseen or considered in these regulations or in the other guidelines and procedures herein. Although it is not the intent of the University, the IRB, or the Office of the Vice President for Research and Biotechnology to interfere in any way with competent, ethical, and sound research involving human subjects, there exists a fiduciary responsibility and a requirement for all parties involved to ensure that the University and its personnel comply with regulations governing human subject research. It is important for us all to observe the "spirit" as well as the "letter" of these regulations and guideline since how we conduct research involving human subjects reflects on our professional, personal, and community commitments to rigorous ethical and scientific standards of conduct.

The IRB strives to deliver the best possible service regarding the review of research involving human subjects. To assist in the long-term goal of establishing the means and the willingness to assure adequate protection of human subjects, the IRB needs the cooperation of the research community at WesternU.

3.1 University Compliance

University compliance is based on federal, state and local laws. Federal law requires that all organizations that receive federal funding to support research involving human subjects establish procedures that will ensure compliance with the law. Compliance with this law, described in the Code of Federal Regulations at , is monitored by the Office for Human Research Protection (OHRP), an office of the Department of Health and Human Services (DHHS or HHS).

Authority to Suspend or Terminate IRB Approval of Research: According to [45 CFR 46.113](#): *An IRB shall have authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects. Any suspension or termination of approval shall include a statement of the reasons for the IRB's action and shall be reported to the investigator, appropriate institutional officials, and the Secretary (of Health and Human Services, via OHRP).*

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3.2 Investigator Compliance and Obligations

WesternU's IRB policy includes the minimum guidelines described in [45 CFR 46](#). WesternU also requires that ALL research involving human subjects, whether funded or regulated by a federal agency or not, must comply with WesternU policies and federal regulations.

Persons conducting research involving human subjects have an ethical and a professional obligation to ensure the safety, protection, and rights of participants. Through the IRB and the Office of the Vice President for Research and Biotechnology, WesternU will assist investigators engaged in human subject research to conduct research along ethical guidelines reflecting professional as well as community standards. However, as stated above, the University has a fiduciary obligation to ensure that ALL research involving human subjects meets regulations established by the United States Code of Federal Regulations (CFR). Therefore, investigators must comply with these regulations and any other policies and procedures established by WesternU's IRB regarding research involving human subjects. For those instances where compliance is not forthcoming, the following policies apply:

Consequences of Non-compliance: All research involving human subjects MUST have IRB review and approval before such research can be initiated. Research that is conducted without IRB approval and may not be presented, published or disseminated in any form. Investigator(s) associated with such research must file for IRB review and approval before restarting the research project. Investigators who continue non-approved research should note that such non-compliance shall be handled through appropriate administrative procedures initiating from the Office of the Vice President for Research and Biotechnology.

Failure to comply with IRB directives, regulations and procedures, including annual reports, changes in protocol, consent forms and other requests for information or compliance emanating from the Chair of the IRB or the Office of the Vice President for Research and Biotechnology shall result in one or more of the following actions depending on the nature of the non-compliance:

- **Suspension of recruitment of research subjects** in that research project until formal IRB approval/re-initiation is obtained. Such approval may be sought at the next available meeting of the IRB.
- **Suspension of the approved IRB protocol.**
- **Suspension of all present and future human subjects research activities.**
- **Interruption of intramural or extramural research support.** Such "freezing of funds" will continue until the project and its investigators are in compliance according to regulations as determined by the IRB Chair and the Vice President for Research and Biotechnology.
- **Report to appropriate federal agencies.** In some cases, the university is required to report to the Office for Human Research Protection (OHRP) of the National Institutes of Health any termination of a project due to non-compliance with IRB regulations and directives. Further, such non-compliance is reportable to the federal agency supporting the non-compliant research project.
- **Notification to the Investigator's Dean.**
- **Notification to Human Resources.**

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NOTE: To determine that all substantive and relevant changes in protocol and/or consent documents are being reported, and to verify compliance with IRB regulations, the IRB shall have the authority to physically inspect any research premises or review non-confidential research documents relating to the protocol and procedures being used in human subject experimentation. Generally, the investigator will be asked to provide copies of relevant and necessary documents for IRB review. Such document requests are in addition to that generated in an annual review process. In most cases, this will only occur when there is an indication that a substantive change is in effect that has not been reported, or that unforeseen risks to subjects are present or alleged.

Failure to comply with such an IRB request for information may result in suspension or termination of IRB approval of research.

Appeal Procedures: The IRB is committed to working with investigators to ensure that all submitted projects are ethically sound and in compliance with the federal regulations regarding human subject protections. When a project is not approved, the IRB provides guidance to make the necessary changes to secure approval or otherwise reach an appropriate resolution. If the PI disagrees with the decision of the IRB, (s)he may submit a letter to the IRB detailing why (s)he believes the decision was not appropriate along with supporting documents that support his/her position. The IRB Chair shall review the documentation provided and, when appropriate, shall bring the matter before the Full Board at the next convened meeting for consideration. The PI may be invited to appear before the IRB.

Note: The IRB is a review board embodied to consider and uphold the rights, welfare, and protection of human subjects in research. Pursuant to [45 CFR 46.112](#), “*Research covered by this policy that has been approved by an IRB may be subject to further appropriate review and approval or disapproval by officials of the institution. However, those officials may not approve the research if it has not been approved by an IRB.*”

Privacy and Confidentiality: All investigators should strive to insure the protection of subjects’ privacy and confidentiality.

Privacy refers to a person’s interest in controlling the access of others to themselves. This definition recognizes that control and autonomy, rather than isolation, are at issue. Accordingly, this definition recognizes the vital role of informed consent (properly formulated and administered) in giving participants control over if they will allow the researcher access to themselves and to their attitudes, behavior, beliefs, and opinions (e.g., a participant's willingness or unwillingness to disclose personal details about his or her own life).

Confidentiality is an extension of the concept of privacy and refers to data (e.g., some identifiable information about a person) and to agreements about how data are to be handled in keeping with participants’ interest in privacy, i.e. controlling the access of others to information about themselves. The researcher must be able to assure participants that the access of others to information about themselves will be controlled in a way that is acceptable to them. Confidentiality is the arrangement about disclosure the researcher and participant agree upon. Confidentiality is more than a promise or an intention on the part of the researcher. Confidentiality is an arrangement to use certain methods to protect information from people that should not have

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access.

Confidentiality and anonymity are not the same. If anyone, including the PI, can readily ascertain the identity of the subjects from the data, then the research is not anonymous and the IRB must determine if appropriate protections are in place to minimize the likelihood that the information will be inappropriately divulged. The level of confidentiality protections should be commensurate with the potential of harm from inappropriate disclosure.

3.3 Multiple Project Assurance

Institutions that conduct a substantial amount of federally-sponsored human subject research may apply to OHRP for an HHS-approved Multiple Project Assurance (MPA) which covers all research conducted at that institution for as long as the approved assurance is in effect. At present, WesternU does not conduct enough federally sponsored human subject research to be eligible for an MPA and, therefore, must apply to OHRP for an approved assurance for each separate research project that will be federally funded. Procedures for applying for a single project assurance are as follows:

1. When an investigator submits a proposal to a federal agency, s/he may be required to indicate on the appropriate application page that (1) the university does not have a multiple project assurance (may be referred to as MPA or Assurance of Compliance Number); and/or (2) IRB approval is "pending". This applies to projects that will be reviewed by either the expedited or full board review procedures. For exempt projects, follow the proposal application guidelines and call the IRB Office if you have any questions about what to indicate on the application page (IRB Office telephone is 909 469-5606).
2. If the agency approves the proposal for funding, it will notify OHRP that it plans to fund a project that involves human subjects and that an HHS-approved single project assurance is needed.
3. OHPR will notify the WesternU IRB Office that IRB approval is needed for this project and that the IRB should certify to OHPR, within 30 days after receipt of the OPRR notification, that the application or proposal has been approved by the IRB.
4. The IRB Office will follow up to ensure IRB approval and then submit the required certification to OHPR.
5. The PI/Project Director will be notified by the IRB Office when an HHS-approved assurance is obtained.

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SECTION 4.0

The IRB: What it is and How it Works at WesternU

4.1 The Institutional Official and the IRB Office

4.1.a The Institutional Official

The Vice President for Research and Biotechnology serves as the Institutional Official (IO) responsible for administering the IRB. The IO represents WesternU and is the signatory of the Federalwide Assurance (FWA # 00003774) of compliance with DHHS regulations for the protection of human subjects in research. The Vice President is responsible for ensuring that the IRB has the necessary resources and support to comply with all federal, state, and WesternU regulations and guidelines that govern research with human subjects.

Responsibilities of the IO include, but are not limited to:

1. Oversight of the IRB;
2. Oversight of the conduct of research conducted by all WesternU investigators engaged in human subject research;
3. Assuring that the IRB members are appropriately knowledgeable to review research in accordance with ethical standards and applicable regulations;
4. Assuring that all PIs are appropriately knowledgeable to conduct research in accordance with ethical standards and applicable regulations; and
5. Oversight of the development and implementation of an educational plan for IRB members, staff and PIs.

4.1.b The IRB Office

The IRB Office includes the Chair, Vice-Chair and administrative support. The telephone number for the IRB office is (909) 469-5606. Responsibilities of the administrative support staff include organization of IRB meetings, development and distribution of meeting minutes, and record-keeping activities. Responsibilities of the Chair are outlined in Section 4.4. The Vice-Chair fulfills the same responsibilities as the Chair when the Chair is unavailable.

4.2 Authority of the IRB

“An IRB shall review and have the authority to approve, require modifications in (to secure approval) or disapprove all research activities covered by the policy” ([45 CFR 46.109\(a\)](#)).

“Research covered by this policy that has been approved by an IRB may be subject to further appropriate review and approval and disapproval by officials of the institution. However, those officials may not approve research if it has not been approved by the IRB”. ([45 CFR 46.112](#)).

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4.3 Composition of the IRB

Composition of the IRB follows the guidelines set forth in the Code of Federal Regulations, as follows:

45 CFR 46.107 *IRB Membership.*

- (a) *Each IRB shall have at least five members, with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution. The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members, including consideration of race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. If an IRB regularly reviews research that involves a vulnerable category of subjects, such as children, prisoners, pregnant women, or handicapped or mentally disabled persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced in working with these subjects.*
- (b) *Every nondiscriminatory effort will be made to ensure that no IRB consists entirely of men or entirely of women, including the institution's consideration of qualified persons of both sexes, so long as no selection is made to the IRB on the basis of gender. No IRB may consist entirely of members of one profession.*
- (c) *Each IRB shall include at least one member whose primary concerns are in scientific areas and at least one member whose primary concerns are in nonscientific areas.*
- (d) *Each IRB shall include at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated with the institution.*
- (e) *No IRB may have a member participate in the IRB's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.*
- (f) *An IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of issues that require expertise beyond or in addition to that available on the IRB. These individuals may not vote with the IRB.*

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4.4 Appointments, Qualifications, Duties and Terms of Office of IRB Members

IRB Appointments:

The Vice President for Research and Biotechnology shall appoint all IRB members. The Vice President shall appoint members in a manner that reflects fair representation of the WesternU research community. The Vice President shall also appoint a Chair and a Vice-Chair of the IRB. All appointments are contingent on the member signing a confidentiality agreement and any conflict of interest declaration at the time of the appointment.

Alternate Member Appointments:

The Vice President for Research and Biotechnology shall appoint alternate IRB members in a manner that reflects fair representation of the WesternU research community. Alternate members are invited to all IRB meetings and may participate in all discussions. However, alternate members may only vote when serving in the absence of a regular member. An Alternate may substitute for a primary member for an entire meeting or at any time during a meeting for the review of particular research proposals, e.g., when the primary member has a conflict of interest and is recused from review of a particular study. When an alternate member replaces a primary member at a convened meeting, the minutes of the meeting must include the following:

- The alternate's name and status (scientist, non-scientists, un-affiliated)
- The name of the primary member for whom the alternate is substituting
- The reason for the substitution

Alternate appointments are contingent on the member signing a confidentiality agreement and any conflict of interest declaration at the time of the appointment.

Conflict of Interest Declaration and Confidentiality Agreement:

An IRB member must complete a Conflict of Interest (COI) Declaration should the member or the member's immediate family have personal interests or financial interests (FCOI) that may compromise, or have the appearance of compromising, the person's professional judgment in reviewing work before the IRB.

Confidentiality agreement and conflict of interest forms shall be updated at any subsequent reappointment to the IRB. Forms are to remain valid throughout the term of service.

Any external consultants appointed to the IRB shall also complete a confidentiality agreement and conflict of interest declaration forms. If a consultant is used for a particular study, the meeting minutes shall include the name of the consultant and a description of the consultant's expertise. Because consultants are prohibited from voting ([45 CFR 46.107\(f\)](#); [21 CFR 56.107\(f\)](#)), the minutes shall document that the consultant did not vote on the study.

If the IRB permits non-members and guest to attend a convened meeting, e.g., IRB support staff, the investigator whose study is being reviewed, study coordinator, the minutes must record the

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name(s) of all such attendees. The minutes should be clear that the non-member or guest did not participate in the deliberation and voting.

Committee Membership Training Required:

All persons appointed to the IRB must complete the required sections of the Collaborative Institutional Training Initiative (CITI) training program. The IRB administrative staff shall keep a file on all IRB members that includes the certificates of completion, current curriculum vitae and all relevant correspondence.

Qualification and Duties:

The Chair of the IRB must be at least an academic-year appointment member of the WesternU Faculty/Administration with a doctoral degree. The duties of the IRB Chair include, but may not be limited to:

- Chairing all full board meetings, directing discussions and leading the review and voting processes during meetings.
- Pre-reviewing each protocol application and all supporting documents to determine the appropriate level of review (full board, expedited or exempt).
- Assigning submissions to primary and secondary reviewers based upon reviewer expertise.
- Serving as a reviewer when he/she has appropriate expertise.
- Voting as a member of the IRB to break a tie or when contributing to a quorum.
- Reviewing and signing, when necessary, all correspondence generated from meeting decisions prior to them being sent to the PI.
- Reviewing investigators' responses to committee's revision requests.
- Responding to questions and complaints from PIs, research staff, research participants, community members or IRB members and directing issues to the appropriate person(s).
- Overseeing all revisions and changes to IRB policies and procedures.
- Reviewing all unexpected problems and adverse event reports.
- Resolving issues that arise during work of the Board; referring unresolved issues to the appropriate institutional officials.
- Ensuring appropriate selection of IRB members making sure to include members who have expertise regarding the needs of vulnerable populations.
- Representing the IRB with constituencies outside of WesternU and in the research community.
- Ensuring adherence to all applicable state and federal regulations and to all WesternU and IRB policies and procedures in all IRB activities and deliberations.

The IRB chair may designate other IRB members to perform duties, as appropriate, for review, signature authority, and other IRB functions.

The Vice-Chair serves as Chair whenever the Chair is unavailable or unable to serve in that capacity. Therefore, the Vice-Chair must have the same qualifications as the Chair and, when serving in that capacity, has the same responsibilities and obligations as the Chair. When not

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serving as the Chair, the Vice Chair shall have the same duties and responsibilities as a regular IRB member.

If the Chair and the Vice Chair are both unavailable to chair a meeting of the IRB, a regular board member previously designated as "substitute Vice Chair" by the Chair and the Vice President for Research and Biotechnology shall act as Chair for that meeting and shall have all of the responsibilities and duties associated with the office of Chair for that meeting. Such temporary status as substitute Vice Chair continues until either the Chair or Vice Chair becomes available to handle IRB matters.

IRB Members and alternate members are expected to:

- Attend and participate in a majority of the convened meetings.
- Inform the IRB Office if they are unable to attend a scheduled meeting
- Review all materials provided in each meeting packet in advance of meetings that they attend.
- Review all materials relevant to protocols assigned to them for expedited review.
- Review and promptly inform the IRB administrative staff of any corrections or additions to the minutes of a convened meeting.
- Maintain confidentiality regarding the content of research proposals and any accompanying documents.
- Report any concerns about the IRB to the IRB Chair or IO.

Terms of Office:

Members of the IRB shall serve a term of office of three years on a staggered term basis. At the expiration of a member's term of office, the Vice President for Research and Biotechnology shall either re-appoint the member or appoint a replacement member.

Members of the IRB may resign their appointment at any time. The Vice President for Research and Biotechnology shall appoint a replacement.

Removal of IRB Members:

In consultation with the IRB Chair, the Vice President may remove a member from the IRB. If the member feels that the removal is unjustified, the member may discuss the issue with the Vice President. If they are unable to resolve the issue, the member may appeal the decision to the Provost/Chief Operating Officer (COO). The decision of the Provost/COO shall be final.

4.5 IRB Meeting Procedures

A regular meeting of the IRB shall occur once a month. Additional meetings may be called at the discretion of the Chair. The IRB Chair shall prepare the agenda and direct the meeting accordingly. The following meeting format is recommended:

1. Call to Order and verify quorum
2. Announcements

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3. Approval of minutes of previous meeting
4. Old Business
5. New Business
6. Adjournment

A **quorum (simple majority: 50% +1)** of members must be present to vote on any item before the Board. If a quorum is lost, voting cannot occur. If the IRB has an odd number of members, the number of members that must be present to constitute a quorum shall be determined by taking half of the total number of members and rounding up to the next whole number.

IRB members may participate in a convened meeting of the IRB via telephone or video [conferencing](#) when those members have received in advance of the meeting a copy of all pertinent material that are to be reviewed at the meeting and can actively and equally participate in the discussion of all protocols. The minutes should make clear which members, if any, participated in the convened meeting via an alternative mechanism such as telephone or video conferencing.

Research projects that require review by the full Board must be reviewed at a convened meeting in which a quorum of members is present, including at least one member who is non-scientist. If a majority of the IRB membership is not present, or if a non-scientist is not present, then quorum has not been met.

Abstention is when a member does not want to vote on a proposed item for a reason *other than* a conflict of interest. An IRB member who abstains from voting is still counted towards the quorum.

Recusal is when a member does not vote on a proposed item due to a conflict of interest, financial or otherwise. An IRB member who recuses himself or herself cannot be counted toward a quorum.

4.6 IRB Minutes

The Code of Federal Regulations requires the following minimum information to be included in IRB meeting minutes:

[45 CFR 46.115\(2\)](#), *IRB Records. Minutes of IRB meetings shall be in sufficient detail to show attendance at the meetings; actions taken by the IRB; the vote on these actions, including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controversial issues and their resolution.*

Minutes, and any changes to the minutes, shall be reviewed and voted on for approval by the members at a convened meeting. These minutes shall serve as records of IRB proceedings. All remarks, commentaries, opinions and votes of Board members may become part of the official record of the meeting.

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4.7 The IRB Review Process

Criteria for IRB Review of Research: The Code of Federal Regulations requires the following minimum criteria for IRB approval of research:

45 CFR 46.111, *Criteria for IRB approval of research.*

(a) In order to approve research covered by this policy, the IRB shall determine that all of the following requirements are satisfied:

- (1) Risks to subjects are minimized: (i) by using procedures which are consistent with sound research design and which do not unnecessarily expose subjects to risk, and (ii) whenever appropriate, by using procedures already being performed on the subjects for diagnostic or treatment purposes.*
- (2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies subjects would receive even if not participating in the research). The IRB should not consider possible long-range effects of applying knowledge gained in the research (for example, the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility¹.*
- (3) Selection of subjects is equitable. In making this assessment, the IRB should take into account the purposes of the research and the setting in which the research will be conducted, and should be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons.*
- (4) Informed consent will be sought from each prospective subject or the subject's legally authorized representative, in accordance with, and to the extent required by Section 46.116 (general requirements for informed consent, see Section 6).*

¹ Whereas it is not in the realm of the WesternU IRB's authority to evaluate the scientific, social, or political worthiness of any research project, issues of project design are an appropriate area of concern. An IRB member must consider "design of experiment" in determining whether a protocol should be approved, if such design either directly or indirectly places the subject at risk and if the design is such that the experiment cannot be expected to yield any statistically or scientifically meaningful data. The IRB does not operate as a "censor" of certain kinds of research. However, if the protocol introduces an element of risk that is not outweighed by direct benefit to participating subjects and the design is so flawed as to create a doubt as to its value as a research inquiry, then an IRB member may consider design in arriving at a decision.

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- (5) *Informed consent will be appropriately documented, in accordance with, and to the extent required by Section 46.117 (refer to Section 6.3; Step 2: Documentation of Informed Consent).*
- (6) *When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.*
- (7) *When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.*

(b) When some or all of the subjects are likely to be vulnerable to coercion or undue influence, such as children, prisoners, pregnant women, mentally disabled persons, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these subjects.

Determination of Risk: The IRB will make a decision based on common sense and sound professional judgment as to whether or not the proposed research places the subject "at risk". A subject is considered to be at risk if (s)he is exposed to the possibility of harm, whether physical, psychological, sociological, economic, or other, as a consequence of any activity that goes beyond the application of those established methods necessary to meet his/her needs. Minimal risk means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.

Risk as applicable to federal policy is most obvious in medical and behavioral science research projects involving procedures that may induce a potentially harmful altered physical state or psychological condition. The most obvious examples include invasive procedures, the administration of drugs or radiation, the requirement of strenuous physical exertion and an intervention that hastens an emotional disturbance. There are social and behavioral research projects in which, although there may be no immediate risk, procedures may be introduced which constitute a threat to the subject's dignity, right to privacy or economic welfare. There are also medical and biomedical projects concerned solely with organs, tissues, body fluids and other materials obtained in the routine performance of medical services, which obviously involve no element of physical risk to the subject, but their use for certain research, training and service purposes may present psychological, sociological or legal risks to the subject or authorized representatives. The risk element will also be examined for those studies dependent upon existing information or stored data which may have been obtained for non-research purposes but which, when used in a research context, may present risk to the human subject.

If it is determined that a subject will be placed at risk, the IRB will perform a risk/benefit analysis which involves an assessment of the degree of risk, probability of occurrence, reversibility and relation to anticipated benefits. The IRB will consider the fact that certain subject populations (e.g., children, pregnant women, prisoners, mentally disabled, physically disabled) may be at greater risk than others.

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Risk/Benefit Analysis:

1. In research involving a non-therapeutic intervention, the potential risk to the subject must be outweighed or balanced by the potential benefit to the subject and/or by the knowledge to be gained.
2. In therapeutic research involving more than minimal risk, the potential risk should be outweighed or balanced by the potential benefit to the subject. In addition, the relation of the anticipated benefit to the risk must be at least as favorable to the subject in the non-research context. No subject is allowed to continue participating in a research protocol if therapy of proven superior nature becomes available to the subject.
3. In research where a standard therapy not part of the research protocol is employed solely for the benefit of the subject along with additional procedures performed solely for research purposes, the anticipated benefits of the therapy cannot be used to justify exposing subjects to the risks associated with the research procedures. Such risks can only be justified in light of the potential benefits of the research procedures. Conversely, only the risks associated with the research procedures should be used in determining the risk/benefit ratio.
4. In research involving a therapy employed for the potential benefit of a subject suffering from a life-threatening illness, the risk of serious adverse effects may be acceptable providing there are no other therapeutic alternatives available to the subject that offer a more favorable risk/benefit ratio.
5. In research where no direct benefits to the subject are anticipated, the IRB will evaluate whether the risks and/or discomfort presented by procedures performed solely to obtain generalizable knowledge are ethically acceptable.
6. In child research involving greater than minimal risk and no prospect of direct benefit to the subject, the following conditions must be met: (a) the risk represents only a minor increase over minimal risk, (b) the research will likely result in an increase in generalizable knowledge which is of vital importance for the understanding of the subject's disorder, condition, or state of health, and (c) the intervention or procedure presents experiences to the subject that are reasonably commensurate with those inherent in their actual or expected medical, dental, psychological, social, or educational situation.
7. In research involving pregnant women as subjects, one of the following conditions must be met: (a) the purpose of the research is to meet the health needs of the mother, and the fetus will be placed at risk only to the minimum extent necessary to meet such needs, **OR** (b) the risk to the fetus is minimal. Only those research procedures that would be acceptable for a fetus going to term may be performed. In addition, whenever there is a potential conflict of interest (e.g., likelihood of abortion or planned abortion), the investigator must not be involved in any decision as to the timing, method and procedures used to terminate the pregnancy or in the determination of viability of the fetus at termination of pregnancy.

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8. In research involving fetuses in uterus, one of the following conditions must be met: (a) the purpose of the research is to meet the health needs of the fetus and the fetus will be placed at risk only to the minimum extent necessary to meet such needs, **OR** (b) the risk to the fetus imposed by the research is minimal and the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means. Only those research procedures that would be acceptable for a fetus going to term may be performed. In addition, the investigator must not be involved in any decision as to the timing, method, and procedures used to terminate the pregnancy or in the determination of viability of the fetus at termination of pregnancy.
9. In research involving fetuses ex uterus where viability has not been ascertained, one of the following conditions must be met: (a) there is no risk to the fetus imposed by the research and the purpose of the activity is the development of important biomedical knowledge which cannot be obtained by other means, **OR** (b) the purpose of the research is to enhance the possibility of survival of the fetus. Once a fetus is determined to be viable it is designated an infant and is, therefore, subject to the federal regulations governing child research.

Review of Prospective Subject Population: The IRB shall review the prospective subject population and must be assured that: (a) the subject population and number of subjects is appropriate with respect to the nature and goals of the research, (b) the subject sample is representative of the population in terms of gender, ethnicity, etc., and (c) the selection and assignment of subjects is equitable with regard to the potential risks and benefits.

Review of Investigator Qualifications: The IRB shall review investigator qualifications and must be assured that: (a) the investigator has the appropriate qualifications and/or licensure to carry out the procedures involving human subjects with an acceptable degree of potential risk, and (b) the investigator has adequate facilities and equipment to conduct the research with an acceptable degree of potential risk.

Review of Experimental Design and Scientific Merit: The IRB shall review experimental design in order to be assured that the potential risks to the subjects are minimized and the potential benefits maximized by using procedures consistent with sound research design.

Review of Informed Consent: The IRB shall review the consent procedure and the informed consent form to determine if it conforms to WesternU IRB standards and contains all appropriate elements of informed consent as required by federal regulations.

Review of Proposed Compensation: Payment to research subjects may be an incentive for participation or a way to reimburse a subject for travel and other experiences incurred due to participation. However, payment for participation is not considered a research benefit. Regardless of the form of remuneration, PIs must take care to avoid coercion of subjects. Payments should reflect the degree of risk, inconvenience, or discomfort associated with participation. The amount of compensation must be proportional to the risks and inconveniences posed by participation in the study.

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PIs who wish to pay research subjects must indicate in their IRB application form the justification for such payment. Such justification should:

1. Substantiate that proposed payments are reasonable and commensurate with the expected contributions of the subject;
2. State that the terms of the subject participation agreement and the amount of payment in the informed consent form; and
3. Substantiate that subject payments are fair and appropriate and that they do not constitute (or appear to constitute) undue influence.

The IRB must review both the amount of payment and the proposed method of disbursement to assure that neither entails problems of coercion or undue influence.

Credit for payment should accrue and not be contingent upon the subject completing the entire study. The consent form must describe the terms of payment and the conditions under which subjects would receive partial payment or no payment (e.g., if they withdraw from the study before their participation is completed). Any amount paid for completion of the entire study should not be so great that it becomes coercive.

WesternU requires subjects to provide their social security number and address to receive payment by check in any amount. Compensation in any form (checks, cash, gift cards etc.) totaling \$600 or more in a calendar year must be reported by WesternU to the IRS as income. The informed consent form must disclose to subjects when identifying information is being collected for purposes of payment.

4.8 IRB Review Categories

The IRB will determine the appropriate status level for all studies. This determination will be made in accordance with federal regulations to ensure that the rights and welfare of human subjects are protected.

ADMINISTRATIVE REVIEW

Newly submitted protocols will initially be reviewed by the Research Regulatory Coordinator for completeness of the package. Complete packages will then be forwarded to the Chair, or Vice Chair in the Chair's absence, for an Administrative Review. Protocols that are structurally inadequate, i.e., written in such a manner that, in the opinion of the Chair or Vice Chair, are difficult or impossible to follow or that contain substantial elements not directly pertaining to human subjects research or to the goals and specific aims of the project, may be returned without further IRB review. A protocol that is returned to the PI following Administrative Review shall include guidance on how to improve the presentation of the protocol. The guidance shall be limited to structural issues pertaining to the manner in which the research proposal is organized and shall not be based on scientific merit. Such returns are considered incomplete and shall not be assigned an IRB protocol number or recorded in committee minutes. A protocol that has been

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returned following Administrative Review may be resubmitted after the protocol has been revised in accordance with the recommendations of the IRB. A resubmitted protocol shall be treated as an initial submission for the purposes of protocol acknowledgment, assignment of an IRB protocol number, and calculating the number of days under review.

Exempt Certification

Single project exempt status: “Exempt” is a status and does not mean no review. This status designation refers to research activities in which there is minimal or no risk to human subjects as described in the criteria below.

Criteria for exempt status certification: As stated in the Code of Federal Regulations ([45 CFR 46.101\(b\)](#)), research activities in which the only involvement of human subjects will be in one or more of the following categories may be certified by the IRB office as exempt:

- 1. Research conducted in established or commonly accepted educational settings, involving normal educational practices is exempt, such as (i) research on regular and special education instructional strategies; or (ii) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.*
- 2. ^{2,3}Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, unless: (i) information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation.*
- 3. Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior that is not exempt under 2 above, if: (i) the human subjects are elected or appointed public officials or candidates for public office; or (ii) Federal statute(s) require(s) without exception that the confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.*

² Except as provided in footnote 3 below, research described in category 2. that is supported by federal funds and which involves subjects under the age of 18 cannot be certified as exempt, but must be reviewed by either expedited or full board review procedures. Research described in category 2. that will not be supported by federal funds that involves subjects under the age of 18 can be certified as exempt only when the research subjects are students currently enrolled at WESTERNU (except as provided in footnote 3 below).

³ Research on subjects under the age of 18 that involves observation of public behavior are exempt when the investigator does not participate in the activities being observed.

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4. *Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available, or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.*
5. *Research and demonstration projects which are conducted by or subject to the approval of Department or Agency heads, and which are designed to study, evaluate, or otherwise examine: (i) public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those programs.*
6. *Taste and food quality evaluation and consumer acceptance studies are exempt (i) when wholesome foods without additives are consumed; or (ii) when a food is consumed that contains a food ingredient at or below the level, and for a use 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; or (iii) when a food is consumed that contains an 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 consent¹ 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 consent¹ 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 consent¹ 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 consent¹ 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.*

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¹ **Broad consent is consent that is intended to facilitate minimal risk research and allow subjects to permit secondary research use of identifiable private information or biospecimens for future unspecified research. Investigators are referred to the following NIH [video](#) for an explanation of the differences between broad consent and existing options for conducting secondary research and the limitations on the use of broad consent that might not make it the preferred option.**

In determining if a research project qualifies for exempt status, the following requirements should be considered:

1. If a subject's only involvement in a research project is the completion of survey instruments or interview procedures in which the subject is asked to give his/her "natural" responses to questions, free of any prompting or other interventions, the project will normally be considered exempt.

All survey instruments must have an introductory paragraph that contains, at a minimum, the following elements:

- a. **Who is conducting the research and why.**
 - b. **Participation is voluntary.**
 - c. **Words to the effect that refusal to participate is without repercussion or will not alter the subject's relationship, if any, with WesternU.**
 - d. **Whether or not participation is anonymous.**
 - e. **How long it will take to complete the survey.**
 - f. **Submission of a completed survey will be taken as informed consent to use the results in possible future presentations or publications.**
2. If the investigator attempts to influence or change subjects' behavior, perception, or cognition, the project cannot qualify for exempt status.
 3. A project does not qualify for exempt status if subjects are asked to perform physical tasks.

Exempt project design requirements: To meet the criteria for exempt certification, projects must be designed to include certain minimum standards set forth in federal regulations covering human subject research. Some projects may require informed consent. For more information, refer to section 6.5, Informed Consent for Exempt Projects, to determine if a particular study requires a formal informed consent form. **A California Experimental Subjects' Bill of Rights is required if a signed consent is required by the IRB.**

Multiple project exempt status: Faculty who teach "research methods" courses where students are required to develop and conduct their own individual projects to be completed by the end of the semester/block for course credit may obtain exempt status for the course as a whole rather than for each individual student project. A completed Request for Multiple Project Exempt Status form, with a brief description of the general subject matter to be explored by the students, should be submitted to the IRB office at the beginning of each semester in which the course is taught. Multiple Project Exempt Status certifications may be obtained only for those courses in which the

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student projects clearly meet the criteria for exempt status described below and when there will be no publication of research results.

If an investigator wishes to present, publish or disseminate in any form data obtained through an approved Multiple Project Exempt protocol, the investigator must submit a new application to the IRB as an individual project for review and approval prior to submission for publication.

Expedited Review

Expedited review is reserved for those research activities that involve no more than minimal risk to human subjects. To qualify for expedited review, either or both of the following conditions must be met [[45 CFR 46.110](#)]:

1. *Minor changes in previously approved research during the period (of one year or less) for which approval is authorized.*
2. Research activities that involve no more than minimal risk to human subjects. Examples include, but may not be limited to, the following:
 - (1) *Collection of: hair and nail clippings in a non-disfiguring manner; deciduous teeth; and permanent teeth if patient care indicates need for extraction.*
 - (2) *Collection of excreta and external secretions including sweat, un-cannulated saliva, placenta removed at delivery, and amniotic fluid at the time of rupture of the membrane before or during labor.*
 - (3) *Recording of data from subjects' 18 years of age or older using noninvasive procedures routinely employed in clinical practice. This includes the use of physical sensors that are applied either to the surface of the body or at a distance and do not involve input of matter or significant amounts of energy into the subject or an invasion of the subject's privacy. It also includes such procedures as weighing, testing sensory acuity, electrocardiography, electroencephalography, thermography, and detection of naturally occurring radioactivity, diagnostic echography, and electroretinography. It does not include exposure to electromagnetic radiation outside the visible range (e.g., x-rays, microwaves).*
 - (4) *Collection of blood samples by venipuncture, in amounts not exceeding 450 milliliters in an eight-week period and no more often than two times per week, from subjects 18 years of age or older and who are in good health and not pregnant.*
 - (5) *Collection of both supra- and subgingival dental plaque and calculus, provided the procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques.*
 - (6) *Voice recordings made for research purposes such as investigations of speech defects.*

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- (7) *Moderate exercise by healthy volunteers.*
- (8) *The study of existing data, documents, records, pathological specimens, or diagnostic specimens.*
- (9) *Research on individual or group behavior or characteristics of individuals, such as studies of perception, cognition, game theory, or test development, where the investigator does not manipulate subjects' behavior and the research will not involve stress to subjects.*
- (10) *Research on drugs or devices for which an investigational new drug exemption or an investigational device exemption is not required.*

WesternU is not authorized to approve federally-funded projects by expedited review. Institutions that do not have a Multiple Project Assurance (MPA) number on file with the OHRP are assumed not to have enough federally funded projects involving human subjects to have sufficient experience to conduct expedited reviews. **Federally funded projects must undergo full board review.** Contact the IRB Office for more information, if needed.

4.8.a. Expedited Approval Process

Under expedited review, a protocol review may be conducted by one or more experienced committee members designated by the IRB Chair. In reviewing the research, the reviewer(s) may exercise all of the authority of the IRB except that the reviewers may not disapprove the research. If a reviewer has concerns about a project, the Chair or Vice Chair will attempt to resolve the concerns through communication with the investigator. If a reviewer's concerns cannot be resolved to the reviewer's satisfaction, the protocol must be referred to the full Board for review at a convened meeting in accordance with the procedures set forth in [45 CFR 46.108\(b\)](#).

Researchers seeking Expedited Review must adhere to Informed Consent and Bill of Rights requirements, when applicable, as outlined in Section 6.

4.8.b. IRB Reporting of Expedited Reviews

Reporting expedited reviews: [45 CFR 46.110\(c\)](#) has the following requirement for reporting expedited reviews:

Each IRB that uses an expedited review procedure shall adopt a method for keeping all members advised of research proposals that have been approved under the procedure.

The WesternU IRB complies with this requirement by including in the agenda for each meeting a list of all projects received by the IRB Office since the last meeting and the manner in which each project was reviewed and approved, i.e., exempt, expedited, or full board review.

Full Board Review

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Research projects that do not qualify for exempt certification or expedited review must be reviewed by the Full Board at a convened meeting at which a majority of the members of the IRB are present, including at least one member whose primary concerns are in nonscientific areas. In order for the research to be approved, it shall receive the approval of a majority of those members present at the meeting [45 CFR 46.108\(b\)](#).

Protocols requiring Full Board Review must be assigned by the Chair to one or more members for review. All members shall receive all submitted documents.

The PI (or his/her designee) may be invited to attend that portion of the meeting in which his/her proposal is under consideration to answer questions and clarify relevant portions of the protocol and project.

The IRB Chair or Vice Chair will notify the investigator of the Board's decision according to the approval process described in Section 4.9 IRB Approval of Research.

Researchers seeking Full Board Review must adhere to Informed Consent and Bill of Rights requirements, when applicable, as outlined in Section 6.

4.8.c. Planned Emergency Research (21 CFR 50.24)

Planned Emergency Research is research that involves participants who, because of their condition (e.g., unconsciousness), are in a life-threatening situation that makes intervention necessary and the person, or their legally authorized representative, is unable to give informed consent.

This exception under FDA regulations pertaining to research involving drugs or devices permits planned research in an emergency setting when human participants who are in need of emergency medical intervention cannot provide legally effective informed consent and their legally authorized representatives are unable to give consent as well. This type of study requires a lengthy review process and thorough and extensive community notification. **Plans to conduct Planned Emergency Research must first be reviewed with the IRB Chair prior to submitting a protocol to the IRB.** The requirements include, but are not limited to, the following:

(a) The IRB responsible for the review, approval, and continuing review of the clinical investigation described in this section may approve that investigation without requiring that informed consent of all research subjects be obtained if the IRB (with the concurrence of a licensed physician who is a member of or consultant to the IRB and who is not otherwise participating in the clinical investigation) finds and documents each of the following:

(1) The human subjects are in a life-threatening situation, available treatments are unproven or unsatisfactory, and the collection of valid scientific evidence, which may include evidence obtained through randomized placebo-controlled investigations, is necessary to determine the safety and effectiveness of particular interventions.

(2) Obtaining informed consent is not feasible because:

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- (i) *The subjects will not be able to give their informed consent as a result of their medical condition;*
 - (ii) *The intervention under investigation must be administered before consent from the subjects' legally authorized representatives is feasible; and*
 - (iii) *There is no reasonable way to identify prospectively the individuals likely to become eligible for participation in the clinical investigation.*
- (3) *Participation in the research holds out the prospect of direct benefit to the subjects because:*
- (i) *Subjects are facing a life-threatening situation that necessitates intervention;*
 - (ii) *Appropriate animal and other preclinical studies have been conducted, and the information derived from those studies and related evidence support the potential for the intervention to provide a direct benefit to the individual subjects; and*
 - (iii) *Risks associated with the investigation are reasonable in relation to what is known about the medical condition of the potential class of subjects, the risks and benefits of standard therapy, if any, and what is known about the risks and benefits of the proposed intervention or activity.*
- (4) *The clinical investigation could not practicably be carried out without the waiver.*
- (5) *The investigator has committed to attempting to contact a legally authorized representative for each subject rather than proceeding without consent.*

Case Reports

WesternU's policy is that all case reports must be submitted for IRB review and approval. Reports involving three or fewer patients must be submitted as a Request for Determination (RFD) and await the IRB's decision prior to disseminating the case report. Reports involving four or more patients must be submitted using the IRB protocol application form(s). Assignment of an IRB protocol number does not constitute permission to proceed. Refer to section 9.2.

A case report is understood to mean the collection and presentation of detailed information about a phenomenon in **three or fewer patients**. With the exceptions listed below, case reports generally do not meet the Common Rule definition of research (a systematic investigation, including research development, testing and evaluation designed to develop or contribute to generalizable knowledge).

Whereas Health Insurance Portability and Accountability Act (HIPAA) authorization may not always be required, there may be instances in which patient authorization may be needed prior to using their health information. If the case report includes any of the protected health information identifiers or "any other unique identifying number, characteristic or code", an authorization must be obtained for disclosure of the information in the case report. This includes cases that are so unique that someone with personal knowledge of the incident could identify the patient.

Protected Health Identifiers, but may not be limited to:

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- Names;
- All geographic subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes;
- All elements of dates (except year) for dates related to an individual, including birth date, admission date, discharge date or date of death and all ages over 89 years and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 years or older;
- Telephone numbers;
- Fax numbers;
- Electronic mail addresses;
- Social security numbers;
- Medical record numbers;
- Health plan beneficiary numbers;
- Account numbers;
- Certificate/license numbers;
- Vehicle identifiers and serial numbers, including license plate numbers;
- Device identifiers and serial numbers;
- Web Universal Resource Locators (URLs);
- Internet Protocol (IP) address numbers;
- Biometric identifiers, including finger and voice prints;
- Full face photographic images and any comparable images.

If the case report involves [deceased](#) patients, HIPAA authorization is required from the patients' families unless the patients have been deceased for more than 50 years.

Regardless of the number of study participants, if the case study involves any one of the following activities, an IRB protocol application must be submitted for review and approval:

- Investigational drug(s) or device(s) are involved (off-label use of an approved drug or device for the sake of an individual patient does not constitute research).
- There is a clear intent before treating the patient to use systematically collected data that would not ordinarily be collected in the course of clinical practice in reporting and publishing the case study.
- There is a plan to perform the treatment on some individuals but not on others.
- There is intent to manipulate medications (even approved ones) to determine maximum effectiveness, or to test if they work consistently well.
- Extra tests are conducted for the sake of reporting.
- There is a protocol or study plan.
- Records or data sheets are maintained separate from clinical records (particularly with identifiers).
- The primary purpose is to answer a research question and not to provide care.
- There is a possibility that the treatment might yield a case series if it is effective in others (e.g., testing a hypothesis).
- There is intent to publish a report that is analytical instead of descriptive.

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- Case reports that involve any of the following protected groups:
 - Pregnant women, human fetuses, neonates
 - Prisoners
 - Children less than 18 years of age.

4.9 IRB Approval of Research

4.9.1. Voting Procedures and Options:

Pursuant to [45 CFR 46.109\(d\)](#), *An IRB shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure IRB approval of the research activity. If the IRB decides to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.*

In compliance with this regulation, after a thorough review of any research protocol before the IRB, the Chair may call for a "motion to consider," at which point any IRB member may move for one of the following:

- **APPROVAL:** *The protocol and consent form(s) are satisfactory as presented and the investigator may begin research immediately.*
- **APPROVAL WITHHELD:** *The project is not satisfactory as submitted. The P.I. must make modifications and/or alterations to the protocol and/or consent form(s) as directed by the IRB. Revisions and modifications to the satisfaction of the IRB Chair (acting on behalf of the IRB) may then result in APPROVAL.*
- **DEFERRAL:** *There is insufficient information to reach any definitive conclusion regarding the protocol. The investigator will be asked to revise the protocol and resubmit for review at a later date.*
- **DISAPPROVED:** *The protocol places subjects at unacceptable risk relative to benefits. The research project as designed and described is not suitable for involvement of human subjects.*

Once the "motion to consider" has been seconded, there will be an opportunity for further discussion and clarification. The motion can then be voted upon.

For the reviewed research to be approved, it must receive the approval of a majority of the voting members present. If the votes are tied, the Chair will cast the deciding vote. In any case, the motion at hand must pass by a simple majority of the voting members present.

Investigators will be notified of the Board's decision in the form of a letter from the Chair, with a copy to the IRB Office. The letter will describe any changes to protocol or consent form that are required for final IRB approval. Once the IRB Office receives all of the appropriate documents

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(protocol, consent forms, other attachments) with required revisions, final IRB approval can follow without further delay.

If the investigator does not respond to the IRB's notification of required changes within 20 business days of receiving APPROVAL WITHHELD, the proposed project will be administratively terminated. Investigators may resubmit a protocol for review at a future meeting of the IRB. Administrative termination of a protocol shall be reported in the IRB meeting minutes along with the reason for the termination.

4.9.2 Approval period:

The effective date of initial approval of a protocol submitted for Full Board Review shall be the date on which the vote is taken at a convened meeting of a majority of the voting members of the IRB. All research projects involving human subjects are approved for a maximum of one year at a time. Refer to Section 8.1 for more information.

4.9.3. Review of Investigator Reports:

The IRB shall review at least annually investigator reports of completed and ongoing research. Refer to Section 8 for investigator reporting requirements.

4.9.4 Certification for Federal Funding:

An investigator should first inform the IRB Office if (s)he intends to submit a research proposal covered by an IRB-approved protocol to a federal agency for funding. The Office of the Vice President for Research and Biotechnology shall follow that agency's procedures for notifying them of IRB approval of the project.

When a proposal involving the use of human subjects is funded by the National Institutes of Health (NIH), the awarding NIH institute will notify the Office for Human Research Protections ([OHRP](#)) that an Assurance of Compliance is needed from the grantee institution (e.g., WesternU). OHRP will contact either the PI or the Office of Research Administration (usually in writing) and request the Assurance. The Assurance of Compliance is completed by the IRB Office on forms provided by OHRP and is submitted to OHRP. The grant will not be awarded until OHRP has received and approved the Assurance of Compliance. OHRP will notify the awarding NIH institute of such approval.

4.10 Cooperative Agreements

WesternU researchers may have opportunities to engage in human subjects research with outside institutions. Such relationships must be formalized by a Cooperative Agreement, i.e., a contractual agreement between institutions that governs how the parties will work together to support research. The Cooperative Agreement **is not a blanket agreement** and does not negate the WesternU researcher's responsibility to obtain IRB approval for each protocol

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application. Rather, each protocol must be submitted to one or both of the cooperative IRBs and the two IRBs shall determine which IRB will serve as the lead IRB. Contact WesternU's IRB office for submission guidance. Human subjects research that is governed by a Cooperative Agreement **may not be started** until the researcher has obtained approval from the lead IRB and written confirmation of authority to proceed from the reciprocal IRB. Violation of this requirement shall result in appropriate actions being taken by the WesternU's IRB. Contact the IRB Office for more information on Cooperative Agreements.

4.11 IRB Audit of Research

The IRB shall have the authority to inspect all research premises and review research documents relating to the protocol and procedures being used in human subject experimentation. Generally, the investigator will be asked to provide copies of relevant and necessary documents for IRB review. Such document requests are in addition to that generated in an annual review process. In most cases, this will only occur when there is an indication that a substantive change is in effect which has not been reported. Failure to comply with such a request for information from the IRB may result in suspension or termination of IRB approval of research.

45 CFR 46.113, *Suspension or termination of IRB approval of research. An IRB shall have authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects. Any suspension or termination of approval shall include a statement of the reasons for the IRB's action and shall be reported promptly to the investigator, appropriate institutional officials, and the (appropriate federal) department or agency head.*

4.12 Non-Compliance

The IRB recognizes that protocol violations or noncompliance may or may not be intentional and may or may not be under the control of the investigators. If the IRB determines that an investigator is non-compliant with approved protocols, the IRB shall instruct the investigator on the corrective action(s) that must be taken to address the non-compliance. The IRB will require an investigator to submit a report that details the corrective actions taken.

4.12.1 Major Non-Compliance

Major or serious non-compliance occurs when it:

- a) Adversely affects the rights or welfare of human research subjects;
- b) Places subjects at increased risk of harm; or
- c) Is continuous and indicates an unwillingness to comply with, or a lack of knowledge of, the regulations and terms of the approved protocol that may result in an adverse effect on the rights and welfare of the participants or that may place them at an increased risk of harm.

Note: Violations/non-compliance may or may not result in physical harm to the subjects. The harm may be clinical, emotional, social, financial, etc.

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Major/serious non-compliance issues include, but are not limited to:

- Bringing harm to the subjects or exposing a participant to possible harm
- Compromising the privacy and confidentiality of the participant
- Engaging in willful non-compliance or misconduct
- Conducting research that is not ethical
- Initiating research prior to IRB approval
- Enrolling subjects that do not meet the inclusion criteria
- Failing to report, or delaying to report, any unanticipated problems/adverse events
- Failure to maintain adequate records
- Failing to train research staff in protocols
- Failing to file required forms for renewals ahead of expiration dates
- Informed consent:
 - Failure to obtain (informed consent)
 - Obtained after initiation of procedure(s)
 - Inappropriate documentation of consent prior to initiating procedure(s)
 - No IRB waiver of consent
 - Failure to re-consent after a change in the subject's risk level
- Failure to inform subjects of potential risks during the consent process
- Implementing a modification in approved procedures prior to IRB approval except if the modification is to protect the subject's safety
- Medication dosing errors that increase the participant's risk or potential risk
- Subject visit/procedure is not done per protocol resulting in a significantly increased risk or potential risk to the subject or significant damage to the integrity of the data
- Safety labs that were ordered but were not performed, are missing or were improperly processed resulting in a significant negative impact on the subject

All major/serious issues of protocol violations or non-compliance must be reported to the IRB immediately upon discovery, but no later than **three (3)** calendar days from the time it is made known to the research team. The Reportable Event Form is to be used for this purpose.

Federal regulations require that major/serious non-compliance issues be reported to the appropriate federal agencies (e.g., OHRP, FDA), institutional official and, in some cases, the funding source (if research is supported by DHHS funding).

4.12.2 Minor Non-Compliance

Minor non-compliance issues do NOT represent a serious or continuous failure to comply with regulations or the terms of an approved protocol; nor do they significantly compromise subject safety or potential risks (either clinical, emotional, social, financial, etc.). There is no actual harm to the subjects and the completeness, accuracy and reliability of the data collected is not significantly damaged.

Minor non-compliance issues include, but are not limited to:

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- Implementation of unapproved recruitment procedures that would have been approved by the IRB had the recruitment material been properly submitted
- Informed consent:
 - Missing pages of a consent form. Subject was re-consented with a complete form
 - Missing investigator signature on consent form
 - Copy of informed consent form not given to the person signing the form
 - Someone other than the subject dated the consent form
 - Person obtaining informed consent not listed on approved IRB protocol
 - Use of consent form without IRB approval stamp
- Failure to follow the approved procedure does NOT affect subject safety or data integrity:
 - Study procedure was conducted out of sequence
 - Omitting an approved portion of the protocol
 - Failure to perform a required lab test for efficacy (not safety)
 - Missing lab results
 - Study visit conducted outside of the required timeframe or not according to approved procedures provided that there is no increased potential risk to the subjects or damage to the integrity or completeness of the data
- Enrollment of more subjects than was approved by the IRB
- Minor dosing errors where the potential risk to the subjects is not increased or is felt to be minor

If the IRB determines that the non-compliance is serious or that there is on-going non-compliance, the IRB will consider:

- Disallowance of data
- Disallowance of publication, presentation or dissemination of the data in any form
- Suspension of the research
- Termination of the research
- Request oversight for the study by another researcher
- Imposing additional monitoring activities
- Possible notification of OHRP and funding agency.

4.12.3 Unanticipated Problems

An unanticipated problem is any event, experience, issue, instance, problem or outcome that meets ALL of the following criteria:

- It is unexpected in terms of the nature, severity or frequency given the procedures that are described in the approved protocol and related documents AND in the characteristics of the population under study.
- There is a reasonable possibility that the incident may have been caused by the procedures involved in the research study.

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- The incident suggests that the research places the subject(s) or others at greater risk of harm (physical, psychological, economic or social) than was previously known or anticipated OR results in actual harm of the subject or others.

Unanticipated problems generally require either a) a change in policy or procedure, b) a substantive change in the protocol or consent or c) other immediate corrective actions to reduce the risk or eliminate the immediate hazard.

Federal regulations require that unanticipated problems be reported to the appropriate federal agencies (e.g., OHRP, FDA), institutional official and, in some cases, the funding source (if research is supported by DHHS funding).

4.13 Reporting Requirements to OHRP

45 CFR 103(b)(5), *Assuring compliance with this policy - research conducted or supported by any federal department or agency. (b)...Assurances applicable to federally supported or conducted research shall at a minimum include: (5) Written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials and the [federal] department or agency head of (i) any unanticipated problems involving risks to subjects or others or any serious or continuing noncompliance with this policy or the requirements or determinations of the IRB and (ii) any suspension or termination of IRB approval.*

The IRB shall file a report with **OHRP** of injury and/or other unanticipated risks to subjects or others that occurs on a project supported by, or regulated by, a federal agency that has accepted the Common Rule on human subject research found at **45 CFR 46**. The report, on IRB letterhead and signed by the Chair of the IRB and the Vice President for Research and Biotechnology, shall be filed as soon as possible after the date of occurrence.

In some cases, the University is required to report to the OHRP any termination of a project due to non-compliance with IRB regulations and directives. Further, such non-compliance is reportable to the federal agency supporting the non-compliant research project.

SECTION 5.0

WesternU Investigators

5.1 Who Must Submit Projects for IRB Review?

Any employee of WesternU who plans to conduct research involving human subjects must submit a protocol to the IRB. All protocols must be approved before the research begins and before any contact is made with prospective subjects.

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Affiliates and other persons not employed by WesternU but who wish to conduct human subject research at WesternU must do so in collaboration with a WesternU employee. The employee must submit a protocol to the IRB and be the person identified as the Principal Investigator on the Protocol Application form. The employee, as the principal investigator, must accept full responsibility for the conduct of the research in accordance with all applicable guidelines and regulations. As previously stated, the IRB must review and approve the protocol before the research begins and before any contact is made with prospective subjects.

Professional Development Leave or Sabbatical: A WesternU employee on professional development leave or sabbatical continues to represent WesternU. All researchers bear the responsibility to obtain approval from a legally constituted IRB. If the employee is the PI on research involving human subjects at WesternU or another institution, the employee must submit a protocol application for review and approval by the WesternU IRB or request that a Cooperative Agreement be established. Refer to section 4.10 on Cooperative Agreements. If the employee serves a role other than PI, the employee must request that a Cooperative Agreement be established. Approved protocols or fully executed Cooperative Agreements must be in place before the research begins and before any contact is made with prospective subjects.

Visiting faculty from another institution who conduct research involving human subjects while at WesternU must obtain WesternU IRB approval. Some institutions may require their personnel to obtain "parent institution" IRB approval or a Cooperative Agreement.

WesternU Employees Serving as Consultants: WesternU employees may serve as professional consultants or advisors to off-campus agencies or organizations engaged in human subjects research.

Faculty or staff members serving as an advisor or consultant to research projects are responsible for professional and ethical conduct and are liable as such.

Prior WesternU IRB approval must be obtained when: (1) the employee is directly involved in the design of the protocol, data collection, data analysis, or dissemination; (2) the project involves WesternU funding or use of WesternU facilities. These activities constitute a research role and not a consultant or advisor role. For questions, contact the IRB office.

Investigators Not Affiliated with WesternU (not employed by or do not receive remuneration from WesternU). The IRB may accept applications for human subject research that does not involve a WesternU employee, the WesternU campus, any WesternU facilities, or any material involvement with WesternU. Review of external protocols may be subject to a fee.

The WesternU IRB will not act on behalf of any investigator to obtain approval from another IRB. Approval from a non-WesternU IRB DOES NOT substitute for WesternU IRB review and approval.

5.2 Training

All investigators submitting protocols to the WesternU IRB must have completed the required sections of the Collaborative Institutional Training Initiative (CITI) training program. Certificates

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of completion must be linked to the protocols to be reviewed. Approval will not be granted if a CITI certificate of completion is not on file. Certification must be renewed every three years.

5.3 What Must be Submitted for New IRB Protocols?

WesternU has adopted an electronic submission process for research protocols. A project number will be assigned to all new protocols submitted to the IRB. This project number will be used to track all future communications or submissions related to the project (e.g., amendment request, annual renewal, closure report). All submissions to the system under that number will be referred to as *packages* and will be filed under the project number. **Assignment of a project number does not constitute IRB approval of the protocol.**

Packages must include at a minimum:

1. IRB Protocol Application and all attachments as applicable (e.g., surveys, recruitment materials, phone scripts, etc.)
2. Proof of the PI's *Human Subjects Protection* training valid through the research period
3. Letter of authorization from the WesternU Patient Care Center for research conducted at this site

For *Expedited* or *Full Board Review* studies, the investigator must also include:

1. California Bill of Rights
2. Informed Consent

Finally, if the planned research involves the non-WesternU owned or operated facilities or non-WesternU researchers, the following additional items should be included:

1. Letters of permission from outside agency or agencies.
2. Other IRB approval or Cooperative Agreement

5.4 Changes in an Approved Protocol or Associated Documents

Any proposed change in protocol or consent form that affects human subjects must be reviewed and approved by the IRB before implementation, except where an immediate change is necessary to eliminate a hazard to the subject. The request for change should be electronically submitted to the IRB Office, utilizing the Request to Amend a Currently Approved Protocol form.

Changes will be reviewed initially by the IRB Chair. The IRB Chair will notify the investigator if the changes must be reviewed by full Board review, expedited review, or if they qualify for exempt certification.

Note: A protocol may be changed without prior IRB approval when necessary to eliminate apparent immediate hazards to the subjects or others. However, the IRB must be notified IN WRITING within 72 hours of any change, and IRB review is still eventually required.

5.5 Project Submission & Review Schedule

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5.5.1 When May Proposals be Submitted and Reviewed?

Investigators must file a request for IRB review well in advance of the anticipated start date. Completed proposals and all required attachments can be submitted at any time, regardless of the type of study.

| Mec | When to Submit | Estimated Time to Receive Initial IRB Review* | Notification to Investigator |
|---------------------------|-----------------------|--|-------------------------------------|
| Exempt | At any time | Within 30 days | Within 10 days following decision |
| Expedited | At any time | Within 60 days | Within 10 days following decision |
| Full | At any time | Within 90 days | Within 10 days following decision |
| Request for Determination | At any time | Within 5 business days | Within 5 days following decision |

*This does not refer to the time it takes for possible approval. PIs must respond to IRB comments in a timely matter. Circumstances may arise that will extend these timelines. Requested changes to any documents will take additional time for review.

Helpful tips: Principal Investigators and their research team are encouraged to watch for IRBnet messages. Each board action and board document will automatically send a message alerting the PI and team that action has been taken on the project submission.

Board action/ IRBnet terminology:

Administrative Review – Administrative Review / Desk Review is completed after initial submission. Administrative review checks for completeness of the project documents, CITI training and the use of current forms. Desk review checks for completeness of the IRB protocol and supporting document content. If the project is missing information, a board action of

INFORMATION REQUIRED will be updated and a brief list of information, documents or revisions will be sent via message to the PI and team with detailed instructions.

Exempt, Expedited, Full Board Review- This will be the scientific review of your project. Once you have received and completed the Administrative/Desk review, your project will be assigned to an IRB member for scientific review based on the level of review. The Board action will display the level of review and show **ACKNOWLEDGED**, when your project has been assigned. If your project is a Full Board review, it will be added to the next IRB meeting agenda and assigned to 2 IRB members for review.

After review of each project, an IRB board action will be displayed with the status. If the reviewer has requested revisions, the board action will be updated to **MODIFICATIONS REQUIRED** and review comments/requests will be uploaded to a Modifications Required notice. In some cases, the notice will be accompanied by a review comment worksheet. Each notice will provide the details of the reviewer request and instructions for further review.

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APPROVAL- Once you have uploaded all requested information, documents and revisions in a timely manner, and approval has been granted, your project will be updated to **APPROVED** and an approval letter along with stamped supporting documents (as needed) will be added to your board documents for review

***NOTE: Once an investigator has been notified that the IRB has completed its initial review of a submitted protocol, it is expected that the investigator shall respond to the review in a timely manner. Reminders to respond to the review will be sent at the following intervals:**

| |
|--|
| Initial Notice with Date to Respond within 28 Days |
| 35 Day Final Reminder |
| 42 Day Administrative Withdraw Notice |

If the IRB has not received the PI's response to the review within six weeks of the review being posted to IRBNet, the protocol will be administratively withdrawn from further consideration by the IRB. Research on a protocol that has been administratively withdrawn from further consideration may not be initiated until such time as a new protocol is submitted for review and approved by the IRB. In the event that the PI cannot respond to Modifications Requests within 6 weeks, the PI should contact the IRB chair for further instructions.

The mailing address for IRB applications originating off-campus is:
IRB Office
Office of the Vice President for Research and Biotechnology
Western University of Health Sciences
309 E. 2nd Street
Pomona, CA 91766-1854

5.6 Dual Submission (non-WesternU IRB submission)

Investigators may utilize research sites outside of WesternU thus creating the need for approval from more than one IRB. This scenario is called ***dual submission***. Investigators must recognize that all IRBs function independently. Determining which IRB takes the lead in initial approval is not always black and white. Possible options include simultaneous, but separate, submissions, or entering into a Cooperative Agreement between institutions.

- Simultaneous submission requires that the investigator submit a protocol application to each party. WesternU offers no guarantee that protocol applications, attachments or forms will be

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identical between the parties. Therefore, the investigator bears the responsibility for meeting the requirements of all parties. Investigators must recognize that either IRB may request modification or clarification of a protocol. The investigator bears the responsibility for ensuring that all IRBs are kept informed of responses.

- WesternU may enter into Cooperative Agreements when a project involves more than one institution. The Cooperative Agreement establishes which IRB shall be the Designated IRB of record, i.e. either WesternU's IRB or the other institution's IRB. Refer to Section 4.10 Cooperative Agreements.

5.7 Record Retention Policy for Investigators

WesternU requires that all investigators comply with [45 CFR 46.115](#) regarding responsibilities for record keeping. All records pertaining to the research (including signed consent forms, raw and analyzed data shall be maintained for a period of at least three years after completion of the study. Investigators must maintain secure storage of all records. Should the investigator leave WesternU, all records shall be transferred to the Office of Sponsored Programs for retention.

5.8 If Investigators Leave WesternU

Investigators may separate from WesternU for any number of reasons. Investigators with approved and open studies must do one of the following:

- Amend the WesternU approved protocol to replace the PI with another WesternU PI,
- Close the protocol and report final findings.

Investigators should consult with the IRB Chair and the Vice President of for Research and Biotechnology for additional guidance.

5.9 Reporting of Unanticipated Problems or Risks

Investigators must report to the IRB unanticipated problems or risks identified during the study no later than 3 calendar days after becoming aware of the event. The Reportable Event form is available for this purpose.

The IRB may additionally require that such problems be communicated to other participants in the study and that all study participants be re-consented if the information regarding risks would be reasonably expected to affect their willingness to continue in the study.

SECTION 6.0

Requirements for Informed Consent

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The U.S. Code of Federal Regulations governing research on human subjects ([45 CFR 46.116](#)) states that, *"...no investigator may involve a human being as a subject in research covered by this policy unless the investigator has obtained the legally effective informed consent of the subject or the subject's legally authorized representative. An investigator shall seek such consent only under circumstances that provide the prospective subject or the representative sufficient opportunity to consider whether or not to participate and that minimize the possibility of coercion or undue influence. The information that is given to the subject or the representative shall be in language understandable to the subject or the representative. No informed consent, whether oral or written, may include any exculpatory language through which the subject or the representative is made to waive or appear to waive any of the subject's legal rights, or releases or appears to release the investigator, the sponsor, the institution or its agents from liability for negligence."*

Apart from these federal requirements, the principal reason for informing subjects about an experiment is that they have a moral and ethical right to know certain things about the project before they give their consent. The use of human subjects is a privilege -- a favor -- granted to the experimenter, rather than a right. An experiment is something that is done to a subject as compared to medical practice, where something is done for a patient.

California law requires that potential research subjects understand their rights as a research subject. The investigator must provide and obtain a signed *Subjects Bill of Rights* prior to obtaining informed consent. Research subjects should be given a copy of the completed Subjects Bill of Rights. The IRB will provide a sample bill of rights if needed.

Obtaining informed consent from a prospective subject is a two-step process: (1) giving the prospective subject sufficient information about the project to enable him/her to make an "informed" decision about whether to participate; and (2) if he/she decides to participate, obtaining his/her consent in a manner that documents the information that was given and that documents that the subject's consent was obtained. Step 1, the information process, is described below. Step 2, documentation of informed consent, is described in Section 6.3.

6.1 The Consent Elements and Process

Step 1: The Information Process

The information about a project that a prospective subject has a right to know is called "the elements of informed consent." In compliance with [45 CFR 46.116](#), the IRB requires that the following Basic Elements of Informed Consent be communicated by means of a written consent form to prospective subjects. A waiver of the requirement to communicate the elements of informed consent may be obtained only under the conditions described under Waiver of Requirement for Informed Consent (Section 6.4).

6.1.a. Required Consent Elements

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Basic Elements of Informed Consent: Unless the requirement for informed consent is waived, the following federally-required information must be provided to each subject when seeking informed consent:

1. A statement that the study involves research, an explanation of the purposes of the research and the expected duration of the subject's participation, a description of the procedures to be followed, and identification of any procedures which are experimental;
2. A description of any reasonably foreseeable risks or discomforts to the subject;
3. A description of any benefits to the subject or to others which may reasonably be expected from the research;
4. Disclosures of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;
5. A statement describing the extent, if any, to which confidentiality of records identifying the subject will be maintained;
6. For research involving more than minimal risk, an explanation as to whether any compensation and an explanation as to whether any medical treatments are available if injury occurs and, if so, what they consist of, or where further information may be obtained;
7. An explanation of whom to contact for answers to pertinent questions about the research and research subjects' rights, and (when appropriate) whom to contact in the event of a research-related injury to the subject;
8. A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of benefits to which the subject is otherwise entitled.

6.1.b. Additional Elements of Informed Consent Required By WesternU.

In addition to the above federal minimum requirements, WesternU's IRB requires the following to be included in consent forms, when applicable.

1. A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable;
2. Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent;
3. Any additional costs to the subject that may result from participation in the research;

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4. The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;
5. A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject;
6. The approximate number of subjects involved in the study.

6.1.c. Format for Informed Consent Forms:

Unless the IRB Office issues a specific waiver, the signed consent of subjects is required for all non-exempt research projects involving human subjects. In addition, it may be advisable to obtain signed consent from subjects in some exempt projects. To increase readability and facilitate IRB review, the following format is required for consent forms for all projects in which the signed consent of subjects will be obtained.

The informed consent form must be written in simple language that is readily understood by the least educated, least sophisticated of the subjects to be utilized. It is recommended that the language consist of short, concise sentences. It should be remembered that terms that are commonly used by members of a profession are a part of the profession's language and may not be understood by the ordinary "lay" subject. If there is any doubt that a term may be understood, other words should be used or a definition of the term should be included, e.g., "...4 cc (about a teaspoon)". If some of the anticipated subject population does not understand English, appropriate translation should be provided.

If the consent form will be used for parents or other legal representatives who will be consenting on behalf of a minor or other legally incompetent subjects, the consent form must be written in a style that reflects the fact that it is the minor or other subject who is the participant and the consentor is agreeing to allow said subject to participate in the study.

Use of subheadings for each section (e.g., Invitation to Participate, Basis for Subject Selection) is recommended, but whether you use subheadings or not, be sure to include the information that is required under each section that applies to your project.

6.2 Special Consent Circumstances

6.2.1 Non-English Speaking Subjects

If non-English speaking subjects are known to be enrolled in a research project, the IRB shall require a translated informed consent document that has been certified as accurate by a WesternU IRB-approved translation service or by some other person known to be fluent in the foreign language.

Interpreters: A WesternU-approved interpreter may be required to facilitate the consent process. Interpreters must receive copies of the IRB-approved translated consent form and the IRB-

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approved English consent form prior to the consent conversation with the potential subject. Family members may not serve as interpreters although they may be present during the consenting process.

6.2.2 Oral Consent

When subjects are unable to read a written consent form (such as blind or illiterate subjects), the IRB may approve an oral consent process, provided that the subject (1) retains the ability to understand the concepts of the study and evaluate the risk and benefit of being in the study when it is explained verbally and (2) is able to indicate approval or disapproval to study entry. The IRB must approve this process for each study that will use this method of consenting.

6.2.3. Braille Consent

For blind subjects who read Braille, the IRB may approve a consent document prepared in Braille. To ensure that a Braille consent document is accurate, the IRB may require a transcription into print text or review of the document by an IRB member or other person who reads Braille. If possible, the subject will sign the Braille consent; otherwise verbal consent will be obtained and documented as described elsewhere. If a Braille consent is not available, the PI must request IRB permission to use the oral consent process.

6.2.4. Consenting in American Sign Language (ASL)

For deaf subjects who are fluent in ASL, the IRB may approve a consent process using ASL and the IRB-approved written consent form. When this process is approved, the individual authorized to consent prospective subjects must use a WesternU-certified interpreter fluent in ASL to conduct the consent process. The consent process must be documented.

6.3 Consent Minor Subjects

Informed Consent for Minors: When research subjects will be under 18 years of age the written consent of one or both parents, in addition to the minor's assent, is required for projects that qualify for expedited or full board review, and for some exempt projects.

For research conducted outside of California, investigators must comply with the laws governing the legal age of consent in all relevant jurisdictions.

Consent/Assent Procedures for Minors: Research involving minors is governed by the U.S. Code of Federal Regulations [45 CFR 46:401-409 \(Subpart D\)](#). WesternU complies with these federal regulations, and may have, in some cases, supplemented them with additional requirements.

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In California, anyone under the age of 18 years is considered a minor. Pregnancy does not confer majority status. Minors are considered a vulnerable research population because their intellectual and emotional capacities may be limited. Where appropriate, studies should be conducted first on animals and adult humans, then on older children before involving younger children. Legally, minors cannot give consent on their own behalf. The consent of their parent(s) or a legal guardian is, therefore, required before they can participate in any non-exempt (and some exempt) research projects. Under special circumstances (e.g., research involving neglected/abused children), the IRB may approve a waiver of parental consent. If the minor is registered as a student at WesternU, and the proposed investigation involves no more than minimal risk, the requirement for parental consent may be waived. A minor may, however, with IRB approval, legally consent on his/her own behalf (as a mature minor) if the research involves a treatment for which minor consent is permissible under applicable law (e.g., use of contraceptives, treatment for sexually transmitted infections, or drug abuse).

If the research involves only minimal risk activities (e.g., venipuncture, skin biopsy, EEG, EKG, urine collection, moderate exercise, standard psychological testing), consent of only one parent or legal guardian may be obtained. If, however, the research involves greater than minimal risk activities, consent of both parents must be obtained unless one parent is deceased, unknown, incompetent, or not reasonably available, or when only one parent has the legal responsibility for the care and custody of the child.

For research subjects under the age of seven, only parental consent is required. See guidelines for development of the parental consent form in Section 6.1.

For research subjects ages seven through 17 years, an investigator must obtain assent of the minor in addition to parental consent, unless the subject displays intellectual/emotional development below that of the average seven year old child. A child assent form should be used for subjects age seven through 12 years. The form must be brief and contain extremely simplistic language written at the appropriate age level. The heading for this form should be **Child Assent Form** and need only contain the following elements:

- 1) *a statement of the purpose of the research;*
- 2) *a description of the procedures to be applied to the minor;*
- 3) *a description of the potential risks and discomforts associated with the research;*
- 4) *a description of any direct benefits to the minor;*
- 5) *a statement that the minor does not have to participate if he/she does not want to;*
- 6) *a statement that the minor is free to withdraw at any time;*
- 7) *a statement that the minor should discuss whether or not to participate with his/her parents prior to signing the form;*
- 8) *a statement that the parents of the minor will be asked to consent on behalf of the minor;*
- 9) *an offer to answer all questions.*

Only the minor and the investigator should sign the child assent form. The parent or legal guardian of the minor should be given a copy of the assent form. The following is an example of a simplified concluding consent statement:

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This research project has been explained to you and you understand what is going to be done, and why. You have talked to your parents about this project and you have decided that you would like to be a part of it. You understand that your parents (or legal guardian(s)) will be given a copy of this form to keep.

A youth assent form should be used for subjects age 13 through 17 years (See Section 6.3). As stated above, a youth assent form and a parental consent form are both required. The youth assent form must also be written at the appropriate age level and contain simplified versions of the same elements present in the standard consent form described in Section 6.1. The heading for this form is **Youth Assent Form**. Only the minor and the investigator should sign the youth assent form. Give the parent or legal guardian a copy of the assent form. The concluding consent statement can be the same as above for the child assent.

In most circumstances, a minor's deliberate objection should be regarded as a veto of his or her involvement in a research project. Parents or guardians may, however, with IRB approval, override a young child's objections to interventions that hold the prospect of direct benefit to the subject.

The parental consent form should be written in a style that indicates it is the parent or legal guardian who is consenting to allow the minor to participate in the study. The heading for this form is **Parental Consent Form**. Follow the standard format for consent forms described in Section 6.1.c except for the concluding consent statement, which should be as follows:

You are voluntarily making a decision whether or not to allow your child/legal ward to participate. Your signature indicates that, having read the information provided above, you have decided to permit your child/legal ward to participate. You will be given a copy of this consent form to keep.

Step 2: Documentation of Informed Consent

The second step, documentation of informed consent, applies to all research projects that qualify for expedited and full board review, and for exempt projects for which the signed consent of subjects will be obtained.

When the elements of informed consent as previously described in 6.1 have been communicated to the prospective subject and he or she has decided to participate, that decision must be documented by means of the subject's signature on the consent form. The Code of Federal Regulations, [45 CFR 46.117c](#) describes the following procedures for obtaining informed consent:

- (a) *Except as provided in paragraph (c) of this section, informed consent shall be documented by the use of a written consent form approved by the IRB and signed by the subject or the subject's legally authorized representative. A copy shall be given to the person signing the form.*
- (b) *Except as provided in paragraph (c) of this section, the consent form may be either of the following:*
 - (1) *A written consent document that embodies the elements of informed consent required by [46.116](#) (see 6.1: THE INFORMATION PROCESS). This form may be read to the subject or the*

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subject's legally authorized representative, but in any event, the investigator must give either the subject or the representative adequate opportunity to read it and ask questions before it is signed; or

- (2) *A short form written consent document stating that the elements of informed consent required by [46.116](#) have been presented orally to the subject or the subject's legally authorized representative. When this method is used, there must be a witness to the oral presentation. In addition, the IRB shall approve a written summary of what is to be said to the subject or the representative. Only the short form itself is to be signed by the subject or the representative. However, the witness shall sign both the short form and a copy of the summary, and the person actually obtaining consent shall sign a copy of the summary. A copy of the summary must be given to the subject or the representative, in addition to a copy of the short form.*

6.4 Waiver of Requirement for Informed Consent

There may be situations in some research projects in which it is not feasible to communicate some or all of the elements of informed consent. In such cases, a request for waiver of some or all of the elements of informed consent may be submitted to the IRB. Sections 46.116(d) and 47.117(c) of the Code of Federal Regulations [45 CFR 46](#), describes circumstances in which the IRB may approve a waiver:

45 CFR 46.116(d)

- (c) *An IRB may approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth above, or waive the requirement to obtain informed consent provided the IRB finds and documents that:*
 - (1) *The research or demonstration project is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine: (i) public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those programs; and*
 - (2) *The research could not practicably be carried out without the waiver or alteration.*
- (d) *The IRB may also approve a consent procedure which does not include, or which alters, some or all of the elements of informed consent set forth above, or it may waive the requirements to obtain informed consent provided the IRB determines that:*
 - (1) *The research involves no more than minimal risk to the subjects;*
 - (2) *The waiver or alteration will not adversely affect the rights and welfare of the subjects;*
 - (3) *The research could not practicably be carried out without the waiver or alteration; and*
 - (4) *Whenever appropriate, the subjects will be provided with additional pertinent information after participation.*

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- (e) *The informed consent requirements in this policy are not intended to preempt any applicable federal, state, or local laws which require additional information to be disclosed in order for informed consent to be legally effective.*

45 CFR 46.117(c)

- (c) *The IRB may waive the requirement for the investigator to obtain a signed consent form for some or all subjects if it finds either:*
- (1) *That the only record linking the subject and the research would be the consent document and the principal risk would be potential harm resulting from a breach of confidentiality. In this case, each subject will be asked whether the subject wants documentation linking the subject with the research, and the subject's wishes will govern; or*
 - (2) *That the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside of the research context.*

Note: In cases in which the requirement for signed consent is waived, the IRB requires the Investigator to provide subjects with a statement regarding the research.

6.5 Informed Consent for Exempt Projects

Obtaining the signed consent of subjects participating in exempt research projects is generally not required, although the IRB reserves the right to require signed consent of subjects for certain exempt projects. Nevertheless, it is desirable to obtain signed consent for two reasons: (1) having the documented consent (a signature) of subjects in the investigator's possession is good insurance if a problem or question should arise about a subject's participation; and (2) students who will be involved in human research in their professional careers will undoubtedly be required to obtain signed consent of subjects. Learning the process with university research projects will assist them in becoming familiar with the federal regulations that they will be required to follow later in their careers. When signed consent will be obtained from subjects, the standard format for consent forms should be followed, omitting those elements of informed consent that do not apply to the project.

Even when signed consent will not be obtained from them, research subjects have a moral and ethical right to know what is to be done to them (or required of them), and the voluntary nature of their participation before they give their consent. The IRB requires that the "elements of informed consent" be communicated in some manner to prospective subjects of exempt projects. Because some of the elements required for non-exempt projects generally do not apply to exempt projects (e.g., potential risks and discomforts, statement of injury or special costs), an abbreviated version of the elements is usually appropriate.

The method of communicating the elements of informed consent will vary, depending upon a project's design. In telephone surveys, they will obviously be communicated orally. In mail surveys, they can be communicated in a cover letter. In settings in which questionnaires will be distributed to potential subjects, such as in a classroom or meeting, the elements could be communicated by means of an information sheet, attached to the front of the questionnaire that the

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subject can tear off and keep for his/her reference after he/she completes and returns the questionnaire. In personal interviews, especially when the investigator is doing research "in the field" and selecting subjects at random as they approach, it may be difficult or impractical to present the elements of informed consent in writing. They should still be presented orally, however, and a script of what will be presented should be submitted to the IRB for exempt certification.

Regardless of the method, an example of how the elements of informed consent will be communicated must accompany the "Request for Exempt Status" form submitted to the IRB office. For oral presentations, a copy of the script should be submitted.

6.5.a Sample Information Sheet for Exempt Projects

Following is an example of an information sheet that could be attached to a questionnaire. It contains the basic elements of informed consent in narrative form. Something similar could be adapted for a cover letter to a mail survey. This format is not appropriate, however, for projects in which the signed consent of subjects will be obtained.

Dear ___ student, consumer, or other groups ___:

My name is _____. I am a doctoral/graduate student in ___ department or major ___ at Western University of Health Sciences, and I am conducting a research project to ___ describe purpose of project in a few sentences ____. Results of this study will help us learn more about how to deal with ___ the research problem or needs.

You are invited to participate in this study. Your participation is entirely voluntary, and you may withdraw from participation at any time, with no loss of benefits. (If subjects will not receive direct benefits or compensation, such as extra credit, you may omit the words, "with no loss of benefits." For mail survey cover letters, you may wish to say something like: "Your participation is voluntary; however, your assistance would be greatly appreciated in making this a meaningful survey.") If you decide to complete this survey (or participate in this project) tear off this sheet and keep it for your information.

It should take about ___ minutes to complete the attached questionnaire. (Give instructions about how to complete and return the survey to you if you do not have those instructions written elsewhere. Describe any compensation or benefit to the subject, if applicable).

Your identity will remain anonymous. Only group comparisons will be made and reported in summary form. (If this is not an accurate statement of the way you will maintain the confidentiality of their responses, describe your method).

If you have any questions about this project, please call me at ___ phone number ___, or call my adviser at ___ give name and campus phone number ___. If you have questions about the rights of human research subjects, you should contact the WesternU IRB office, (909) 469-5636.

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Thank you for your participation in this study. If you wish to receive a copy of the research results, please _____give instructions for how to let you know_____.

6.6 Retention of Completed Consent Forms

Storage of Informed Consent Forms: Signed copies of informed consent forms must be maintained by the PI and stored in a secure manner. Unless otherwise specified by federal and/or state regulations, retention of the signed consent forms is for a period of at least three years beyond the termination of the study. If the investigator separates from WesternU before the end of the designated period, the Office of Vice President for Research and Biotechnology must maintain the informed consent forms unless otherwise specified.

6.7 Authority to Observe Consent Process and Research

An IRB shall have authority to observe or have a third party observe the consent process and the research. ([45 CFR 46.109\(e\)](#)).

SECTION 7.0

Guidelines for Special Types of Research

7.1 Research Involving Investigational Drugs

An investigational drug may be defined by one of the following:

- (a) A drug in any of the clinical stages of evaluation (phase I, II, III) which has not been released by the FDA for general use or cleared for sale in interstate commerce;
- (b) Any commercially available drug proposed for a new use;
- (c) Any commercially available drug to be used in a new dosage, form, or method of administration;
- (d) Any commercially available drug to which a new component, such as an excipient, coating, or menstruum, has been added.
- (e) A new combination of two or more commercially available drugs into a single dosage form;
- (f) A combination of commercially available drugs in new proportions into a single dosage form;

Good medical practice and patient interests require that clinicians be free to use commercially available drugs according to their best knowledge and judgment. If a clinician uses a drug for an indication not in the approved labeling, he or she has the responsibility to be well informed about the drug and to base its use on a firm scientific rationale and on sound medical evidence, and to maintain records of the drug's use and effects. Use of a drug in this manner as part of the "practice of medicine" does not require review by the IRB or FDA notification despite the fact that the drug is technically classified as investigational.

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The **investigational** use of an approved, marketed product differs from the situation described above. "Investigational use" suggests the use of an approved product in the context of a study protocol. *When the principal intent of the investigational use of a drug is to develop information about its safety or efficacy, IRB review and approval is required.*

Note: The submission of an Investigational New Drug (IND) permit is required when a marketed drug is shipped in interstate commerce for the purpose of conducting a clinical trial on the drug for an unapproved use, at an unapproved dosage, by an unapproved route of administration, or in an altered dosage form. The law may not require an IND in all investigational situations. Contact the FDA for additional guidance.

7.2 Research Involving Medical Devices

Investigational devices are medical devices that are the object of clinical research to determine their safety or effectiveness. Studies undertaken to develop safety and effectiveness data for medical devices involving human subjects must be conducted according to the requirement of the Investigational Device Exemption (IDE) regulations ([21 CFR 813](#)).

Investigational devices are classified as either significant risk or nonsignificant risk devices. Examples of nonsignificant risk devices are: most daily wear contact lenses, lens solutions, heel cups, anti-bacterial surgical garments, incontinent devices, oral training splints, ultrasonic tooth cleaners, and Foley catheters. Investigations of non-significant risk devices must meet the abbreviated IDE requirements. Unless otherwise notified by FDA, an investigation of a nonsignificant risk device is considered to have an approved IDE if the sponsor fulfills the abbreviated requirements of the IDE regulations. These regulations require, in part, that IRB approval be obtained and maintained throughout the investigation and that informed consent be obtained and documented.

A significant risk device is one that presents a potential for serious risk to the health, safety, or welfare of the subject. Such a device is intended as an implant; is to be used in supporting or sustaining human life; or is of substantial importance in diagnosing, curing, mitigation, or treating disease, or otherwise preventing impairment of human health. Examples of significant risk devices are pacemakers, intra-uterine devices (IUDs), some laser systems, and some hemodialysis systems. Investigations involving significant risk devices must meet the full IDE requirements including the submission of an IDE application to FDA, and FDA approval of the investigation. As with nonsignificant risk devices, IRB approval is required before conducting clinical trials of the investigational device.

Although the sponsor makes the initial determination as to whether a device presents a nonsignificant or significant risk the IRB will also make their own determination of risk. The IRB will not assign a risk level lower than the FDA's assignment provided that the FDA has assigned a risk level. The IRB may ask for and obtain certain information before determining the risk status of the device. The sponsor should provide a risk assessment determination and the rationale of the sponsor's decision. The IRB may ask the sponsor whether other IRBs' have reviewed the proposed study and what determination was made. The sponsor should notify the IRB of the FDA's

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assessment of the risk of the device if such an assessment has been made. The IRB may also consult the FDA for its opinion.

In deciding the level of risk, the IRB will consider the device's total risks. If the device is used in conjunction with a procedure involving risk, the IRB will consider the risks of the procedure in conjunction with the risks of the device. The IRB may agree or disagree with the sponsor's initial determination of degree or risk. Sponsors must notify FDA when an IRB determines that a device, judged by the sponsor *not* to present a significant risk, should be categorized as a significant risk device.

Once a decision on the degree of risk is reached, the IRB will consider whether the study should be approved or not. Some studies involving nonsignificant risk devices may also be considered minimal risk studies and thus may be reviewed through the expedited review procedure established by the IRB. *FDA considers studies of all significant risk devices to present more than minimal risk; thus, full IRB review for all studies involving significant risk devices is necessary.*

Note: Clinical investigations of intraocular lenses differ from other medical device investigations and are subject to a specific regulation ([21 CFR 813](#)).

7.3 Research Involving Prospective/Retrospective Studies of Confidential Records

All research involving either prospective or retrospective studies of confidential records must be reviewed and approved by the IRB.

Research involving the study of confidential records (e.g., school, university, or medical records) will be reviewed at the **Exempt** level providing that the investigator records the data in such a manner that subjects cannot be identified directly or through identifiers linked to the subject. (See **Section 4.8 IRB Review Categories**)

Research involving the study of confidential records is **not exempt** if the investigator records the data in such a manner that subjects can be identified directly or through identifiers linked to the subject.

If the investigator does record the data from confidential records using subject identifiers with the intention of contacting potential subjects to participate in a prospective study, the following procedures for protecting the privacy and confidentiality of the subject must be followed:

1. Before the research can be initiated, the investigator must obtain IRB approval and permission to review the records from the custodian of the records.
2. Only the name of the subject, specific selection criteria (e.g., class standing, gender, or medical diagnosis), and the name of the attending physician or other appropriate individual (e.g., subject's dentist, pharmacist, nurse, lawyer, social worker, educator) can be recorded.

Individuals (e.g., subject's physician, dentist, pharmacist, nurse, lawyer, social worker, etc.) with appropriate legal/ethical access to the confidential record should contact potential subjects to obtain written permission to use the subjects' personal identifying data in the research project. If the subject does not grant permission for the release of this data, the investigator may not use this data in the research project.

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Certain kinds of research (e.g., the collection/analysis of private/sensitive information) involving the study of confidential records may require informed consent from the subject before investigator access to the record is granted.

7.4 Research Involving Deception/Incomplete Information

WesternU subscribes to the guidelines of the American Psychological Association (APA) in the use of deception in research studies. Section 8.07 of the APA guidelines, [Deception in Research](#), reads as follows:

- (a) Psychologists do not conduct a study involving deception unless they have determined that the use of deceptive techniques is justified by the study's significant prospective scientific, educational or applied value and that effective non-deceptive alternative procedures are not feasible.
- (b) Psychologists do not deceive prospective participants about research that is reasonably expected to cause physical pain or severe emotional distress.
- (c) Psychologists explain any deception that is an integral feature of the design and conduct of an experiment to participants as early as is feasible, preferably at the conclusion of their participation, but no later than at the conclusion of the data collection, and permit participants to withdraw their data.

A special problem of consent arises when informing subjects of an aspect of the research that is likely to impair the validity of the research. Information about risks should never be withheld for the purpose of eliciting the cooperation of subjects, and truthful answers should always be given to direct questions about the research. Care should be taken to distinguish cases in which disclosure would destroy or invalidate the research from cases in which disclosure would simply inconvenience the investigator.

7.5 Classroom Instruction on Procedures and Techniques

Courses at WesternU may include classroom instruction on procedures and techniques. This instruction is education and not research. IRB approval is not required in a classroom setting when the purpose is to teach students certain procedures. However, all instruction about procedures and techniques should follow all applicable OHSA and other guidelines. **When classroom instructional activities involves the collection of data for research purposes, prior IRB approval is required.**

7.6 Research Involving Procedures Previously Approved by the IRB

New research protocols that want to include a previously approved procedure must obtain approval from the IRB to use that procedure.

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Although these procedures are used many times, in many research projects, each protocol is inherently different from every other protocol. The characteristics of subjects may be different, or variables may be introduced into a project that could result in the potential for increased risk to subjects. For these reasons, each new protocol that involves the use of procedures that have previously received IRB approval must be reviewed by the IRB in the context of the new protocol.

7.7 Research Involving Vulnerable Populations

[45 CFR 46 Subpart B](#) provides additional protections for pregnant women, human fetuses and neonates whereas Subparts [C](#) and [D](#) provide additional protections for prisoners and children, respectively, used as research subjects. In addition, [21 CFR 56.107\(a\)](#) and [56.111\(b\)](#) of FDA regulations expressly identify mentally disabled persons as a vulnerable category of subjects in clinical investigations and a determination must be made as to the ability of a subject with impaired consent capacity to provide meaningful consent to participate in clinical research.

Pregnant Women, Human Fetuses, Neonates

This applies to all research involving pregnant women, human fetuses, neonates of uncertain viability, or nonviable neonates conducted or supported by the Department of Health and Human Services (DHHS) except as provided in [46.101\(b\)\(1\)](#) through [\(6\)](#). The provisions of [46.101\(c\)](#) through [\(i\)](#) are also applicable to this subpart.

46.202 Definitions:

Dead fetus means a fetus that exhibits neither heartbeat, spontaneous respiratory activity, spontaneous movement of voluntary muscles, nor pulsation of the umbilical cord.

Delivery means complete separation of the fetus from the woman by expulsion or extraction or any other means.

Fetus means the product of conception from implantation until delivery.

Neonate means a newborn.

Nonviable neonate means a neonate after delivery that, although living, is not viable.

Pregnancy encompasses the period of time from implantation until delivery. A woman shall be assumed to be pregnant if she exhibits any of the pertinent presumptive signs of pregnancy, such as missed menses, until the results of a pregnancy test are negative or until delivery.

Viable, as it pertains to the neonate, means being able, after delivery, to survive (given the benefit of available medical therapy) to the point of independently maintaining heartbeat and respiration. If a neonate is viable then it may be included in research only to the extent permitted and in accordance with the requirements of subparts A and D of this part.

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46.204 Pregnant women or fetuses may be involved in research if all of the following conditions are met:

- (a) Where scientifically appropriate, preclinical studies, including studies on pregnant animals, and clinical studies, including studies on non-pregnant women, have been conducted and provide data for assessing potential risks to pregnant women and fetuses;
- (b) The risk to the fetus is caused solely by interventions or procedures that hold out the prospect of direct benefit for the woman or the fetus; or, if there is no such prospect of benefit, the risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge which cannot be obtained by any other means;
- (c) Any risk is the least possible for achieving the objectives of the research;
- (d) If the research holds out the prospect of direct benefit to the pregnant woman, the prospect of a direct benefit both to the pregnant woman and the fetus, or no prospect of benefit for the woman nor the fetus when risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge that cannot be obtained by any other means, her consent is obtained in accord with the informed consent provisions of [subpart A](#) of this part;
- (e) If the research holds out the prospect of direct benefit solely to the fetus then the consent of the pregnant woman and the father is obtained in accord with the informed consent provisions of [subpart A](#) of [this part](#), except that the father's consent need not be obtained if he is unable to consent because of unavailability, incompetence, or temporary incapacity or the pregnancy resulted from rape or incest.
- (f) Each individual providing consent under paragraph (d) or (e) of this section is fully informed regarding the reasonably foreseeable impact of the research on the fetus or neonate;
- (g) For children as defined in [§46.402\(a\)](#) who are pregnant, assent and permission are obtained in accord with the provisions of [subpart D](#) of [this part](#);
- (h) No inducements, monetary or otherwise, will be offered to terminate a pregnancy;
- (i) Individuals engaged in the research will have no part in any decisions as to the timing, method, or procedures used to terminate a pregnancy; and
- (j) Individuals engaged in the research will have no part in determining the viability of a neonate.

46.205 Neonates may be involved in research if all of the following conditions are met:

- (a) Neonates of uncertain viability and nonviable neonates may be involved in research if all of the following conditions are met:
 - (1) Where scientifically appropriate, preclinical and clinical studies have been conducted and provide data for assessing potential risks to neonates.

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- (2) Each individual providing consent under paragraph [\(b\)\(2\)](#) or [\(c\)\(5\)](#) of this section is fully informed regarding the reasonably foreseeable impact of the research on the neonate.
 - (3) Individuals engaged in the research will have no part in determining the viability of a neonate.
 - (4) The requirements of paragraph [\(b\)](#) or [\(c\)](#) of this section have been met as applicable.
- (b) Neonates of uncertain viability. Until it has been ascertained whether or not a neonate is viable, a neonate may not be involved in research covered by this subpart unless the following additional conditions have been met:
- (1) The IRB determines that:
 - (i) The research holds out the prospect of enhancing the probability of survival of the neonate to the point of viability, and any risk is the least possible for achieving that objective, or
 - (ii) The purpose of the research is the development of important biomedical knowledge which cannot be obtained by other means and there will be no added risk to the neonate resulting from the research; and
 - (2) The legally effective informed consent of either parent of the neonate or, if neither parent is able to consent because of unavailability, incompetence, or temporary incapacity, the legally effective informed consent of either parent's legally authorized representative is obtained in accord with [subpart A](#) of [this part](#), except that the consent of the father or his legally authorized representative need not be obtained if the pregnancy resulted from rape or incest.
- (c) Nonviable neonates. After delivery nonviable neonate may not be involved in research covered by this subpart unless all of the following additional conditions are met:
- (1) Vital functions of the neonate will not be artificially maintained;
 - (2) The research will not terminate the heartbeat or respiration of the neonate;
 - (3) There will be no added risk to the neonate resulting from the research;
 - (4) The purpose of the research is the development of important biomedical knowledge that cannot be obtained by other means; and
 - (5) The legally effective informed consent of both parents of the neonate is obtained in accord with [subpart A](#) of [this part](#), except that the waiver and alteration provisions of [§46.116\(c\)](#) and [\(d\)](#) do not apply. However, if either parent is unable to consent because of unavailability, incompetence, or temporary incapacity, the informed consent of one parent of a nonviable neonate will suffice to meet the requirements of this paragraph (c)(5),

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except that the consent of the father need not be obtained if the pregnancy resulted from rape or incest. The consent of a legally authorized representative of either or both of the parents of a nonviable neonate will not suffice to meet the requirements of this paragraph (c)(5).

- (d) Viable neonates. A neonate, after delivery, that has been determined to be viable may be included in research only to the extent permitted by and in accord with the requirements of [subparts A](#) and [D](#) of [this part](#).

46.206 Research involving, after delivery, the placenta, the dead fetus or fetal material:

- (a) Research involving, after delivery, the placenta; the dead fetus; macerated fetal material; or cells, tissue, or organs excised from a dead fetus, shall be conducted only in accord with any applicable federal, state, or local laws and regulations regarding such activities.
- (b) If information associated with material described in paragraph (a) of this section is recorded for research purposes in a manner that living individuals can be identified, directly or through identifiers linked to those individuals, those individuals are research subjects and all pertinent subparts of [this part](#) are applicable.

Prisoners

This applies to all biomedical and behavioral research conducted or supported by the DHHS involving prisoners as subjects because, due to their incarceration, prisoners may be under constraints that could affect their ability to make a truly voluntary and uncoerced decision regarding whether or not to participate as subjects in research.

46.303 Definitions:

Prisoner means any individual involuntarily confined or detained in a penal institution. The term is intended to encompass individuals sentenced to such an institution under a criminal or civil statute, individuals detained in other facilities by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing.

Minimal risk is the probability and magnitude of physical or psychological harm that is normally encountered in the daily lives, or in the routine medical, dental, or psychological examination of healthy persons.

Permitted Research:

Biomedical or behavioral research conducted or supported by DHHS may involve prisoners as subjects only if:

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- (1) The institution responsible for the conduct of the research has certified to the Secretary that the IRB has approved the research under [§46.305](#) of this subpart; and
- (2) In the judgment of the Secretary the proposed research involves solely the following:
 - (i) Study of the possible causes, effects, and processes of incarceration, and of criminal behavior, provided that the study presents no more than minimal risk and no more than inconvenience to the subjects;
 - (ii) Study of prisons as institutional structures or of prisoners as incarcerated persons, provided that the study presents no more than minimal risk and no more than inconvenience to the subjects;
 - (iii) Research on conditions particularly affecting prisoners as a class (for example, vaccine trials and other research on hepatitis which is much more prevalent in prisons than elsewhere; and research on social and psychological problems such as alcoholism, drug addiction, and sexual assaults) provided that the study may proceed only after the Secretary has consulted with appropriate experts including experts in penology, medicine, and ethics, and published notice, in the FEDERAL REGISTER, of his intent to approve such research; or
 - (iv) Research on practices, both innovative and accepted, which have the intent and reasonable probability of improving the health or well-being of the subject. In cases in which those studies require the assignment of prisoners in a manner consistent with protocols approved by the IRB to control groups which may not benefit from the research, the study may proceed only after the Secretary has consulted with appropriate experts, including experts in penology, medicine, and ethics, and published notice, in the FEDERAL REGISTER, of the intent to approve such research.

Children

According to [California Family Code](#) and [Oregon Revised Statutes](#), the age of majority, i.e., the age at which a person is considered an adult, is 18 years of age except as provided in Oregon [ORS 109.520](#) which states that “all persons shall be deemed to have arrived at the age of majority upon their being married according to law”.

The following section applies to all research involving children as subjects conducted or supported by the DHHS. It also includes research conducted or supported by the DHHS outside the United States, but in appropriate circumstances, the Secretary may, under [paragraph \(e\)](#) of [§46.101](#) of [subpart A](#), waive the applicability of some or all of the requirements of these regulations for research of this type.

Exemptions at [§46.101\(b\)\(1\)](#) and [\(b\)\(3\)](#) through [\(b\)\(6\)](#) are applicable to this subpart. The exemption at [§46.101\(b\)\(2\)](#) regarding educational tests is also applicable to this subpart. However, the exemption at [§46.101\(b\)\(2\)](#) for research involving survey or interview procedures or observations of public behavior does not apply to research covered by this subpart, except for

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research involving observation of public behavior when the investigator(s) do not participate in the activities being observed.

The exceptions, additions, and provisions for waiver as they appear in [paragraphs \(c\)](#) through [\(i\)](#) of [46.101](#) of [subpart A](#) are applicable to this subpart.

46.402 Definitions:

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.

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

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

Parent means a child's biological or adoptive parent.

Guardian means an individual who is authorized under applicable State or local law to consent on behalf of a child to general medical care.

Permitted Research:

46.406 Research involving greater than minimal risk with no prospect of direct benefit to individual subjects but likely to yield generalizable knowledge about the subject's disorder or condition.

Such research in which the IRB 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, is permitted 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, as set forth in [§46.408](#).

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

Such research that the IRB does not believe meets the requirements of [§46.404](#), [§46.405](#), or [§46.406](#) is permitted only if:

- (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 Secretary, after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, education, ethics, law) and following opportunity for public review and comment, has determined either:
 - (1) that the research in fact satisfies the conditions of [§46.404](#), [§46.405](#), or [§46.406](#), as applicable, or
 - (2) the following:
 - (i) the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children;
 - (ii) the research will be conducted in accordance with sound ethical principles;
 - (iii) adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians, as set forth in [§46.408](#).

46.408 Requirements for permission by parents or guardians and for assent by children.

The IRB shall 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 requirement under circumstances in which consent may be waived in accord with [§46.116](#) of [Subpart A](#).

The IRB shall determine, in accordance with and to the extent that consent is required by [§46.116](#) of [Subpart A](#), that adequate provisions are made for soliciting the permission of each child's parents or guardian. Where parental permission is to be obtained, the IRB may find that

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the permission of one parent is sufficient for research to be conducted under [§46.404](#) or [§46.405](#). Where research is covered by [§§46.406](#) and [46.407](#) and permission is to be obtained from parents, both parents must give their 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 the IRB determines that a research protocol is designed for conditions or for 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 consent requirements in [Subpart A](#) of [this part](#) and [paragraph \(b\)](#) of this section, 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.

Permission by parents or guardians shall be documented in accordance with and to the extent required by [§46.117](#) of [subpart A](#).

When the IRB determines that assent is required, it shall also determine whether and how assent must be documented.

46.409 Wards

Children who are wards of the state or any other agency, institution, or entity can be included in research approved under [§46.406](#) or [§46.407](#) only if 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.

If the research is approved under [paragraph \(a\)](#) of this section, the IRB shall 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* (in place of parent). One individual may serve as advocate for more than one child. The advocate shall 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 and who is not associated in any way (except in the role as advocate or member of the IRB) with the research, the investigator(s), or the guardian organization.

Impaired Consent Capacity

Consent capacity is a person's ability to understand information relevant to the decision to enroll in a study, that is, to weigh the risks and benefits of participation, to appreciate the available alternatives (including nonparticipation), to reach an informed and voluntary decision regarding

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participation, and to communicate that decision. Consent capacity also depends, in part, on the complexity of the decision that confronts the individual, which may take into account such factors as study design, risks, and anticipated benefits.

Impaired consent capacity may involve partial impairment, impairment that fluctuates over time, or complete impairment. Consent capacity can be affected by a wide range of disorders and conditions, such as dementia, stroke, traumatic brain injury, developmental disorders, serious mental illness, intoxication, and delirium.

Enrollment of subjects with partial impairment may require modifications to the consent form and process to enable those subjects to consent on their own behalf. When a subject's consent capacity is sufficiently impaired that the subject is unable to provide legally effective informed consent, the subject may not be enrolled unless the subject's legally authorized representative consents on the subject's behalf ([21 CFR 50.20](#)). **Legally authorized representative (LAR)** is defined as “an individual or judicial or other body authorized under applicable law to consent on behalf of a prospective subject to the subject’s participation in the procedure(s) involved in the research” ([21 CFR 50.3\(l\)](#)).

Pursuant to **California [HSC 24178\(c\)](#)**, for purposes of obtaining informed consent required for medical experiments in a nonemergency room environment, if a person is unable to consent and does not express dissent or resistance to participation, surrogate informed consent may be obtained from a surrogate decision maker with reasonable knowledge of the subject, who shall include any of the following persons, in the following descending order of priority:

- (1) The person's agent pursuant to an advance health care directive.
- (2) The conservator or guardian of the person having the authority to make health care decisions for the person.
- (3) The spouse of the person.
- (4) An adult son or daughter of the person.
- (5) A custodial parent of the person.
- (6) Any adult brother or sister of the person.
- (7) Any adult grandchild of the person.
- (8) An available adult relative with the closest degree of kinship to the person.

[HSC 24178\(d\)](#) states that 1) when there are two or more available persons who may give surrogate informed consent and who are in the same order of priority, if any of those persons expresses dissent as to the participation of the person in the medical experiment, consent shall not be considered as having been given, and 2) when there are two or more available persons who are in different orders of priority, refusal to consent by a person who is a higher priority surrogate shall not be superseded by the consent of a person who is a lower priority surrogate.

Pursuant to , [HSC 24178\(e\)](#), for purposes of obtaining informed consent required for medical experiments in an emergency room environment, if a person is unable to consent and does not express dissent or resistance to participation, surrogate informed consent may be obtained from a surrogate decision maker who is any of the following persons:

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- (1) The person's agent pursuant to an advance health care directive.
- (2) The conservator or guardian of the person having the authority to make health care decisions for the person.
- (3) The spouse of the person.
- (4) An adult son or daughter of the person.
- (5) A custodial parent of the person.
- (6) Any adult brother or sister of the person.

When there are two or more available persons described in subdivision (e), refusal to consent by one person shall not be superseded by any other of those persons.

Surrogate decision makers described in this section shall exercise substituted judgment and base decisions about participation in accordance with the person's individual health care instructions, if any, and other wishes, to the extent known to the surrogate decision maker. Otherwise, the surrogate decision maker shall make the decision in accordance with the person's best interests. In determining the person's best interests, the decision maker shall consider the person's personal values and his or her best estimation of what the person would have chosen if he or she were capable of making a decision.

Oregon investigators and IRBs are guided by OHRP's [Recommendations](#) Regarding Research Involving Individuals with Impaired Decision-making.

IRBs and investigators should carefully consider whether the inclusion in research of individuals who lack consent capacity is ethically appropriate and scientifically necessary. Whenever individuals with impaired consent capacity (partial, fluctuating, or complete) are or may be enrolled in clinical studies, ethical and procedural challenges arise. Considerations that may help address these challenges, and provide additional safeguards, include, but may not be limited to:

- Assessing consent capacity of potential subjects by an independent, qualified professional and a process that includes: (i) documentation of elements of capacity (such as understanding information, showing evidence of choice, showing rational reasoning, understanding the nature of the situation, and showing reasonable understanding of outcome of choice); and (ii) assessments at the time of consent, at periodic intervals, and when a subject's family member expresses concern about the subject's study participation.
- Establishing a waiting period in the decision-making process to allow additional time for decision-making.
- Using methods to enhance consent capacity through (i) simplification and/or repetition of information, (ii) involvement of a subject advocate or trusted family member/friend to assist when sharing information about the clinical investigation, and (iii) refraining from discussions during periods of stress.
- Assessing a subject's understanding after information about the clinical investigation has been imparted through use of a questionnaire.

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- Re-assessing consent capacity after initiation of the clinical investigation for subjects with progressive disorders whose cognition may decline.
- Involving a legally authorized representative either initially or later in the clinical investigation if consent capacity diminishes.
- Assessing if individuals who cannot provide legally effective consent on their own behalf may nonetheless be able to provide some form of oral agreement (e.g., assent) at the outset of the study and, as appropriate, throughout the course of the research (e.g., for subjects with progressive disorders), and how such oral agreement would be documented. In such a circumstance, a legally authorized representative would need to provide documented written consent.
- Determining whether the IRB or a third party should observe the consent process.

Investigators may find the [MacArthur Competence Assessment Tool for Clinical Research](#) useful in determining a subject's ability to provide meaningful informed consent. Regardless of the method used to make the determination, the following questions must be answered in any IRB protocol application involving mentally disabled subjects:

- How will you determine whether or not a potential adult subject has the capacity to consent?
- How will you verify that an adult person can serve as an LAR for the potential subject?
- Do you plan to obtain written assent from the potential subject? If not, explain.
- Do you plan to obtain written consent from the subject's LAR? If not, you must submit request either for a waiver of consent or a waiver of documentation of consent depending on the research plan.

7.8 Biomedical and Behavioral Research Involving Women and Minorities

In March 1994, the National Institutes of Health (NIH) published guidelines requiring the use of women and minorities in all research conducted or funded by NIH. The guidelines were published in the Monday, March 28, 1994 issue of the [Federal Register, Vol. 59, No. 59, pp. 14508 – 14513](#). As stated in the guidelines: *It is the policy of NIH that women and members of minority groups and their subpopulations must be included in all NIH-supported biomedical and behavioral research projects involving human subjects, unless a clear and compelling rationale and justification establishes to the satisfaction of the relevant Institute/Center Director that inclusion is inappropriate with respect to the health of the subjects or the purpose of the research...NIH-supported biomedical and behavioral research projects involving human subjects which are exempt from the human subjects regulations should still address the inclusion of women and minorities in their study design.*

The inclusion of women, men and minorities in research is important, both to ensure that they receive an appropriate share of the benefits of research and that they do not bear a disproportionate burden. To the extent that participation in research offers direct benefits to the participants, underrepresentation of men, women, or minorities denies them the opportunity to benefit.

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Moreover, for purposes of generalizing research results, investigators must include the widest possible range of population groups.

WesternU has a general policy of nondiscrimination on the basis of race, color, national origin, religion, disability, gender or sexual orientation. Investigators should attempt to recruit subjects without regard to such characteristics to the fullest extent possible. Investigators must justify exclusion of subjects with these characteristics.

WesternU and its IRB has the following responsibilities:

- ◆ To help ensure that investigators understand the importance of inclusion of both genders and minorities in research and clearly delineate the expectations for the design and conduct of such research. They should assist in providing investigators with written guidance and educational opportunities for clarification.
- ◆ To specify that, when scientifically appropriate, investigators cite evidence or lack of evidence if a health situation or intervention in the proposed research may affect one gender or minority group differently and describe how the proposed research addresses that evidence. Investigators should be prepared to describe the extent to which both genders and persons of various ethnic and racial backgrounds are or have been involved in similar research.
- ◆ To help create guidelines for investigators to facilitate recruitment and retention of participants to ensure representation and sufficient involvement of targeted populations. The extent to which investigators are collaborating with those at other institutions that can involve increased numbers of men or women or populations from different minority groups must be a part of the information the IRB reviews, particularly with regard to Phase 3 clinical trials.
- ◆ To safeguard the consent process and to promote open and free communication between the researcher and the participants. Investigators and the IRB must seek to understand cultural nuances and types of foreign languages inherent in the populations to be enrolled. The possibility of illiteracy of a potential research participant must also be considered and assurances given that adequate provision have been made for appropriate translations of the consent documents or the availability of translators.
- ◆ To arrange for inclusion of women and members of minority groups on the IRB, especially if the nature and volume of the research to be conducted at the institution routinely includes these populations. The IRB should also consider consulting ad hoc advisors who could help with understanding the perspectives of various groups.

7.9 Research Involving Schedule I or II Controlled Substances

Any planned research project to be conducted in California requiring the use of a Schedule I or Schedule II Controlled Substance (NOT Schedule III, IV, and V) as its main study drug, including

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comparing drug, must be submitted to the [Research Advisory Panel of California](#) for review and approval.

- Researches are categorized into four groups and the submission requirements of each group are:
 1. Academic Human Research of Schedule I or Schedule II medications - See [Application Forms](#) AND
 2. Research for the Treatment of Controlled Substance Addiction or Abuse utilizing any medications Scheduled or not by Academic Institution (SAT Research) - See [Application Forms](#)
 - a. Cover letter
 - b. Panel Application Form
 - c. Research Protocol, Not a Grant Application
 - d. Informed Consent Form with Filled-out Informed Consent Form Check List
 - e. Study Drug Monograph or Investigators Brochure
 3. Non-Human Research with animal models or in vitro projects of Schedule I medications only - See [Application Forms](#)
 - a. Requirements are same as Academic Human Research except Informed Consent Form
 4. Multi or Single Center Clinical Drug Trial Research sponsored by Pharmaceutical Company/CRO evaluating or comparing any Schedule I and Schedule II medications AND Multi or Single Center SAT Research sponsored by Pharmaceutical Company/CRO - See [Clinical Drug Trials](#)
 - a. Cover letter
 - b. Research Protocol
 - c. Template Informed Consent Form with Filled-out Informed Consent Form Check List
 - d. Investigators Brochure
 - e. List of each CA site's address and Principle Investigator (PI)'s name and e-mail address (No CV required)
- For Clinical Drug Trial and SAT research sponsored by Pharmaceutical Company/CRO (4), the Research Advisory Panel grants the approval to the Sponsor, not the individual MD's or sites participating in the study. Therefore, the Pharmaceutical Company/CRO is required to submit the study applications to the Panel, not the individual MD's or sites participating in the study.
- Non-Human research using Schedule II Substances or Any Researches using Schedule III, IV, or V Controlled Substances as a main study drug including comparing drug do NOT require review by the Research Advisory Panel.
- The IRB approval status of the Academic Institution's Human, Non-Human, and SAT researches could be approved or pending.
- The IRB approval of the Clinical Drug Trials and SAT researches sponsored by Pharmaceutical company/CRO is required before the submission to the RAPC.

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- All the application submission packets should be sent via e-mail in **PDF format (Maximum e-mail capacity is 10MB per e-mail)**. **Three sets of hard copies of the application packet should be mailed** (except Non-Human research; Non-Human research require PDF format only) via U.S. Mail, FedEx, UPS, or any other commercial mail carriers to the person named on the [Contact Us](#) section.
- The number of Panel meetings is 5 times yearly - See [Meeting Dates and Deadlines](#) section for schedules. The Panel Meeting dates and Deadlines are subject to change.
- The response of the Panel review will be sent via PDF format within 7 days after the meeting.
- Any significant study drug related Serious Adverse Event (SAE) that may emerge during conduction of the research (at the California sites only) should be notified to the Panel via PDF format only.
- Any amendments of the research project should be reported to the Panel via PDF format only. If the Panel considers that there are major amendments involved, the Panel reviews them at its regular scheduled meetings. Otherwise, the Panel acknowledges, files the amendments and send out an acknowledge letter via PDF format.

7.10 Research Involving Human Stem Cells

Guidelines for Human Stem Cell Research Pursuant to Health and Safety Code § 125118

§1 Scope of the Guidelines

[Section 125119](#) of the California Code of Regulations requires that “All research projects involving the derivation or use of human embryonic stem cells shall be reviewed and approved by a stem cell research oversight committee prior to being undertaken” and that “Any stem cell research oversight committee shall, in its review of human embryonic stem cell research projects, consider and apply the guidelines developed by the department pursuant to [Section 125118](#)”. These [Guidelines](#) “...apply to all individuals and institutions performing human stem cell research in California by deriving or using covered stem cell lines, defined in Section 2 below, or cells from those covered stem cell lines, except research funded by the California Institute for Regenerative Medicine ([CIRM](#)) to the extent it is exempted by the terms of [Proposition 71](#) from other State law”.

§2 Definitions as Used in these Guidelines

Acceptably derived: derived in accordance with the requirements of these guidelines.

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Clinical trial: a scientifically designed and executed investigation of a medical intervention in humans that is aimed at determining the safety, efficacy, and pharmacological effects (including toxicity, side effects, incompatibilities, and interactions), of the intervention. These include Phase I, II, and III clinical trials under the Food and Drug Administration (FDA) regulations.

Covered cells: cells from covered stem cell lines or cells differentiated from cells that are from covered stem cell lines.

Covered research: research that involves a human pluripotent stem cell population derived from an embryo or product of somatic cell nuclear transfer (SCNT).

Covered stem cell line: a culture-derived, human pluripotent stem cell population derived from an embryo or product of SCNT that is capable of: (1) sustained propagation in culture; and (2) self-renewal to produce daughter cells with equivalent developmental potential.

First-in-human trials: the first time that particular kinds of cells are being transplanted into humans for particular diseases or in particular organ systems.

Human subject: a living individual about whom an investigator (whether professional or student) conducting research obtains: (1) Data through intervention or interaction with the individual; or (2) Identifiable private information.

Institutional field strength: the skill and experience of the team that is proposing to undertake an innovative procedure on a patient at an institution.

Institution: any public or private entity or agency (including federal, state, local or other agencies).

Institutional Review Board (IRB): an entity established in accordance with Title 45, Code of Federal Regulations, [§ 46.107](#).

Permissible expenses: necessary and reasonable costs directly incurred as a result of donation or participation in research activities. Permissible expenses may include, but are not limited to, costs associated with travel, housing, child care, medical care, health insurance and actual lost wages.

Pluripotent: capable of differentiation into mesoderm, ectoderm, and endoderm.

Research: a systematic investigation, including research development, testing and evaluation, designed to develop or contribute to generalizable knowledge. Activities which meet this definition constitute research for purposes of these regulations, whether or not they are conducted or supported under a program which is considered research for other purposes.

Somatic cell nuclear transfer (SCNT): the transfer of a somatic cell nucleus into an oocyte.

Stem Cell Research Oversight Committee (SCRO Committee): a committee established in accordance with Section 4 below.

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§3 Activities Not Permitted in California

- a) Human reproductive cloning, as defined in California Health and Safety Code Section [125292.10](#), subdivision (k), or reproductive uses of SCNT prohibited by [Article XXXV](#) Section 3 of the California Constitution.
- b) The culture in vitro of (i) any intact human embryo or (ii) any product of SCNT, parthenogenesis or androgenesis, after the appearance of the primitive streak or after 12 days, whichever is earlier. The 12-day prohibition does not include any time during which the embryos or cells have been stored frozen.
- c) The introduction of stem cells from a human pluripotent stem cell line into nonhuman primate embryos.
- d) The introduction of any stem cells, whether human or nonhuman, into human embryos.
- e) Breeding any animal into which stem cells from a human pluripotent stem cell line have been introduced such that they could contribute to the germ line.

§4 SCRO Committee Membership and Function

- (a) An SCRO Committee shall comprise persons with expertise in, including but not limited to, developmental biology, stem cell research, molecular biology, assisted reproduction, and ethical issues in stem cell research. An SCRO Committee shall include at least one non-scientist member of the public who is not employed by or part of the immediate family of a person who is affiliated with the institution. In addition, an SCRO Committee shall include at least one patient advocate. Any member of an SCRO Committee may be reimbursed for reasonable out-of-pocket expenses for attending the meeting, not including lost wages. No SCRO Committee may have a member participate in the SCRO Committee's initial or continuing review of any project in which the member has a conflict of interest, except to provide information to the SCRO Committee.
- (b) The designated SCRO Committee shall provide scientific and ethical review of covered research consistent with the requirements of these guidelines.
- (c) The SCRO Committee shall facilitate the education of investigators about these guidelines.
- (d) A SCRO Committee may provide oversight for two or more funded research institutions, provided the SCRO Committee has oversight authority consistent with the requirements of these guidelines.
- (e) A SCRO Committee may be convened by an institution, a group of institutions or a State agency.

§5 SCRO Committee Review and Notification

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- (a) Research involving the procurement or use of human oocytes as part of human stem cell research may not commence without SCRO Committee review and approval in writing. For such SCRO Committee review and approval, **a member of the Committee with expertise in assisted reproduction shall be present.** The designated SCRO Committee may require that modification be made to proposed research or documentation of compliance with the requirements of subdivision (a)(3) of this guideline as a condition of granting its approval. At a minimum, the SCRO Committee shall require the investigator to:
- (1) Provide an acceptable scientific rationale for the need to use oocytes, including a justification for the number needed. If SCNT is proposed, a justification for SCNT shall be provided.
 - (2) Demonstrate experience, expertise or training in derivation or culture of human or non-human stem cell lines.
 - (3) Provide documentation of compliance with any required review of the proposed research by an IRB, Institutional Animal Care and Use Committee (IACUC), Institutional Bioethics Committee (IBC), or other mandated review.
 - (4) Further requirements for research involving the procurement or use of human oocytes are provided in Section 8 below.
- (b) Covered research involving the creation or use of human embryos may not commence without SCRO Committee review and approval in writing. The designated SCRO Committee may require that modification be made to proposed research or documentation of compliance with the requirements of subdivision (b)(3) of this section as a condition of granting its approval. At a minimum, the SCRO Committee shall require the investigator to:
- 1) Provide an acceptable scientific rationale for the need to use embryos, including a justification for the number needed.
 - (2) Demonstrate experience, expertise or training in derivation or culture of human or non-human stem cell lines.
 - (3) Provide documentation of compliance with any required review of the proposed research by an IRB, IACUC, IBC, or other mandated review.
- (c) Covered research with the aim to derive or create a covered stem cell line may not commence without SCRO Committee review and approval in writing. The designated SCRO Committee may require that modification be made to proposed research, or documentation of compliance with the requirements of subdivision (c)(4) of this section as a condition of granting its approval. At a minimum, the SCRO Committee shall require the investigator to:
- (1) Provide an acceptable scientific rationale for the need to derive a covered stem cell line.

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- (2) If SCNT is proposed as a route to generating human stem cell lines, a justification for SCNT shall be provided.
 - (3) Demonstrate experience, expertise or training in derivation or culture of human or non-human stem cell lines.
 - (4) Provide documentation of compliance with any required review of the proposed research by an IRB, IBC, or other mandated review.
 - (5) Document how stem cell lines will be characterized, validated, stored, and distributed to ensure that the privacy of the donor is protected and the confidentiality of identifiable information is maintained.
 - (6) Further requirements for research involving the derivation or creation of covered stem lines are provided in Section 7 below.
- (d) Purely *in vitro* covered research may not commence without written notification to the designated SCRO Committee. At a minimum, the notification shall:
- (1) Provide assurance that all covered stem cell lines have been acceptably derived.
 - (2) Provide documentation of compliance with any required review of the proposed research by an IRB, IACUC, IBC, or other mandated review.
- (e) Research introducing human pluripotent cells or cells differentiated from human pluripotent stem cell lines into non-human animals, or introducing neural-progenitor cells into the brain of non-human animals at any state of embryonic, fetal, or postnatal development may not commence without SCRO Committee review and approval in writing. The designated SCRO Committee may require that modification be made to proposed research or documentation of compliance with the requirements of subdivision (f)(4) of this section as a condition of granting its approval. The SCRO Committee may establish guidelines and procedures for expedited review of animal research so that review by the entire SCRO Committee is not required. At a minimum, the SCRO Committee shall require the investigator to:
- (1) Provide an acceptable scientific rationale for introducing stem cells into non-human animals.
 - (2) Provide assurance that all human pluripotent stem cell lines have been acceptably derived.
 - (3) Evaluate the probable pattern and effects of differentiation and integration of the human cells into the non-human animal tissues.
 - (4) Provide documentation of compliance with any required review of the proposed research by an IRB, IACUC, IBC, or other mandated review.

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- (f) In cases where SCRO Committee approval is required, a SCRO Committee shall notify investigators in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure SCRO Committee approval of the research activity. If the SCRO Committee decides to disapprove a research activity, it shall include in its written notification a statement of the reasons for its decision and give the investigator an opportunity to respond in person or in writing.
- (g) SCRO Committee approvals shall be reviewed no less frequently than once per year. The renewal review shall confirm compliance with all applicable rules and regulations. An SCRO Committee may revoke its prior approval of research under this section, and require modifications to the plan or design of a continuing research project before permitting the research to continue. The SCRO Committee may establish guidelines and procedures for expedited review of renewals so that review by the entire SCRO Committee is not required.

§6 Acceptable Research Materials

All covered stem cell lines used in research must be “acceptably derived.”

- (a) To be “acceptably derived,” the stem cell line must meet one of the following three criteria:
 - (1) The stem cell line is approved by a recognized authority. To be approved by a recognized authority the stem cell line must:
 - A. Be approved by the National Institutes of Health; or
 - B. Be deposited in the United Kingdom Stem Cell Bank; or
 - C. Be derived by, or approved for use by, a licensee of the United Kingdom Human Fertilization and Embryology Authority; or
 - D. Be derived in accordance with the Canadian Institutes of Health Research Guidelines for Human Pluripotent Stem Cell Research under an application approved by the National Stem Cell Oversight Committee; or
 - E. Be derived in accordance with the Japanese Guidelines for Derivation and Utilization of Human Embryonic Stem Cells; or
 - F. Be derived under license of the Australian National Health and Medical Research Council; or
 - G. Be approved by [CIRM](#) in accordance with California Code of Regulations, Title 17, [Section 100081](#).
 - (2) The stem cell line is derived from human gametes, embryos, somatic cells, or tissue under the following conditions:

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- A. Donors of human gametes, embryos, somatic cells or tissue given voluntary and informed consent; and
 - B. Donors of human gametes or embryos did not receive valuable consideration for participation in research. This provision does not prohibit reimbursement for permissible expenses as defined in Section 2(k), as determined by an IRB; and
 - C. Donation of human gametes, embryos, somatic cells or tissue was overseen by an IRB (or, in the case of foreign sources, an IRBequivalent); and
 - D. Individuals who consented to donate stored human gametes, embryos, somatic cells or tissue were not reimbursed for the cost of storage prior to donation.
- (3) The stem cell line has been derived from human gametes, embryos, somatic cells, or tissue under the following conditions:
- A. The lines were derived in accordance with Section 6(a)(2)(A), (B), and (D); and
 - B. The line was derived prior to the publication of the National Academy of Sciences (NAS) guidelines (April 26, 2005); and
 - C. A SCRO Committee has determined that the investigator has provided sufficient scientific rationale for the need for use of the line. This should include establishing that the proposed research cannot reasonably be carried out with covered lines that did have IRB approval

§7 Additional Requirements for Covered Research Deriving New Human Stem Cell Lines

When reviewing proposals to derive new covered stem cell lines, the SCRO Committee must confirm that donors of human gametes, embryos, somatic cells or tissue have given voluntary and informed consent.

§8 Additional Requirements for Covered Research Involving Oocytes

Assisted oocyte production and alternate methods of oocyte retrieval conducted for research purposes in California after January 1, 2007, are subject to the detailed provisions of California Health and Safety Code Sections [125330 through 125355](#), which should also be consulted. This section of the guidelines includes provisions taken from those Code Sections, which do not apply to CIRM-funded research, as well as provisions from the CIRM regulations.

- (a) When human oocytes are required for covered research, the SCRO Committee must confirm the following conditions were or will be met in connection with the oocyte retrieval, whether or not the oocyte retrieval takes place within California:
 - (1) The clinic performing oocyte retrieval is a member of the Society for Assisted Reproductive Technology.

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- (2) The IRB that approved donation of the oocytes found that risks are reasonable even if there is no anticipated benefit to the donor.
- (3) Before giving her informed consent, the donor was provided with a standardized medically accurate written summary of health and consumer issues as provided by Section [125335](#).
- (4) The donor gave written and oral informed consent to the oocyte retrieval procedure consistent with Section [125340](#) and:
 - A. The description of foreseeable risks of the procedure included information regarding the risks of ovarian hyper-stimulation syndrome, bleeding, infection, anesthesia and pregnancy.
 - B. The physician disclosed his or her relationship to the research or researcher(s) to the oocyte donor.
 - C. The donor was informed of her option to deliberate before deciding whether or not to give consent. If a deliberation period is chosen, the donor shall be informed of her right to determine the method of re-contact. The donor must be informed that she has the option to initiate re-contact. The investigators shall not initiate re-contact unless the donor has consented, and this consent is documented in the research record.
 - D. The researcher has ascertained that the donor has understood the essential aspects of the research, following a process approved by the designated IRB or SCRO Committee. Understanding the essential aspects of the research includes understanding at least that:
 - (i) Her oocytes will not be used for reproductive purposes.
 - (ii) There are medical risks in oocyte retrieval, including the risks of ovarian hyper-stimulation syndrome, bleeding, infection, anesthesia, and pregnancy.
 - (iii) The research is not intended to benefit her or any other individuals directly at this time.
 - (iv) Stem cell lines may be derived from her oocytes through fertilization, SCNT, parthenogenesis, or some other method.
 - (v) Stem cell lines developed from her oocytes will be grown in the lab and shared with other researchers for studies in the future.
 - (vi) If stem cells are to be transplanted into patients, researchers might re-contact the donor to get additional health information.
 - (vii) Donors receive no payment beyond reimbursement for permissible expenses.

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- (viii) Stem cell lines derived as a result of her oocyte donation may be patented or commercialized, but the donor will not share in patent rights or in any revenue or profit from the patents.
- (5) That the donor received an objective and accurate statement about the existing state of the research for which the donor is providing oocytes.
- (6) That all donors prior to the oocyte retrieval procedure received psychological and physical screening in accordance with the appropriate standard of care.
- (7) That each donor was given a post-procedure medical examination at a time within the standard of care to determine if she experienced an adverse health-effect that was a result of the procedure. The donor shall be informed that she has the right to a second opinion if she has any medical concerns.
- (8) That the donor has access to and coverage for medically appropriate medical care that is required as a direct result of the procedure for research purposes. The research program or project shall ensure that payment or coverage of resulting medical expenses be provided at no cost to the donor and that a summary of the arrangements the procuring entity has made for coverage or payment for medical care related to the oocyte retrieval was provided to the donor prior to the procedure.
- (9) That the donor received a summary informing the subject that oocytes may not be sold or transferred for valuable consideration except as set forth in Section [125350](#).
- (10) That the donor received a disclosure if the physician and surgeon and his or her immediate family members had any professional interest in the outcome of the research or of the oocyte retrieval procedure and, if so, that the donor received disclosure that he or she carries the interest of both the subject and the success of the research.
- (11) That written records were established and maintained as part of the oocyte procurement process that comply with Section 125342.
- (12) That no employee who works in the unit conducting stem cell research using human oocytes is a subject in the project. This includes the principal investigator or key personnel of the project and the persons who report to or are supervised by them, and the immediate family members of any of the above persons.
- (13) That the physician and surgeon performing the oocyte retrieval procedure did not have a financial interest in the outcome of the research.
- (14) That donors have been offered an opportunity to document their preferences regarding future uses of their donated materials and that the consent process fully explored whether donors have objections to any specific forms of research to ensure that their wishes are honored.

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- (b) The physician attending to any donor and the principal investigator shall not be the same person unless exceptional circumstances exist and an IRB has approved an exemption from this requirement.
- (c) The procurement and disposition for research purposes of oocytes initially California Department of Public Health Guidelines for Human Stem Cell Research Last revised April, 2018 16 provided for reproductive uses, either for use by the donor or another woman, shall not knowingly compromise the optimal reproductive success of the woman in infertility treatment. Pursuant to this requirement, the SCRO Committee shall confirm the following:
 - (1) The infertility treatment protocol is established prior to requesting or obtaining consent for a donation for research purposes and that the prospect of donation for research does not alter the timing, method, or procedures selected for clinical care.
 - (2) The woman in infertility treatment makes the determination that she does not want or need the oocytes for her own reproductive success.
 - (3) The donation of oocytes for research is done without valuable consideration either directly or indirectly.
 - (4) If the procurement of oocytes involves a donor providing oocytes for another woman's reproductive use, then the donation to research must be expressly permitted by the original donor.
 - (5) If the procurement of oocytes involves use of materials donated for reproductive use by another woman and with valuable consideration in excess of reimbursement for permissible expenses for the oocyte donor, then oocytes may not be used for covered research.
- (d) Oocytes for research that were retrieved before January 1, 2007, need not meet the requirements of subsection (a) above if the oocytes were donated pursuant to protocols or standards that are generally recognized and accepted by national or international scientific bodies.
- (e) No human oocyte shall be acquired, sold, offered for sale, received, or otherwise transferred for valuable consideration for the purposes of medical research or development of medical therapies. For purposes of this section, "valuable consideration" does not include reasonable payment for the removal, processing, disposal, preservation, quality control, and storage of oocytes or embryos.
- (f) No payment in excess of the amount of reimbursement of direct expenses incurred as a result of the procedure shall be made to any subject to encourage her to produce human oocytes for the purposes of medical research.

§9 Additional Requirements for Covered Research Involving Clinical Trials

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- (a) When reviewing clinical trials with covered cell lines or cells, the SCRO Committee shall require the investigator to:
- (1) Establish that there is sufficient institutional field strength to justify conducting such research, particularly with respect to first-in-human trials. This should include a team with experts in the relevant sciences (including biostatistics) and all relevant clinical and surgical areas as well as psychological support. In addition, there must be sufficient regulation and oversight at the institution to undertake innovative clinical trials. The goal is to reduce the probability that failure will be a function of the skills of the relevant team and to reduce probability of harm to subjects.
 - (2) Establish that there is sufficient knowledge of the risks and benefits associated with the proposed intervention that it is reasonable to proceed in human populations.
 - (3) Provide justification that the risks of the trial have been minimized and are reasonable in relation to the anticipated benefits of the trial, including benefits from the generalizable knowledge to be gained.
 - (4) Address the issue of the diversity of the research subject population, including a justification if under-represented groups (women, minorities, children) are not included.
 - (5) Register the clinical trial with a public clinical trials registry, such as the National Institute of Health's ClinicalTrials.gov.
- (b) The SCRO Committee may require, for safety reasons, the testing or screening of donors of the biological materials used to produce the covered cells prior to its commencement.
- (c) All clinical trials involving the use of covered cells shall also be reviewed and approved by an IRB before commencement.
- (1) IRBs shall require that informed consent for any clinical trials involving covered stem cells and their derivatives include information about the biological source of the material and how they were produced.
 - (2) IRBs shall ensure that the language used in informed consent for clinical trials that involve covered cells does not convey an unrealistic impression of the direct benefit of trial participation. For example, it would be inappropriate to describe early phase research as “stem cell therapy,” or “therapeutic cloning”, or “gene therapy,” because of the potential misleading connotations of the words “therapy” or “therapeutic”.
 - (3) IRBs shall require that any clinical trials involving covered stem cells and their derivatives shall have an adequate Data Safety Monitoring Board established to periodically review outcomes and safety of the trial and provide a monitoring plan for the trial.
 - (4) In evaluating clinical trials, IRBs shall consider implications of the trial for the descendants of the trial subjects, for example, in research that includes germ line modification.

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- (d) Institutions conducting clinical trials are encouraged to develop methods that allow SCRO Committees and IRBs to work together to discharge these responsibilities efficiently, while bringing needed expertise in stem cell science to bear on oversight of such trials.

§10 Informed Consent Requirements

- (a) All covered human subjects research shall be performed in accordance with [45 CFR 46](#), as described elsewhere in this document, and California Health and Safety Code Section [24173](#). In accordance with existing law, California Health and Safety Code Section 24173 does not apply to someone conducting research as an investigator within an institution that holds an assurance with the DHHS pursuant to 45 CFR 46 and who obtains informed consent in the method and manner required by those regulations.
- (b) In addition to any other statutory requirements or sections of these guidelines, the following provisions shall apply when covered research involves donation of gametes, embryos, somatic cells or human tissue for the purposes of somatic cell nuclear transfer (SCNT) or derivation of new covered stem cell lines, which donation or derivation occurs after the effective date of these guidelines.
- (1) Research may not be performed that violates the documented preferences of donors with regard to the use of their donated materials. The SCRO Committee or IRB must confirm that donors of gametes, embryos, somatic cells or human tissue for the purposes of SCNT, or to be used to derive stem cell lines, have given voluntary and informed consent in accordance with this Section. To ensure donors are fully informed of the potential uses of donated materials, researchers shall disclose, in addition to the general requirements for obtaining informed consent, identified in subdivision (a) of Section 10, all of the following, unless a specific item has been determined by the SCRO Committee or IRB to be inapplicable:
- A. Derived cells or cell products may be kept for many years.
 - B. Whether the identity(ies) of the donor(s) will be ascertainable to those who work with the resulting cells or cell products. If the identity(ies) of the donor(s) are retained (even coded), researchers must discuss any plans for re-contact of donors of materials used to derive cell lines and obtain consent for re-contact. This requirement includes both re-contacting donors to provide information about research findings and to ask for additional health information. Re-contact may only occur if the donor consents at the time of donation.
 - C. Researchers may use cell lines for future studies, some of which may not be predictable at this time.
 - D. Derived cells or cell products may be used in research involving genetic manipulation.
 - E. Derived cells or cell products may be transplanted into humans or animals.

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- F. Derived cells or cell products are not intended to provide direct medical benefit to the donor(s), except in the case of autologous donation.
 - G. The donation is being made without restriction regarding who may be the recipient of transplanted cells, except in the case of autologous donations.
 - H. That neither consenting nor refusing to donate materials for research will affect the quality of any future care provided to potential donors,
 - I. That the results of research may be patentable or have commercial potential and that the donor will not receive patent rights and will not receive financial or any other benefits from future commercial development.
- (2) Researchers shall offer donors an opportunity to document their preferences regarding future uses of their donated materials. Researchers may choose to use materials only from donors who agree to all future uses without restriction.
 - (3) For covered research involving the donation and destruction of embryos for stem cell research, the informed consent process shall include a statement that embryos will be destroyed in the process of deriving embryonic stem cells.
 - (4) For covered research that uses the umbilical cord, cord blood or the placenta, consent shall be obtained from the birth mother.
 - (5) For covered research involving the donation of somatic cells for SCNT, informed consent shall include a statement as to whether the donated cells may be available for autologous treatment in the future.

§11 Record Keeping and Reporting

Although the [Guidelines](#) set forth by the California Department of Public Health specifically assign the following responsibilities to the SCRO Committee, if conducting clinical trials, it is important that the SCRO and IRB committees work together to discharge these responsibilities efficiently.

- (a) Each institution performing covered research shall maintain records documenting:
 - (1) Required review or notification requirements in these guidelines.
 - (2) Every human gamete, somatic cell, embryo donation or product of SCNT that has been donated, created or used. This record should be sufficient to determine if such materials comply with these guidelines and should document the final disposition of such materials.
- (b) Such records shall be made available at the Department's request.

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- (c) Each SCRO Committee that has reviewed covered stem cell research shall report to the Department annually on the number of human embryonic stem cell research projects that the SCRO Committee has reviewed and the status and disposition of each of those projects, including any information collected pursuant to Section **125342** concerning oocyte retrieval.
- (d) Each SCRO Committee shall also report to the Department regarding unanticipated problems, unforeseen issues, or serious continuing investigator noncompliance with the requirements or determinations of the SCRO Committee with respect to the review of human embryonic stem cell research projects, and the actions taken by the SCRO Committee to respond to these situations.

7.11 Distinction between Research versus Quality Improvement

WesternU recognizes that all professionals have the responsibility to improve the health care system. With such recognition comes the opportunity to participate in quality improvement activities. Quality improvement activities have much in common with research activities in broad areas such as an established methodology, a procedure, data acquisition, data analysis, data interpretation. However, each of these areas are different between research and quality improvement. The intent to publish results of any project does not determine if the project is research or quality improvement. WesternU IRB offers these distinctions between research and quality improvement. When in doubt, investigators should complete the Request for Determination Form and submit to IRB for a determination or guidance.

| | Research | Quality Improvement or Quality Assurance |
|----------------------------|--|---|
| Purpose | Test a formal hypothesis or research question and advance science/discipline. Generates new knowledge that is generalizable to the wider population. | A formal process that assesses a program or system to provide information about improvement opportunities. |
| Starting Point | A prospectively designed, formal, written research hypothesis | An established set of standards |
| Funding Requirement | Usually carries some source of funding (may be internal or external). | QI initiatives are not funded but are part of the cost of doing business. As such, funds would be part of the operating budget. |
| Benefits | Knowledge sought may not benefit participants involved in study. The research is intended to have future benefits for the research population | Knowledge sought directly benefits process/programs/system/ and may benefit patients. There may be impact on future program participants. |
| Risks/Benefits | May put participants at risk (e.g., physical, emotional, privacy, risk of harm). | No risk, with exception of possibly privacy/confidentiality concerns |

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|---|---|---|
| Data Collection | Systematic data collection that is commonly de-identified or anonymous. | Systematic data collection that may be de-identified or anonymous. |
| Different Groups | May include randomization or group assignment or other sampling strategies. | There are no groups; only records that meet the criteria established. |
| End Point | Answer research question | Improve program/process/system |
| Testing/Analysis | Involves an in-depth review of relevant literature. Includes the use of valid and reliable instruments that measure the outcomes of interest in order to affirm or reject hypothesis. | Compare the program/process/system to established set of standards through data collection tools that allow simple and easy recording of the information. |
| How long will it take? | Variable | May be done quickly. |
| Intended Result | Share findings with individuals associated or not associated with investigation. | Share findings with only those individuals associated with the process/program/system. Note: If findings are shared with individuals unassociated with the process/program/system, then activities are considered research. |
| How are findings planned to be utilized? | Findings will contribute to the scientific body of knowledge and collectively add to what is known. Changes in practice may be slow or delayed depending on the uptake by others. | Findings are immediately available for practice changes in the local setting only. |
| IRB Review & Approval | Required | Not Required |

7.12 International Research

All WesternU faculty, staff or students conducting human subject research, including survey-only research, in a foreign country MUST have WesternU IRB approval prior to conducting the research. Such researchers must also adhere to all applicable standards, policies and regulations of WesternU, the United States and the foreign country in which the research is to occur. Refer to OHRP's [International Compilation of Human Research Standards](#) and the Harvard School of Public Health [Research Ethics Guidelines International Online Navigation Map \(REGION\)](#) for guidance.

Investigators are encouraged to consult the IRB office as early in the process as possible.

Institutions in foreign countries may have their own IRBs or ethics committees from which approval must be obtained prior to engaging in human subjects research. In some countries, there may be a single IRB or ethics committee for the entire country whereas, in other countries, each institution may have its own IRB or ethics committee. Investigators may find OHRP's [Database](#)

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of Registered IORGs and IRBs from around the world helpful in this regard. Although a foreign country/institution might adhere to the [Belmont Report](#), [45 CFR 46](#), the [Declaration of Helsinki](#), or the [Nuremberg Code](#) as its standard of operations, approval from WesternU's IRB does not necessarily equate to approval from the foreign country/institution and vice versa.

There may be cases where a foreign country/institution does not require approval from, or does not have, an IRB or ethics committee in their country or at their institution. Nevertheless, WesternU's IRB requires that approval be obtained from someone in authority at the foreign location, such as from a ministry of health, who does not have a conflict of interest with the research to avoid any appearance of coercion or undue influence. If a study involves **minimal risk**, an approval or permission letter from the research site may be acceptable provided that the letter contains the following minimum information:

- The title of the study as it appears in the WesternU IRB application;
- Affirmation that local regulations do not require local ethics review
- Qualifications of the person so affirming;
- A description of the expertise of the person preparing the letter in addressing local cultural and social norms;
- Confirmation that they understand the intent of the research and the activities to be performed;
- Assurance that the research activities do not conflict with local and cultural norms;
- The signature and printed name of the person writing the letter; and
- The date the letter was signed.

Studies involving **greater than minimal risk** **REQUIRE** a formal ethics review within the country in which the research will be conducted. If there is not an IRB or ethics committee, the investigator must obtain permission from the country's Department of Ministries or other appropriate government agency. Investigators are **strongly** encouraged to have a local collaborator who can assist with this process. WesternU's IRB will review these situations on a case-by-case basis. Investigators are encouraged to contact the IRB Chair to discuss issues pertaining to International Research. Approval letters must contain the following minimum information **on the official letterhead of the signatory**:

- The title of the study as it appears in the WesternU IRB application;
- Affirmation that the planned research was reviewed and approved;
- The signature and printed name of the person writing the letter; and
- The date the letter was signed.

Prior to traveling to a foreign country, determine first if the country is on the U.S. Department of State's [travel warning list](#). Then determine if your medical insurance policy will cover you while abroad. If not, consider purchasing additional coverage.

Unless you are fluent in the local language, you may have to utilize an interpreter as this can impact recruitment of subjects, the informed consent process and your data. It is suggested that you do not rely on family members or friends of the subjects as you may not be able to discuss the study

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with them in detail and they may not communicate the information accurately. Be aware of how other ethnic, racial and/or linguistic groups differ from your own and of the culture and socio-political environment of the foreign country or community. Understand the context in which you will be working. For example, if they have recently been through a natural disaster or war, there may be additional psychological, political or legal risks to consider. Do not make assumptions as they can put your subjects at greater risk.

As with research in the U.S. involving children, there may be communities in which consent must first be obtained from someone other than the research subject. After obtaining such consent, you must still obtain consent from the prospective research subject. Considering the literacy rate of the subject population, there may be cases where written informed consent is not practical and, therefore, oral consent may be acceptable.

When submitting an application to WesternU's IRB, include the following information for each foreign or culturally different site:

- Name of site;
- Name of authorized person from the local IRB or ethics review committee responsible for the review and approval of the research;
- Name and qualifications of any site collaborator(s);
- If federally funded, provide the Federal Wide Assurance (FWA) number assigned to the site.

7.13 Cadaveric Research

Investigators who wish to engage in research involving human cadavers must first submit to the IRB a Request for Determination (RFD) for review prior to engaging in such research. Although research involving cadavers or cadaveric tissues does not meet the regulatory definition of human subject research, it is subject to IRB review if (1) the data or samples contain personal identifiers rendering the research subject to HIPAA; or (2) the research results in obtaining information about the cadaver's living relatives as might occur with genetic studies. This constitutes private, identifiable, information about third parties, which would meet the definition of human subject research.

7.14 Death Data Files

Investigators who wish to engage in research requiring access to the State of California's death data files must first submit to the IRB a Request for Determination (RFD) for review prior to engaging in such research. Pursuant to section [102231\(a\)\(5\)](#) of the California Health and Safety Code, the IRB must review and approve all requests to use in research death data files from the State of California that contain personal identifying information. The researcher must have a "valid scientific interest" for approval to be granted. These records are not publicly available and,

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therefore, do not qualify for federal exemption from IRB review on publicly available existing data. Although federal regulations are silent on this issue, such research might qualify for IRB Review under 45 CFR 46.110 and OHRP Expedited Review Research [Category Five](#). Investigators are referred to California Health and Safety Code [102231\(b\)](#) for additional information.

SECTION 8.0

Reporting Requirements

WesternU IRB policy requires the following written reports from investigators conducting IRB-approved research, as applicable: (1) A progress report, final report or premature closure report, (2) reports of injury or unanticipated problems.

8.1 Progress Report, Final Report or Premature Closure Report

45 CFR 46.109(e), IRB Review of Research. *An IRB shall conduct continuing review of research covered by this policy at intervals appropriate to the degree of risk, but not less than once per year, and shall have authority to observe or have a third party observe the consent process and the research.*

The effective date of initial approval of a protocol submitted for Full Board Review shall be the date on which the vote is taken at a convened meeting of a majority of the voting members of the IRB. All research projects involving human subjects are approved for a maximum of one year at a time. An annual progress report must be submitted within 30 days prior to the end of each one year approval period. Any project that will not be completed within 12 months of the original IRB approval date must be re-reviewed by the IRB by the first anniversary of the original IRB approval date to receive IRB approval for a second year or portion thereof. The investigator should submit a **Progress Report, Final Report or Premature Closure Report** as applicable.

As a courtesy, an annual update reminder is sent from the IRB Office to an investigator at least one month before the anniversary date of his/her project. However, investigators bear full responsibility for ensuring that all activities are conducted only within the approved timeframe. **No research activities can occur outside of the approved timeframe.** When the update is received in the IRB Office, it will be reviewed by one or more IRB members. If no changes to the protocol have been made, and no Significant Adverse Events (SAEs) with subjects at the WesternU Investigator's site have occurred, the reviewers may recommend to the IRB Chair that the protocol be renewed for one calendar year. A protocol may receive annual review in this manner for two consecutive years. If a third renewal is requested, the protocol must be resubmitted for review as

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a new submission. Protocols due for annual renewal that have been amended or in which subjects at the WesternU Investigator's site have experienced an SAE will be reviewed as a new submission. Research work will be allowed to continue on a project during the review period unless information contained in the annual report indicates possible increased risk to subjects, in which case the IRB Office may request that the research be suspended until the project has been reviewed and approved by the full Board.

Format: Annual progress reports should be electronically submitted to the IRB Office. See Section 9.4. Some projects may be reviewed more often than annually. Such projects include but are not limited to:

- Research involving fetuses;
- Research involving human subjects for which there have been reports of injury or unanticipated problems as a consequence of participating in the research;
- Research for which the IRB had specifically required "more often than annual" review at the time approval was granted;
- Research projects not included above that the IRB deems appropriate to review on a more than annual basis.

"More-often-than-annual" reviews will follow the same reporting and review procedures as indicated for annual reports, with the appropriate changes in reporting intervals and deadlines.

Failure to file an annual report: If no annual report is filed within 30 days prior to the end of each one year approval period, the investigator will be notified in writing that the approval for the indicated research project has expired. The investigator is prohibited from further experimentation involving human subjects in that research project from the date of the written notification. In order to re-establish that research project, the investigator must file a new and complete protocol application for review by the IRB.

8.2 Procedures for Review and Reporting of Unanticipated Problems Involving Risks to Subjects or Others

A. Background

WesternU's Federalwide Assurance of Compliance (FWA) requires the institution to have written procedures for ensuring prompt reporting to: the IRB, appropriate institutional officials, the head (or designee) of any federal department or agency conducting or supporting the research, and any applicable regulatory body, of any:

- Unanticipated problems involving risks to subjects or others (Section A.1);
- Serious or continuing noncompliance with the federal regulations or the requirements or determinations of the IRB(s)(Section A.2); or
- Suspension or termination of IRB approval (Section A.3).

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The University's FWA also requires reporting of such events if the events are associated with federally sponsored research to the HHS Office for Human Research Protections. Similarly, FDA regulations require reporting of such events to the FDA for research subject to FDA oversight.

Acronyms:

AE-Adverse events

ORIO-Other reportable information or occurrences

SAE-Serious adverse events (pertains to drug products only)

UADE-Unanticipated adverse device effect

UPR-Unidentified problems involving risks

A.1 Unanticipated problems

Although all unanticipated problems are either an adverse event (AE) or ORIO, not all AEs and ORIOs are unanticipated problems. An unanticipated problem or occurrence is one that meets all three of the following conditions:

- is "unexpected" in terms of nature, severity or frequency given
 - Procedures described in the study documents
 - Characteristics of the subject population being studied.
- is "related" to the research; meaning there is a reasonable possibility that the event may have been caused by the procedures involved in the research.
- suggests that the research places subjects or others at greater risk of harm (including physical, psychological, economic, or social harm) than was previously known or recognized.

Because an individual event cannot be readily concluded to represent an unanticipated problem, investigators should assess and report:

- Events that were not just isolated occurrences but were significant to subjects' rights and welfare.
- Expected AEs that occur at a greater frequency or severity than expected.

Investigators must report serious and non-serious unanticipated problems. This includes the reporting of unanticipated problems occurring at other sites that potentially impact a study under WesternU's IRB oversight. Furthermore, such reporting extends to all unanticipated problems about which the investigator receives notice from the FDA, a sponsor, a data and safety monitoring board or other oversight entity or source.

Investigators engaged in research involving investigational devices for which the Food and Drug Administration has issued an investigational device exemption for use of the device in research must inform the IRB and sponsor of any unanticipated adverse device effect (UADE) during an investigation. An UADE is defined as any serious adverse effect on the health or safety or any life-threatening problem or death caused by, or associated with, a device if that problem or death was not previously identified in nature, severity or degree of incidence in the investigational plan.

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B. Roles and Responsibilities

1. Researchers

The PI of a human subjects research project is required to report unanticipated problems of any kind. **All unanticipated problems, regardless of severity, must be reported to the IRB using the WesternU Reportable Event Form within three (3) calendar days of occurrence or notice to the investigator.**

PIs involved in an FDA study must report adverse events occurring at the University or in projects under the direction of University faculty or staff to the FDA or sponsors in accord with the timelines required by those agencies. The PI must also submit the form to the FDA within seven (7) calendar days of the event. The PI must notify the sponsor within ten (10) calendar days.

PIs must forward to the IRB any inspection, audit or investigation reports issued by internal or external sponsors or oversight authorities according to the schedule articulated in the IRB's policies or a study-specific plan approved by the IRB.

2. The IRB

IRB Office shall screen the WesternU Reportable Event Form for completeness and will forward the form to the IRB Chair for prompt review. The Chair will act on behalf of the IRB with regard to such a review. **The IRB Chair is authorized to take immediate action to protect the health and safety of research subjects.** Such action may include, but not be limited to:

- (i) Suspending recruitment;
- (ii) Altering or suspending current interventions; or
- (iii) Suspending the project.

The Chair will immediately report to the Vice President for Research and Biotechnology a partial or complete protocol suspension. The Chair shall report any such actions taken to the IRB at its next regularly scheduled convened meeting.

A convened Board will review all reported unanticipated problems regardless of where the study is being conducted. The IRB may endorse interim actions taken by the chair, if any, or may take different or additional actions. In the event immediate action is not required to protect the health and safety of research subjects, any actions must be approved in advance by a vote of the IRB.

When the IRB determines that a submitted report is an unanticipated problem, the following steps shall be taken:

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- The Chair or chair's designee will notify the Office of the Vice President for Research and Biotechnology.
- The Board will vote on further actions.
- The investigator will be notified.
- The study records and IRB minutes will document the findings and actions of the board.

3. Office of the Vice President for Research and Biotechnology

The Vice President for Research and Biotechnology ensures compliance with DHHS regulations for the protection of human subjects in research when notified of serious unanticipated problems, continuing non-compliance issues, and when the IRB Chair or committee recommends suspension or termination of projects.

Upon receipt of notification of a serious unanticipated problem or continuing non-compliance from the IRB, an external agency or sponsor, the Vice President for Research and Biotechnology shall immediately take any additional actions required to protect the health and safety of research participants or others or to comply with institutional policy or regulatory requirements. The Vice President for Research and Biotechnology shall acknowledge in writing, within three (3) business days, to relevant parties, including the PI, the receipt of the notification.

Upon receipt of a report of suspension or termination of research by the IRB, the Vice President for Research and Biotechnology may take additional action(s), as deemed necessary. Any actions taken shall be communicated to relevant parties in writing within three (3) business days of any decision.

The Vice President for Research and Biotechnology shall evaluate all external reports and may request additional external reports. For studies supported by the DHHS or other federal agencies requiring reporting to the OHRP, the Vice President for Research and Biotechnology will notify the OHRP within 30 calendar days of the IRB's determination of an SAE.

For studies under FDA oversight, the Vice President for Research and Biotechnology will provide any required notification to the FDA of an unanticipated problem, serious or continuing non-compliance, or suspension or termination of a research project. Initial reports may be made by phone or by email. Additional information will be provided upon request to appropriate oversight authorities.

When reporting to the OHRP, the Vice President for Research and Biotechnology shall include sufficient information that describes reports of unexpected outcomes, serious or continuing noncompliance, or suspension or termination of projects involving human subjects research. Reporting of unanticipated problems involving risks to subjects or others must include:

- Title of the research project and/or grant proposal in which the problem occurred;
- Name of the PI on the protocol;
- Number of the research project assigned by the IRB and the number of any applicable federal award(s) (grant, contract, or cooperative agreement);
- A detailed description of the problem; and

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- Actions the University is taking or plans to take to address the problems.

Reporting of serious or continuing noncompliance must include:

- Title of the research project and/or grant proposal in which the noncompliance occurred;
- Name of the PI on the protocol;
- Number of the research project assigned by the IRB and the number of any applicable federal award(s) (grant, contract, or cooperative agreement);
- A detailed description of the noncompliance; and
- Actions the University is taking or plans to take to address the noncompliance.

Reporting of suspension or termination must include:

- Title of the research project and/or grant proposal that was suspended or terminated;
- Name of the PI on the protocol;
- Number of the research project assigned by the IRB that was suspended or terminated and the number of any applicable federal award(s) (grant, contract, or cooperative agreement);
- A detailed description of the reason for the suspension or termination; and
- Actions the University is taking or plans to take to address the suspension or termination.

The report to OHRP shall be made within 3, absent special circumstances such as the need for extensive data gathering or analysis.

C. Guidance for Determining Significant Adverse Events (SAE) and Other Reportable Information or Occurrences (ORIO)

The IRB shall consider the following definitions when determining if a reported event represents an unanticipated problem involving risks to subjects or others:

Unexpected (in nature, severity, or frequency) given (a) the research procedures described in the protocol-related documents, and (b) the characteristics of the subject population;

Related or possibly related to participation in the research (possibly related meaning that there is a reasonable probability that the incident, experience or outcome may have been caused by the procedures involved in the research); and

Suggests that the research places subjects or others at greater risk of harm (including physical, psychological, economic or social harm) than was previously known or recognized.

The following events are examples that meet the IRB's definition of unidentified problems involving risks (UPR) and should be reported within **3 calendar days**:

1. Any serious event (injuries, side effects, deaths or other problems) which, in the opinion of the PI, was unanticipated, involved risk to subjects or others and was possibly related to the research procedures.

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2. Any serious accidental or unintentional change to the IRB-approved protocol that alters the level of risk.
3. Any deviation from the protocol taken without prior IRB review to eliminate apparent immediate hazard to a research subject.
4. Any new information (e.g., publication, safety monitoring report, updated sponsor safety report), interim result or other finding that indicates an unexpected change to the risk/benefit ratio of the research.
5. Any breach in confidentiality that may involve risk to the subject or others.
6. Any complaint of a subject that indicates an unanticipated risk or that cannot be resolved by the PI.

If the event meets all criteria in the IRB's definition of UPRs, it must be reported to the IRB within **3 calendar days** of becoming aware of the UPR using the "Report of Injury/Unanticipated Events" form.

The IRB shall review all UPRs.

The IRB shall obtain sufficient information to determine whether each reported problem represents a UPR and shall take appropriate action that may include up to suspension or termination of the project. The IRB may also require the PI to notify the research subjects of pertinent information.

Confidentiality, for both subjects and investigators, to the extent allowed by law, will be maintained in the reporting of adverse events.

The investigator shall submit a written report of the UPR to the IRB. If additional information is required by the IRB to make a final determination concerning the event, the investigator shall receive such a request in writing. If deemed necessary, the IRB may directly audit the research and medical records pertaining to the event and interview witnesses.

The IRB shall determine if each reported problem represents an UPR to subjects or others. The IRB shall determine the appropriate actions for mitigating unexpected problems.

Information about SAEs *not* deemed to be UPRs at this site needs to be reported at least annually as part of a "re-submission" of the study or Continuing Review submission. The information to be provided regarding non-UPRs includes subject ID; description of event, date of event; any costs (if known); who paid the costs (if known); and the PI's assessment of the event (e.g., the likelihood that the event was caused by the study or if it was unlikely or definitely unrelated).

Definitions

1. Unanticipated (unexpected) problems/events are those that are *not* already described as potential risks in the consent form, *not* listed in the Investigator's brochure or *not* part of an underlying disease. Anticipated (expected) problems/events do NOT meet the IRB's definition of UPRs.
2. Serious problems/events are those which, in the opinion of the PI, involve risk to subjects or others. Examples include death, hospitalization, disability as well as breach of confidentiality. Non-serious problems/events do NOT meet the IRB's definition of UPRs.

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3. A Serious Adverse Event (SAE) is defined by the FDA as any adverse drug experience occurring at any dose that results in any of the following outcomes: death, a life-threatening adverse drug experience, inpatient hospitalization, or prolongation of existing hospitalization, a persistent or significant disability/incapacity, or a congenital anomaly/birth defect. Important medical events that may not result in death, be life threatening, or require hospitalization may be considered a serious adverse drug experience when, based upon medical judgment, they may jeopardize the patient or subject and may require medical or surgical intervention to prevent one of the outcomes listed in this definition. FDA Regulations require Investigational New Drug (IND) sponsors to report serious AEs via expedited reporting.
4. Problems/events that are unanticipated and serious should be **reported to the IRB within 7 working days**. Those serious, unanticipated problems/events that the PI deems unlikely or not related do NOT meet the IRB's definition of UPRs; however, these events must be reported to the IRB at least annually at the Continuing Review submission.

Examples

Examples of unanticipated problems involving risks to participants or others that should be reported to the IRB include but are not limited to:

1. Any serious accidental or unintentional change to the IRB-approved protocol that involves risk or has the potential to recur.
2. Any deviation from the protocol taken without prior IRB review to eliminate apparent immediate hazard to a research subject.
3. Any publication in the literature, data and safety monitoring report, interim result (e.g., suspension of enrollment due to new risk information) or other finding that indicates an unexpected change to the risk/benefit ratio of the research.
4. Any breach in confidentiality or privacy that may involve risk to a participant or others.
5. Any complaint of a subject that indicates an unanticipated risk (e.g., unexpected side effect) or that cannot be resolved by the research staff.
6. Incarceration of a participant in the course of a study.
7. A change in FDA labeling or withdrawal from marketing of a drug, device, or biologic used in a research protocol.
8. In FDA clinical trials, adverse events that are serious, unexpected, and reasonably related to the study treatment or intervention and that are expected to result in a change to the protocol or consent documents and/or dissemination of new information to subjects and any unanticipated adverse device effect occurring during the trial.
9. Any other event that indicates participants or others might be at risk of serious, unanticipated harms that are reasonably related to the research.

Guidance for Clinical Investigators, Sponsors, and IRBs: Adverse Event Reporting to IRBs – Improving Human Subject Protection (This is a pdf file that cannot be hyperlinked. Google it.)

Guidance on Reviewing and Reporting [Unanticipated Problems](#) Involving Risks to Subjects or Others and Adverse Events.

SECTION 9.0

Description of Forms

The IRB uses a number of forms to document compliance with all applicable guidelines and regulations. Investigators should be familiar with the various forms that are part of the IRB process. This section describes the various forms used in conjunction with IRB operations. All IRB forms are centrally stored and available to investigators. Investigators should contact the IRB Office to resolve any questions on completing any of the forms.

9.1 IRB Protocol Application

All investigators must use the WesternU approved *IRB Protocol Application* form. The form contains the following sections that facilitate the IRB review process.

The first page of the IRB protocol application is a cover sheet that requests the following information:

- Anticipated Level of Review
- Project Title
- Investigator Information
- PI Certification
- Approval

The remainder of the protocol application is divided into the following sections:

Section A: Research Project Characteristics

- Type of Project
- Funding Mechanism
- Conflict of Interest Disclosure
- Affiliated Investigators

Section B: Subject Recruitment

- Identification of Specially Protected Populations
- Gender Recruitment
- Ethnic Recruitment
- Estimated Sample Size
- Ages of Subjects
- Inclusion/Exclusion criteria
- Method of Subject Selection
- Subject Contact Method

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- Coercion Disclosure

Section C: Consent of Research Subjects

- Informed Consent Process
- Request of Informed Consent Waiver

Section D: Confidentiality

- Confidentiality Process
- Statement of HIPAA Compliance
- Intent of Data Use
- Data Reporting
- Records Retention Process

Section E: Benefits and Risks to Subjects

- Benefits
- Risks
- Therapeutic Alternatives
- Deception Disclosure

Section F: Compensation

- Compensation Plan

Section G: Narrative

- Non-technical Summary
- Goals, Aims, Hypothesis
- Research Plan
- Contribution to Existing Knowledge

Section H: Student Projects

- Student Roles

Section I: Bibliography

- Relevant Citations

9.2 Request for Determination (RFD)

The IRB utilizes a process known as *Request for Determination (RFD)* when investigators are unsure if the project needs review by the IRB. Projects that may be suitable for RFD consideration include, but are not limited to, quality improvement activities, structured literature reviews, or projects that exclusively rely on de-identified secondary data. The Request for Determination form is available through the IRB Office.

The RFD process would not apply to investigators anticipating exempt status. An IRB protocol application must still be submitted.

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The IRB, upon review, reserves the right to seek additional information for the RFD or direct the investigator to submit the protocol application.

Investigators desiring to submit the RFD form must complete the following sections:

- Proposed Project Title
- Identification of Investigator and Contact Information
- Project Description
- Inquiry of Systematic Approach
- Intent to Contribute to Generalizable Knowledge
- Anticipated Dissemination
- Living Individual Involvement
- Obtain Information through Intervention, Interaction, or Observation
- Collection of Individually Identifiable Information
- Receipt of Individually Identifiable Information
- Potential for Re-identification

9.3 Request to Amend a Currently-Approved Protocol

A currently approved project may need to be amended for a number of reasons. To do so, investigators should file the *Request to Amend a Currently-Approved Protocol* with the IRB Office. Data collection should proceed only within the guidelines of the approved protocol.

The *Request to Amend a Currently Approved Protocol* form contains the following sections:

- Original Protocol Number and Title
- Investigator Contact Information
- Description of Amendment
- Disclosure of Change Due to Human Subject Interaction or Unexpected Event
- Change in Risk Level
- Impact on Subject Willingness to Participate
- Communication of Changes to Currently Enrolled Subjects

9.4 Progress Report, Final Report or Premature Closure Report

The IRB requires investigators to provide an annual Progress Report, Final Report of Completion, or a Report of Premature Closure as appropriate.

Section A (required on all reports):

- IRB Protocol Information

Section B: Annual Progress Report

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- Project Narrative
- Sample Size to Date
- Subject Withdrawal
- Disclosure of Unanticipated Problems

Section C: Final Report at Study Completion

- Date of Completion
- Subject Count
- Subject Withdrawal
- Unanticipated Problems

Section D: Premature Closure of Study

- Explanation
- Unanticipated Problems/Risks

9.5 Reportable Event Form

The OHRP regulations require the IRB to monitor projects for unanticipated risk or harm to subjects and others, such as research team members or auxiliary personnel. The reporting of such events is time sensitive and investigators must recognize University and federal requirements.

The reporting of unanticipated events is accomplished through a structured form available through the IRB Office. The form includes the following sections:

- Section 1: Identifying Information
- Section 2: Reportable Event Outcomes
- Section 3: PI's Assessment of Event
- Section 4: Events Involving Risks to Subjects or Others
- Section 5: Protocol Deviation
- Section 6: Costs or Consequences
- Section 7: New Information
- Section 8: Complaint from Study Subject or Other
- Section 9: Signatures