**Human Research Ethics Training Tips**

**Additional Criteria for Research Involving Neonates of Uncertain Viability (45 CFR 46.205)** [Neonate means a newborn]

***Vulnerable Definition: Adjective***

**1. capable of or susceptible to being wounded or hurt, as by a weapon: *a vulnerable part of the body.***

**2. open to moral attack, criticism, temptation, etc.: *an argument vulnerable to refutation; He is vulnerable to bribery.***

**3. (of a place) open to assault; difficult to defend: *a vulnerable bridge.***

**4. *capable of being physically or emotionally wounded or hurt***

**5. *open to temptation, persuasion, censure, etc.***

**6. *liable or exposed to disease, disaster, etc.*  *Dictionary.com***

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| **Additional Criteria for Research Involving Neonates of Uncertain Viability** (**All must be “Yes”)(45 CFR 46.205)** |
| |  |  |  | | --- | --- | --- | | **Yes** | **No** | 1. Where scientifically appropriate, preclinical and clinical studies have been conducted and provide data for assessing potential risks to neonates. | | **Yes** | **No** | 2. Each individual providing consent is fully informed regarding the reasonably foreseeable impact of the research on the neonate. | | **Yes** | **No** | 3. Individuals engaged in the research will have no part in determining the viability of a neonate. | | **Yes** | **No** | 4. The IRB determines that one of the following is true:  The research holds out the prospect of enhancing the probability of survival of the neonate to the point of viability, and any risks is the least possible for achieving that objective; or  The purpose of the research is the development of important biomedical knowledge which cannot be obtained by other means and there will be no added risk to the neonate resulting from the research. | | **Yes** | **No** | 5. The legally effective **informed consent of either parent of the neonate** or, if neither parent is able to consent because ***of unavailability, incompetence, or temporary incapacity, the legally effective informed consent of either parent’s legally authorized representative is obtained*** in accord with 45 CFR 46 Subpart A, except that the consent of the father or his legally authorized representative need not be obtained if the pregnancy resulted from rape or incest. (Provide justification if the consent process is waived.) | | **Additional Criteria for Research Involving Neonates of Uncertain Viability that is Otherwise Not Approvable** (All must be “Yes”) **(45 CFR 46.205)** | | | | **Yes** | **No** | The research does not meet the requirements of 45 CFR 46.205 | | **Yes** | **No** | The research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health of welfare of pregnant women, fetuses, or neonates. | | **Additional Criteria for Research Involving Nonviable Neonates** (***All must be “Yes”)* (45 CFR 46.205)**   |  |  |  |  | | --- | --- | --- | --- | | **Yes** | **No** | Vital functions of the neonate will not be artificially maintained | | | **Yes** | **No** | The research will not terminate the heartbeat or respiration of the neonate | | | **Yes** | **No** | There will be no added risk to the neonate resulting from the research | | | **Yes** | **No** | The purpose of the research is the development of important biomedical knowledge that cannot be obtained by other means | | | **Yes** | **No** | The legally effective informed ***consent of both parents of the neonate is obtained*** in accord with 45 CFR 46 Subpart A, except that the waiver provisions of 46.116(c) and (d) do not apply. ***If either parent is unable to consent because of unavailability, incompetence, or temporary incapacity, th***e informed consent of one parent of a nonviable neonate will suffice to meet the requirements, except that the consent of the father need not be obtained if the pregnancy resulted from rape or incest. The consent of a legally authorized representative of either or both of the parents of a nonviable neonate will not suffice to meet the requirements. | | | | |

**§46.205 Research involving neonates.**

(a) Neonates of uncertain viability and nonviable neonates may be involved in research if all of the following conditions are met:

 (1) Where scientifically appropriate, preclinical and clinical studies have been conducted and provide data for assessing potential risks to neonates.

 (2) Each individual providing consent under paragraph [(b)(2)](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/common-rule-subpart-b/index.html#46.205(b)(2)) or [(c)(5)](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/common-rule-subpart-b/index.html#46.205(c)(5)) of this section is fully informed regarding the reasonably foreseeable impact of the research on the neonate.

 (3) Individuals engaged in the research will have no part in determining the viability of a neonate.

 (4) The requirements of paragraph [(b)](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/common-rule-subpart-b/index.html#46.205(b)) or [(c)](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/common-rule-subpart-b/index.html#46.205(c)) of this section have been met as applicable.

(b) Neonates of uncertain viability.  Until it has been ascertained whether or not a neonate is viable, a neonate may not be involved in research covered by this subpart unless the following additional conditions have been met:

**(1) The IRB determines that:**

*(i) The research holds out the prospect of enhancing the probability of survival of the neonate to the point of viability, and any risk is the least possible for achieving that objective,* ***or***

*(ii) The purpose of the research is the development of important biomedical knowledge which cannot be obtained by other means and there will be no added risk to the neonate resulting from the research;* ***and***

*(2) The legally effective informed consent of either parent of the neonate or, if neither parent is able to consent because of unavailability, incompetence, or temporary incapacity, the legally effective informed consent of either parent's legally authorized representative is obtained in accord with*[*subpart A*](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/regulatory-text/index.html#subparta)*of*[*this part*](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/regulatory-text/index.html#part46)*, except that the consent of the father or his legally authorized representative need not be obtained if the pregnancy resulted from rape or incest.*

(c) Nonviable neonates. After delivery nonviable neonate may not be involved in research covered by this subpart unless all of the following additional conditions are met:

 (1) Vital functions of the neonate will not be artificially maintained;

 (2) The research will not terminate the heartbeat or respiration of the neonate;

 (3) There will be no added risk to the neonate resulting from the research;

 (4) The purpose of the research is the development of important biomedical knowledge that cannot be obtained by other means; and

 (5) The legally effective informed consent of both parents of the neonate is obtained in accord with [subpart A](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/regulatory-text/index.html#subparta) of [this part](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/regulatory-text/index.html#part46), except that the waiver and alteration provisions of [§46.116(c)](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/regulatory-text/index.html#46.116) and [(d)](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/regulatory-text/index.html#46.116) do not apply. However, if either parent is unable to consent because of unavailability, incompetence, or temporary incapacity, the informed consent of one parent of a nonviable neonate will suffice to meet the requirements of this paragraph (c)(5), except that the consent of the father need not be obtained if the pregnancy resulted from rape or incest. The consent of a legally authorized representative of either or both of the parents of a nonviable neonate will not suffice to meet the requirements of this paragraph (c)(5).

(d) Viable neonates. A neonate, after delivery, that has been determined to be viable may be included in research only to the extent permitted by and in accord with the requirements of [subparts A](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/regulatory-text/index.html#subparta) and [D](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/45-cfr-46/common-rule-subpart-d/index.html) of [this part](https://www.hhs.gov/ohrp/regulations-and-policy/regulations/regulatory-text/index.html#part46).