



Guide for Determining Exempt vs Expedited Review

How can I determine if my research can receive an Exempt Determination?

Research that involves human subjects may be exempt from IRB review under certain circumstances. There are six categories (see below). If your research meets any of the criteria for a category then the Exempt Study submission form can be completed.

The exemptions at 45 CFR 46.101(b) do not apply to research involving prisoners, fetuses, pregnant women, or human in vitro fertilization, Subparts B and C. The exemption at 45 CFR 46.101(b)(2), for research involving survey or interview procedures or observation of public behavior, does not apply to research with children, Subpart D, 45 CFR 46, except for research involving observations of public behavior when the investigator(s) does not participate in the activities being observed.

CATEGORIES OF RESEARCH THAT ARE EXEMPT

[AS REFERENCED IN 45 CFR 46.101(b)]

Normal Educational Practices and Settings

- (1) Research conducted in established or commonly accepted educational settings, involving normal educational practices, such as (i) research on regular and special education instructional strategies, or (ii) research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods. Additionally, the research must meet the following:
- The research is not FDA-regulated
 - The research does not involve prisoners as subjects

Anonymous Educational Tests, Surveys, Interviews or Observations

- (2) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures or observation of public behavior, **unless**: (i) Information obtained is recorded in such a manner that human subjects can be identified, directly or through identifiers linked to the subjects; and (ii) any disclosure of the human subjects' responses outside the research could reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, or reputation. Additionally, the research must meet the following:
- If the research involves children as participants, the procedures do not involve survey procedures, interview procedures, or observations of public behavior where the investigators participate in the activities being observed.
 - The research is not FDA-regulated
 - The research does not involve prisoners as subjects

Identifiable Subjects in Special Circumstances

- (3) Research involving the use of educational tests (cognitive, diagnostic, aptitude, achievement), survey procedures, interview procedures, or observation of public behavior that is not exempt under paragraph (b)(2) of this section, if: (i) the human subjects are elected or appointed public officials or candidates for public office; or (ii) federal statute(s) require(s) without exception that the



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confidentiality of the personally identifiable information will be maintained throughout the research and thereafter. Additionally, the research must meet the following:

- The research is not FDA-regulated
- The research does not involve prisoners as subjects

Collection or Study of Existing Data

(4) Research, involving the collection or study of **existing** data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that **subjects cannot be identified**, directly or through identifiers linked to the subjects and:

- Reviewed materials exist at the time the research is proposed
- The research is not FDA-regulated
- The research does not involve prisoners as subjects

Public Benefit or Service Programs

(5) Research and demonstration projects which are conducted by or subject to the approval of (federal) department or agency heads, and which are designed to study, evaluate, or otherwise examine: (i) Federal public benefit or service programs; (ii) procedures for obtaining benefits or services under those federal programs; (iii) possible changes in or alternatives to those federal programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those federal programs. Additionally, the research must:

- Be conducted pursuant to specific federal statutory authority
- Have no statutory requirements for IRB review
- Not involve significant physical invasions or intrusions upon the privacy interests of the subject
- Have authorization or concurrence by the funding agency
- Not be FDA-regulated
- Not involve prisoners as subjects

Taste and Food Evaluation and Acceptance Studies

(6) 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. Additionally, the research must not involve prisoners as subjects



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How can I determine if my research can be reviewed by the IRB through an Expedited Review Procedure¹?

¹An expedited review procedure consists of a review of research involving human subjects by the IRB chairperson or by one or more experienced reviewers designated by the chairperson from among members of the IRB in accordance with the requirements set forth in 45 CFR 46.110.

There are nine categories for expedited review. This type of study may fall into more than one category. If it does not fall into any of the categories listed below then the study will require full board review.

Applicability

- (A) Research activities that (1) present no more than minimal risk to human subjects, **AND** (2) involve only procedures listed in one or more of the Research Categories on the following pages, may be reviewed by the IRB through the expedited review procedure authorized by [45 CFR 46.110](#) and 21 CFR 56.110. **The activities listed should not be deemed to be of minimal risk simply because they are included on this list. Inclusion on this list merely means that the activity is eligible for review through the expedited review procedure when the specific circumstances of the proposed research involve no more than minimal risk to human subjects.**
- (B) The categories in this list apply regardless of the age of subjects, except as noted.
- (C) The expedited review procedure may not be used where identification of the subjects and/or their responses would reasonably place them at risk of criminal or civil liability or be damaging to the subjects financial standing, employability, insurability, reputation, or be stigmatizing, unless reasonable and appropriate protections will be implemented so that risks related to invasion of privacy and breach of confidentiality are no greater than minimal.
- (D) The expedited review procedure may not be used for classified research involving human subjects.
- (E) IRBs are reminded that the standard requirements for informed consent (or its waiver, alteration, or exception) apply regardless of the type of review--expedited or convened--utilized by the IRB.
- (F) Categories one (1) through nine (9) pertain to both initial and continuing IRB review

Minimal risk definition	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.
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EXPEDITED RESEARCH CATEGORIES [AS REFERENCED IN THE FEDERAL REGISTER]	
(1)	<p>Clinical studies of drugs and medical devices only when condition (a) or (b) is met.</p> <p>(a) Research on drugs for which an investigational new drug application (21 CFR Part 312) is not required. (Note: Research on marketed drugs that significantly increases the risks or decreases the acceptability of the risks associated with the use of the product is not eligible for expedited review.)</p> <p>(b) Research on medical devices for which (i) an investigational device exemption application (21 CFR Part 812) is not required; or (ii) the medical device is cleared/approved for marketing and the medical device is being used in accordance with its cleared/approved labeling.</p>
(2)	<p>Collection of blood samples by finger stick, heel stick, ear stick, or venipuncture as follows:</p> <p>(a) From healthy, non-pregnant adults who weigh at least 110 pounds. For these subjects, the amounts drawn may not exceed 550 ml in an 8 week period AND collection may not occur more frequently than 2 times per week; or</p> <p>(b) From other adults and children considering the age, weight, and health of the subjects, the collection procedure, the amount of blood to be collected, the frequency with which it will be collected. For these subjects, the amount drawn may not exceed the lesser of 50 ml or 3 ml per kg in an 8 week period AND collection may not occur more frequently than 2 times per week.</p>
(3)	<p>Prospective collection of biological specimens for research purposes by noninvasive means.</p> <p>Examples:</p> <p>(a) Hair and nail clippings in a non-disfiguring manner</p> <p>(b) Deciduous teeth at time of exfoliation or if routine patient care indicates a need for extraction</p> <p>(c) Permanent teeth if routine patient care indicates a need for extraction</p> <p>(d) Excreta and external secretions (including sweat)</p> <p>(e) Uncannulated saliva collected either in an unstimulated fashion or stimulated by chewing gumbase or wax or by applying a dilute citric solution to the tongue</p> <p>(f) Placenta removed at delivery</p> <p>(g) Amniotic fluid obtained at the time of rupture of the membrane prior to or during labor</p>

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(h) Supra- and subgingival dental plaque and calculus, provided the collection procedure is not more invasive than routine prophylactic scaling of the teeth and the process is accomplished in accordance with accepted prophylactic techniques

(i) Mucosal and skin cells collected by buccal scraping or swab, skin swab, or mouth washings

(j) Sputum collected after saline mist nebulization

(k) Other (describe):

(4) Collection of data through noninvasive procedures (not involving general anesthesia or sedation) routinely employed in clinical practice excluding procedures involving x-rays or microwaves. Where medical devices are employed, they must be cleared/approved for marketing. (Studies intended to evaluate the safety and effectiveness of the medical device are not generally eligible for expedited review, including studies of cleared medical devices for new indications.)

Examples:

(a) Physical sensors that are applied either to the surface of the body or at a distance and do not involve input of significant amounts of energy into the subject or an invasion of the subject's privacy

(b) Weighing or testing sensory acuity

(c) Magnetic resonance imaging (MRI)

(d) Electrocardiography, electroencephalography, thermography, detection of naturally occurring radioactivity, electroretinography, ultrasound, diagnostic infrared imaging, doppler blood flow, and echocardiography

(e) Moderate exercise, muscular strength testing, body composition assessment, and flexibility testing where appropriate given the age, weight, and health of the individual

(f) Other (describe):

(5) Research involving materials (data, documents, records, or specimens) that have been collected or will be collected solely for non-research purposes (such as medical treatment or diagnosis).

(NOTE: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. [45 CFR 46.101\(b\)\(4\)](#). This listing refers only to research that is not exempt.)

(6) Collection of data from voice, video, digital, or image recordings made for research purposes.



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(7) Research on individual or group characteristics or behavior (including, but not limited to, research on perception, cognition, motivation, identity, language communication, cultural beliefs or practices, and social behavior) or research employing survey, interview, oral history, focus group, program evaluation, human factors evaluation, or quality assurance methodologies.

(NOTE: Some research in this category may be exempt from the HHS regulations for the protection of human subjects. [45 CFR 46.101](#)(b)(2) and (b)(3). This listing refers only to research that is not exempt.)

(8) Continuing review of research previously approved by the convened IRB as follows:

(a) Where (i) the research is permanently closed to the enrollment of new subjects; (ii) all subjects have completed all research-related interventions; and (iii) the research remains active only for long-term follow-up of subjects;

OR

(b) Where no subjects have been enrolled and no additional risks have been identified;
or

(c) Where the remaining research activities are limited to data analysis.

(9) Continuing review of research, not conducted under an investigational new drug application or investigational device exemption where categories two (2) through eight (8) do not apply but the IRB has determined and documented at a convened meeting that the research involves no greater than minimal risk and no additional risks have been identified.