Department of Defense (DoD) Sponsored Research Procedure

Scope

Applies to Mayo Clinic Human Research Protection Program when conducting Human Subjects Research supported by DoD for which the Mayo Clinic Institutional Review Board (IRB) is the IRB of Record.

Purpose

To provide an overview of the DoD regulations and the additional review requirements for IRB. Research supported by the DoD, including its separate components: the Army, Navy, Air Force and Marine Corps, or recruiting DoD personnel requires compliance with additional federal regulations, Directives, and Instructions.

Equipment/Supplies

N/A

Procedure

Review of DoD Research Mayo Clinic maintains a FederalWide Assurance (FWA) with the U.S. Department of Health and Human Services (DHHS) Office for Human Research Protections (OHRP), the terms of which signify that Mayo Clinic applies DoD requirements for the protection of human research subjects when conducting, reviewing, approving, overseeing, supporting or managing DoD-supported research involving human subjects. This assurance is recognized by all branches of the Department of Defense.

The IRBs listed on Mayo Clinic's FWA are designated to review DoD supported research.

An IRB Authorization Agreement (IAA) is required if an alternate IRB will serve as the IRB of Record for a research study conducted by a Mayo Clinic investigator. Refer to Relying on an External IRB

Informed Consent

- Research Involving a Human Being as an Experimental Subject
    - When the research meets the definition of research involving a human being as an experimental subject, informed consent must be obtained in advance from the experimental subject or the subject's legal representative.
    - If consent is to be obtained from the experimental subject's legal representative, the research must intend to benefit the individual subject. The determination that research is intended to be beneficial to the individual experimental subject must be made by the IRB.
    - The requirement for informed consent may be waived only by the Assistant Secretary of Defense for Research and Engineering (or delegate) if all the following conditions are

met:
    - The research is necessary to advance the development of a medical product for the Military Services, and
    - The research may directly benefit the individual experimental subject, and
    - The research is conducted in compliance with all other applicable laws and regulations.
- Research Involving Human Subjects
    - The IRB may waive the requirement for informed consent if the study is determined to be research involving human subjects. Refer to 32 CFR 219.116 (c) (d) for waiver of consent criteria, and/or 32 CFR 219.101 for exemption criteria.
- Emergency Medicine Research
    - An exception from consent in emergency medicine research is prohibited unless a waiver is obtained from the Secretary of Defense.

Additional DoD Requirements

- Reporting Requirements: For any DoD-supported research, the following will be promptly (within 30 days) reported to the DoD Human Research Protection Official (HRPO) designated for a specific study:
    - When significant changes to the research protocol are approved by the IRB.
    - The results of the IRB continuing review. The Mayo Clinic IRB is responsible for reporting continuing review results to the DoD HRPO for studies sponsored by the Navy or Air Force. Other DoD components may request continuing review or other documentation directly from the IRB or from the investigator, as needed.
    - Change of reviewing IRB.
    - When the organization is notified by any Federal department, agency, or national organizations that any part of a Human Research Protection Program is under investigation for cause involving a DoD-supported research protocol.
- Scientific Review: scientific review of all new research (greater than minimal risk and minimal risk) and substantive scientific modifications to DoD approved research is required.
    - Scientific review cannot be conducted by the IRB or by study personnel.
    - Documentation of a scientific review by the funding agency may suffice.
    - Substantive amendments include (not limited to): change in Principal Investigator; addition of study site; change in study design or aim; adding or widening of study population.
    - The IRB may rely on outside experts to provide an evaluation of the scientific merit of the research.
- Research Monitors: For research determined by the IRB to involve more than minimal risk to human subjects as defined in 32 CFR 219.102(i), an independent research monitor must be appointed by the investigator ‘by name’ and approved by the IRB.
    - The IRB will communicate with research monitors and will confirm and approve a written summary of the duties, authorities, and responsibilities of the monitors
    - The duties of the research monitor are determined on the basis of specific risks or concerns about the research, such as:
        - Perform oversight functions (e.g. observe recruitment, enrollment procedures, and the consent process, oversee study interventions and interactions, review monitoring plans and unanticipated problems involving risks to participants or others, oversee data matching, data collection, and analysis.
        - Discuss the research protocol with researchers, interview human subjects, and consult with others outside of the study.
        - Report observations and findings to the IRB or a designated official.
    - The research monitor must be independent of the research team.
    - The research monitor must possess sufficient educational and professional experience to serve as the subject advocate.

    - The research monitor has authority to stop the research in progress, remove individual subjects from the research and take necessary steps to protect the safety and wellbeing of subjects.
    - The CV of the appointed monitor and a letter of acceptance of the role are required in the IRB application.
- Adults Lacking Capacity to Provide Consent: A mentally disabled or institutionalized mentally infirm person may not participate as a subject, unless:
    - The study would be impossible or meaningless if such subjects were excluded.
    - The research is intended to be beneficial to the individual subjects.
    - The subject or a Legally Authorized Representative (LAR) must give legally effective consent.
- Research involving pregnant women, prisoners, and/or children is subject to the DHHS Subparts B, C, and D, respectively.
    - For purposes of applying Subpart B, the phrase “biomedical knowledge” shall be replaced with “generalizable knowledge.”
    - The applicability of Subpart B is limited to research involving pregnant women as participants in research that is more than minimal risk and which includes interventions or invasive procedures to the woman or the fetus or involving fetuses or neonates as participants.
    - Fetal research must comply with the US Code Title 42, Chapter 6A, Subchapter III, Part H, 289g.
    - Research involving prisoners cannot be reviewed by the expedited procedure.
    - When the IRB reviews research involving prisoners, at least one prisoner representative must be present for quorum.
    - In addition to allowable categories of research on prisoners in Subpart C, epidemiological research is also allowable when:
        - The research describes the prevalence or incidence of a disease by identifying all cases or studies potential risk factor association for a disease.
        - The research presents no more than minimal risk.
        - The research presents no more than an inconvenience to the participant.
    - In the event a participant becomes a prisoner, if the researcher asserts to the IRB that it is in the best interest of the prisoner-participant to continue to participate in the research while a prisoner, the IRB Chair may determine that the prisoner-participant may continue to participate until the convened IRB can review this request to approve a change in the research protocol and until the organizational official and DoD Component office review the IRB’s approval to change the research protocol. Otherwise, the IRB Chair shall require that all research interactions and interventions with the prisoner-subject (including obtaining identifiable private information) cease until the convened IRB can review this request to approve a change in the research protocol. The convened IRB, upon receipt of notification that a previously enrolled human participant has become a prisoner, shall promptly re-review the research protocol to ensure that the rights and wellbeing of the human subject, now a prisoner, are not in jeopardy. The IRB should consult with a subject matter expert having the expertise of a prisoner representative if the IRB reviewing the research protocol does not have a prisoner representative. If the prisoner-participant can continue to consent to participate and is capable of meeting the research protocol requirements, the terms of the prisoner-participant’s confinement does not inhibit the ethical conduct of the research, and there are no other significant issues preventing the research involving human participants from continuing as approved, the convened IRB may approve a change in the study to allow this prisoner-participant to continue to participate in the research. This approval is limited to the individual prisoner-participant and does not allow recruitment of prisoners as participants.
    - Research involving a detainee as a human participant is prohibited.
    - This prohibition does not apply to research involving investigational drugs and devices when the same products would be offered to US military personnel in the same location

for the same condition.
    - Research involving children cannot be exempt.
    - Research involving prisoners of war is prohibited.
    - The IRB is aware of the definition of “prisoner of war” for the DoD component supporting the research.
- Research Related Injuries: In greater than minimal risk research, provisions for emergency treatment and necessary follow-up care of any research-related injury is required.
    - The name of the responsible physician(s), the name of the medical facility to which the subject will be referred, and the plan for follow-up must be specified in the IRB application.
    - The arrangements must be clearly described in the consent form.
- Education/Training and Qualifications: All individuals involved in the conduct, review, oversight, support, or management of the research must have initial and continuing human subjects research education and training. The DoD component may evaluate the education policies of the institution to ensure that personnel are qualified to perform the research, based on the complexity and risk of the research.
    - The Mayo Clinic Human Research Protection Program (HRPP) requires a basic level of training in protection of human subjects for all personnel listed on active IRB protocols regardless of funding source. Mayo Clinic personnel must successfully complete basic Human Subject Protection training modules before they can be added to research protocols or be granted access to the IRB electronic application. The Mayo Clinic Center for Clinical and Translational Sciences (CCaTS) Education Office is responsible for managing and maintaining the basic training modules located on the Web site: Clinical Research Resources and Education.
    - In addition, Mayo Clinic personnel listed on active IRB protocols must successfully complete Continuing Education (CE) requirements every three years. Staff must complete the "Human Subjects Protection Continuing Education" module developed at Mayo Clinic to meet the policy requirement. See also the IRB Policy Human Subjects Protection Training and Continuing Education Requirements.
    - Documentation of training must be available in the research study file.
    - Investigators conducting research regulated by the Food and drug Administration (FDA) must provide evidence of current good clinical practices training for each individual identified on FDA Form 1572 and the FDA Form 1571.
    - The IRB will evaluate the Curriculum Vitae (CV of the Principal Investigator and the Co-Principal Investigator(s) for appropriate qualifications and experience.
    - Mayo Clinic IRB staff and members review a DoD additional requirements training video at initial orientation/training and annually at IRB Education Days.
    - Researchers are made aware of additional DoD requirements for the conduct of human subjects research through the IRB electronic application. A sample DoD application is available for review on the IRB Web site IRBe page. In addition, a training video addressing additional DoD requirements for the conduct of human subjects research is available to investigators on the IRB Web site at For Researchers & Study Staff page.
    - Investigators should contact their DoD Program Officer for information regarding any DoD-specific initial or continuing education requirements.
- Research Results: The investigator must provide the IRB with copies of publications, presentations, and reports resulting from the research. These may be provided to the IRB at the time of Continuing Review.
- International Research:
    - Human subjects research performed outside the United States must meet the same level of protection of human subjects as required domestically. The research must take into account the laws, culture, and customs of the international institution/site. Laws, customs, and practices of the host country must be followed.
    - When research is sponsored by the Department of Defense, approval to conduct the research at non-US institutions or sites requires that the site hold a Federalwide

Assurance with OHRP and that local IRB approval is obtained. The investigator will obtain documentation of the local IRB's registration with the U.S. Department of Health and Human Services (DHHS) Office for Human Research Protections (OHRP) and provide this documentation to the Mayo Clinic IRB for review.
    - The investigator will obtain documentation of review and approval by the local IRB, within the locality where the research will be performed and provide this documentation to the Mayo Clinic IRB for review.
    - The investigator will obtain documentation of the non-US institution/site's contact information, including the name of the Chair of the local IRB, the mailing address; email address (es), and telephone number(s) and provide this documentation to the Mayo Clinic IRB.
    - The investigator will obtain a letter of agreement, signed by the appropriate institutional official for the non-US institution/site where the research will be performed and provide this documentation to the Mayo Clinic IRB.
    - The investigator will detail the consent process in the Mayo Clinic IRB application and within the protocol.
    - The investigator will provide the Mayo Clinic IRB with a consent form translated into the language appropriate to the location of the research; an English language translation, and a letter of certification of translation. All consent documents and subject contact materials intended for use at a non-US institution/site must be approved for use at that site by the Mayo Clinic IRB.
    - The investigator will provide the Mayo Clinic IRB documentation of the local IRB reviews and determinations of continuing review reports and modifications.
    - The investigator is responsible for the timely reporting of complaints, non-compliance and UPIRTSOs to both the Mayo Clinic and the local IRB. The PI will provide documentation to the Mayo Clinic IRB of the findings of the local IRB.
    - The investigator is responsible for demonstrating appropriate expertise and knowledge of the country where the research will be conducted including local laws, regulations, customs, and practices (see OHRP document International Compilation of Human Research Protections).
    - The investigator will provide documentation to the Mayo Clinic IRB that adequately addresses the PI's qualifications to conduct research at the non-US institution/site.
    - Documentation of investigator qualifications may be contained within the CV, for example, or may include other proof (letter, transcript, certificate of attendance) of intercultural training/education/orientation specific to the region where the research will be conducted.
    - The investigator and study team members may not perform interventional research procedures without appropriate professional licensure to do so within the non-US institution/site. If applicable, the investigator will provide the IRB with documentation of exemption from licensure.
    - The Mayo Clinic IRB will conduct review of the research with the appropriate expertise and knowledge of the country, either through IRB membership or consultants. An ad hoc or cultural consultant may be required at the convened Mayo Clinic IRB meeting to provide local knowledge and to discuss any cultural customs or issues.
    - Refer to the Mayo Clinic IRB policy “International Research” for additional information regarding the conduct of international research.
- Multi-Site Research: When conducting multi-site research, a formal agreement between organizations is required to specify the roles and responsibilities of each party.
- Additional protections required for U.S. Military (active, reserve, or civilian) subjects to ensure undue influence is minimized.
    - Officers shall not influence the decision of their subordinates to participate in research.
    - Officers and senior non-commissioned officers shall not be present at the time of recruitment into this research.
    - Officers and senior non-commissioned officers must have a separate opportunity to participate in this research.

    - When recruitment involves a percentage of a unit, an independent ombudsman is present during recruitment.
- Payment to Research Subjects: Federal personnel (civilian or Service members), and non-Federal personnel participating in DoD-supported research, whether on or off-duty, may receive up to fifty dollars for blood draws for the purpose of research if the research meets the purpose of section 30 of Title 24 U.S. Code. Non-federal personnel may be compensated for research participation other than blood draws, in a reasonable amount as approved by the IRB according to local prevailing rates and the nature of the research.
- Survey Research: DoD sponsored survey research or survey research within DoD typically requires review and approval by DoD Survey Research. Investigators should consult with the specific DOD agency or institution regarding requirements related to surveys or interviews.
- Additional requirements are specified in the IRB application for research funded by the Air Force, Army and Marine Corps.
- Maintenance of Records: Records maintained that document compliance or non-compliance with DoD requirements shall be made accessible for inspection and copying by representatives of the DoD at reasonable times and in a reasonable manner as determined by the supporting DoD component.

Frequently Asked Questions (FAQs)

Is a waiver of informed consent permissible for DoD-sponsored research?

The IRB may waive the requirement for informed consent if the study is determined to be research involving human subjects. Refer to 32 CFR 219.116 (c) (d) for waiver of consent criteria, and/or 32 CFR 219.101 for exemption criteria, and DoD Instruction 3216.02, Section 9, Unique DoD Limitations on Waiver of Informed Consent.

If the study is determined to be research involving a human being as an experimental subject AND meets the criteria for waiver of consent as designated in Section 980 of Title 10 USC, only the Assistant Secretary of Defense for Research and Engineering (ASD [R&E]), or designee, may grant a waiver of informed consent for research using DoD appropriated funds.

Can DoD-sponsored research meet exemption criteria?

Yes, if the study is determined to be research involving human subjects. Refer to 32 CFR 219.101 for exempt categories of research.

What activities conducted or supported by the DoD are NOT considered to be research involving human subjects?

- Activities carried out solely for purposes of diagnosis, treatment, or prevention of injury and disease in Service members and other mission essential personnel under force health protection programs of the Department of Defense, including health surveillance pursuant to section 1074f of Title 10 USC and the use of medical products consistent with DoD Instruction 6200.02.
- Authorized health and medical activities as part of the reasonable practice of medicine or other health professions undertaken for the sole purpose of patient treatment.
- Activities performed for the sole purpose of medical quality assurance consistent with section 1102 of Title 10 USC and DoD 6025.13.
- Activities performed solely for an Operational Test and Evaluation (OT&E) project where the activities and project meet the definition of OT&E as defined in section 139 (a)(2)(A) of Title 10 USC.
- Activities performed solely for assessing compliance of individuals and organizations with requirements applicable to military, civilian, or contractor personnel or to organizational units,

including such activities as occupational drug testing, occupational health and safety reviews, network monitoring, and monitoring for compliance with requirements for protection of classified information.
- Activities, including program evaluation, customer satisfaction surveys, user surveys, outcome reviews, and other methods, designed solely to assess the performance of DoD programs where the results of the evaluation are only for the use of Government officials responsible for the operation or oversight of the program being evaluated and are not intended for generalized use beyond such program.
- Survey, interview, or surveillance activities and related analyses performed solely for authorized foreign intelligence collection purposes, as authorized by DoD 5240.01.

Troubleshooting

N/A

Procedural Notes

N/A

Related Documents

Department of Defense Supplement to the IRB Reviewer Checklist *()*

Guidance for Investigators and the IRB – Informed Consent and Assessment of Capacity to Consent to Research

Informed Consent and Assessment of Capacity to Consent to Research

International Research

IRB application - Department of Defense

Relying on an External IRB

Definitions

32 CFR 219: Is the regulation adopted by multiple Federal departments and agencies for the protection of human subjects in research. The Department of Defense's implementation of the Common Rule is 32 CFR 219; the Department of HHS's implementation of the Common Rule is subpart A of 45 CFR 46.

DoD Instruction 3216.02 - Protection of Human Subjects and Adherence to Ethical Standards in DoD-Supported Research: This Instruction establishes policy and assigns responsibilities for the protection of human subjects in DoD-supported programs to implement part 219 of title 32, Code of Federal Regulations, the Common Rule. Research involving human subjects covered under this Instruction shall also comply with applicable Federal and State laws and regulations.

FederalWide Assurance (FWA): An assurance of compliance submitted by an institution (not an Institutional Review Board) that is engaged in non-exempt human subjects research conducted or supported by HHS. Through the assurance of compliance, an institution commits to HHS that it will comply with the requirements set forth in the regulations for the protection of human subjects at 45 CFR part 46. The FWA covers all non-exempt human subjects research at the submitting institution

that is HHS-conducted or -supported or funded by any other federal department or agency that has adopted the Common Rule and relies upon the FWA. It is not project specific.

Section 980 of Title 10 USC: Imposes limitations on waiving informed consent when using DoD appropriated funds. Section 980 of Title 10 USC is applicable ONLY to DoD funded research involving a human being as an experimental subject.

Minimal Risk: 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.

Research Involving Human Subjects (DoD Definition): An activity that includes both a systematic investigation designed to develop or contribute to generalizable knowledge AND involves a living individual about whom an investigator conducting research obtains data through intervention or interaction with the individual or identifiable private information, or activities covered by section 32 CFR 219.101 (including exempt research involving human subjects) and DOD Instruction 3216.02.

Research Involving a Human Being as an Experimental Subject: An activity, for research purposes, where there is an intervention or interaction with a living individual for the primary purpose of obtaining data regarding the effect of the intervention or interaction.

- Research involving a human being as an experimental subject is a subset of research involving human subjects. This definition relates only to the application of section 980 of Title 10 USC; it does not affect the application of 32 CFR 219. This definition does not include activities that are not considered research involving human subjects, activities that meet the exemption criteria at section 32 CFR 219.101(b), and research involving the collection or study of existing data, documents, records, or specimens from living individuals.

Section 980 of Title 10 USC: Imposes limitations on waiving informed consent when using DoD appropriated funds. Section 980 of Title 10 USC is applicable ONLY to DoD funded research involving a human being as an experimental subject.

- Section 980 of Title 10 USC is not applicable to exempt research involving human subjects.

References

32 CFR 219 -National Defense - Protection of Human Subjects

45 CFR 46 - Department of Health and Human Services - Protection of Human Subjects

Title 10 USC Section 980

Department of Defense Instruction 3216.02 (November 8, 2011)

Title 42 USC

Department of Defense Directive 5240.01

Department of Defense Instruction 6200.02

Mayo Clinic Clinical Research Resources and Education

Mayo Clinic Human Research Protection Program

Department of Defense Regulation 6025.13

FederalWide Assurance (FWA) for the Protection of Human Subjects - Terms

Owner

Tammy S. Neseth, M.A. on behalf of the Office for Human Research Protections

Contact

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Revision History

Date	Synopsis of Change
08/31/2021	Scheduled review. Updated Owner and Contact. Removal of DoD Addendum information (requirement discontinued as of October 15, 2014). Added "FederalWide Assurance (FWA) for the Protection of Human Subjects - Terms" as reference.
09/22/2017	Minor revision. Updated the following definitions per Glossary review: Minimal Risk; Research Involving Human Subjects (as defined by DoD); and Research Involving a Human Being as an Experimental Subject (as defined by DoD).
04/06/2017	Scheduled review, updated template, added links for policy and guidance related to assessment of capacity to consent. Updated to reflect CCaTS Education replacing the Office of Research Education.

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