



# UNIVERSITY OF NEW ENGLAND

## The University of New England Policies, Procedures and Guidance on Research with Human Subjects

Office of the Vice President for Research  
Institutional Review Board

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## I. Introduction to the Manual

The University of New England (UNE) requires that researchers respect and protect the rights, privacy and welfare of individuals recruited for and participating in research. Thus, UNE's policies, procedures and guidance on research with human subjects are designed to protect individuals from harm, provide equitable selection of subjects, maximize the benefits and minimize the risks of research participation.

UNE and its faculty, staff and students share in the collective responsibility for the protection of human research participants and, more broadly, for the ethical conduct of research. This collaboration must operate in a culture of trust, mutual assurance, and integrity by upholding the highest ethical principles in the conduct of research and the pursuit of knowledge.

'Research' means a systematic investigation - including research development, testing and evaluation - designed to develop or contribute to generalizable knowledge (45 CFR 46.102(d)).

'Human Subject' means a living individual about whom an investigator (whether professional or student) conducting research obtains:

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

This Policies, Procedures and Guidance Manual for Human Subjects Research is designed as an official policy manual and reference guide for Institutional Review Board personnel and researchers. This manual details the policies, procedures, regulations and protocol submission requirements governing human subjects research at UNE.

### A. Scope of this Manual

This Manual and the ethical principles governing human subjects research will apply to all human subjects research:

1. Conducted by or under the direction of any employee or agent of UNE, including any faculty, staff or administrator in connection with their responsibilities; or
2. Conducted by a UNE student in connection with their studies, including but not limited to any classroom project, independent research, graduate level thesis, dissertation, or capstone project that involves human subjects research; or
3. Using UNE's non-public information to identify or **recruit** human subjects; or
4. Using any property or facility of UNE.

The UNE Institutional Review Board (IRB) typically will not review protocols that fall outside the scope of this manual.

**External Principal Investigator.** Whenever the principal investigator is not a member of the UNE community (an employee or student or agent of UNE), the project must receive institutional approval from the Vice President for Research, who will consider the desirability of the research from the perspective of UNE as an institution and a community. The UNE IRB requires documentation of such approval before it will review an application submitted by or on behalf of an external investigator.

Unless the research qualifies as a [Passive Recruitment Only](#) (see Section [IV.B.1b](#)), the application to the UNE IRB must be submitted by a **Lead UNE Investigator** who must be a full

time, regular status UNE employee with relevant expertise. The Lead UNE Investigator must receive permission from his/her supervisor before agreeing to serve. The Lead UNE Investigator will share with the Principal Investigator all [investigator responsibilities](#), described in [Section III.B](#).

**Off-Site and Cooperative Research.** Whenever research activity (e.g., subject recruitment or data collection) is to occur off site, i.e., at a facility or institution that is not owned or operated by UNE, the investigator must obtain a letter of collaboration from the facility or institution. If the facility or institution is covered by an IRB, the project must receive IRB approval and continuing review, or exemption, at that institution. The UNE IRB requires documentation of such approval or exemption, which must be obtained prior to the initiation of the research activities governed by the other institution's IRB.

In cooperative research, i.e., research covered by this policy that involves more than one facility or institution ([45 CFR 46.114](#)), each institution is responsible for safeguarding the rights and welfare of human subjects and for complying with this policy. With the approval of the department or agency head, an institution participating in cooperative research may enter into a joint review arrangement, rely upon the review of another qualified IRB, or make similar arrangements for avoiding duplication of effort. (see Section [IV.C.6](#) for details).

**Protected Health Information.** In certain instances, the UNE IRB shares responsibility for research compliance with the [Health Insurance Portability and Accountability Act \(HIPAA\) Privacy Rule](#), which governs dissemination of protected health information by covered entities, with the UNE HIPAA Privacy Officer (see Section [II.D](#)).

## B. Federal-Wide Assurance

UNE's policies, procedures and guidance on research with human subjects are designed to comply with the Code of Federal Regulations and state and local laws to protect individuals involved in research participation.

UNE entered into a legally binding agreement with DHHS concerning research involving human subjects. This Assurance (Federal-Wide Assurance #FWA00006943) is administered by DHHS's Office of Human Research Protections (OHRP) and governs all human subjects research receiving, or eligible to receive, federal (DHHS) funds. This agreement is guided by the ethical principles of the [Belmont Report](#) and requires, at a minimum, compliance with [45 CFR 46](#) ("The Common Rule"). Many Federal Agencies have adopted the requirements of the DHHS Common Rule and as such any research that complies with the OHRP FederalWide Assurance, will also meet their requirements. In addition, UNE has voluntarily agreed to apply the Common Rule and all its subparts to all human subjects research regardless of funding source.

When research is performed in foreign countries by UNE employees or agents, the investigator will abide by that country's laws or regulations or [Title 45, Code of Federal Regulations, Part 46](#), whichever provides the greatest degree of protection to human research subjects.

## C. Changes to this Manual

The IRB Administrator, in conjunction with the IRB chair, is responsible for periodically updating this Manual as described below, in order to conform to changes in applicable laws and regulations. All policy changes, such as updates or additions, must meet regulatory requirements and conform to UNE's Federalwide Assurance.

**Mandatory Changes.** Policy and Procedure changes based on mandatory regulatory/statutory requirements do not require review or approval of the IRB, and will take effect on either the date specified by OHRP, or if no date is specified, as determined by the IRB Administrator.

**Emergency Changes.** The Institutional Official (UNE VPR), IRB Administrator, IRB chair or other official designated by the VPR may implement any emergency Policies and Procedures necessary to:

- Prevent harm to research subjects;
- Correct a latent policy issue;
- Address known privacy, security or confidentiality breaches;
- Respond to emerging circumstances in a particular research program or category of research; or
- Respond to changes in State or Federal laws.

All emergency changes take effect immediately.

**Discretionary Changes.** All discretionary Policy and Procedure changes must be reviewed and approved by the IRB. The IRB chair may designate an individual to draft revisions and submit them to the IRB for approval. Discretionary changes will take effect on either the date specified by OHRP (if any), or 60 calendar days from the approval date, or as established by the IRB. The IRB Administrator will promulgate the changes.

## II. Protection of Human Subjects

In 1974 the National Research Act established the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research. This Commission in turn published The [Belmont Report](#) which articulated the ethical principles that guide human subjects research and served as the foundation for [Title 45, Code of Federal Regulations, Part 46 \(hereafter 45 CFR 46\)](#).

### A. Ethical Principles Governing Human Subjects Research

UNE is guided by the three ethical principles of research set forth in the Belmont Report. These principles are: respect for persons, beneficence, and justice.

#### A.1. Respect for Persons

Respect for persons incorporates at least two ethical convictions: first, that individuals should be treated as autonomous agents, and second, that persons with diminished autonomy are entitled to protection. The principle of respect for persons thus divides into two separate moral requirements: the requirement to acknowledge autonomy and the requirement to protect those with diminished autonomy.

An autonomous person is an individual capable of deliberation about personal goals and of acting under the direction of such deliberation. To respect autonomy is to give weight to autonomous persons' considered opinions and choices while refraining from obstructing their actions unless they are clearly detrimental to others. To show lack of respect for an autonomous agent is to repudiate that person's considered judgments, to deny an individual the freedom to act on those considered judgments, or to withhold information necessary to make a considered judgment, when there are no compelling reasons to do so.

However, not every human being is capable of self-determination. The capacity for self-determination matures during an individual's life, and some individuals lose this capacity wholly or in part because of illness, mental disability, or circumstances that severely restrict liberty. Respect for the immature and the incapacitated may require protecting them as they mature or while they are incapacitated.

Some persons are in need of extensive protection, even to the point of excluding them from activities which may harm them; other persons require little protection beyond making sure they undertake activities freely and with awareness of possible adverse consequence. The extent of protection afforded should depend upon the risk of harm and the likelihood of benefit. The judgment that any individual lacks autonomy should be periodically reevaluated and will vary in different situations.

In most cases of research involving human subjects, respect for persons demands that subjects enter into the research voluntarily and with adequate information. In some situations, however, application of the principle is not obvious. The involvement of prisoners as subjects of research provides an instructive example. On the one hand, it would seem that the principle of respect for persons requires that prisoners not be deprived of the opportunity to volunteer for research. On the other hand, under prison conditions they may be subtly coerced or unduly influenced to engage in research activities for which they would not otherwise volunteer. Respect for persons would then dictate that prisoners be protected. Whether to allow prisoners to "volunteer" or to "protect" them presents a dilemma.

Respecting persons, in most hard cases, is often a matter of balancing competing claims urged by the principle of respect itself.

### A.2. Beneficence

Persons are treated in an ethical manner not only by respecting their decisions and protecting them from harm, but also by making efforts to secure their well-being. Such treatment falls under the principle of beneficence. The term "beneficence" is often understood to cover acts of kindness or charity that go beyond strict obligation. In this document, beneficence is understood in a stronger sense, as an obligation. Two general rules have been formulated as complementary expressions of beneficent actions in this sense: (1) do not harm and (2) maximize possible benefits and minimize possible harms.

The Hippocratic maxim "do no harm" has long been a fundamental principle of medical ethics. Claude Bernard extended it to the realm of research, saying that one should not injure one person regardless of the benefits that might come to others. However, even avoiding harm requires learning what is harmful; and, in the process of obtaining this information, persons may be exposed to risk of harm. Further, the Hippocratic Oath requires physicians to benefit their patients "according to their best judgment." Learning what will in fact benefit may require exposing persons to risk. The problem posed by these imperatives is to decide when it is justifiable to seek certain benefits despite the risks involved, and when the benefits should be foregone because of the risks.

The obligations of beneficence affect both individual investigators and society at large, because they extend both to particular research projects and to the entire enterprise of research. In the case of particular projects, investigators and members of their institutions are obliged to give forethought to the maximization of benefits and the reduction of risk that might occur from the research investigation. In the case of scientific research in general, members of the larger society are obliged to recognize the longer term benefits and risks that may result from the improvement of knowledge and from the development of novel medical, psychotherapeutic, and social procedures.

### A.3. Justice

Who ought to receive the benefits of research and bear its burdens? This is a question of justice, in the sense of "fairness in distribution" or "what is deserved." An injustice occurs when some benefit to which a person is entitled is denied without good reason or when some burden is imposed unduly. Another way of conceiving the principle of justice is that equals ought to be treated equally. However, this statement requires explication. Who is equal and who is unequal? What considerations justify departure from equal distribution? Almost all commentators allow that distinctions based on experience, age, deprivation, competence, merit and position do sometimes constitute criteria justifying differential treatment for certain purposes. It is necessary, then, to explain in what respects people should be treated equally. There are several widely accepted formulations of just ways to distribute burdens and benefits. Each formulation mentions some relevant property on the basis of which burdens and benefits should be distributed. These formulations are (1) to each person an equal share, (2) to each person according to individual need, (3) to each person according to individual effort, (4) to each person according to societal contribution, and (5) to each person according to merit.

Questions of justice have long been associated with social practices such as punishment, taxation and political representation. Until recently these questions have not generally been associated with scientific research. However, they are foreshadowed even in the earliest reflections on the ethics of research involving human subjects. For example, during the 19th

and early 20th centuries the burdens of serving as research subjects fell largely upon poor ward patients, while the benefits of improved medical care flowed primarily to private patients. Subsequently, the exploitation of unwilling prisoners as research subjects in Nazi concentration camps was condemned as a particularly flagrant injustice. In this country, in the 1940's, the Tuskegee syphilis study used disadvantaged, rural black men to study the untreated course of a disease that is by no means confined to that population. These subjects were deprived of demonstrably effective treatment in order not to interrupt the project, long after such treatment became generally available.

Against this historical background, it can be seen how conceptions of justice are relevant to research involving human subjects. For example, the selection of research subjects needs to be scrutinized in order to determine whether some classes (e.g., welfare patients, particular racial and ethnic minorities, or persons confined to institutions) are being systematically selected simply because of their easy availability, their compromised position, or their manipulability, rather than for reasons directly related to the problem being studied. Finally, whenever research supported by public funds leads to the development of therapeutic devices and procedures, justice demands both that these not provide advantages only to those who can afford them and that such research should not unduly involve persons from groups unlikely to be among the beneficiaries of subsequent applications of the research.

### **B. Informed Consent**

Informed Consent is a process not a single event. It begins with the recruitment of subjects and continues through the duration of the subject's involvement in the research. Subjects always retain the right to withdraw from a research project; therefore, it is imperative that the investigator maintain subjects' continuing voluntary and informed consent at all times. All requirements for obtaining informed consent from subjects apply equally to their legal representatives, if any, even when not explicitly mentioned.

In keeping with the principle of Respect for Persons, investigators shall seek the informed consent of the subject or the subject's legally authorized representative only under circumstances that provide the prospective subject opportunity to consider whether or not to participate without undue influence or coercion. The information given to the subject must be in a format understandable to that subject or representative. It must not misrepresent the research or methods, except in very rare instances, which must be justified. Subjects may not be required to waive any legal rights or release the investigator, the University or its agents from liability or negligence.

#### **B.1. Elements of Informed Consent**

Required Elements. Informed consent must include the following elements:

1. A statement that the study involves research;
2. An explanation of the purpose(s) of the research;
3. A description of the procedures to be followed, including the expected duration of the subject's participation, and identification of any procedures which are experimental;
4. A description of any reasonably foreseeable risks or discomforts to the subject (if no foreseeable risk exists, then a statement to that effect is appropriate);

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5. A description of any benefits to the subject or to others which may reasonably be expected from the research (if no foreseeable benefit exists, then a statement to that effect is appropriate);
6. A disclosure of appropriate alternative procedures or courses of treatment, if any, that might be advantageous to the subject;
7. A description of who will have access to records that identify the subjects, and how confidentiality of those records will be maintained;
8. For research involving greater than minimal risk, an explanation of any compensation and an explanation of any medical treatments that are available if injury occurs and, what they consist of, or where further information may be obtained;
9. Identification of whom to contact for answers to pertinent questions about the research and research subjects' rights, and whom to contact in the event of a research-related injury to the subject, along with contact information; and
10. A statement that participation is voluntary and that the subject may refuse to participate or discontinue participation at any time without penalty or loss of benefits to which the subject may be otherwise entitled.

Additional Elements. When relevant, the following information shall also be provided to each subject:

11. A statement that the particular treatment or procedure may involve risks to the subject (or to the embryo or fetus, if the subject is or may become pregnant) which are currently unforeseeable;
12. Anticipated circumstances under which the subject's participation may be terminated by the investigator without regard to the subject's consent;
13. Any additional costs to the subject that may result from participation in the research;
14. The consequences of a subject's decision to withdraw from the research and procedures for orderly termination of participation by the subject;
15. A statement that significant new findings developed during the course of the research which may relate to the subject's willingness to continue participation will be provided to the subject; and
16. The approximate number of subjects involved in the study.

Experimental Biological, Medical or Behavioral Interventions. If the study is delivering an experimental intervention (biological, medical or behavioral) the consent form must provide additional information. The consent must include:

1. A description of the particular treatment or procedure that may be involved;
2. A description of any potential risks from the procedure or know potential risks from the intervention/medication;
3. The circumstances under which the investigator will discontinue the subject's participation;
4. Any known alternative treatments/interventions that may be currently available;
5. The costs (if any) for which he/she is responsible as a result of the research participation or any consequences of early withdrawal from the study.
6. if the study is regulated by the Food and Drug Administration, the FDA's right to inspect study records must be disclosed in the consent form.

In addition, the subject must also be informed of any recent significant findings discovered during the course of the research study.

Use of Specimens for Future Research. If specimens are to be stored for use in future research, this information must be included in the informed consent process and the informed consent documentation. Further, it is the policy of the UNE IRB to require that a specific consent statement be included in consent forms that ask subjects to grant permission to store specimens for future research use. The purpose of the extra consent statement is to clearly indicate that the subject can participate in the current research study without agreeing to have specimens stored for future research. The only case where the separate consent line is not required is when the purpose of the current research study is to collect specimens for the purpose of storing them for future research or use.

### **B.2. Documentation of Informed Consent**

Informed consent must be documented by the use of a written consent form approved by the IRB. Consent forms serve as confirmation of the process of obtaining informed consent for research participation. They are not a substitute for the consent process. The consent form should embody all the required elements of informed consent, as outlined above.

Consent forms must be clearly written and understandable to the subject. This may require translation into the preferred language of the participants. The language of the consent form must be non-technical (comparable to the language in a newspaper or general circulation magazine). Scientific, technical or medical terms must be defined in plain language. The consent form may not include language that appears to waive subjects' legal rights or appears to release the investigator from liability or negligence.

The consent form may be read to the subject or the subject's legally authorized representative, but the investigator must still give the subject or the representative adequate opportunity to read the document before giving consent.

**Unless otherwise approved by the IRB, the consent form must be signed and dated by the subject or the subject's legally authorized representative and a copy given to the person signing the form.**

In some instances, obtaining a signature and giving a copy may not be feasible. The IRB can authorize an alternate form of documentation, provided the following conditions are met:

- The required elements of informed consent have been presented to the subject orally;
- There is an impartial witness to the oral presentation;
- The researcher who makes the oral presentation and the witness sign the consent form attesting to the consent procedures.

In some instances, providing a copy of the consent form might pose a danger for the subject. The IRB can waive this requirement in order to protect the subject's safety.

### **B.3. Waiver or Alteration of Informed Consent Requirements**

The IRB may approve a consent procedure that waives or alters any element of informed consent described above, pursuant to [45 CFR 46.116\(d\)](#), under the following conditions:

- The research involves no more than minimal risk to the subjects;

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- The waiver or alteration will not adversely affect the rights and welfare of the subjects;
- The research could not practicably be carried out without the waiver or alteration (note: mere inconvenience is not sufficient); and
- Whenever appropriate, the subjects will be provided with additional pertinent information after participation.

The IRB may also approve a consent procedure that waives or alters any element of informed consent described above, pursuant to 45 CFR 46.116(c)(1-2), under the following conditions:

- The research or demonstration project is to be conducted by or subject to the approval of state or local government officials and is designed to study, evaluate, or otherwise examine: Public benefit or service programs; Procedures for obtaining benefits or services under those programs; Possible changes in or alternatives to those programs or procedures; or; Possible changes in methods or levels of payment for benefits or services under those programs; and
- The research could not practicably be carried out without the waiver or alteration.

The IRB may also grant exception from informed consent requirements for emergency research that is regulated by the Food and Drug Administration, provided it meets the criteria set forth in [20 CFR 56.24](#). Before submitting an application for approval of emergency research, please confer with the IRB Administrator.

### C. Vulnerable Populations

Populations in which a voluntary informed consent process could be compromised are considered “vulnerable”. Informed consent practices involving research subjects from these populations may require additional protections in order to make sure that their participation is as informed and voluntary as possible. Several populations are typically considered vulnerable. These populations include, but are not limited to:

- [Minors \(under 18 years of age\)](#)
- [Subjects with a diminished capacity to consent](#)
- [Pregnant women, human fetuses, neonates and products of labor and delivery](#)
- [Non-English speaking populations](#)
- [Prisoners](#) or other involuntarily institutionalized persons
- [Students](#)

‘Minimal Risk’ means 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 living or during the performance of routine physical or psychological examinations or tests (45 CFR 46.102 (i)).

Any subject who may be considered to be part of a vulnerable population, and require additional protection, should not be enrolled into a research study without prior IRB approval to include a member of this population. Additional information about vulnerable populations can be found at the Office of Human Research Protections website:

<http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.htm>, or by contacting the IRB.

### C.1. Minors (under 18 years of age)

In order to approve research involving children, the IRB must determine that the research meets one of the categories defined below:

1. Research not involving greater than minimal risk to the children ([45 CFR 46.404](#)).
  - The research presents no greater than minimal risk to the children; and
  - Adequate provisions are made for soliciting the assent of the children and the permission of their parents or guardians, as set forth in HHS regulations at [45 CFR 46.408](#).
2. Research involving greater than minimal risk but presenting the prospect of direct benefit to the individual child subjects involved in the research ([45 CFR 46.405](#)).
  - The risk is justified by the anticipated benefits to the subjects;
  - The relation of the anticipated benefit to the risk presented by the study is at least as favorable to the subjects as that provided by available alternative approaches; and
  - Adequate provisions are made for soliciting the assent of the children and the permission of their parents or guardians, as set forth in HHS regulations at [45 CFR 46.408](#).
3. Research involving greater than minimal risk and no prospect of direct benefit to the individual child subjects involved in the research, but likely to yield generalizable knowledge about the subject's disorder or condition ([45 CFR 46.406](#)) if:
  - The risk of the research represents a minor increase over minimal risk;
  - The intervention or procedure presents experiences to the child subjects that are reasonably commensurate with those inherent in their actual, or expected medical, dental, psychological, social, or educational situations;
  - The intervention or procedure is likely to yield generalizable knowledge about the subject's disorder or condition which is of vital importance for the understanding or amelioration of the disorder or condition; and
  - Adequate provisions are made for soliciting the assent of the children and the permission of their parents or guardians, as set forth in HHS regulations at [45 CFR 46.408](#).
4. Research that the IRB believes does not meet the conditions of [45 CFR 46.404](#), [46.405](#), or [46.406](#), but finds that the research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children ([45 CFR 46.407](#)). Such research may proceed only if the Secretary, HHS, or his or her designee, after consulting with a panel of experts in pertinent disciplines (e.g., science, medicine, education, ethics, law) and following an opportunity for public review and comment, determines either: (1) that the research in fact satisfies the conditions of [45 CFR 46.404](#), [46.405](#), or [46.406](#), or (2) the following:
  - The research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children;
  - The research will be conducted in accordance with sound ethical principles; and

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- Adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians, as set forth in HHS regulations at 45 CFR.

The exemption at [46.101\(b\)\(2\)](#) for research involving survey or interview procedures or observations of public behavior does not apply to research involving children, except for research involving research observation of public behavior when the investigator(s) do not participate in the activities being observed.

In all human subject research, the agreement of the subject to participate is an essential protection of the subject's rights and welfare. Minors, by definition, cannot give legal "consent". Therefore, a combination of "assent" (agreement) of the minor and "permission" (agreement) of the parent(s) or legal guardian(s) is generally deemed an adequate substitute. If either parent refuses permission or the minor subject refuses assent, the minor should not be enrolled in the research project.

Parental Consent: 'A parent' means a child's biological or adoptive parent. The UNE IRB requires the permission of both parents be given for research involving minors, unless:

- One parent cannot reasonably be found or contacted in a reasonable time period (typically 60 days);
- One parent is deceased;
- One parent has lost or surrendered all legal parental rights; or
- One parent has been granted by the court sole custody and all parental rights

There may be exceptions to this general policy that the IRB will determine on a case-by-case basis.

Legal Guardians vs. Caregivers: 'Guardian' means an individual who is authorized under applicable State or local law to consent on behalf of a child to general medical care. The permission of caregivers and/or service providers is not sufficient to conduct research with minors. Only parents and legal guardians have that authority and responsibility. School principals, teachers, clinic personnel, etc., do not have the authority to give "blanket" permission for their students/patients/clients to participate in research. They do have the authority to permit the research to be conducted in the facility under their auspices. (This permission should be made part of the study submission.) In classroom research, it must be made clear that the research is not part of the regular educational program and that the student's grades or standing will not be affected by participating or not participating.

Child (minors) Assent: Assent means a child's affirmative agreement to participate in research. Mere failure to object should not, absent affirmative agreement, be construed as assent. Adequate provision must be made for soliciting the assent of those children capable of providing a meaningful agreement. The process must be appropriate to the study as well as the age, maturity and psychological state of the child. Information must be presented in language and format that is understandable to the child. The children should have an understanding of the research procedures and it should be clear that their participation is voluntary. An investigator may not include a minor as a research subject without his or her assent unless the minor is not capable of giving assent and the assent is waived by the IRB or the research holds out a prospect of benefit for the child and is only available in the context of the research.

Even where the IRB determines that the subjects are capable of assenting, the IRB may still waive the assent requirement under circumstances in which consent may be waived. When

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

Wards: Children who are wards of the state or any other agency, institution, or entity can be included in research approved under [45 CFR 46.406](#) or [46.407](#) only if such research is: (1) Related to their status as wards; or (2) Conducted in schools, camps, hospitals, institutions, or similar settings in which the majority of children involved as subjects are not wards. In such instances, the IRB is required to appoint an advocate for each ward (See [45 CFR 46.409](#) for more details).

### **C.2. Subjects with a Diminished Capacity to Consent**

Individuals in a wide variety of circumstances may have an impaired ability to make an informed decision. An impaired decision making capacity may not be limited to neurological, psychiatric, or substance abuse populations, nor should it be assumed that these populations automatically have diminished decision capabilities. Limited decision making capacity covers a broad spectrum, including a healthy person in shock or experiencing high stress, a severely mentally retarded individual since birth, or an individual in an acute psychotic state. Researchers must be sensitive to the fluctuating capacities of individuals and design the consent procedures accordingly.

Some research questions may only be answered in populations with an impaired decision making capacity. In these matters, investigators and members of the research team are responsible for protecting research participants.

Consent procedures must be proportional to the research risk. As impairment increases, so does risk and discomfort associated with the study and the safeguards should increase on a sliding scale. When a researcher is determining a participant's capacity for decision-making, a key factor is the participant's appreciation of how the risks, benefits and alternatives to participation apply to them personally. It is advisable that the consent processes actually include the researcher asking the participant; "Do you understand the risks and benefits of participation?" or "Do you have any questions about the study or process?" Options for additional safeguards include the use of an independent monitor, use of a legally authorized representative, use of assent and a legally authorized individual, use of an advance directive as local laws permit, or use of a waiting period.

In addition, researchers may need to write their informed consent forms (and assent forms, as appropriate) at a lower reading level in order to compensate for potential diminished capacity. For example, a mentally challenged individual who is their own legal guardian and has full control over their own activities of daily living (ADL's), may still only have a 4th Grade reading level.

### **C.3. Pregnant Women, Human Fetuses, Neonates, and Products of Labor and Delivery**

Pregnancy encompasses the period of time from implantation until delivery. A woman shall be assumed to be pregnant if she exhibits any of the pertinent presumptive signs of pregnancy, such as missed menses, until the results of a pregnancy test are negative or until delivery. Definitions for delivery, fetus, dead fetus, neonate and nonviable neonate can be found in the glossary of this manual.

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

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- Where scientifically appropriate, preclinical studies, including on pregnant animals, and clinical studies, including studies on non-pregnant women, have been conducted and provide data for assessing potential risks to pregnant women and fetuses;
- The risk to the fetus is caused solely by interventions or procedures that hold out the prospect of direct benefit for the woman or the fetus; or, if there is no such prospect of benefit, the risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge which cannot be obtained by any other means;
- Any risk is the least possible for achieving the objectives of the research;
- If the research holds out the prospect of direct benefit to the pregnant woman, the prospect of direct benefit both to the pregnant woman and the fetus, or no prospect of benefit for the woman not the fetus when risk to the fetus is not greater than minimal and the purpose of the research is the development of important biomedical knowledge that cannot be obtained by any other means, her consent is obtained in accord with the informed consent provisions;
- If the research holds out the prospect of direct benefit solely to the fetus then the consent of the pregnant woman and the father is obtained in accord with the informed consent provisions except that the father's consent need not be obtained if he is unable to consent because of unavailability, incompetence, or temporary incapacity or the pregnancy resulted from rape or incest;
- Each individual providing consent is fully informed regarding the reasonably foreseeable impact of the research on the fetus or neonate;
- For children who are pregnant, assent and permission are obtained with the provisions for children in research.
- No inducements, monetary or otherwise, will be offered to terminate a pregnancy;
- Individuals engaged in the research will have no part in any decisions as to the timing, method, or procedures used to terminate a pregnancy; and
- Individuals engaged in the research will have no part in determining the viability of a neonate.

Please see [45 CFR 46.205](#) for information on research involving neonates. Research activities involving products of labor and delivery or embryos including the dead fetus or placenta may only be conducted in accordance with federal, state and local laws and regulations. Upon request, a researcher (with IRB approval) may request a waiver for these requirements with the approval of the Ethical Advisory Board of the Department of Health and Human Services after a public comment period published in the Federal Register (Sect. 46.211). In addition to the regulations noted in [Title 45 CFR Part 46](#), clinical studies with pregnant women as research participants must also abide by FDA regulations ([21 CFR 50](#), [21 CFR 56](#)). However, pregnant women can also participate in categories of waived research specified in [21 CFR Sect. 56.104](#) and all exemptions listed in [45 CFR 46.101\(b\)](#).

### **C.4. Non-English Speaking Populations**

Informed consent information must be presented in language understandable to the subject and be documented in writing. Subjects who do not speak English should be presented with a consent document written in a language understandable to them. Alternatively, an oral presentation of informed consent information in conjunction with a short written consent

document (stating that the elements of consent have been presented orally) may be used (see Section [II.B.2](#) of this Policy, Documentation of Informed Consent). A witness to the oral presentation is required and must sign a statement on the consent form.

When the short form written procedure is used, the subject or the subject's legally authorized representative must sign the short form document. If the person does not read or write a witness may sign the consent form. If a translator assists the person obtaining consent, the translator may serve as the witness.

All foreign language versions of the short form document must be submitted to the IRB with the pertinent IRB application. Expedited review of these versions is acceptable if the protocol, the full English language informed consent document, and the English version of the short form document have already been approved by the convened IRB.

### **C.5. Prisoners or Other Involuntarily Institutionalized Persons**

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

Additional safeguards are applied to prisoner populations because prisoners may be under constraints because of their incarceration that could affect their ability to make a truly voluntary and uncoerced decision about participation as a subject in research. These protections also apply to research using data on prisoners from non-publicly available databases and secondary sources.

These protections apply whether the research involves prisoners from the outset, or a person who at a later date (but before completion of the study) becomes a prisoner. In the latter situation, it is unlikely that the IRB's review of the research and the consent document contemplated the constraints imposed by incarceration. Should this situation arise, researchers must contact the IRB for guidance.

The following criteria must be used when including prisoners as research subjects:

1. **Acceptable Categories of Prisoner Research:** The proposed research must fall into one of the following categories for UNE IRB approval. When research is funded by DHHS the Secretary of DHHS must conclude that it involves solely these categories:
  - Study of the possible causes, effects, and processes of incarceration, and of criminal behavior, provided that the study presents no more than minimal risk and no more than inconvenience to the subjects; or
  - Study of prisons as institutional structures or of prisoners as incarcerated persons, provided that the study presents no more than minimal risk and no more than inconvenience to the subjects.
  - Research on conditions particularly affecting prisoners as a class (for example, vaccine trials and other research on hepatitis which is much more prevalent in prisons than elsewhere; and research on social and psychological problems such as alcoholism, drug addiction and sexual assaults); and
  - Research on practices, both innovative and accepted, which have the intent and reasonable probability of improving the health or well being of the subject.

Furthermore, research in the latter two categories may proceed only after the Secretary of DHHS has consulted appropriate experts and published notice in the Federal Register of his/her intent to approve such research:

2. Conditions for Approval of Prisoner Research: All of the following conditions must be found to be in place by the IRB at a convened meeting.
  - Any possible advantages accruing to the prisoner through his or her participation in the research are not of such a magnitude that his or her ability to weigh the risks of the research against the value of such advantages in the limited choice environment of the prison is impaired.
  - The risks involved in the research are commensurate with risks that would be accepted by non-prisoner subjects.
  - Procedures for the selection of subjects within the prison are fair to all prisoners and immune from arbitrary intervention by prison authorities or prisoners. Control subjects must be selected randomly from the group of available prisoners who meet the characteristics needed for the particular research study, unless the principal investigator provides to the IRB justification, in writing, for following some other procedure.
  - The information is presented in language that is understandable to the subject population.
  - Adequate assurance exists that parole boards will not take into account a prisoner's participation in the research in making decisions regarding parole, and each prisoner is clearly informed in advance that participation in the research will have no effect on his or her parole.
  - If there is a need for follow-up examination or care of participants after participation, adequate provision has been made for such examination or care, taking into account the varying lengths of individual prisoner's sentences, and for informing participants of this fact.

### C.6. Students

Use of students as research subjects presents a special set of concerns, whether the students are at UNE or other educational institutions. This includes not only research studies that specifically recruit students, but also studies that are advertised on campus. Students may be below the age of consent, which in Maine is 18. Therefore, the special requirements for studies involving minors apply to such studies. One solution is to limit inclusion to individuals over the age of consent.

An additional concern in studies that involve students is the possibility of undue influence. Recruitment of a subject by his or her advisor or faculty member holds the potential for undue influence. This also holds true whenever a student's participation will be made known to someone who holds power over that student's academic status or extra credit for course grading purposes.

Since participation in a research study must be completely voluntary, there must not be any loss of academic status if a student chooses not to participate. If academic benefits are offered as compensation for participation in a study, an equivalent alternative activity must be offered (with the same academic benefit offered) to students who choose not to participate. It is preferable, whenever possible, for the student's decision to remain unknown to the advisor or faculty member.

The above issues must be addressed in all research studies involving students.

## D. Protected Health Information

The [Health Insurance Portability and Accountability Act \(HIPAA\) Privacy Rule](http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html) (see <http://www.hhs.gov/ocr/privacy/hipaa/understanding/index.html>) governs dissemination of protected health information by covered entities.

'Protected health information' (PHI): Individually identifiable information about a person's health, whether it is transmitted by, or maintained in, electronic media or any other form or medium. PHI does not include individually identifiable health information in: (a) education records covered by the Family Educational Rights and Privacy Act (FERPA) or (b) employment records held by the University of New England in its role as employer.

'Covered entity' (CE): An entity to which HIPAA Privacy Regulations apply.

The following parts of UNE qualify as a covered entity:

- University HealthCare (UHC)
- UHC Student Health Biddeford campus
- UHC OMM (Alfond)
- UHC Family Medicine (Saco)
- UHC OMM Saco
- UHC for Kids (Portland)
- UHC MatureCare
- UHC Student Health Portland campus
- UHC OMM Portland
- UHC Administration
- Dental Hygiene Clinic Portland campus
- Community Occupational Therapy Clinic Biddeford campus

Matters concerning compliance with HIPAA are governed by UNE's HIPAA Privacy Manual, which is implemented by the UNE HIPAA Privacy Officer. Questions about HIPAA compliance and the HIPAA Privacy Manual may be directed to [hippa@une.edu](mailto:hippa@une.edu).

**Investigators conducting research involving human subjects – even if that research is exempt from IRB review – may not collect PHI from a CE without prior approval.**

Note: The Privacy Rule compliance date is April 14, 2003. If any one of the following was obtained prior to the compliance date, that PHI may continue to be used and disclosed for research purposes:

- An authorization or other legal permission from the subject to use or disclose PHI for the research,
- The informed consent of the subject to participate in the research
- A waiver of the informed consent of the subject by the IRB, unless the investigator later seeks informed consent after the compliance date.

There are six means, described below, by which an investigator can gain approval. The first three fall solely under the purview of the HIPAA Privacy Office. In the latter three instances, IRB review and approval is *also* required. In those instances:

- The investigator files the appropriate HIPAA application with the IRB, along with the *Application for Initial Approval and Review* (see Section [IV.C](#)), *Application for Exemption* (see Section [IV.A.3](#)), or *Application for Amendment* (see Section [IV.D.3](#)).

- The UNE IRB does not review HIPAA applications for research activities conducted at sites other than UNE's CE. In those instances, the investigator should instead submit documentation of approval from the non-UNE CE and/or its IRB, as applicable.
- The investigator must complete HCCS/HIPAA training and submit evidence of completion along with the applications.
- The investigator must submit with the applications a letter from the senior administrator at each CE where they propose to obtain PHI. The UNE HIPAA Privacy Officer should be contacted to determine the appropriate senior administrator.
- The IRB Administrator forwards the HIPAA application to the HIPAA Privacy Officer, who will return it promptly with a written opinion as to compliance with federal and institutional requirements.
- The IRB will then review the HIPAA application along with the IRB application, following procedures set forth in this manual.

### **D.1. Preparation for Research**

Criteria:

- The use or disclosure of PHI is for the sole purpose of preparing a research protocol.
- No PHI will be removed from the CE.
- The PHI is necessary for the research purpose.

Investigators should submit a written request for approval to use PHI in preparation for research to the UNE HIPAA Privacy Officer.

### **D.2. Deceased Subjects**

Criteria:

- The use or disclosure of PHI is for the sole purpose of research concerning deceased subjects
- The PHI is necessary for the research purpose.

Investigators should submit a written request for approval to use PHI of deceased subjects to the UNE HIPAA Privacy Officer. The CE may request documentation of the death of such individuals.

### **D.3. Limited Data Set with Data Use Agreement**

Criteria:

- The data set that includes PHI excludes most individual identifiers
- Some individual identifiers are necessary for the research purpose, and therefore the data set fails to qualify as de-identified data (see D.6. below)

Investigators should submit a written request for approval to use PHI in a limited data set to the UNE HIPAA Privacy Officer. A data use agreement between the researcher and the CE providing the limited data set will be required.

#### D.4. Authorization

Criteria:

- The subject signs a document giving the researcher approval to use/disclose PHI collected during the research study for defined purposes.
  - An authorization for research purposes may indicate that the authorization does not expire or that the authorization continues until completion of the research study.
  - Authorization may be combined with the informed consent process if appropriate.

Investigators should submit an *“Application for Approval to Use PHI”* to the IRB along with the *Application for Initial Review and Approval*.

#### D.5. Waiver of Authorization.

Criteria:

- The disclosure of PHI does not pose more than minimal risk, and
- The research could not practicably be conducted without the waiver, and
- The research could not be practicably conducted without access to and the use of the PHI.

Investigators should submit an *“Application for Approval to Use PHI”* to the IRB along with the *Application for Initial Review and Approval*.

#### D.6. De-identified Data

De-identified health information is not PHI, and thus is not protected by The Privacy Rule.

Criteria:

- All eighteen specific identifiers (listed below) relating to the individual, the individual’s household members, relatives, or employer must be removed.
- The CE can have no actual knowledge that the information can be used, alone or in combination with other information, to identify the individual.
- Data is de-identified before leaving the CE.
- The researcher may assign and retain a code to allow the re-identification of PHI. The code cannot be derived from or related to any information about the individual. The researcher may not disclose the re-identification code or its method of re-identifying PHI.

Alternative criterion:

- A person with appropriate knowledge of and experience with generally accepted statistical and scientific principles and methods for rendering information not individually identifiable must apply such principles and methods and determine that the risk is very small that the information could be used, alone or in combination with other reasonably available information, by an anticipated recipient to identify the individual who is the subject of the information. The person making this determination must document the methods and results of the analysis that justify the determination.

**Identifiers:** If a study records any of the 18 identifiers listed below, the information is considered PHI and the study does not qualify for de-identification.

1. Names.

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2. All geographic subdivisions smaller than a state, including street address, city, county, precinct, ZIP Code, and their equivalent geographical codes, except for the initial three digits of a ZIP Code if, according to the current publicly available data from the Bureau of the Census:
  - o The geographic unit formed by combining all ZIP Codes with the same three initial digits contains more than 20,000 people.
  - o The initial three digits of a ZIP Code for all such geographic units containing 20,000 or fewer people are changed to 000.
3. All elements of dates(except for year) for dates directly related to an individual, including the birth date, admission date, discharge date, date of death; and all ages over 89 and all elements of dates (including year) indicative of such age, except that such ages and elements may be aggregated into a single category of age 90 or older.
4. Telephone numbers
5. Fax numbers
6. Electronic mail address
7. Social security numbers
8. Medical record number
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 fingerprints and voiceprints
17. Full-face photographic images and any comparable images
18. Any other unique identifying number, characteristic, or code, unless otherwise permitted by the Privacy Rule for re-identification.

Investigators should submit an “*Application for Approval to Use PHI*” to the IRB along with the *Application for Initial Review and Approval*.

Please contact the UNE HIPPA Privacy Officer for more information on HIPPA policy as it relates to research.

### III. The Institutional Review Board (IRB)

The UNE IRB is the primary institutional body legally vested and charged with protecting the rights and welfare of persons participating in human subjects' research as defined above. UNE currently has one IRB (Registration # IRB00003973 U of New England IRB #1) authorized under its Assurance to review and approve human subjects research. The UNE IRB has sole authority through the UNE Assurance to interpret and apply federal, state, and local human subjects protections to UNE research protocols and proposals.

#### A. Responsibilities of the Institutional Review Board

The IRB is charged with the following responsibilities and authorities:

1. Review and approve, require modifications in (to secure approval), or disapprove all research activities covered by this policy;
2. Ensure that legally effective informed consent of human research subjects will be obtained and documented in a manner that meets the requirements of federal, state and local rules and laws, and UNE policies.
3. Communicate to investigators promptly and in writing its action regarding proposed research, including any modifications or clarifications the IRB requires as a condition for approval of the research;
4. Monitor and review at least annually approved protocols, as it deems necessary to discharge its responsibilities;
5. Suspend or terminate any research project, if warranted, that:
  - Is not conducted in accordance with the IRB's approval;
  - Has been associated with an unexpected harm to human subjects;
  - Is the focus of an investigation (assessment, inquiry or formal investigation); or
  - When ordered to by a State or Federal agency or granting organization.
6. Report to appropriate UNE officials any action to suspend or terminate a research protocol. Appropriate officials include the Vice President for Research, the Director of Sponsored Programs, the Privacy Officer for Research, the Research Integrity Officer and any other official deemed necessary by the IRB Chair or the IRB Administrator;
7. Notify OHRP of serious or continuing non-compliance as required by OHRP regulations;
8. Serve as an educational resource to the UNE community for human subject protection issues, and assist investigators and peer review committees in finding ways to accomplish research objectives while complying with ethical and legal requirements;

#### B. Investigator Responsibilities

**Investigators are responsible for conducting research with human subjects in accordance with all applicable ethical, legal and institutional requirements. That responsibility is not exhausted by obtaining IRB approval of the research protocol.**

**Research activity, including recruitment of subjects, may not begin without written approval from the IRB, and may not continue after IRB approval has ended.** If a researcher is found to be collecting data without IRB approval, the IRB will immediately suspend all research activity pending IRB review and approval, and may require the researcher to expunge the data.

### **B.1. Submission Requirements**

Every investigator who conducts an activity that *might be considered* research involving human subjects must submit an application or report to the IRB on each of the following occasions, described later in this section:

- Apply for Determination of “Not Research with Human Subjects”, Exemption, or Review and Approval before commencing activity;
- Apply for Renewal before approval expires;
- Apply for Approval of Protocol Amendment before changing an approved protocol;
- Report all Important Events (Significant Protocol Deviations, Unanticipated Problems, and Serious Adverse Events);
- Report the Conclusion of the research.

**A submission is considered complete only when it satisfies all four of these requirements:**

1. Each submission must utilize the appropriate form found at: <http://www.une.edu/research/compliance>
2. Each submission must answer all questions fully and in sufficient detail to allow IRB reviewers to make the determinations required under HHS regulations at 45 CFR 46.111.
3. Each submission must include all attachments requested in the form.
4. Each submission must be submitted in two formats, as follows:
  - **Electronically** to [irb@une.edu](mailto:irb@une.edu). Word .doc or .pdf format is required.
  - A **hard copy**, with required signatures, to the IRB Administrator, Pickus Room 108, 11 Hills Beach Road, Biddeford, ME 04005

Applications that do not require review by the full IRB may be filed at any time, and are addressed on a rolling basis:

- *Application for Determination of “Not Research Involving Human Subjects”* (Section IV.A)
- *Application for Exemption* (Section IV.B).
- Applications that request and qualify for Expedited Review (Section IV.C.3). Those that do not qualify will be referred to the full IRB.

Applications requiring review by the full IRB. The IRB is scheduled in advance to meet once per month throughout the year. Because of necessary preparation time, the IRB will review only those complete applications that are received electronically no later than the **1st day of the month by 4:00 pm**, and in hard copy within 3 days thereafter. If the first of the month falls on a non-work day, submissions must be received by 4:00 pm on the previous work day. **There is no provision for exceptions.**

**Applicants should bear in mind that most applications require more than one review because the IRB often requests additional information and/or changes to the protocol and/or consent forms. Therefore, applicants should leave time for additional review cycles before the anticipated research start date.**

## **B.2. Educational Requirements**

All investigators, faculty advisors and research staff are required to complete the CITI online training module on Human Subject's Protection (<http://www.citiprogram.org/default.asp?language=english>) within 24 months before the application date, and to submit documentation, i.e., a copy of the certificate of completion, to the IRB with their application. Applications will not be processed or reviewed until this requirement has been fulfilled.

In addition, so long as an approved protocol is active, investigators must also update their qualifications at least every 24 months. This qualification must be maintained in order for investigators to continue research activities.

Investigators using PHI in their research involving human subjects must also complete UNE HIPAA educational requirements and to submit evidence of completion with the IRB application.

## IV. IRB Procedures

The investigator should submit an application for the category of review that s/he believes best matches the planned activity. The criteria for each category are explained below. Nevertheless, **only the IRB can determine the correct category of review.**

### A. Not Research with Human Subjects

#### A.1. Criteria for “Not Research with Human Subjects”

In determining whether an activity constitutes research with human subjects, the IRB will apply the following definitions from [45 CFR 46.102](#):

‘Research’ means a systematic investigation - including research development, testing and evaluation - designed to develop or contribute to generalizable knowledge.

- Research may take place as part of a demonstration or service program.
- The level of risk has no bearing on whether or not a proposed activity constitutes “research”.
- ‘Generalizable knowledge’ is information that has the potential to be expanded from the isolated circumstances in which it is acquired to any broader context. (Thus, a case study that illuminates the course of a single individual’s experience generally will not be considered to be research, whereas a series of case studies intended to lead to improvements in the management of a particular condition generally will be considered research).

‘Human Subject’ means a living individual about whom an investigator (whether professional or student) conducting research obtains:

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

‘Intervention’ includes both physical procedures by which data are gathered (for example, 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 which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record).

‘Identifiable’ means the identity of the subject is or may readily be ascertained by the investigator or associated with the information. Private information must be individually identifiable in order for obtaining the information to constitute research involving human subjects.

When applying these definitions to an activity, the IRB will consider the following:

1. Purpose of the activity;
2. Participants;
3. Investigator’s relationship to/interaction with participants;
4. Type and source of information being sought or used;
5. Intended use of the information;
6. Privacy, confidentiality and security measures being utilized; and
7. Source of funding, if any.

## A.2. Procedures for Determination of “Not Research with Human Subjects”

The investigator should send a “Request for Determination” letter to the IRB electronically to [irb@une.edu](mailto:irb@une.edu) describing the proposed activity and why it might or might not be considered research, taking care to address explicitly each of the criteria identified above. The IRB Chair, in consultation with the IRB Administrator, will make a preliminary determination and promptly convey its determination to the investigator, in writing.

- ◆ If the activity is determined not to be research with human subjects, the investigator will not be required to have any further interaction with the IRB, *provided*:
  - If there is a change in any material fact upon which the determination was based, the investigator is required to notify the IRB chair and renew the request.
  - If the activity entails collecting protected health information (PHI), the investigator is still required to submit a HIPAA application to the UNE HIPAA Privacy Officer (see Section [II.D](#)).
- ◆ If the activity is determined to be research with human subjects, the investigator must file the appropriate application for exemption or for review and approval.

## A.3. Student Research Projects

Student **research** involving **human subjects** is subject to the requirements of this policy, procedure and guidance document.

**‘Research’** means a systematic investigation - including research development, testing and evaluation - designed to develop or contribute to generalizable knowledge (45 CFR 46.102(d)).

**‘Human Subject’** means a living individual about whom an investigator (whether professional or student) conducting research obtains:

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

Student Classroom Projects that qualify as “not research with human subjects” do not fall under the purview of this document however they may still be subject to IRB review. Further details are contained in the separate IRB Guidance Document *Student Classroom Projects Involving Human Subjects*, available at the UNE IRB website.

## B. Research Exempt from IRB Oversight

The IRB may exempt certain research, described below in Section B.1., from its oversight. Once an exemption is granted, the investigator will not be required to have any further interaction with the IRB, except under certain circumstances described below in Section B.2.

### B.1. Criteria for Exemption

#### *Common Rule Exemption*

The Common Rule outlines six types of research that is exempt from IRB oversight ([45 CFR 46.101\(b\)](#); 21CFR 50 and 56 (FDA research)):

- (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.
- (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.
- (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 confidentiality of the personally identifiable information will be maintained throughout the research and thereafter.
- (4) Research involving the collection or study of existing data, documents, records, pathological specimens, or diagnostic specimens, if these sources are publicly available or if the information is recorded by the investigator in such a manner that subjects cannot be identified, directly or through identifiers linked to the subjects.
- (5) Research and demonstration projects which are conducted by or subject to the approval of Department or Agency heads, and which are designed to study, evaluate, or otherwise examine: (i) Public benefit or service programs; (ii) procedures for obtaining benefits or services under those programs; (iii) possible changes in or alternatives to those programs or procedures; or (iv) possible changes in methods or levels of payment for benefits or services under those programs.
- (6) Taste and food quality evaluation and consumer acceptance studies, (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.

Research presenting greater than minimal risk, and/or involving vulnerable populations (see Section II.C) is subject to special restrictions, and is rarely exempted. Research involving prisoners cannot be exempted.

### ***Passive Recruitment Only***

In addition, the UNE IRB may exempt certain projects involving research with human subjects as a **Passive Recruitment Only Protocol** if it meets *all* of the following conditions:

- The only activity that falls within the scope of this manual as set forth in Section [I.A](#), is recruitment of subjects using UNE property or facilities;
- Those recruitment methods are “passive,” meaning that the researcher does not initiate any in-person or telephone communication. Examples include posting flyers on campus, circulating an email to addresses not supplied by UNE, publishing a

notice or advertisement in a campus periodical. **Recruitment materials and plans must be reviewed and approved by the IRB;** and

- The entire protocol has been approved (or exempted) at another IRB.

## B.2. Procedures for Exemption

**Only the IRB can determine whether a proposed project is exempt from IRB oversight.** The investigator should submit an “*Application for Exemption*” to the IRB pursuant to one of the two criteria described in section B.1.

If any data to be collected constitutes “protected health information” (PHI) under the [Health Insurance Portability and Accountability Act \(HIPAA\) Privacy Rule](#), and approval to collect PHI is sought under one of the three routes subject to IRB review – (a) Authorization, (b) Waiver of Authorization, or (c) De-Identification – an “*Application for Approval to use Protected Health Information*” (see Section [II.D](#)) should accompany the Application for Exemption (see Section [IV.A.3](#)). The IRB Administrator will forward the HIPAA form to the HIPAA Privacy Officer, who will return it promptly with a written opinion as to compliance with federal and institutional requirements.

The IRB Chair, in consultation with the IRB Administrator, will make a determination and promptly convey its determination to the investigator, in writing. If research is determined to be exempt, the letter will indicate the category justifying the exemption, and the investigator will not be required to have any further interaction with the IRB, *provided that*:

- There is no a change in any material fact upon which the determination was based. **Any such change to the protocol may change the review level and therefore require approval.** Therefore, the investigator is required to notify the IRB Administrator of such changes and renew the application.
- **The investigator reports all [serious adverse events](#).**
- **The research follows the guiding principles of the [Belmont Report](#) and conforms to UNE policies for the protection of human research subjects.**

If the IRB Chair does not determine the activity to be exempt, the investigator must file the appropriate application for review and approval.

## C. Initial Review and Approval of Research with Human Subjects

Before commencing research, the investigator must submit an “Application for Initial Review and Approval” and receive IRB approval.

### C.1. Criteria for Approval

When determining whether to approve a research protocol, and for how long (not less than once per year), the IRB will consider the following criteria set forth (in greater detail) in [45 CFR 46.111](#):

1. Risks to subjects are minimized.
2. Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may reasonably be expected to result.
3. Selection of subjects is equitable.

4. Informed consent will be sought from each prospective subject or the subject's legally authorized representative.
5. Informed consent will be appropriately documented.
6. When appropriate, the research plan makes adequate provision for monitoring the data collected to ensure the safety of subjects.
7. When appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of data.
8. When some or all of the subjects are likely to be vulnerable to coercion or undue influence, additional safeguards have been included in the study to protect the rights and welfare of vulnerable subjects.

## C.2. Content of the Application

In completing the Application for Initial Review and Approval, applicants are expected to address the following topics:

1. Specific aims;
2. Background and significance;
3. Research design and methods, including:
4. Subject population, research setting, subject recruitment procedures;
5. Data collection procedures and measures (including copies of instruments);
6. Whether any data constitutes "protected health information" (PHI) under HIPAA (see Section II.D) and, if so, by which of the six routes the investigator plans to seek approval to collect PHI;
7. Analysis plan;
8. Procedures for obtaining and documenting the informed consent of the subjects;
9. Provisions for subject and data confidentiality;
10. Statement of potential research risks to subjects;
11. Statement of potential research benefits to subjects; and
12. Investigator experience.

Each submission must include all attachments requested in the form, including but not limited to:

13. The complete protocol;
14. A proposed informed consent document;
15. All recruitment materials intended to be seen or heard by potential subjects, such as a brochure (if one exists), advertisements /notices, scripts or "talking points;"
16. Any relevant application for funding
17. The relevant HIPAA application, if approval to collect PHI is sought under one of the three routes subject to IRB review: (a) Authorization, (b) Waiver of Authorization, or (c) De-Identification (see Section II.D). The IRB Administrator will forward the HIPAA form to the HIPAA Privacy Officer, who will return it promptly with a written opinion as to compliance with federal and institutional requirements.

**All protocols, consent documents, and recruitment materials should indicate the version date in the footer.**

### C.3. Expedited Review

Under Expedited Review procedures, detailed in under [45 CFR 46.110](#), the review and approval process rests with one or more experienced IRB members assigned by the IRB Chair to review the full submission. **'Expedited' does not mean that the review process takes less time.**

#### *Criteria for Expedited Review*

Expedited Review will only be used for activities that:

A. Involve no more than minimal risk to the research subjects, **and**

'Minimal Risk' means 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 living or during the performance of routine physical or psychological examinations or tests ([45 CFR 46.102](#) (i)).

B. Involve only procedures listed in one or more of the following categories specified in [63 FR 60364-60367, November 9, 1998](#):

- (1) Clinical studies of drugs and medical devices only when condition (a) or (b) is met.
  - (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.)
  - (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.
- (2) Collection of blood samples by finger stick, heel stick, ear stick, or venipuncture as follows:
  - (a) from healthy, nonpregnant 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
  - (b) from other adults and children<sup>2</sup>, considering the age, weight, and health of the subjects, the collection procedure, the amount of blood to be collected, and 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.
- (3) Prospective collection of biological specimens for research purposes by noninvasive means. (For specific examples, see the OHRP guidance at <http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.htm#46.110>.)
- (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.) (For specific examples, see the OHRP guidance at <http://www.hhs.gov/ohrp/humansubjects/guidance/45cfr46.htm#46.110>.)

- (5) Research involving materials (data, documents, records, or specimens) that have been collected, or will be collected solely for nonresearch 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.
- (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.

### ***Procedures for Expedited Review***

If the researcher believes the research qualifies for Expedited Review, s/he should indicate on the application which category(ies) of expedited review may apply to the project. Nevertheless, **only the IRB can determine whether a proposed project qualifies for Expedited Review.**

The IRB Chair, in consultation with the IRB Administrator, will make a determination of whether an application qualifies for expedited review.

- ◆ If the IRB Chair determines that the application qualifies for expedited review, s/he will assign one or more IRB members to review it.
- ◆ If the IRB Chair - or the reviewer(s) - determine that the application does not meet the criteria for expedited review, or if the reviewer(s) fail to approve the protocol, it will be reviewed by the full board.

The IRB Chair will promptly convey its determination and any review findings to the investigator, in writing. The IRB Administrator will advise members of research protocols which have been approved under this procedure at monthly IRB meetings.

### **C.4. Full Board Review**

Unless an application is eligible for Expedited Review, it will undergo full board review at a duly convened meeting of the IRB at which a majority of the members are present, including

at least one member whose primary concerns are in nonscientific areas. Prior to the meeting each member receives the full submission.

The full board will discuss the application, and may take one of several actions including:

1. Approve the protocol as submitted;
2. Approve the protocol contingent upon changes;
3. Table the application until the next meeting to allow the applicant to address IRB concerns; or
4. Deny the application.

Additional actions that the IRB is authorized to take include:

5. Recommend the protocol be jointly reviewed by another committee that has the expertise or authority over a particular subject matter (e.g., the Institutional Biosafety Committee for research involving human blood samples, or by another IRB);
6. Require a primary investigator to apply for a Certificate of Confidentiality from the National Institutes of Health, to protect research data from legal demands (for more information see <http://grants1.nih.gov/grants/policy/coc/>).

### C.5. Notification

The IRB Chair will notify the Principal Investigator of the IRB's findings and actions in a letter which details the IRB's decision, sets forth any conditions of approval (clarification or modification), and/or invites resubmission after the protocol is revised.

Responses to the IRB's request for information or modification are expected within 60 days or the application will be withdrawn and a new one must be submitted. Timely responses will be reviewed in the same manner as the application itself (i.e., expedited or full board review); however, if the required changes are non-substantive and are not directly relevant to the determinations required by the IRB under HHS regulations at 45 CFR 46.111, they may be verified by administrative review.

Letters that approve research will indicate the duration of the approval (see next section). The IRB Administrator will affix the expiration date to all approved informed consent documents and the approval will stipulate that only copies of these dated documents be used in obtaining consent. If the application was reviewed using Expedited Review, the approval letter will so indicate and identify the specific category justifying expedited review. Results of Expedited Reviews will be reported to the full board each month.

The Institutional Official will be sent a copy of the IRB meeting minutes each month and notified of all protocols that have been approved under Expedited review procedures.

### C.6. Off-Site and Cooperative Research

The following requirements and procedures apply to all research conducted off site and all cooperative research involving more than one research site.

1. **Application to UNE IRB.** As required in Section III.B.1, each submission to the UNE IRB must utilize the appropriate form on the UNE IRB web site.
2. **Letter of Collaboration.** The investigator arranges for an administrator at the off-site institution to submit a Letter of Collaboration. The letter should include:

- a) authorization by the institution for the investigator to conduct the study at the institution;
  - b) assurance that the project has been reviewed by institution personnel with respect to appropriateness for its human subjects population;
  - c) if applicable, assurance that personnel from the institution who collect data have the appropriate expertise to carry out the research protocol as reviewed and approved by the UNE IRB; and
  - d) all research staff from the off-site institution listed on the UNE IRB application have completed the CITI human subjects training within the past 24 months.
3. **Multiple Sites with UNE Lead Investigator.** In research involving multiple sites where a UNE investigator is the lead investigator, the investigator provides additional information to the UNE IRB to ensure ongoing communication among the cooperating institutions and IRBs. The UNE investigator should submit the following information with the UNE IRB application:
- a) a contact name and contact information for each off-site institution;
  - b) the FWA number for each off-site institution with an approved FWA;
  - c) a plan for the management of information pertaining to the protection of human subjects, such as reporting protocol modifications and unanticipated problems, and reporting results, such as interim reports, from participating sites.
4. **Engaged in Research.** The investigator confers with the IRB Administrator to determine whether the off-site institution will be “engaged in research” according to the [Guidance promulgated by the Office for Human Research Protections \(OHRP\)](#). If the off-site institution is not engaged in research, only the Letter of Collaboration is required. If the off-site institution is engaged in research, the off-site institution must have its research activity reviewed by an IRB.
5. **Off-Site IRB Review.** In most instances, the off-site institution has its own IRB which will conduct the review for that site and provide the investigator with the necessary documentation to submit to the UNE IRB.
6. **Documentation** of off-site IRB review should include the approval letter from the institution and the Federalwide Assurance (FWA) number. The investigator submits documentation of approval for off-site research to the UNE IRB along with the Application for Initial Review and Approval or as soon as the documentation becomes available. The investigator may authorize research to start at any site only after the UNE IRB approves the protocol. The UNE investigator is responsible for sending all required reports to the off-site IRB, with copies to the UNE IRB as appropriate.
7. **Dual Review.** In the absence of cooperative review, the research will undergo IRB review at both UNE and the off-site institution.
8. **Cooperative Review.** In some instances, one or more institutions agree that one institution will be responsible for providing IRB review and the other(s) will rely on its review for the specified project.
- a) In some cases – for example, if the off-site institution has no IRB – an off-site institution may request to rely on the UNE IRB to review, approve, and provide continuing oversight of the off-site research.

b) UNE may agree to defer IRB review to a non-UNE institution's IRB. To defer responsibility, the non-UNE institution IRB must have an approved FWA. In these cases, the investigator ensures that the research does not begin prior to the UNE IRB review and approval of all necessary documentation for each site. Such cooperative arrangements are considered on a case-by-case basis and require a written IRB Authorization Agreement (see next Section). The VP for Research in consultation with the IRB Administrator, IRB Chair and if necessary the UNE Legal Counsel makes the final determination whether the UNE IRB will enter into a cooperative arrangement.

### ***IRB Authorization Agreements with Cooperating Institutions***

1. Cooperative research studies involving multiple institutions may rely on cooperative review. In such cases, participating IRBs enter into a written IRB Authorization Agreement identifying the specific IRB designated to provide review (the "IRB of record") and detailing the respective responsibilities of each IRB and each institution that is a party to the agreement. Such agreements apply only to a single, specified project.
2. The Signatory Official at each institution must approve the agreement in writing. At UNE, the VP for Research signs all IRB Authorization Agreements as the Signatory Official for UNE under its FWA. The document is kept on file by all parties and provided to OHRP upon request. An institution relying on the designated institution for providing IRB review is responsible for designating that institution in its OHRP-approved FWA.
3. **IRB of record.** The IRB of record is responsible for initial and continuing review of the research. The IRB of record takes into account the required criteria for approval, the applicable regulations, measures taken by the participating institution to ensure compliance with the IRB's determinations and local research context as appropriate. The IRB of record is responsible for conveying approval to all participating sites, either directly to the IRB or through the respective investigator. The IRB of record is responsible for ensuring prompt reporting to the IRB, appropriate institutional officials, the Department or Agency head, OHRP, and all participating sites of any: 1) unanticipated problems involving risks to subjects or others or 2) any serious or continuing noncompliance or 3) and suspension or termination of IRB approval.
4. **All parties** to an IRB Authorization Agreement, and the investigators at those institutions, agree to abide by the decisions and determinations made by the IRB of record, and may not modify or alter the research protocol without prior written approval of the IRB of record.

### ***Research at Geographically Separate Off-Site Locations with No Cooperating Institution***

1. In the UNE IRB application the PI provides the necessary information, as appropriate on the subject populations, the cultural context, and the language understood by the human subjects.
2. If the IRB does not have appropriate expertise to conduct the review, the investigator may supply the name of an appropriate consultant on the IRB application.

3. Cultural consultants may review consent documents, provide verification of translation, and provide guidance on the impact of the research on subjects and the impact of the culture on the research to be conducted.

## D. Ongoing Research

Whenever the IRB approves a protocol, it must establish the duration of the approval (and, consequently, the frequency of continuing review), which may not exceed one year. In addition, the IRB has the responsibility and the authority to monitor approved protocols, in order to verify from sources other than the investigators that no material changes have occurred since the previous IRB review.

### D.1. Criteria for Monitoring and Frequency of Review

The following conditions, but not limited to these, may form a basis for monitoring, or for establishing a shorter than one year approval period:

1. Protocols:
  - Novel or new interventions in a biomedical study;
  - Especially high risk protocols;
  - Involving especially high risk/vulnerable populations and/or groups highly susceptible to coercion;
  - Substantial overlap with major Privacy Rights statutes, such as HIPAA and FERPA;
  - To be conducted over an unusually long period of time.
  - Selected at random.
2. Investigators:
  - With no prior research experience;
  - With prior adverse events;
  - Who are chronically late in filing for renewal;
  - Who submit irregular informed consent forms - for example, multiple drafts, standardized forms or forms from other sites/facilities that have little bearing on the protocol under review.

### D.2. Monitoring Methods

Monitoring for compliance with IRB requirements may be accomplished by any reasonable means. Frequency of monitoring and methods are determined by the IRB and/or the IRB Chair and/or the IRB Administrator and/or the Institutional Official. Monitoring methods may include, but are not limited to:

- Observation of the consent process and/or the data collections process;
- Appointment of a third party to undertake such observation and/or to independently evaluate the PI's compliance;
- Independent review of research documents, including but not limited to, consent forms (both blank and completed) and research instruments;
- Request that the PI(s) appear before the IRB and/or submit results of data analyses to date.

When a determination has been made that monitoring will occur on a protocol investigators are notified in writing, of the monitoring process and the procedures the IRB Chair and/or IRB Administrator will employ in monitoring the identified protocol. The investigator will be notified of all relevant findings as a result of protocol monitoring. When appropriate the Sponsor will also be notified.

### D.3. Protocol Amendment

Once a research protocol has received IRB approval, it may not be modified without prior approval of the IRB. This includes any modification to a HIPAA form that was approved by the IRB. The investigator must file an Application for Protocol Amendment.

If the requested change is minor, it can be reviewed under Expedited Review procedures. A minor change is one that does not materially change the risk/benefit ratio of the originally approved study. Examples are changes in research personnel that do not alter the competence of the research team, or deletion of questions in a survey.

If the protocol was previously reviewed under Expedited Review procedures, the changes may also be reviewed under Expedited Review procedures, unless they compromise the criteria under which the previous application qualified for Expedited Review. Status of Expedited Reviews will be reported to the full board each month.

Otherwise, the application must be reviewed by the full IRB.

Whenever a protocol change is approved, the investigator must incorporate each revision into the written research protocol, and note the revision date on each revised page and on the first page. Whenever a change to an informed consent document is approved, the IRB will affix the expiration date (which does not change by virtue of amendment) to the amended document, and issue a new approval letter, which will stipulate that only this version of the document be used in obtaining consent.

### D.4. Continuing Review and Renewal

Continuing review and re-approval of a research project at least annually is required so long as the project continues to involve human subjects. A research project continues to involve human subjects as long as the investigators conducting the research continue to obtain:

- Data about the subjects of the research through intervention or interaction with them; or
- Identifiable private information about the subjects of the research.

When the only remaining activity of a research project involves the analysis of aggregate data sets without individual subject identifiers, no further continuing review is necessary and a Conclusion Report should be filed (see Section IV.E).

The investigator is responsible for maintaining continuous approval of research activity until closure has been approved. **Under no circumstances may an investigator continue any research activity involving human subjects beyond the IRB expiration date. There is no “grace” period.** Moreover, continuing review is expected to be substantive and meaningful.

At least 60 days prior to the expiration date of any initial or renewed IRB approval, the investigator must submit an Application for Renewal. In completing the form on the UNE IRB web site, applicants are expected to address the following topics:

1. Number of subjects enrolled in the study to date;

2. Withdrawal of subjects from the research since the last IRB review;
3. A summary of any unanticipated problems, and available information regarding adverse events;
4. A summary of any complaints about the research since the last IRB review;
5. Information regarding any amendments or modifications to the research since the last IRB review;
6. Any findings of the research (including multi-site reports);
7. An update on recent literature that may be relevant to the research;
8. Any other relevant information, especially information about risks associated with the research;

Each submission must include all attachments requested in the form, including but not limited to:

9. A protocol summary;
10. A copy of the informed consent document most recently used.

Upon continuing approval the IRB will affix the new expiration date to the informed consent document and stipulate that only copies of this dated document be used in obtaining consent.

If approval lapses for more than 60 days, the IRB will not accept an Application for Renewal. Instead, the investigator must file a Conclusion Report and a new application.

## **E. Conclusion of Research**

A research project no longer involves human subjects once the investigators have finished obtaining data through interaction or intervention with subjects or obtaining identifiable private information about the subjects, which includes the using, studying, or analyzing identifiable private information. Information that links identities of subjects to data gathered should be destroyed as soon as possible in light of the specific aims of the study. (Signed consent forms, which must be retained for 3 years, are not "private information"). In the case of oral histories, once data is permanently archived, a study may be closed and considered completed for IRB purposes.

When a study concludes - whether by withdrawal, termination, completion or otherwise - the investigator must file a Conclusion Report within 30 days. In completing the form on the UNE IRB web site, applicants are expected to report on the progress of the research since the last approval and, in particular, the provisions to protect and destroy confidential information.

All records of IRB communications must be kept on file for three years following termination or completion of research studies.

Results of Conclusion Reports will be reported to the full board each month.

## **F. Important Events**

### **F.1. Notifying the IRB**

Investigators are responsible for reporting to the IRB of the following types of important events. Investigators may notify the IRB by contacting the IRB Chair and IRB Administrator.

Investigators may also be obligated under other policies, regulations or laws to report important events to other institutional authorities and/or to sponsoring or monitoring entities.

### ***Significant Protocol Deviation***

A protocol deviation occurs when there is a variance in a research study between the protocol that has been reviewed and approved by the Institutional Review Board and the actual activities being performed. A deviation is considered significant if it:

- Affects a subject's individual risk;
- Compromises the value of the data collected or decreases the study benefit; or
- Shows evidence of willful or knowing misconduct on the part of the investigator, or demonstrates a serious or continued noncompliance with federal, state or local research policy, laws or regulations.

**Investigators are responsible for reporting to the IRB all significant protocol deviations as soon as possible, and not later than 2 weeks after learning of the deviation.**

### ***Unanticipated Problem***

An unanticipated problem is any event that is:

- Not expected, given the nature of the research procedures and the subject population being studied, and
- Related or possibly related to participation in the research, and
- Places subjects or others at greater risk of harm or discomfort related to the research than was previously known or recognized.

Unanticipated problems generally warrant consideration of substantive changes in the research protocol or informed consent process/document or other corrective actions in order to protect the safety, welfare or rights of subjects or others.

**Investigators are responsible for reporting to the IRB all unanticipated problems as soon as possible, and not later than 2 weeks after learning of the problem.**

### ***Serious Adverse Event***

An adverse research event is an unfavorable occurrence in a human subject that causes physical or psychological harm or injury that is temporarily associated with the subject's participation in the research. An adverse event is considered serious if it:

- Is fatal or life threatening;
- Results in significant or persistent disability;
- Requires or prolongs hospitalization;
- Results in a congenital anomaly/birth defect; or
- May jeopardize the subject's health and may require medical or surgical intervention, based on appropriate medical judgment.

As a rule, only a small subset of adverse events will be considered an unanticipated problem. Conversely, some unanticipated problems do not entail an adverse event.

**Investigators are responsible for reporting to the IRB all serious adverse research events as soon as possible, and not later than 1 week after learning of the event.**

Investigators reporting important events (significant protocol deviation, unanticipated problem, or serious adverse event) should include the following information:

- Protocol title, investigator's name, IRB protocol number
- A detailed description of the event
- An opinion as to the type of event, and the basis for that opinion
- A description of any corrective action that has been taken
- A description of any proposed corrective action, especially any protocol changes

Whenever possible, the Report of Important Event form should be used. However, in urgent situations, verbal and written reports will be accepted. In those cases, the form should still be filed as soon as practicable.

## F.2. Preliminary Review

Whenever an alleged or known important event comes to the attention of the IRB, the IRB Chair will make a preliminary assessment of the reported event and:

- Notify the Vice President for Research and the IRB Administrator;
- If the conditions in [45 CFR 46.113](#) have been met and warrant an emergency protocol suspension, the IRB chair may suspend the protocol immediately and report the action, indicating the reasons, to the investigator, the VPR, IRB members, and any supporting department or agency head.
- If the event is a serious adverse event, or places subjects or others at a greater risk of physical or psychological harm than was previously known or recognized, the IRB chair will notify OHRP.

The IRB chair or his/her designee will conduct an investigation, gathering and analyzing all information regarding the event. When necessary, the investigator will consult with experts in the particular area of research in order to make an informed and unbiased assessment.

The main purposes of the investigation are to:

- verify the nature and seriousness of the event;
- assess the likelihood of a recurrence, and the potential steps to prevent recurrence;
- assess the potential remedial steps (for example, communication with subjects).

If the IRB chair finds that the event was inconsequential, the matter will be closed.

If the IRB chair finds that a recurrence of the event is unlikely or could be easily averted, and remediation is simple, s/he will notify the investigator, in writing, indicating what, if any, corrective actions must be taken. Upon a satisfactory response by the investigator, if any is required, the matter will be closed.

Otherwise, the matter will be referred for formal proceedings.

The IRB chair will present a summary of the issues, process, facts, conclusions and actions to the full IRB at its next meeting, and to the Vice President for Research and the IRB Administrator.

## F.3. Formal Proceedings

Upon referral for formal proceedings, the IRB chair will convene a formal hearing committee to consider all the facts of the case. The hearing committee will consist of:

- IRB members;

- Any assigned Investigator(s);
- Any required or assigned specialists.

The committee will review the event report, the original IRB review forms, the original approval letter, renewals, and any IRB protocol monitoring notes for possible links of the event with the research procedure. The committee will discuss the protocol in light of the event, using the same criteria as for an Application for Initial Approval (see Section D2 above) to assure that the protocol continues to adequately protect research participants.

Depending on the nature and the seriousness of the event, the committee may, upon a majority vote, direct the IRB to take any of the following actions:

- Suspend or terminate the protocol. If suspension of the protocol or study procedures would result in harm to the enrolled research participants, the IRB chair or the designated investigator(s) will request that the Principal Investigator's department chair assign Principal Investigator's duties to another qualified person and submit an Application for Protocol Amendment, explaining this substitution and indicating temporary closure of the study. In this situation the official action will be the suspension of the investigator ([45 CFR 46.109 \(d\)](#)).
- Audit all protocols involving the Principal Investigator in question using procedures for monitoring enumerated in Section IV.D.2.
- If the findings of the hearing committee support research misconduct (as defined under federal regulations [42 CFR 93.103](#)) or professional misconduct (as defined under relevant UNE policy on Scientific Misconduct), the Vice President for Research will be notified and conduct an appropriate investigation.
- Require additional safeguards and/or changes in the informed consent procedure to prevent additional adverse events or inform participants of the adverse events associated with the study to date.

Within 30 days following a formal review of the event, the committee must submit a follow-up report to the IRB Chair, with a copy to the IRB Administrator. This report will be reviewed by the IRB at the next IRB meeting to assess the adequacy and effectiveness of the protocol protections. If necessary the IRB may require additional changes. The investigator will be notified in writing if any additional changes are required.

Upon conclusion of the proceedings, the IRB chair, with the assistance of any designated investigator(s), will (a) prepare a written summary of the issues, process, facts, conclusions and actions (b) present it at the next IRB meeting, (c) send a copy to the Principal Investigator, the Principal Investigator's department chair, and the appropriate dean or director, and (d) prepare the requisite report for the VPR to file with the Office of Human Research Protection (OHRP) and, if appropriate, the research protocol's sponsor.

## V. IRB Structure

### A. IRB Membership

#### A.1. Board Composition

The IRB will be sufficiently qualified through the experience and expertise of its members, and the diversity of the members, including consideration of race, gender, and cultural backgrounds and sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law, and standards of professional conduct and practice.

The IRB will consist of at least 5 voting members with varying backgrounds that promote complete and adequate review of research conducted at UNE. At a minimum, the UNE IRB will be composed of (some individual members may fulfill more than one category):

1. IRB chair
2. One person from the UNE community (faculty or staff only)
3. Two community members not affiliated with the University
4. One scientist (MD, Ph.D. or other appropriate scientific degree)
5. One non-scientist (Ph.D., JD, MS or other appropriate non-scientific degree)
6. One person serving as the official IRB Prisoner Representative

Additional members or attendees may include:

7. One person serving as the official IRB Child Representative
8. IRB Administrator
9. Alternates
10. Student members
11. Non-voting members (to provide special expertise or represent specific groups)

#### A.2. Appointment, Duration and Termination

On behalf of UNE, the Vice President for Research (VPR) appoints all members of the IRB, with the consent of the member and the IRB chair. Appointments are normally for a 3-year term, to minimize the impact of turnover and insure a consistent voting membership. Members without prior experience may receive a shorter term for their first appointment. Within 60 calendar days of each appointment, the VPR will send the member an appointment letter stating the appointment date, term, basic responsibilities, and UNE indemnification policies.

The VPR appoints the IRB chair, who will be either a tenured faculty member or a staff person, for a term of 3 years, which may be renewed if the chair accepts. The IRB chair's contributions will be acknowledged with a stipend and/or course release, which may be adjusted from time to time, and membership in PRIM&R (Professional Responsibility in Medicine & Research).

Any IRB member may voluntarily resign their membership with advanced notice. As a matter of courtesy, it is requested that any member wishing to do so provide a written notice to the IRB Chair and to their Dept. Chair and Dean, at least 60 days prior to leaving. No justification is required.

An IRB member (including the IRB Chair) may be involuntarily terminated from the IRB for:

- Professional misconduct;
- Research misconduct, as defined under federal regulations;
- Breach of membership duties, e.g., attendance;
- Unethical or illegal activities related to their duties and obligations to the IRB; or
- A supermajority (75%) vote of all IRB voting members (minus the member in question).

The IRB Administrator will maintain an official roster of IRB membership, and update the official IRB roster of members with OHRP as is required under the terms of our Federalwide Assurance.

### **A.3. Member Duties**

All members, including the chair, have full voting rights and privileges.

All members are expected to:

1. Attend regularly scheduled meetings or notify the IRB Administrator in advance if unable to attend. Frequent absence may result in loss of membership status;
2. Serve as a reviewer for expedited protocols, and/or serve as primary reviewer for Full-Board reviews, upon request;
3. Sufficiently prepare for protocol reviews by reading all submitted application materials, and take an active part in the deliberation process when present for full board meetings;
4. Recuse oneself from voting or participating in IRB business when the member is the topic of business, including when the member is the PI or key personnel on an application under review;
5. Recuse oneself from voting or participating in IRB business when the member has a real or perceived conflict of interest concerning the matter at hand.

In addition, members must fulfill the following educational requirements:

6. Complete the CITI online IRB Members training module on Human Subjects Protection (<http://www.citiprogram.org/default.asp?language=english>) before voting, and every 24 months thereafter.
7. Maintain any special or required credentials for those serving in specialized roles.

## **B. IRB Meetings**

The IRB will meet once per month, or more or less frequently as needed, to conduct official business. The IRB Chair has the discretion to call for additional meeting sessions or for longer meeting times in order to meet IRB obligations.

At least one week before each IRB meeting, the IRB Administrator will prepare and the IRB Chair will approve a meeting agenda and the Administrator will send by email all submissions to

be reviewed, including all attachments, to every member of the IRB. Along with each application for renewal or amendment, and with other actions as needed, the Administrator will also re-send the original protocol, along with any subsequent amendment and/or approval.

Applications that are not expedited may be reviewed only at convened IRB meetings at which a majority of the members are present, including at least one member whose primary concerns are in nonscientific areas (a quorum). Should the quorum fail during a meeting (e.g., loss of a majority through recusal of members with conflicting interests or early departure, or absence of a nonscientist member), the IRB may take no further action or vote unless the quorum can be restored.

No IRB member may participate in reviewing an application in which the member has a conflicting interest, except to provide information requested by the IRB. IRB members are expected to absent themselves from the meeting room when the IRB reviews research in which they have a conflicting interest, except when the IRB requests that they be present in order to provide information.

All meetings will be conducted in closed door sessions, unless non-IRB personnel are invited to attend.

### **B.1. Minutes of IRB Meetings**

At every IRB meeting the IRB Administrator, or other designated individual, will record minutes of the meeting. All minutes will include, at a minimum:

1. Members in attendance and absent;
2. For every decision or action taken:
  - Full statement of any motion made;
  - Deliberations;
  - Decision;
  - Number of members voting, and the number of votes for, against, and abstaining;
  - Reasons for votes against the motion.
3. Deliberations, actions, and votes for each application reviewed, including but not limited to:
  - Four findings required under [45 CFR 46.116\(d\)](#) whenever the IRB approves a consent procedure that alters some or all of the required elements of informed consent or when waiving the requirement to obtain informed consent – and the protocol-specific information justifying each finding;
  - Specific findings required when approving research involving pregnant women, human fetuses or neonates ([45 CFR 46.204-207](#)), prisoners ([45 CFR 46.305-306](#)), or children ([45 CFR 46.404-407](#));
  - Determinations of approval period (review interval) and level of risk for each protocol approved - in particular when risk is a basis for requiring review more often than annually;
4. Summary of any formal UNE Policy changes, changes in Federal regulations or guidance, about which the Full IRB Board needs to be informed;
5. Summary of discussions held during the meeting;

The IRB Administrator will supply copies of the meeting minutes to all IRB members, and the UNE IO, in advance of the subsequent meeting. In addition, the IRB Administrator will append a summary of activity during the intervening interval, including, but not limited to;

- Expedited Reviews (new applications, continuing reviews, minor protocol revisions);
- Ongoing Research Reports;
- Reports of Important Events (protocol deviation, unanticipated problem, or serious adverse event)

Minutes will be presented to the IRB at each meeting for approval, and will be kept on file for a minimum of three years.

## C. Administration

### C.1. IRB Administrator

The IRB Administrator is UNE's primary institutional agent who exercises operational responsibility, on a day-to-day basis, for UNE's IRB program. The IRB Administrator's duties and responsibilities include, but are not limited to:

- Review human subjects research protocols in order to ensure that regulatory compliance requirements are met and appropriate ethical conduct standards are upheld;
- Provide technical assistance to the IRB, and update the IRB on current changes in federal policies and guidance;
- Provide assistance in drafting and administering UNE's policies and procedures governing the ethical conduct of human subjects research and associated activities;
- Provide professional, technical, and educational assistance to members of the UNE community on all aspects of the ethical conduct of human subjects research and associated activities; and
- Perform initial detection and inquiry into possible important events and make preliminary recommendations.

Under the direction of the IRB Chair, the IRB Administrator may:

- Review Applications for Exemption, Expedited Review, Continuing Review, Amendment;
- Assign reviewers to applications;
- Sign approval letters;
- Approve minor protocol changes;
- Monitor protocols for compliance;
- Audit an investigator's protocols

### C.2. Record Keeping

The IRB Administrator is responsible for maintaining all protocol files, including

- Applications (including any associated funding applications) and reports;
- Approved informed consent documents;
- Research instruments and recruitment materials used and any other supporting documentation;
- Records of protocol review and continuing review activities; and
- Correspondence between the IRB and investigators;
- HIPAA applications and forms reviewed by the IRB;
- Other related information,

on behalf of the IRB, to ensure compliance with HHS regulations at [45 CFR 46.115\(a\)\(1\), \(3\), \(4\) and \(7\)](#). The IRB Administrator will provide copies of documents to OHRP upon request.

Protocol files and records include paper and/or electronic versions. Protocol files will be maintained and retained for a minimum period of time as follows:

- Active Protocols - throughout the approval period including any continuing reviews.
- Disapproved protocols – 2 years from the date of disapproval.
- Determinations of “Not Research with Human Subjects” or Exempt from IRB Oversight (including Student Classroom Projects) – 4 years from the most recent action taken.
- Completed Protocols (Expedited or Full-Board) - 3 years after the research ends.
- HIPAA forms – 6 years after the research ends.

These procedures notwithstanding, each researcher is responsible for maintaining their own records. **The OHRP requires that the PI keep informed consent documents until three years after the research ends.**

Once the retention period has expired, the entire file and all corresponding records (paper and electronic) may be destroyed and/or purged. Paper files will be destroyed by shredding or any currently approved method. Electronic files and/or electronic storage media will be deleted and/or destroyed by any currently approved method. Some electronic information may be retained in IRB databases for purposes of historical tracking or other required obligations.

In addition, the IRB Administrator will:

1. Prepare and maintain records of IRB activities (meeting minutes, training materials) for at least 3 years;
2. Maintain a current list of IRB members and their qualifications for serving on the board.

## VI. Glossary

**Adverse research event:** An unfavorable occurrence in a human subject that causes physical or psychological harm or injury that is temporarily associated with the subject's participation in the research. An adverse event is considered **serious** if it: (a) is fatal or life threatening; (b) results in significant or persistent disability; (c) requires or prolongs hospitalization; (d) results in a congenital anomaly/birth defect; or (e) may jeopardize the subject's health and may require medical or surgical intervention, based on appropriate medical judgment.

**Assent:** A Child's affirmative agreement to participate in research. Mere failure to object should not, absent affirmative agreement, be construed as assent.

**Certificate of confidentiality:** A discretionary document procured from the National Institutes of Health which helps researchers protect the privacy of human research participants enrolled in biomedical, behavioral, clinical and other forms of sensitive research. Certificates protect against compulsory legal demands, such as court orders and subpoenas, for identifying information or identifying characteristics of a research participant. Further information is available at <http://grants1.nih.gov/grants/policy/coc/>.

**Children:** Persons who have not attained the legal age for consent to treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted.

**Coercion:** To bring about participation in research by force or threat, actual or perceived, or through any other imbalance of power.

**Covered entity:** An entity to which HIPAA Privacy Regulations apply. These include: (a) a health plan; (b) a health care clearinghouse; and (c) a health care provider who transmits any health information in electronic form in connection with one of the following 11 transactions: (i) health care claims or equivalent encounter information; (ii) health care payment and remittance advice; (iii) coordination of benefits; (iv) health care claims status; (v) enrollment and disenrollment in a health plan; (vi) eligibility for a health plan; (vii) health plan premium payments; (viii) referral certification and authorization; (ix) first report of injury; (x) health claims attachments; and (xi) other transactions that the Secretary of DHHS may prescribe by regulation. [45 CFR 160.103](#).

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

**Delivery:** Complete separation of the fetus from the woman by expulsion or extraction or any other means.

**Fetus:** The product of conception from implantation until delivery.

**Generalizable knowledge:** Information that has the potential to be expanded from the isolated circumstances in which it is acquired to any broader context. (Thus, a case study that illuminates the course of a single individual's experience generally will not be considered to be research, whereas a series of case studies intended to lead to improvements in the management of a particular condition generally will be considered research).

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

**Human subject:** A living individual about whom an investigator (whether professional or student) conducting research obtains:

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

**Identifiable:** The identity of the subject is or may readily be ascertained by the investigator or associated with the information. Private information must be individually identifiable in order for obtaining the information to constitute research involving human subjects.

**Intervention** includes both physical procedures by which data are gathered (for example, 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.

**Key personnel:** Persons who have direct contact with subjects, contribute to the research in a substantive way, have contact with subjects' identifiable data or biological samples (e.g., tissue, blood, urine, plasma, saliva), or use subjects' personal information.

**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 living or during the performance of routine physical or psychological examinations or tests ([45 CFR 46.102 \(i\)](#)).

**Neonate:** Means a newborn.

**Nonviable neonate:** A neonate after delivery that, although living, is not viable.

**Parent:** a child's biological or adoptive parent.

**Principal investigator (PI):** The primary person responsible for all aspects of the research project and results.

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

**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 which has been provided for specific purposes by an individual and which the individual can reasonably expect will not be made public (for example, a medical record).

**Protected health information (PHI):** Individually identifiable information that relates to a person's present or future physical or mental health or condition, transmitted or maintained in any form, but excluding (a) education records covered by the Family Educational Rights and Privacy Act (FERPA) and (b) employment records held by the University of New England in its role as employer.

**Protocol deviation:** A variance in a research study between the protocol that has been reviewed and approved by the Institutional Review Board and the actual activities being performed. A deviation is considered **significant** if it: (a) affects a subject's individual risk; (b) compromises the value of the data collected or decreases the study benefit; or (c) shows evidence of willful or knowing misconduct on the part of the investigator, or demonstrates a serious or continued noncompliance with federal, state or local research policy, laws or regulations.

**Research misconduct:** Fabrication, falsification, or plagiarism in proposing, performing, or reviewing research, or in reporting research results.

- Fabrication is making up data or results and recording or reporting them.
- Falsification is manipulating research materials, equipment, or processes, or changing or omitting data or results such that the research is not accurately represented in the research record.
- Plagiarism is the appropriation of another person's ideas, processes, results, or words without giving appropriate credit.
- Research misconduct does not include honest error or differences of opinion.

**Research:** A systematic investigation - including research development, testing and evaluation - designed to develop or contribute to generalizable knowledge.

- Research may take place as part of a demonstration or service program.
- The level of risk has no bearing on whether or not a proposed activity constitutes "research".

**Research Staff:** Any person who 1) obtains consent from a research participant, or 2) obtains data through intervention or interaction with the individual, or 3) obtains identifiable private information pertaining to a research subject.

**Sensitive information:** According to the [NIH Certificate of Confidentiality Kiosk](#), sensitive information is that which, if disclosed, may reasonably pose a risk to the subject's psychological, social, medical, legal, or economic well being or quality of life. Categories of sensitive information include (but are not limited to):

1. Sexual attitudes, preferences, or practices
2. Use of alcohol, drugs, or other addictive products
3. Information pertaining to illegal conduct
4. Information that if released might be damaging to an individual's financial standing, employability, or reputation within the community or might lead to social stigmatization or discrimination
5. Health and medical information contained in a medical record, chart or insurance file (this category may also requires a HIPAA review)
6. Information pertaining to an individual's psychological well-being or mental health (this category may also requires a HIPAA review)
7. Genetic information or tissue samples (this category may also requires a HIPAA review)

**Specimen:** Samples of biological products, such as blood, other body fluids or tissue. Also, other types of data "specimens" that could be stored for use in future research (e.g. audio tapes, video tapes, etc.).

**Substantive change:** Any change that may increase the research population's risk. Examples include:

1. Increasing the length of time a study participant is exposed to experimental aspects of the study.
2. Changing the originally targeted population to include a more at-risk population (example: previous exclusion for those with renal failure are now allowed to enroll, or adding children or pregnant women to the study).
3. Adding an element that may breach the confidentiality of the subject such as tissue banking or genetic testing.

**Unanticipated problem:** Any event that is (a) not expected given the nature of the research procedures, and the subject population being studied, (b) related or possibly related to participation in the research, and (c) places subjects or others at greater risk or harm/discomfort related to the research than was previously known or recognized. An event which was previously unforeseeable based on the information provided to the IRB.

**Undue influence:** Inappropriate remuneration or any other form of compulsion offered to an individual that may unfairly compel that individual to participate as a human research subject.