Policy Number: 16
Title: Human Subject Research/ Non-Human Subject Research Determination
Date of Last Revision: 06/16/08, 05/15/10, 06/01/10, 10/15/13, 01/28/15, 05/03/21, 03/11/22

Policy:
It is the policy of the UC Irvine (UCI) Institutional Review Board (IRB) to assist in determining whether an activity meets the definition of human subject research.

I. **Non-Human Subject Research Determinations**
- A. An investigator may self-determine that an activity does not represent human subject research.
- B. The electronic IRB submission and management system allows for the investigator to self-determine whether the activity either:
  1. Meets the DHHS regulatory definitions of "research" that involves "humans subjects,"
  2. Meets the FDA regulatory definition of "clinical investigation,"
  3. Is DOE funded or DOE laboratory managed and involves intentional modification of an individual's or a group of individuals' environment. For example, by installation of devices in homes and/or through the introduction of gases/ chemicals to trace airflow in occupied residential, commercial or public settings. Generalizable also includes studies in human occupied homes or offices that manipulate the environment to achieve research aims or test new materials. Further, collection of an occupants' views of appliances, materials or devices installed in their homes via survey would constitute "Human Subject Research."
     a) Generalizable should be interpreted in terms of contributing to knowledge within the specific field of study.
- C. The investigator must submit the determination of non-human subject research in order to receive written confirmation which is provided via email from the electronic IRB submission and management system.
- D. If the activity does not represent human subject research the activity does not require IRB approval and oversight.
- E. HRP Staff will monitor the electronic IRB submission and management system by performing quarterly assurance to confirm that the activity qualifies as non-human subject research.

II. **Non-Research Activities**
- A. Activities are not research if they do not involve a systematic approach involving a predetermined method or a plan for studying a specific topic, answering a specific question, testing a specific hypothesis, or developing theory. A systematic approach incorporates collection of data, either quantitative or qualitative, or specimens; and analysis.
  1. Examples of activities that would not normally be considered systematic investigations include, but are not limited to:

a. Training activities (e.g., individuals being trained to perform a certain technique or therapy such as art therapy, psychoanalysis, oral history techniques); and
b. Classroom activities involving human participants or human participant data where the objective of the activity is to teach proficiency in performing certain tasks or using specific tools or methods.
c. Case reports or case series of three or less individuals.

2. Examples of systematic investigations include, but are not limited to:
   a. Observational studies;
   b. Interviews (including those that are open-ended) or survey studies;
   c. Group comparison studies;
   d. Test development;
   e. Program evaluation; or
   f. Clinical investigations.

B. Activities are not research if they do not intend to contribute to generalizable knowledge or to draw general conclusions (i.e., knowledge gained from a study may be applied to populations beyond the specific study population), inform policy, or generalize findings.

1. Examples of activities that are typically not generalizable include:
   a. Biographies and service or course evaluations, unless they can be generalized to other individuals;
   b. Oral history activities in general which are solely designed to create a record of specific historic events;
   c. Data collection for internal department, school, or other University administrative purposes (e.g., teaching evaluations, “customer service” surveys);
   d. Classroom activities designed specifically for education or teaching purposes, where the data is collected from and about human subjects a part of a class exercise or assignment that is not intended for use outside of the classroom;
   e. Quality Improvement activities designed to continuously improve the quality or performance of a department or program or health care; and
   f. A Case Report or a write up of up to three patients. The Case Report or write up must specifically describe medical care (i.e., not research related care) and outcomes from treatment provided solely as part of the patient’s clinical care.
2. Thesis or dissertation projects conducted to meet the requirements of a graduate degree are usually considered generalizable and therefore, require IRB review and approval.
3. Refer to the 2018 revised Common Rule for examples of what does not meet the definition of ‘research.’

III. **Non-Human Subject**

A. Activities **do not involve** humans as participants if they **do not involve** the following definition:

1. *Human subject* means 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.

B. Examples of activities that would <u>not</u> normally involve human subjects if the research is about things or expertise, rather than "about whom" (i.e., questions are not about the individual providing the information).

C. Information is considered "not identifiable" if it <u>does not</u> include the following:

1. Name;
2. Any geographic subdivisions smaller than a state, including street address, city, country, precinct, ZIP code, and their equivalent geocodes, except for the initial three digits of a ZIP code;
3. All elements of dates (except year) directly related to an individual (e.g., date of birth, admission);
4. Telephone numbers;
5. Fax numbers;
6. Electronic mail addresses;
7. Social security numbers;
8. Medical record numbers;
9. Health plan beneficiary numbers;
10. Account numbers;
11. Certificate/license numbers;
12. Vehicle identifiers and serial numbers, including license plate numbers;
13. Device identifiers and serial numbers;
14. Web Universal Resource Locators (URLs);
15. Internet Protocol (IP) address numbers;
16. Biometric identifiers, including finger and voiceprints;
17. Full-face photographic images and any comparable images; and
18. Any other unique identifying number, characteristic, or code.

D. Specimens/data that are received by the Investigator as de-identified (i.e., stripped of all HIPAA identifiers as noted above).

E. When the Investigator receives private information or specimens with no code or link that would allow an Investigator to establish identity, this would not involve human subjects. For example, a publicly available, unidentifiable, non-linked dataset qualifies as not involving human subjects.

F. The Investigator may receive coded private information or specimens and qualify for non-human subject if the following conditions are met:

1. The code is not derived or related to the HIPAA identifiers that must be stripped from the PHI (e.g., patient MR# + last 4 digits of individuals Social Security Number);
2. The private information or specimens were not collected specifically for the currently proposed research project through an interaction or intervention with living individuals; **<u>and</u>**

3. The Investigator cannot readily ascertain the identity of the individuals to whom the coded private information or specimens pertain, because:
    a. The key to decipher the code is destroyed before the research begins;
    b. The Investigator and the holder of the key enter into an agreement prohibiting the release of the key to the Investigator under any circumstances, until the individuals are deceased;
    c. The private information is received from an IRB-approved repository or data management center that includes written operating procedures that prohibit the release of the key to the Investigator under any circumstances, until the individuals are deceased; or
    d. There are other legal requirements prohibiting the release of the key to the Investigator until the individuals are deceased.

G. An activity only involving analysis of a Limited Data Set (LDS) (a set of data that lacks 16 of the 18 identifiers itemized by the privacy rule) provided by a third party would not involve human subjects. An LDS may contain dates and certain geographic information associated with an individual that would be absent of identifiable information. Information provided by a third party may include the following:
    a. 5-digit zip code (4-digit extension is not allowed)
    b. Full dates of birth or death
    c. Full date(s) of service (admission and discharge)
    d. Geographic subdivision (other than street address)

H. A cadaver is not considered to be a human subject.

I. Notable exception to non-human subject: In-vitro Device (IVD) studies using human tissue specimens while exempt from most provisions of 21 CFR part 812(c)(3), qualify as clinical investigations and are therefore subject to FDA 21 CFR parts 50 and 56, even if the clinical investigation involves de-identified, leftover tissue specimens.

IV. **Amendments**

Changes that might disqualify the activity from its “Non-Human Subject Research” status should be reported to the IRB for review and verification prior to implementation.

V. All “Non-Human Subject Research” is subject to applicable institutional policies and procedures.

References:

45 CFR 46
21 CFR 50
21 CFR 56
21 CFR 812
32 CFR 219 (DoD)
28 CFR 512 (DOJ)
OHRP Guidance on Research Involving Coded Private Information or Biological Specimens,
August 10, 2004
DOE Human Subjects Protection Program

HRP Policy # 2

Procedure Number: 16.A
Title: Procedure Human Subject Research/Non-Human Subject Research Determination

Procedure:
This procedure provides guidance for the determination of non-human subject or non-research projects.

I. **Investigator Responsibilities**

A. Investigators should review the non-human subject research confirmation module in the electronic IRB submission and management system. The portal is located on the HRPP website. To receive an email of confirmation, the Investigator must submit the non-human subject confirmation module.

B. Investigators must inform the HRP staff, or the IRB of any proposed changes might disqualify an activity from its “non-human subject research” status.

II. **HRP Staff**

A. Under the EQUIP program or as requested by HRP Senior Management, the IRB Chair or designee, HRP Staff will monitor the electronic IRB submission and management system by performing quarterly assurance to confirm that the sampled activities qualify as non-human subject research.

B. Where activities do not qualify as non-human subject research, HRP Staff will provide follow up in accordance with HRP Policy.