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WSU HRPP Policy Guidance Document

Department of Defense Requirements for Human Participant Research Protection

HRPP Policy 6-6 Department of Defense Requirements for Human Participant Research

The following policy guidance is summary to address updates and clarifications to the **HRPP Policy 6-6 Department of Defense Requirements for Human Participant Research** (current version 10.2024) and supporting documents including IRB's Department of Defense Submission Addendum and IRB's DOD Reviewer Checklist. This policy guidance is also provided to update the WSU IRB processes and procedures to be inline and current with DOD Instruction 3216.02 PROTECTION OF HUMAN SUBJECTS AND ADHERENCE TO ETHICAL STANDARDS IN DOD-CONDUCTED AND-SUPPORTED RESEARCH directives. The full policy and supporting documents will be released March 2025. Please contact the IRB Administrative Office for assistance with DOD funded or supported submissions.

MAJOR POLICY CHANGES

- Removed Requirement of Research Monitor
  - DoDI no longer requires a research monitor. For existing DoD supported research, researchers may submit an amendment for IRB approval to remove the research monitor requirement (AAHRPP Element II.3.B)
- Throughout the policy revised reference from "subject" to "participant"
- Clarifications and additions include the following: DoD Policy Definitions (Large Scale Genomic Data (LSGD), Research involving a human being as an experimental participant, chemical and biological agents), Clarified/Addition of Prohibited DoD Research, Informed Consent/HIPAA Authorization Requirements for DoD Supported Research, Additional Consent/Authorization Elements for DoD Supported Research, Component-Level Administrative Review: Waivers and Alterations of Informed Consent, Additional Protections for Vulnerable Participants, International Research, Single IRB Mandate/Multi site cooperative research activities, Reporting Requirements/Allegations of Non-Compliance, and Requirements for Large Scale Genomic Data (LSGD) Research on DoD-Affiliate Personnel.

SUMMARY OF CHANGES

Clarified the following items per AAHRPP Element I.1.A

- WSU allows research involving experimental participants when conducted in accordance with the U.S. Armed Forces 10 USC 980 *"Limitation on use of humans as experimental subjects"*, as implemented by DoDI 3216.02, section 3.11 as described in this guidance and IRB Policy 6-6 Department of Defense Requirements for Human Participant Research.

- WSU also allows DoD supported research involving experimental participants accordance with 10 USC 980, as implemented by DoDI 3216.01, section 3.11.

DOD POLICY DEFINITIONS:

Per AAHRPP Standard I-2 & Element I.1.A

Large Scale Genomic Data (LSGD):
(Added Definition per AAHRPP Element II.3.E)

Data derived from genome-wide association studies; single nucleotide polymorphisms arrays; genome sequencing; transcriptomic, metagenomic, epigenomic analyses; and gene expression data; etc. Research involving LSGD may or may not also constitute human participant research. Examples of research involving LSGD includes, but is not limited to, projects that involve generating the whole genome sequence data for more than one gene from more than 1,000 individuals or analyzing 100 or more genetic variants in more than 1,000 individuals

Research involving a human being as an experimental participant:
(Clarified definition per AAHRPP Element I.1.A)

Per DoDI 3216.02, research involving a human being as an experimental participant is defined as *"An activity for research purposes, where there is an intervention or interaction with a human being for the primary purpose of obtaining data regarding the effect of the intervention or interaction. Research involving a human being as an experimental participant is a subset of research involving human participants"*

- Note: This definition relates only to the application of 10 U.S.C. 980; it does not affect the application of the Common Rule at 32 CFR 219.

Chemical agents:
(Added definition per AAHRPP Element I.1.A)

A chemical substance that is intended for use in military operations to kill, seriously injure, or incapacitate a person through its physiological effects. Excluded from consideration are riot control agents, chemical herbicides, smoke, and flame. (Section 1520a of Title 50, United States Code (U.S.C.)).

Biological agent:
(Added Definition per AAHRPP Element I.1.A)

Micro-organism (including bacteria, viruses, fungi, rickettsia, or protozoa), pathogen, or infectious substance, and any naturally occurring, bioengineered, or synthesized component of any such micro-organism, pathogen, or infectious substance, whatever its origin or method of production, that is capable of causing death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism; or deterioration of food, water, equipment, supplies, or materials of any kind; or deleterious alteration of the environment (DoD Directive 5210.65).

ADDITION OF PROHIBITED DOD RESEARCH:

Clarified the following items per AAHRPP Element I.1.A & Element II.4.A

Research involving Chemical or Biological Agents:
(Added the following items per AAHRPP Element I.1.A)

Human participants research for the testing of chemical or biological agents is prohibited with exceptions for certain prophylactic, protective, or other peaceful purposes. Exceptions from the prohibition for such

research must receive explicit written approval from the DoD Office for Human Research Protections (DOHRP).

Classified Research:
(Added the following items per AAHRPP Element I.1.A)

Per Wayne State University Code University Research policy section 2.41.01.140 (AAHRPP Submission Page 254): Classified research, that is any research placed under restrictions that prevent it from being freely described and its results openly published in the traditional manner, shall be excluded. This provision may be waived in a national emergency, and then only in circumstances that require University participation. A sponsor, upon request, may have the privilege of reviewing a report of the results of an investigation prior to publication, but publication delays beyond 90 days are not acceptable. Additional details about this process is described in the Wayne State University policy titled: Requesting a Waiver for Restricted and Proprietary Research (AAHRPP Submission Page 533)

DoD-conducted or supported human participant research is considered classified research when:

- Classified information is required for IRB review and oversight of the research
- Classified information must be provided to human participants, or their guardians, during the recruitment or informed consent process in order to achieve fully effective legal consent.
- Classified information is provided to, or by, research participants.

DoD-conducted or supported human participant research is not considered classified research when:

- If the research is a part of a classified program, but the research itself is not classified; if the information required in the research protocol is not classified; if the information needed by the IRB is not classified; or if the information required by the human participant is not classified.
- If the research constitutes an authorized operational activity per 32 CFR 219.102(l)(4) (because it is deemed 'Not Research')
- Research that requires participants to hold a clearance as a means of creating ease of entry or access to controlled spaces where the research will occur does not constitute classified human participants research unless one of the conditions described in the above "is considered classified" bullets also exists.

Under such national security circumstances, investigators who seek to engage in classified research must obtain special permission from WSU's Institutional Official (IO) who will engage other appropriate organizational leaders in the decision-making process. Upon approval from the IO, classified research must adhere to the following DoD restrictions:

- Waivers of consent are prohibited for DoD classified research.
- No DoD agency within the Intelligence Community may sponsor, contract for, or conduct non-exempt human participants research except in accordance with Paragraph 2.10 of Executive Order 12333 and DoD 5240.1.
- The DOHRP is the final approval authority for all DoD-conducted or supported classified human participant research. The Senior Designated Official (SDO) of the relevant DoD component must submit a package to the DOHRP for approval to conduct the classified human participant research before the research can commence.

Captured or detained persons of war:
(Clarified the following items per AAHRPP Element II.4.A)

This prohibition does not apply to activities covered by the Investigational New Drug (IND) or Investigational Device Exemption (IDE) provisions of the FDA regulations at Title 21, CFR, when the purpose is for diagnosis or treatment of a medical condition in a patient. Such treatment may be offered to detainees or prisoners of war with their informed consent when the medical products are participant to FDA regulations and only when the same product may be available to DoD-affiliated personnel consistent with established medical practices.

INFORMED CONSENT/HIPAA AUTHORIZATION REQUIREMENTS FOR DOD SUPPORTED RESEARCH:

(Clarified the following items per AAHRPP Elements II.3.F & II.3.G)

10 U.S.C. 980 addresses requirements related to informed consent, or the waiver thereof, for research supported by DoD funds that involves a human being as an experimental participant. When WSU investigators engage in non-exempt research involving a human being as an experimental participant that is supported or conducted by the DoD, informed consent must be obtained in advance from the experimental participant or their legally authorized representative (LAR) if the participant cannot consent. If consent is to be obtained from a LAR, the research must be intended to be beneficial to the participant

- If the participant is unable to provide informed consent and consent will be obtained in advance from the participant's legal representative, the research must be intended to benefit the individual participants.

See IRB Policies 9-1 Requirements of Informed Consent, & 9-4 Obtaining Permission from Legally Authorized Representatives or Family Members for more information.

ADDITIONAL CONSENT/AUTHORIZATION ELEMENTS FOR DOD SUPPORTED RESEARCH:

(Clarified the following items per AAHRPP Elements II.3.F & II.3.G)

When consent is to be obtained from participants in DoD-conducted or supported research, the following additional information should be provided to potential participants in the consent document when applicable unless the requirement is waived by the DoD:

- A statement that the DoD or DoD component is conducting or supporting the research.
- A statement that representatives of the DoD are authorized to review research records.
- If the research involves DoD-affiliated personnel as participants and includes any risks to their fitness for duty (e.g., health, availability to perform job, data breach), the consent must inform DoD-affiliated personnel about these risks and that they should seek command or Component guidance before participating.
- If the research involves DoD-affiliated personnel as participants, the consent must include, if applicable, potential risks for the revocation of clearance, credentials, or other privileged access or duty.
- If a Certificate of Confidentiality (CoC) is in place, exceptions to the CoC must be listed.

- If the research is greater than minimal risk and is conducted by the DoD, the explanation regarding the availability of compensation and medical treatments for research-related injuries must include a statement that participants may, for the duration of the study, be eligible for health care services for research-related injuries at a military treatment facility, in accordance with 32 CFR 108. This eligibility for health care services extends beyond participants' participation in the study to such time after the study has ended.

When HIPAA authorization is to be obtained, the authorization should include a statement that protected health information may be disclosed to representatives of the DoD

WAIVERS AND ALTERATIONS OF INFORMED CONSENT:

(Clarified the following items per AAHRPP Elements II.3.G & II.4.C)

The requirement for advanced informed consent may be waived (e.g., for planned emergency research) by the DoD Office for Human Research Protections (DOHRP) or its delegate if the following conditions are met:

- The research is to advance the development of a medical product necessary to the DoD;
- The research may directly benefit the individual experimental participant; and
- The research is conducted in compliance with all other applicable laws and regulations.

See IRB Policy 11-3 Planned Emergency Research for additional information about the process for obtaining a waiver of consent under the conditions listed above.

All DoD supported research involving a waiver of consent must undergo Component-Level Administrative Review.

If the research involves no more than minimal risk, the IRB may alter or waive other required elements of informed consent so long as it still preserves informed consent of the participant (i.e., the consent indicates the participant's participation in the research is completely voluntary and includes the requirement that the participant is informed of research risks).

Note: Waivers of consent are prohibited for DoD classified research.

Additional Protections for Vulnerable Participants:

Clarified the following items per AAHRPP Element II.2.E, II.3.F & II.4.A

Pregnant Women, Fetuses, or Neonates as Participants:

(Clarified the following items per AAHRPP Element II.4.A)

In addition to Subpart B of 45 CFR 46, fetal research conducted or supported by DoD must comply with 42 U.S.C 289g – 289g-2. Research or experimentation may not be conducted in the United States or in any other country, on a nonviable living human fetus ex utero or a living human fetus ex utero for whom viability has not been ascertained unless the research or experimentation:

- May enhance the well-being or meet the health needs of the fetus or enhance the probability of its survival to viability; or

- Will pose no added risk of suffering, injury, or death to the fetus and the purpose of the research or experimentation is the development of important biomedical knowledge which cannot be obtained by other means.

The risk standard must be the same for fetuses which are intended to be aborted and fetuses which are intended to be carried to term.

Explicit written approval is required from the DOHRP before the research begins for research that would not otherwise be approvable under Subpart B but presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of pregnant women, fetuses, or neonates.

See IRB Policy 8-1 Research Involving Fetuses and Neonates for more information.

PRISONERS:

(Clarified the following items per AAHRPP Element II.4.A)

In addition to the categories of permissible human participant research involving prisoners identified in Subpart C of 45 CFR 46, two additional categories are permissible:

- Epidemiological research is permitted under the following conditions:
    - Where the sole purpose of the research is to describe the prevalence or incidence of a disease by identifying all cases, or study potential risk factor associations for a disease.
    - The research presents no more than minimal risk.
    - The research involves no more than inconvenience to the prisoner-participants.
    - Prisoners are not a particular focus of the research.
- Human participant research involving prisoners that would otherwise meet exemption criteria may be conducted but must first be approved by an IRB/EC and meet the requirements of Subpart C and DoDI 3216.02.

DoD organizations conducting research involving prisoners must demonstrate to the senior designated official that the IRB/EC has fulfilled its duties in accordance with Subpart C.

When a previously enrolled human participant becomes a prisoner, and the protocol has not been reviewed and approved by the IRB/EC in accordance with Subpart C, the researcher must promptly notify the IRB/EC.

- For DoD-conducted research, the human protections director must notify the COHRP.
- For DoD-supported research, the non-DoD organization must notify the DOHRP and other federal agencies.
- The DOHRP must concur with the IRB/EC before the participant can continue to participate while a prisoner.

Please see IRB Policy IRB policy 8-4 Vulnerable Participants: Prisoners for more information.

RESEARCH INVOLVING A DETAINEE OR A PRISONER OF WAR:

(Clarified the following items per AAHRPP Element II.4.A)

Research involving a detainee or a prisoner of war as a human participant is prohibited

- This prohibition does not apply to activities covered by investigational new drug or investigational device provisions of FDA regulations, when the purpose is for diagnosis or treatment of a medical condition in a patient.
- Such treatment may be offered to detainees or prisoners of war with their informed consent when the medical products are participant to FDA regulations, and only when the same product may be available to DoD-affiliated personnel consistent with established medical practices

DOD-AFFILIATED PERSONNEL AS PARTICIPANTS:

(Clarified the following items per AAHRPP Elements II.2.E, II.3.F, II.4.A)

Service members and DoD-affiliated personnel (i.e., Service members, Reserve Service members, National Guard members, DoD civilians, and DoD contractors) are considered to be vulnerable to coercion and undue influence by the DoD due to the nature of the command structure of the organization.

The recruitment and inclusion of DoD-affiliated personnel must be approached with care and in accordance with the requirements of DoDI 3216.02 and any applicable DoD-component requirements.

Therefore, additional protections for DoD-affiliated personnel are required as follows (DoDI 3216.02 section 3.9(f))

- If the research involves DoD-affiliated personnel as participants, and the research includes any risks to their fitness for duty (e.g., health, availability to perform job, data breach), the informed consent document must inform DoD-affiliated personnel about these risks and that they should seek command or Component guidance before participating.
- If the research involves DoD-affiliated personnel, the researcher must receive command or component approval to execute the research.
- Military and civilian supervisors, officers, and others in the chain of command are prohibited from influencing their subordinates to participate in research.
- Military and civilian supervisors, officers, and others in the chain of command must not be present at any recruitment sessions or during the consent process for DoD-affiliated personnel. Excluded supervisors or those in the chain of command may participate in separate recruitment sessions, if applicable.
- Service members and all Reserve Component and National Guard members in a federal duty status are considered for purposes of DoDI 3216.02, to be adults. If a Service member, Reserve Component or National Guard member in federal duty status, student at a Service Academy, or trainee is under 18 years of age, the IRB must carefully consider the recruitment process and the necessity of including such member as a human participant.
- In order to approve research involving DoD-affiliated personnel as human participant, the IRB or component HRPO must determine whether the following requirements have been satisfied:
    - The consent documentation must include, if applicable, potential risks for the revocation of clearance, credentials, or other privileged access or duty.
    - For research involving recruitment of DoD-affiliated personnel in greater than minimal risk research, and when recruitment occurs in a group setting, the IRB must appoint an ombudsperson. The ombudsperson:
        - Must not have a conflict of interest with the research or be a part of the research team.

- Must be present during recruitment, monitoring that the recruitment and informed consent explain that participation is voluntary and that the information provided about the research is consistent with the IRB-approved script and materials, including digitally provided materials.
- Should be available to address DoD-affiliated personnel's concerns about participation.

- Compensation, including non-monetary compensation, to DoD-affiliated personnel for participation in research while on duty is prohibited other than compensation for blood draws (maximum of $50 per blood draw) in accordance with 24 U.S.C. 30. Personnel may be compensated for participation in research when not on duty (e.g., off-hours) in reasonable amounts consistent with local standards and the nature of the research. Plans to compensate participants must be approved by the IRB.
- DoD organizations must demonstrate to the senior designated official that the IRB has fulfilled its duties in accordance with DHHS Subpart D, 45 CFR 46.407 and 21 CFR 50.54

When the research includes surveys of DoD personnel, investigators are responsible for ensuring that the survey(s) are submitted to and approved by the DoD Information Management Control Officer (IMCO) prior to implementation but after the research is approved by the IRB. When a survey crosses DoD components, investigators are responsible for ensuring that any additional DoD-required reviews and approvals take place before implementing the survey.

COMPONENT-LEVEL ADMINISTRATIVE REVIEW (e.g., Army, Navy, Air Force):

(Clarified the following items per AAHRPP Element I.2)

Certain categories of non-exempt human participant research require Component-level administrative review (CLAR) and approval in addition to IRB and the relevant Component's Human Research Protection Official (CHRPO) approval. These categories include:

- Research that will be conducted in a foreign country unless the research will be conducted by a DoD overseas institution, or the research only involves DoD-affiliated personnel who are U.S. citizens.
- Research involving a human being as an experimental participant that requires a waiver of informed consent under 10 U.S.C. 980(b).
- The research involves any fetal or fetal tissue research participant to 42 U.S.C. 289g-289g-2.
- The research involves the collection of Large Scale Genomic Data (LSGD) from DoD-affiliated personnel. Such research must also undergo DoD Component security review before the research can begin.
- Classified research.
- Research that requires approval by the DoD Office for Human Research Protections (DOHRP).

CLAR also includes review of IRB reliance agreements, when applicable. Principal investigators are advised to check with their sponsoring Component program manager about any additional requirements.

INTERNATIONAL RESEARCH:

(Clarified the following items per AAHRPP Standard I-3)

When conducting human participant research outside of the United States, the research must be conducted in accordance with U.S. federal and DoD regulatory requirements and the host nation's laws, as applicable. Host nation laws concerning human participant research are not typically applicable to DoD-conducted research that only involves DoD-affiliated personnel as research participants (unless also a citizen of that host nation). DoD Components will consult legal counsel to assess applicability of host nation laws for human participant research. Where differences in applicable standards exist, the standard that is most protective of human participants will be applied.

The key investigator must provide written notification to the U.S. Central, U.S. Africa, U.S. European, U.S. Indo-Pacific, and U.S. Southern Commands of human participant research that is to be conducted or supported in their area of responsibility before the research may proceed. This does not apply to research performed within the U.S. or at DoD institutions overseas.

See IRB Policy 6-4 International Research for more information.

SINGLE IRB MANDATE/MULTI-SITE COOPERATIVE RESEARCH:

(Added the following items per AAHRPP Standard I.9)

Effective 20 January 2020, any institution located in the U.S. that is engaged in multi-site cooperative human participants research must rely upon approval by a single IRB for that portion of the research that is conducted in the U.S. unless the relevant DoD Component Office of Human Research Protections (COHRP) determines and documents that use of a single IRB is not appropriate for the particular context of the proposed research. Studies already in progress before January 20, 2020 are not required to transition to a single IRB.

When any institution relies upon another institution's IRB for DoD-covered research, there must be a written agreement defining the responsibilities and authorities of each organization in complying with the terms of each institution's Federal Assurance and DoDD 3216.02. When appropriate, the lead institution or reviewing IRB may take responsibility for required DoD reporting.

When a DoD institution is engaged in a DoD-covered research study and is relying upon the WSU IRB, each of the following conditions must be met:

- Each institution engaged in non-exempt human participants research must have a current FWA.
- The WSU IRB must be registered in accordance with 45 CFR 46 Subpart E.
- The DoD institution must review the protocol to ensure that all applicable local and DoD requirements are addressed.
- The DoD institution and WSU have a written reliance agreement defining the responsibilities and authorities of each institution in complying with all legal requirements, including that the IRB will apply the DoD requirements outlined in DoDI 3216.02, including the institutional responsibilities outlined in Section 3.6(b).

The primary awardee (lead institution) of a DoD-conducted or supported research proposal that includes a multi-site, cooperative effort is responsible for developing a plan for coordinating all collaborating sites' reliance on a single IRB for DoD-supported multi-site cooperative research.

See IRB Policy 4-17 External IRB & Reliance Agreements for Multi-Site Research for more information.

REPORTING REQUIREMENTS:

(Clarified the following items per AAHRPP Elements I.5.D & II.2.E)

WSU investigators must promptly (i.e., no longer than within 30 days or as defined by the DoD Component) notify the Component Office of Human Research Protections (COHRP) of the following:

- IRB-approved changes to research that involve:
    - changes to key investigators or institutions.
    - decreased benefit or increased risk to participants in greater than minimal risk research.
    - addition of vulnerable populations.
    - addition of DoD-affiliated personnel as participants.
- Audit reports of DoD-conducted or DoD supported human participant research when conducted by another federal or state agency, official governing body of a Native American or Alaskan native tribe, other official entity, or foreign government.

Note: Investigators should be aware that the DoD Component HRPO may require HRPO approval of IRB-approved changes to research before the changes are implemented.

- Transfer of IRB oversight to a different IRB.
- Notification by any federal body, State agency, official governing body of a Native American or Alaskan native tribe, other entity, or foreign government that the non-DoD institution's DoD-supported human participants research is being audited or is under **for cause investigation**.
    - A follow-up to the initial notification report must be submitted to the IRB with the report of the audit findings
- Any unanticipated problems involving risks to participants or others, suspension or termination of IRB approval, or any serious or continuing noncompliance pertaining to DoD-supported research, and the actions taken as a result. Note: Substantiated allegations related to classified research must be reported immediately. See IRB Policy 13-1 Unanticipated Problems and Other Reportable Events for more information.
- The results of the IRB's continuing review, when continuing review is required.
- Change in status when a previously enrolled human participant becomes pregnant, or when the researcher learns that a previously enrolled human participant is pregnant, and the protocol was not reviewed and approved by the IRB in accordance with Subpart B of 45 CFR 46.
- Change in status when a previously enrolled human participant becomes a prisoner, and the protocol was not reviewed and approved by the IRB in accordance with Subpart C of 32 CFR 219.
- A DoD-supported study's closure.

ADDRESSING AND REPORTING ALLEGATIONS OF NONCOMPLIANCE:

(Clarified the following items per AAHRPP Elements I.5.D & II.2.E)

The WSU IRB must respond to allegations of noncompliance with DoDI 3216.02 or other requirements and conduct an investigation in accordance with the agreement in place with relevant DoD component. Allegations of noncompliance must be promptly and properly investigated. Substantiated serious and/or

continuing non-compliance findings must be promptly reported to the DoD Component via the Component HRPO. **If the research is classified, substantiated allegations must be reported immediately**.

The Institutional Official is responsible for reporting non-compliance and reviewing the final non-compliance report.

See IRB Policy 15-1 Identifying, Defining and Managing Non-Compliance in Human Research for more information.

REQUIREMENTS FOR LARGE SCALE GENOMIC DATA (LSGD) RESEARCH ON DOD-AFFILIATE PERSONNEL:

(Added following items per AAHRPP Element II.3.E)

DoD-conducted or supported research involving LSGD collected on DoD-affiliated personnel, or for which research the DoD provides assistance, is participant to the following additional requirements:

- The disclosure of DoD-affiliated personnel's genomic data may pose a risk to national security; accordingly, such research requires administrative, technical, and physical safeguards commensurate with risk, including the secondary use or sharing of de-identified data or specimens.
- All research involving LSGD collected from DoD-affiliated personnel must be covered by a Certificate of Confidentiality (CoC). Exceptions to the CoC must be listed in the informed consent form.
- Research involving LSGD collected from DoD-affiliated personnel is participant to DoD Component security review to ensure the adequacy of the proposed administrative, technical, and physical safeguards, including the secondary use or sharing of de-identified data or specimens.

DOD ACRONYMS:

- CLAR- Component-Level Administrative Review
- COHRP- Component Office of Human Research Protections
- DoDI- DoD Instruction
- DOHRP- DoD Office for Human Research Protections
- HRPO- Human Research Protection Official
- HRPP- Human Research Protection Program
- HSR- Human Participant Research
- LSGD- Large Scale Genomic Data