Scope

This policy describes the application of the 2018 Common Rule to human subjects research conducted at Yale University, for provisions effective January 19, 2018 (herein “revised Common Rule”). Research projects conducted at Yale University are held to varying standards depending upon what set of regulatory criteria applies to the research activity, which may include Common Rule regulations prior to the effective date for the revised Common Rule (herein “pre-revision Common Rule”), revised Common Rule regulations, and/or FDA regulations that govern human subject research. This policy supplements existing policy and procedure to: (1) describe the timeline for implementation of the revised Common Rule; (2) recognize how to identify which regulatory criteria apply to a given research study and (3) designate the requirements for research that falls under the various applicable standards.

Policy Statement

The IRB will review human subject research or activities in accordance with all applicable state, federal, and University requirements for the protection of human participants. The IRB will incorporate and apply the revised Common Rule into written procedures and the IRB review process to ensure compliance with the applicable regulatory requirements.
Reason for the Policy

University policy 1360 and federal regulations require that human subject research involving human participants be subject to oversight by an IRB to ensure that the rights and welfare of research participants are protected and that the research meets regulatory and institutional requirements.

The U.S. Department of Health and Human Services and 16 other federal agencies issued updates to the “Common Rule” codified in 45 CFR 46 Subpart A (see final rule and information on the sixteen federal departments that have adopted the revised Common Rule) that take effect January 19, 2018.

This policy defines the requirements for research conducted at Yale University that must be reviewed by, and under the oversight of, the IRB to ensure compliance with revised Common Rule requirements. IRB and HRPP Policies affected by different Common Rule standards are identified and supplemented in red citations. New definitions and regulatory standards are in blue font. Areas of significant revisions to text in existing IRB and HRPP policies and procedures are bolded in black.

Revised Definitions

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 the interventions on biomedical or behavioral health-related outcomes.

Human Subject
A living individual about whom an investigator (whether professional or student) conducting research (i) Obtains information or biospecimens through intervention or interaction with the individual, and uses, studies, or analyzes the information or biospecimens; or (ii) Obtains, uses, studies, analyzes, or generates identifiable private information or identifiable biospecimens.

Intervention includes both physical procedures by which information or biospecimens are gathered (e.g., venipuncture) and manipulations of the subject or the subject’s environment that are performed for research purposes.

Interaction includes communication or interpersonal contact between investigator and subject.

Private information includes 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 that has been provided for specific purposes by an individual and that the individual can reasonably expect will not be made public (e.g., a medical record).

Identifiable private information is private information for which the identity of the subject is or may readily be ascertained by the investigator or associated with the information.

Identifiable biospecimen is a biospecimen for which the identity of the subject is or may readily be ascertained by the investigator or associated with the biospecimen.

Legally Authorized Representative
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. If there is no applicable law addressing this issue, legally authorized representative means an individual recognized by institutional policy as acceptable for providing consent in the non-research context on behalf of the prospective subject to the subject’s participation in the procedure(s) involved in the research.

Public Health Authority
An agency or authority of the United States, a state, a territory, a political subdivision of a state or territory, an Indian tribe, or a foreign government, or a person or entity acting under a grant of authority from or contract with such public agency, including the employees or agents of such public agency or its contractors or persons or entities to whom it has granted authority, that is responsible for public health matters as part of its official mandate.
Research
a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge. Activities that meet this definition constitute research for purposes of this policy, whether or not they are conducted or supported under a program that is considered research for other purposes. For example, some demonstration and service programs may include research activities.

The following activities are deemed not to be research:

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

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

Applicable criminal justice activities which involve the collection and analysis of information, biospecimens, or records by or for a criminal justice agency for activities authorized by law or court order solely for criminal justice or criminal investigative purposes.

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

Written or in Writing
Refers to writing on a tangible medium (e.g., paper) or in an electronic format.

Policy Sections
The following section supplements 100 GD.7 – Select State and Federal Laws and Regulations Applicable to Human Research, 45 CFR §46 Common Rule:

1100.1 Research Subject to Common Rule Requirements
Human subjects research is generally subject to Common Rule requirements when it is federally funded. Common Rule standards are applied as a matter of policy to human subjects research not subject to Common Rule when Yale University is engaged in human subjects research regardless of sponsorship, unless alternative measures to ensure equivalent protections are documented. The IRB will also generally apply Common Rule standards to research not otherwise regulated by a federal agency in a manner otherwise consistent with this policy. Common Rule requirements do not apply to research that is exclusively regulated by the FDA (e.g., clinical investigations).

Sixteen federal agencies have adopted the revised Common Rule. The Department of Justice/National Institute of Justice (28 CFR Part 28) adopted the pre-revision Common Rule but

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1 See the Federal Register Volume 82, Number 12 pp.7149-7274 for more information on agency signatories: Department of Homeland Security (6 CFR Part 46); Department of Agriculture (7 CFR Part 1c); Department of Energy (10 CFR Part 745); National Aeronautics and Space Administration (14 CFR Part 1230); Department of Commerce (15 CFR Part 27); Social Security Administration (20 CFR Part 431); Agency for International Development (22 CFR Part 225); Department of Housing and Urban Development (24 CFR Part 60); Department of Labor (29 CFR Part 21); Department of Defense (32 CFR Part 219); Department of Education (34 CFR Part 97); Department of Veterans Affairs (38 CFR Part 16); Environmental Protection Agency (40 CFR Part 26); Department of Health and Human Services (45 CFR
is not a signatory to the revised Common Rule. Many federal agencies and funding authorities beyond the signatories comply with the HHS regulations for human subjects protection at 45 CFR 46, and/or have additional rules regarding the use of vulnerable populations.

1100.2 Regulatory Review Standards for Applicable Research Before and After Revised Common Rule Effective Date

Human subjects research covered by this policy (e.g., “applicable research”) approved by the IRB or HRPP starting on or after the revised Common Rule effective date will be subject to revised Common Rule requirements as described and supplemented in this Policy. Applicable research that received initial IRB approval prior to, and is ongoing beyond, the revised Common Rule effective date is subject to the pre-revision Common Rule requirements as described in existing IRB and HRPP policies and procedures unless otherwise noted.

The IRB may convert research projects that received initial approval prior to the revised Common Rule effective date to the revised Common Rule requirements if authorized by the HRPP and approved with a documented determination by the IRB. To enhance and assure the protection of human subjects and avoid administrative error the IRB generally does not intend to convert ongoing studies over to the revised Common Rule standards as a matter of policy until such time the IRB recordkeeping software is updated to reflect the new Common Rule requirements.

The following section supplements IRB Policy 100.4 Exemption from IRB Approval Criteria, 100 PR.3, Exemption Determinations, and 100 GD.9 Guidance on Exemption from IRB Review:

1100.3 Exempt Research

The revised Common Rule has made several updates and additions to the categorization and review requirements of exempt research. Research projects that received a determination of exempt prior to the effective date of the revised Common Rule will continue to be subject to pre-revision Common Rule standards.

A. Exempt Categories

The exempt categories 3, 4 and 7 in IRB Policy 100.4 Exemption from IRB Approval Criteria (version revision date March 20, 2018) have been removed or subsumed in one or more of new exempt categories below and do not apply to research governed under the revised Common Rule. The following identifies the complete set of categories allowed for exempt research subject to the revised Common Rule. ²

1. Research Conducted in Educational Settings

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

2. Research Involving Tests, Surveys, and Observation Limited to Interactions

Part 46); National Science Foundation (45 CFR Part 690); and Department of Transportation (49 CFR Part 11).

² Note, Yale University will not implement exemptions involving broad consent located at 45 CFR 46(d)(7) and 45 CFR 46(d)(8) at this time (see Broad Consent within Section 1100.7 Informed Consent for more information regarding broad consent at Yale University). Additional approval criteria and determinations are required for exempt research under category 45 CFR 46(d)(7) consistent with 45 CFR 46.11(a)(8). These requirements will be detailed in IRB Policy at such time Yale University implements this exempt category.
Research not regulated by the FDA on adults that only includes interactions involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior (including visual or auditory recording) if at least one of the following criteria is met:

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

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

(iii) The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB conducts a limited IRB review to make the required determination (45 CFR 46.111(a)(7)).

3. **Benign Behavioral Interventions**

Research not regulated by FDA involving benign behavioral interventions in conjunction with the collection of information from an adult subject through verbal or written responses (including data entry) or audiovisual recording if the subject prospectively agrees to the intervention and information collection and at least one of the following criteria is met:

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

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

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

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

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

4. **Secondary Research where Consent is Not Required**

Secondary research uses not regulated by the FDA of identifiable private information or identifiable biospecimens, if at least one of the following criteria is met:

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3 See Appendix A – Guidance on Benign Behavioral Interventions for further information.
(i) The identifiable private information or identifiable biospecimens are publicly available;

(ii) Information, which may include information about biospecimens, is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained directly or through identifiers linked to the subjects, the investigator does not contact the subjects, and the investigator will not re-identify subjects;

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

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

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

Each Federal department or agency conducting or supporting the research and demonstration projects must establish, on a publicly accessible Federal website or in such other manner as the department or agency head may determine, a list of the research and demonstration projects that the Federal department or agency conducts or supports under this provision. The research or demonstration project must be published on this list prior to commencing the research involving human subjects.

6. Taste and Food Quality Evaluations
Taste and food quality evaluation and consumer acceptance studies, (i) if wholesome foods without additives are consumed or (ii) if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural chemical or environmental contaminant at or below the level found to be safe, by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture. 45 C.F.R. § 46.101(b)(6), 21 CFR 56.104(d). Such research may not involve prisoners under the exemption.
7. [Reserved]

8. **Secondary Research for which Broad Consent is Required**
   Research not regulated by FDA involving the use of identifiable private information or identifiable biospecimens for secondary research use, if the following criteria are met:
   
   (i) Broad consent for the storage, maintenance, and secondary research use of the identifiable private information or identifiable biospecimens was obtained in accordance with the applicable informed consent requirements (see Limited IRB Review in section 1100.4 Approval Criteria of this policy);
   
   (ii) Documentation of informed consent or waiver of documentation of consent was obtained in accordance with 45 CFR 46.117;
   
   (iii) An IRB conducts and makes the relevant determinations for limited IRB review (see Limited IRB Review in section 1100.4 of this policy) and makes the determination that the research to be conducted is within the scope of the broad consent (see broad consent general requirements in section 1100.7 Informed Consent of this policy); 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.

The application of this exempt category at Yale University is limited to the secondary research use of information and/or specimens obtained from external entities as broad consent is not being implemented at Yale University or its agents at this time (see Broad Consent in section 1100.7 Informed Consent of this policy for more information).

B. **Vulnerable and Special Populations**

The exempt categories in this policy may be applied to research subject to 45 CFR 46, Subpart B (e.g., pregnant women, neonates and fetuses). The exempt categories in this policy do not apply to research subject to 45 CFR 46, Subpart C (e.g., prisoners) except for research aimed at involving a broader population that only incidentally includes prisoners.

The following exempt categories may be applied to research subject to 45 CFR 46, Subpart D (e.g., children):

- Category 1, *Research Conducted in Educational Settings*
- Category 2, *Research Involving Tests, Surveys, and Observation Limited to Interactions* only when involving educational tests or other observation of public behavior when the investigators do not participate in the activities being observed and either:
  - i. the information obtained is recorded by the investigator in such a manner that the identity of the human subjects cannot be readily ascertained, directly or through identifiers linked to the subjects; or
  - ii. any disclosure of the human subjects’ responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects’ financial standing, employability, educational advancement, or reputation.
- Category 4, *Secondary Research where Consent is Not Required*
- Category 5, *Federal Demonstration Projects*
- Category 6, *Taste and Food Quality Evaluations*
- Category 8, *Secondary Research for which Broad Consent is Required*

The following section supplements IRB Policy 100.5, Section A, Requirements for IRB Approval, 100 GD.4 Scientific and Ethical Review of Protocols by the IRB, as well as IRB Policy 400 Privacy.
and Confidentiality of Human Research Information as it pertains to information regarding limited IRB review:

1100.4 IRB Approval Criteria
In order to approve research subject to the Common Rule, the IRB must make determinations the applicable IRB approval criteria are satisfied.

A. Research Subject to the Revised Common Rule
IRB approval criteria for research subject to the revised Common Rule not undergoing limited IRB review are:

- Risks to participants are minimized: (i) by using procedures that are consistent with sound research design and that do not unnecessarily expose participants to risk, and (ii) Whenever appropriate, by using procedures already being performed on the participants for diagnostic or treatment purposes.
- Risks to participants are reasonable in relation to anticipated benefits, if any, and the importance of the knowledge that may reasonably be expected to result. In evaluating risks and benefits, the IRB will consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies that participants 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 (e.g., the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility.
- Selection of participants 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. The IRB should be particularly cognizant of the special problems of research that involves a category of participants who are vulnerable to coercion or undue influence, such as children, prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons.
- Informed consent will be sought from each prospective participant or the participant's legally authorized representative, in accordance with and to the extent required by appropriate local, state and federal regulations.
- Informed consent will be appropriately documented or appropriately waived as required by local, state and federal regulations.
- When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of participants.
- When appropriate, there are adequate provisions to protect the privacy of participants and to maintain the confidentiality of data.

B. Additional Criteria for IRB approval
When some or all of the participants are likely to be vulnerable to coercion or undue influence, such as children, prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons, additional safeguards have been included in the study to protect the rights and welfare of these participants.

C. Limited IRB Review
Limited IRB review applies to certain exempt categories at Yale University as identified in Section 1100.3 – Exempt Research of this policy. Limited IRB review is conducted through expedited review procedures as identified in Section 1100.8 – Expedited Review of this policy.
The IRB is not required to find that all approval criteria for research subject to the revised Common Rule is satisfied to approve research through limited IRB review. When performing limited IRB review for exempt research as allowed at Yale University, the IRB shall make the determination that when appropriate, there are adequate provisions to protect the privacy of participants and to maintain the confidentiality of data.4

Limited IRB review conducted under exempt category 8, Secondary Research for which Broad Consent is Required shall include review of the IRB approved broad consent form(s) for which the information and samples were collected to ensure; (1) the intended secondary research use is disclosed and otherwise consistent with the broad consent provided, and (2) the broad consent informed consent requirements were satisfied, including inclusion of the applicable general requirements of informed consent (e.g., 45 CFR 46.116(a)(1) through (4) and (a)(6)) and the elements of broad consent (see Broad Consent section of 1100.7 Informed Consent of this policy). It is the responsibility of the Principal Investigator to ensure compliance with other institutional requirements involving the transfer of information and/or materials as it applies to the research, such as making sure all the appropriate agreements are in place.

The determinations for limited IRB review must be made in addition to the determination for the applicable exemption.

The following section supplements IRB Policy 100.6, Continuing Review (45 CFR 46.109(e)), 100 PR.2 – Expedited Review, and 100 GD.2 IRB Approval and Expiration Dates:

1100.5 Continuing Review Requirements

A. Research Not Subject to Continuing Review Requirements

Studies subject to the pre-revision Common Rule and/or FDA regulation require review by the IRB at least annually consistent with IRB Policy 100 – Institutional Review Board (IRB) Review. Research is not subject to IRB continuing review requirements in the following circumstances unless otherwise determined by the IRB:

- Non exempt research subject to the revised common rule that is not regulated by FDA that is eligible for expedited review;

- Non-exempt research subject to the revised common rule that is not regulated by FDA that has progressed to the point it involves only (1) data analysis, including analysis of identifiable private information or identifiable specimens; or (2) accessing follow-up clinical data from procedures that participants would undergo as part of clinical care; or

- Exempt research reviewed by the IRB in accordance with limited IRB review.

When the IRB approves non-exempt research they will include the period of IRB approval appropriate for the research consistent with 100 GD.2 - IRB Approval and Expiration Dates and 100 PR.2 Expedited Review, Approval Periods, or find and document the research is not subject to continuing review requirements as applicable.

B. Notification Requirement

The Principal Investigator will receive correspondence from the HRPP or IRB when their research study is not subject to IRB continuing review requirements. Absent this notification from the HRPP or IRB the Principal Investigator is responsible for submitting an application to the IRB for continuing review per IRB Policy 100 – Institutional Review Board (IRB) Review.

4 Note, Yale University will not implement exemptions involving broad consent located at 45 CFR 46(d)(7) at this time (see Broad Consent within Section 1100.7 Informed Consent for more information regarding broad consent at Yale University). Additional approval criteria and determinations are required for exempt research under category 45 CFR 46(d)(7) consistent with 45 CFR 46.11(a)(8). These requirements will be detailed in IRB Policy at such time Yale University implements this exempt category.
The Principal Investigator will receive periodic administrative correspondence from the HRPP for research not subject to continuing review requirements reminding and confirming conformance with their ongoing IRB reporting requirements. This includes as applicable the submission of study modifications, staff changes, deviations and events reportable per 700 PR.1 – Reporting Noncompliance and Protocol Deviations to the IRB and IRB Policy 710 Reporting Unanticipated Problems Involving Risks to Subjects or Others, as well as study closure.

1100.7 Informed Consent

The following section supplements IRB Policy 200.1 Informed Consent Requirements:

A. Informed Consent Requirements

Informed consent requirements are not intended to preempt any applicable Federal, state, or local laws that require additional information to be disclosed in order for informed consent to be legally effective. This includes tribal laws passed by the official governing body of an American Indian or Alaska Native tribe and the provision of emergency medical care. The use of an electronic format is a permissible means to document informed consent.

- The following general requirements apply to informed consent under the revised Common Rule standard:

  Informed consent as a whole must present information in sufficient detail relating to the research, and must be organized and presented in a way that does not merely provide lists of isolated facts, but rather facilitates the prospective participant’s or their legally authorized representative’s understanding of the reasons why one might or might not want to participate.

  The prospective participant or the legally authorized representative must be provided with the information that a reasonable person would want to have in order to make an informed decision about whether to participate, and an opportunity to discuss that information. Informed consent must begin with a concise and focused presentation of the key information that is most likely to assist a prospective participant or legally authorized representative in understanding the reasons why one might or might not want to participate in the research. This summary must be organized and presented in a way that facilitates comprehension.

- The following basic elements of informed consent apply to informed consent under the revised Common Rule standard in addition to the eight basic elements of informed consent indicated in IRB Policy 200.1 Informed Consent Requirements:

  (i) One of the following statements about any research that involves the collection of identifiable private information or identifiable biospecimens:

  1. A statement that identifiers might be removed from the identifiable private information or identifiable biospecimens and that, after such removal, the information or biospecimens could be used for future research studies or distributed to another investigator for future research studies without additional informed consent from the participant or legally authorized representative, if this might be a possibility, or

  2. A statement that the participant’s information or biospecimens collected as part of the research, even if identifiers are removed, will not be used or distributed for future research studies.

- The following additional elements of informed consent apply as applicable to informed consent under the revised Common Rule in addition to the eight additional elements of informed consent indicated in IRB Policy 200.1 Informed Consent Requirements:
(ii) A statement that the participant’s biospecimens (even if identifiers are removed) may be used for commercial profit and whether the participant will or will not share in this commercial profit;

(iii) A statement regarding whether clinically relevant research results, including individual research results, will be disclosed to participants, and if so, under what conditions; and

(iv) For research involving biospecimens, whether the research will (if known) or might include whole genome sequencing (e.g., sequencing of a human germline or somatic specimen with the intent to generate the genome or exome sequence of that specimen)

The following section supplements IRB Policy 200.1 Informed Consent Requirements, IRB Policy 440 – Collection and Banking of Data, Biological Specimens and Other Materials in Human Research, and 440 PR.1 Development of Data Banks and Repositories for Research:

B. Broad Consent

Broad consent is permitted, and may be obtained, under the revised Common Rule only with respect to the storage, maintenance, and secondary research uses of identifiable private information and biospecimens (collected for either research studies other than the proposed research or nonresearch purposes). Broad consent in research is not being implemented at Yale University at this time. Accordingly, researchers engaging Yale University in human subjects research shall not initiate or undertake the broad consent procedure as identified in 45 CFR 46 with respect to the storage, maintenance, and secondary research uses of identifiable private information or biospecimens.

Secondary research use of identifiable private information and/or identifiable biospecimens collected under broad consent from an entity external to Yale University or its agents is permitted. The following describes the regulatory elements required under the revised Common Rule for broad consent.

- If asked to provide broad consent, the following basic elements of broad consent shall be provided to each participant or participant’s legally authorized representative:
  
  (i) A description of any foreseeable risks or discomforts to the participant;

  (ii) A description of any benefits to the participant or to others that may reasonably be expected from the research;

  (iii) A statement describing the extent, if any, to which confidentiality of records identifying the participant will be maintained;

  (iv) 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 participant may discontinue participation at any time without penalty or loss of benefits to which the participant is otherwise entitled

- If asked to provide broad consent, the following additional required elements of broad consent shall be provided to each participant or participant’s legally authorized representative:

5 Note, broad consent procedures are not being implemented at Yale University at this time because (1) the necessary technological infrastructure is not in place to appropriately track and monitor broad consent requirements to ensure regulatory compliance, and (2) federal guidance on broad consent implementation has not been published by the DHHS.
(i) A general description of the types of research that may be conducted with the identifiable private information or identifiable biospecimens. This description must include sufficient information such that a reasonable person would expect that the broad consent would permit the types of research conducted;

(ii) A description of the identifiable private information or identifiable biospecimens that might be used in research, whether sharing of identifiable private information or identifiable biospecimens might occur, and the types of institutions or researchers that might conduct research with the identifiable private information or identifiable biospecimens;

(iii) A description of the period of time that the identifiable private information or identifiable biospecimens may be stored and maintained (which period of time could be indefinite), and a description of the period of time that the identifiable private information or identifiable biospecimens may be used for research purposes (which period of time could be indefinite);

(iv) Unless the participant or legally authorized representative will be provided details about specific research studies, a statement that they will not be informed of the details of any specific research studies that might be conducted using the participant’s identifiable private information or identifiable biospecimens, including the purposes of the research, and that they might have chosen not to consent to some of those specific research studies;

(v) Unless it is known that clinically relevant research results, including individual research results, will be disclosed to the participant in all circumstances, a statement that such results may not be disclosed to the participant; and

(vi) An explanation of whom to contact for answers to questions about the participant’s rights and about storage and use of the participant’s identifiable private information or identifiable biospecimens, and whom to contact in the event of a research-related harm.

• If asked to provide broad consent, the following additional elements of broad consent shall be provided to each participant or participant’s legally authorized representative as applicable:

    (i) A statement that the participant’s biospecimens (even if identifiers are removed) may be used for commercial profit and whether the participant will or will not share in this commercial profit;

    (ii) For research involving biospecimens, whether the research will (if known) or might include whole genome sequencing (e.g., sequencing of a human germline or somatic specimen with the intent to generate the genome or exome sequence of that specimen).

The following section supplements IRB Policy 200.3 Waiver of Informed Consent:

C. Waiver of Informed Consent

In addition to the regulatory criteria in categories 1 and 3 listed in 200.3 Waiver of Informed Consent, the IRB may waive the requirements of informed consent, or alter the basic and/or additional elements of informed consent, if it finds and documents:

(i) The research involves no more than minimal risk to participants;

(ii) The research could not practicably be carried out without the requested waiver or alteration;
(iii) If the research involves using identifiable private information or identifiable biospecimens, the research could not practicably be carried out without using such information or biospecimens in an identifiable format;

(iv) The waiver will not adversely affect the rights and welfare of the participants'; and

(v) Whenever appropriate, the participants or legally authorized representatives will be provided with additional pertinent information after participation.

The general requirements of informed consent cannot be altered.

The following section supplements IRB Policy 410 – Recruitment of Research Participants and IRB Policy 200.3 Waiver of Informed Consent:

D. Screening and Recruitment

The IRB may approve a research proposal in which an investigator will obtain information or biospecimens for the purpose of screening, recruiting, or determining eligibility of prospective participants without the informed consent of the prospective participant or the participant’s legally authorized representative, if either of the following conditions are met:

(i) The investigator will obtain information through oral or written communication with the prospective participant or legally authorized representative; or

(ii) The investigator will obtain identifiable private information or identifiable biospecimens by accessing records or stored identifiable biospecimens.

The following section supplements IRB Policy 200.4 Waiver of Documentation of Informed Consent:

E. Waiver of Documentation of Informed Consent

In addition to categories 1 and 2 listed in IRB Policy 200.4 Waiver of Documentation of Informed Consent, the IRB may also waive the requirement for the investigator to obtain a signed consent form for some or all participants if it finds and documents:

(i) The p or legally authorized representatives are members of a distinct cultural group or community in which signing forms is not the norm;

(ii) The research presents no more than minimal risk of harm to participants; and

(iii) There is an appropriate alternative mechanism for documenting that informed consent was obtained.

The following section supplements IRB Policy 200.5 Non-English Speaking and/or Illiterate Participants, 200 PR.1 Informed Consent for Research Participation: Competent Adult Participants, and 200 GD.2 Guidance on Inclusion of Non-English Speaking Participants in Human Research:

F. Short Form Consent

In addition to the requirements identified in IRB Policy 200.5 Non-English Speaking and/or Illiterate Participants, a short form written informed consent form must state that the key information described in Section A – Informed Consent Requirements of this policy was presented first to the participant, before other information, if any, was provided.

The following section supplements IRB Policy 100 – Institutional Review Board (IRB) Review and 100 PR.2 - Expedited Review:

1100.8 Expedited Review

A. Limited IRB Review
Four of the exempt categories in the revised Common Rule now include limited IRB review, and may be reviewed through a limited IRB review procedure as applicable via IRB expedited review procedures. Yale University is currently implementing three of these exempt categories.\(^6\)

Limited IRB review must be performed by an experienced IRB member. Specific findings must be made to approve research through a limited IRB review procedure.\(^7\) The IRB member performing limited IRB review shall document their findings for approval or otherwise refer the research for expedited or convened IRB review as appropriate.

Research approved through the limited IRB review procedure is not subject to ongoing continuing review requirements unless otherwise determined by the IRB. Modifications to research reviewed through limited IRB review may be reviewed through Expedited procedure consistent with IRB Policy 100.8 Expedited Review. In reviewing modifications to the research through limited IRB review, the IRB member will make and document findings if the IRB approval criteria for limited IRB review are still satisfied.


1100.9 IRB Records

A. IRB Documentation Requirements

The revised Common Rule requires the following additional documentation requirements to those described in IRB Policy 100 – Institutional Review Board (IRB) Review, 100 PR.1 – Review by a Convened Institutional Review Board (IRB), and 100 PR.2 – Expedited Review:

- The records of continuing review activities must include the rationale for conducting continuing review of research that otherwise would not require continuing review for research eligible for expedited review, research reviewed by the IRB in accordance with limited IRB review, and research that has progressed to the point that it involves as part of the IRB-approved study only data analysis (including analysis of identifiable private information or identifiable biospecimens) and/or accessing follow-up clinical data from procedures that participant would undergo as part of clinical care.\(^8\)

- The rationale for an expedited reviewer’s determination that research appearing on the HHS Secretary’s list available through the Office of Human Research Protections and IRB Policy 100.8 Expedited Review is more than minimal risk.

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\(^6\) See exempt categories of Tests, Surveys, and Observation Limited to Interactions, Benign Behavioral Interventions, and Secondary Research for which Broad Consent is Required in Section 1100.3 Exempt Research of this policy.

\(^7\) See Limited IRB Review in Section 1100.4 IRB Approval Criteria of this policy.

\(^8\) Note, to enhance and assure the protection of human subjects and avoid administrative error the IRB does not intend to convert ongoing studies over to the revised Common Rule standards as a matter of policy until such time the IRB recordkeeping software is updated to reflect the new Common Rule requirements. See 1100.2 Regulatory Review Standards for Applicable Research Before and After Revised Common Rule Effective Date of this policy for more information.
For research involving human subjects research subject to the revised common rule (including exempt research reviewed through limited IRB review procedures) that takes place at an institution in which IRB oversight is conducted by an IRB that is not operated by Yale University, the institution and Yale University document reliance on the IRB for oversight of the research and the responsibilities that each entity will undertake to ensure compliance with the requirements of the revised Common Rule.

This can be done by a written agreement between the entities, implementation of an institution-wide policy directive providing the allocation of responsibilities between the institution and the IRB that is not affiliated with Yale University, or as set forth in the research protocol.

Exempt research involving the secondary use of protected health information where consent is not required shall involve a review and attestation that the proposed collection and analysis complies with the applicable provisions under HIPAA.

The following section supplements HRPP Policy 1000 Clinical Trial Registration and Reporting Requirements:

B. Public Posting of Informed Consents of Clinical Trials

Informed consent documents for clinical trials conducted or supported by a Federal department must be posted no later than sixty days after the last study visit by any participant as required by the protocol as required by 45 CFR 46.116(h) at such time the applicable public Federal website and guidance becomes available.

1100.10 Other General Changes and Requirements

The following supplements 100 GD.4 Scientific and Ethical Review of Protocols by the IRB:

A. Revised IRB Membership Requirements

If the IRB regularly reviews research that involves a category of participants that is vulnerable to coercion or undue influence such as children, prisoners, individuals with impaired decision-making capacity, or economically or educationally disadvantaged persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about and experienced working with these categories of participants.

The requirement that every nondiscriminatory effort be made to ensure no IRB consists entirely of men or entirely of women, including consideration of qualified persons of both sexes, so long as no selection is made to the IRB on the basis of gender, has been removed from the revised Common Rule. Additionally, so has the requirement that no IRB consist of members of one profession.

The following section supplements 900 PR.2 Updating IRB Rosters:

B. Revised Roster Reporting Requirements

Reporting is no longer required to OHRP when IRB Rosters have been updated.

The following section supplements IRB Policy 100 Institutional Review Board (IRB) Review and 100 PR.1 Review by a Convened Institutional Review Board (IRB):

C. Grant Congruency Review

The IRB is not required to review or document notification of congruency review for projects that are federally funded.
## Related Information

### Contacts

<table>
<thead>
<tr>
<th>Subject</th>
<th>Contact</th>
<th>Phone e-mail</th>
</tr>
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<tbody>
<tr>
<td>IRB Review of Biomedical Research</td>
<td>Human Investigation Committees</td>
<td>203-785-4688 <a href="mailto:HRPP@yale.edu">HRPP@yale.edu</a></td>
</tr>
<tr>
<td>IRB Review of Social Science, Behavioral, Education and Humanities Research</td>
<td>Human Subjects Committee</td>
<td>203-785-4688 <a href="mailto:Human.subjects@yale.edu">Human.subjects@yale.edu</a></td>
</tr>
</tbody>
</table>

### Revision History

1/21/2019 Initial effective date;
Appendix A – Guidance on Benign Behavioral Interventions

Definition

Limited IRB review is appropriate for benign behavioral interventions as the risk to harm is low and subject autonomy is respected. A benign behavioral intervention is defined in the regulations as:

brief in duration, harmless, painless, not physically invasive, not likely to have a significant adverse lasting impact on the subjects, and the investigator has no reason to think the subjects will find the interventions offensive or embarrassing. Provided all such criteria are met, examples of such benign behavioral interventions would include having the subjects play an online game, having them solve puzzles under various noise conditions, or having them decide how to allocate a nominal amount of received cash between themselves and someone else. (45 CFR 46.104(d)(3)(ii)).

Participants and Permission

Participants must exclusively be adults who prospectively agree, and have sufficient decision-making capacity, to participate. Participants requiring a legally authorized representative are not eligible for this exempt category. Additionally, unauthorized deception is not allowed. If the research involves deception, to be eligible participants must be informed they will be unaware or mislead regarding the nature or purposes of the research prior to commencing study procedures. Researchers should have a plan to debrief after the intervention as appropriate. The discussion to obtain participant permission for benign behavioral interventions can generally be done with a script or information sheet.

Research

Research involving benign behavioral interventions must be brief in duration, such a few hours or single day. Procedures must be both harmless and painless, and must not introduce the risks of harm, physical or emotional discomfort, offense, or embarrassment. Study procedures allowed in this category include communication or interpersonal contact with participants; performance of a cognitive, intellectual, educational, or behavioral task; and manipulation of participants’ physical, sensory, social, or emotional environment. Study procedures that are not allowed in this category include physically invasive or painful interventions, as well as the introduction or administration of substances or energy into or on to the body. This category does not include medical interventions, even those that are minimal risk.

Data

In order to qualify for this exemption, information collected must meet at least one of the following criteria:

- The information obtained is recorded by the investigator in such a manner that the identity of the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects;
- Any disclosure of the human subjects’ responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects’ financial standing, employability, educational advancement, or reputation; or
- The information obtained is recorded by the investigator in such a manner that the identity of the human subjects can readily be ascertained, directly or through identifiers linked to the subjects, and an IRB limited review performed.

Additionally, data collected from the subject must be through verbal responses, written responses (including data entry), or audiovisual recording.

The following illustrative examples is excerpted from the guidance Recommendations on Benign Behavioral Intervention by the Secretary’s Advisory Council on Human Research Protections:
Graduate business students are asked to participate in research examining the influence of surfing a social media site on measures of self-control. Students were randomly assigned to browse a popular social networking site or a popular news site and then, as a measure of self-control and persistence, were timed in their efforts to solve a complex word puzzle (for which there was no solution). No identifiable information is recorded.

To study the influence of restaurant gratuity policies on overall satisfaction, customers calling for reservations are asked to take part in a research study involving the completion of an anonymous survey following their meal. Those who agree are randomly assigned to either a suggested service charge group or a group where there are no suggested gratuity amounts identified. Individuals are informed about a survey but not about the subject of the survey or assignment to one of these groups. All are told that certain aspects of the research will only be revealed to them at the conclusion of their involvement.

Nursing home staff interview patients to complete a brief self-report scale measuring mood and anxiety at baseline and two weeks after music is played nightly in patient rooms on half of the wards. All subjects are informed that a study of the effect of music is planned, and music is played only the rooms of those patients who agree to the study.

Healthy adult subjects are asked to take part in two hour-long assessments of memory, attention and information processing speed before and after 1 hour of cognitive enhancement exercise using specially designed computer software. The procedures are conducted during a single visit, and subjects are encouraged to take breaks when desired.

Recordings of blood pressure and pulse are obtained along with the collection of a saliva specimen for the measure of cortisol level from adult subjects in a study linking physiological arousal to cognitive performance on a standard series of computer games. The procedures last 75 minutes.

College students take part in a study involving computer simulation of an online dating app in which each student is ultimately rejected by a prospective date who in fact is a member of the study team. The students are asked to agree to the research and are told that aspects of the research goals and methods are being withheld from them until after their participation.

Clients at a health club are asked to participate in a study looking at the impact of a two hour session on the benefits of exercise. Clients are provided with a free Fitbit and then asked to come to the club every other day to have a reading taken of their daily steps as recorded on the Fitbit.

<table>
<thead>
<tr>
<th>Intervention</th>
<th>?</th>
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<tr>
<td>Graduate business students</td>
<td>Yes</td>
<td>This example fulfills the criteria for exemption as a benign behavioral intervention.</td>
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