Child Risk Assessment & Assent
August 2018

THE UNIVERSITY of NORTH CAROLINA at CHAPEL HILL

The Federal Regulations

- 45 CFR 46.111 Subpart D
- 21 CFR 56.111 Subpart D

Risk Categories Based On:

-- Level of Risk

-- Potential for Benefit

Four Risk Categories

I. Research not involving greater than minimal risk (45 CFR 46.404)

II. Research involving greater than minimal risk but presenting the prospect of direct benefit to the individual subjects (45 CFR 46.405)

III. Research involving greater than minimal risk and no prospect of direct benefit to individual subjects, but likely to yield generalizable knowledge about the subject's disorder or condition (45 CFR 46.406).

(b) Exemptions at §46.101(b)(1) and (b)(3) through (b)(6) are applicable to this subpart. The exemption at §46.101(b)(2) regarding educational tests is also applicable to this subpart. ***However, the exemption at §46.101(b)(2) for research involving survey or interview procedures or observations of public behavior does not apply to research covered by this subpart, except for research involving observation of public behavior when the investigator(s) do not participate in the activities being observed.***

Four Risk Categories

IV. Research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of children (45 CFR 46.407).

Research falling into this category is not commonly seen.

Research not involving greater than minimal risk (45 CFR 46.404/21 CFR 56.404)

- 1 parent signature is OK.
- If a minimal risk study, generally will not go to full IRB for review. ***Unless,***
  - One cohort is a control group not receiving drug.
  - Expedited reviewer wanted full board input.
  - If IRB decides on 404, then documentation must show study or child part is minimal risk.

Research involving greater than minimal risk but presenting the prospect of direct benefit to the individual subjects (45 CFR 46.405/21 CFR 56.405)

- **Greater than Minimal Risk** but presenting the prospect of **direct benefit** to the individual child

IRB MUST find that one parent is sufficient or require both parents.

OR

§46.406 Research involving greater than minimal risk and no prospect of direct benefit to individual subjects, but likely to yield generalizable knowledge about the subject's disorder or condition.

HHS will conduct or fund research in which the IRB finds that more than minimal risk to children is presented by an intervention or procedure that does not hold out the prospect of direct benefit for the individual subject, or by a monitoring procedure which is not likely to contribute to the well-being of the subject, only if the IRB finds that:

(a) The risk represents a minor increase over minimal risk;

(b) The intervention or procedure presents experiences to subjects that are reasonably commensurate with those inherent in their actual or expected medical, dental, psychological, social, or educational situations;

(c) The intervention or procedure is likely to yield generalizable knowledge about the subjects' disorder or condition which is of vital importance for the understanding or amelioration of the subjects' disorder or condition; **and**

(d) Adequate provisions are made for soliciting assent of the children and permission of their parents or guardians, as set forth in §46.408.

Research involving greater than minimal risk and no prospect of direct benefit to individual subjects, but likely to yield generalizable knowledge about the subject's disorder or condition (45 CFR 46.406/21 CFR 56.406)

- **Greater than Minimal Risk** and **no** reasonable prospect of **direct benefit** to the individual subject, but likely to **yield generalizable knowledge** about the subject's disorder or condition

Both parents or legally appointed guardian MUST give consent

UNLESS:

- ***Only 1 parent has custody,***
- ***Parent is* deceased, unknown, incompetent, or not reasonably available,**
  - ***for example is in a war zone.***

Research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of children (45 CFR 46.407/21 CFR 56.407)

- ***Study MUST then be referred to the Secretary of Health & Human Services, a notice will be posted in the Federal Register a panel will be convened to review and make a recommendation.***

- ***HHS/OHRP/FDA determination, and BOTH parents or legally appointed guardian MUST give consent***

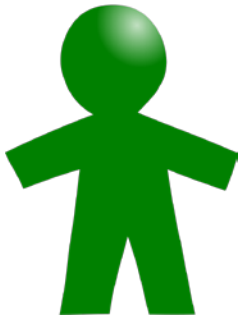
Waiver of Parental or Legal Guardian Permission When…

- Normal criteria for waiver of consent per .116
- If a "research protocol is designed for conditions or for a subject populations for which ***parental or guardian permission is not a reasonable requirement to protect the subjects (for example, neglected or abused children)***, it may waive the consent requirements."
- Investigators must provide, and the IRB must agree that:
    1. **an appropriate mechanism for protecting the children who will participate as subjects in the research is substituted, and**
    2. **the waiver is not inconsistent with Federal, State, or local law.**

Waiver of Assent Allowed When….

- Limited capability, both developmental stage & capacity
- The research intervention/procedure holds out a prospect of direct benefit that is important to the health or well being of the child and is available only in the context of the research **(405)**
- Waived under 45 CFR 46.116

ASSENT of Children: Topics to Cover



- Oral or written format
- When NO means NO – Veto Assent, ***except***
- When parent(s) can overrule child's no
- Re-consent of children when they reach majority & study continues.

Assent of Children

- A child's affirmative agreement to participate in research
- The ages, maturity, and psychological state of the children involved
- In general, at UNC ages 7-18 asked either verbal or written assent obtained.

When NO means NO &
When parent(s) can overrule a child's no

- Any child asked for assent and says NO, then NO means NO.

UNLESS

- Child lacks capacity to give assent initially
- Research study holds only prospect for possible benefit for the child's condition; then parent(s) can overrule their no.

Re-consent of children when they reach majority & study continues

Once a child subject reaches the age of majority –generally 18—they must be re-consented as a study participant using an adult consent form.