

Overview

All investigators are responsible for knowing federal regulations, the ethical standards of their disciplines, and following them in the design or conduct of their research. Their knowledge is evaluated through certification in the University's Human Subjects Certification Program, which all investigators and key staff must pass.

Rutgers University ORSP supports investigators by providing guidance and training, and various forms of outreach described elsewhere (SOP I-4.A.) in these SOP's. The **Investigator Domain** describes the various arrangements that Rutgers has made for assuring that individuals who plan and conduct research – whether as a principal investigator, co-investigator, or other member of a research team (defined as key personnel) – understand and fulfill their responsibilities.

Ethically principled research that keeps the welfare of subjects at the center of concern is in the researcher's self-interest:

- Rules that protect subjects protect the PI as well
- PI integrity is a given, but can only be measured by compliance
- The reputation of the PI's institution is at stake
- Future funding can be jeopardized by out-of-compliance research
- The funding authority's credibility is on the line
- As goes the public's trust, so goes research.
- Ethical research design that is consistent with the ethical principles of the Belmont Report and the discipline's ethical principles *strengthens the scientific credibility of the research by ensuring that research is consistent throughout the discipline.*

The topics in this section describe the knowledge and processes Rutgers University expects investigators to use in designing, conducting and evaluating their research in order to facilitate the balancing of researcher's quest of knowledge with respect for persons and the rights of their fellow human beings:

- A) [PI and research staff conflicts of interest](#)
- B) [Study design, reporting and monitoring](#)
- C) [Risk alternatives and plans for detecting and mitigating harm](#)
- D) [Fair and equitable recruiting of subjects](#)
- E) [Adequate resources and facilities](#)
- F) [Informed consent process and documentation](#)
- G) [Response to subjects' complaints or information needs](#)

REFERENCES:

AAHRPP Standard III-1. Rutgers University uses policies, procedures, and education programs to help its Investigators carry out research studies ethically. In addition to following applicable federal, state, and local regulations, Investigators follow ethical principles and standards appropriate for their discipline. In designing and conducting

clinical trials, Investigators follow Good Clinical Practice guidelines defined by the Food and Drug Administration. In designing and conducting all research studies, Investigators have as the primary concern protecting the rights and welfare of participants.

ORSP Policies and Procedures manual, for example:

- IRB Application Procedures: M:\LSz\Procedures\PROCEDURES FOR IRB.doc;
..\proceduresIRBapp for ProIRB.doc
- Continuing Review: ..\ProceduresCR.doc
- Procedures for Application for review and continuing review:
..\ProceduresIRB&CR.doc
- [IRB Application Form](#)

A. PI and research staff conflicts of interest

In addition to the [University Board of Governors policy statement on financial conflicts of interest](#), Rutgers University provides detailed definitions, instructions and sanctions for investigators in handling significant financial interest disclosures for PHS- and NSF-sponsored projects. These instructions are available [online](#), through a link on ORSP's [Policies](#) website.

Following is the explanatory introduction to the University's Instructions for evaluating financial conflicts of interest. Note that although these standards refer to PHS-NSF-funded research, the terms of the University's Federalwide Assurance apply Federal standards to *all* research *regardless* of funding.

Federal regulations effective October 1, 1995 require universities to review and evaluate certain federally funded research and educational projects to ensure that the design, conduct, or reporting of research will not be biased by any conflicting financial interest of those investigators responsible for the research. ... The institution must determine whether the disclosed financial interests could bias the research by affecting the design, conduct or reporting of the research. If so, the University must manage, reduce, or eliminate any conflicts of interest that may be presented by a financial interest of an investigator. The federal government requires the process of financial disclosure prior to the time of submission and requires institutional evaluation prior to the expenditure of research funds.

In brief, Rutgers University's requirements are as follows:

- "Investigator" includes the investigator's spouse and dependent children.
- Investigators must disclose "to a responsible institutional representative" all significant financial interests that would be affected by the proposed research.
- Determining whether there is a financial conflict of interest is done at the level of the unit or department responsible for the conduct of the research. The department (or unit) is responsible to manage, reduce, or eliminate any conflicts of interest that may be presented by an investigator's financial interests.
- Before submitting any funding proposal, the investigator provides a complete disclosure (marked as confidential) to the department chair or unit head. This individual may refer the matter for advice to a Conflict of Interest Review Committee (CIRC) of faculty peers, established according to the bylaws of the unit or department.
- If financial conflict of interest is found, the investigator and department or unit jointly develop a Conflict of Interest Resolution Plan detailing steps to manage, reduce or eliminate the conflict. The approved Resolution Plan is incorporated into a Memorandum of Understanding signed by the investigator and the Dean or Director.
- The department chair or unit head report the determination of the department to ORSP (but not the nature of the interest or other details) as part of the grant

application. The recommended steps to manage the conflict have to be taken before any grant award funds are expended.

- Records of investigator financial disclosures and of actions taken to manage conflicts of interest are marked confidential and forwarded to the Associate Vice President for Research Policy and Administration. They are included in the official University grant file until 3 years after the later of the termination or completion of the award to which they relate, or the resolution of any government action involving those records.
- If an investigator violates the provisions, or other applicable University regulations or the terms of the Memorandum, sanctions may be imposed by the Dean or Provost of the University, and the matter must be reported to the funding agency.

What are some of the ways to manage a conflict of interest?

The CIRC and the IRB have several options for managing investigator conflict of interest:

- Prohibit conflicted investigators from having any involvement in the study.
- Prohibit conflicted investigators from participating in key components of the study – for example, the consent process, evaluation of inclusion criteria, specific procedures, and overall data analysis.
- Require a person who is not connected in any way to the investigator or study sponsor to act as a “subject advocate” during the initial and ongoing consent process.

Disclosure to subjects does not, in and of itself, make a conflict of interest acceptable. Ethical research requires both disclosure and effective management of conflicts of interest.

IRB Requirements for disclosure of conflicts of interest. Given that the University maintains and enforces financial conflict of interest policies through departmental CIRCs, as described above, the [IRB Application form to Request Full or Expedited IRB Reviews](#) simply requires Investigators to identify any financial conflicts of interest for themselves and all research staff.

What are policies and procedures for IRB members who may have a conflict of interest?

It is not uncommon that IRB members conduct their own research which would require IRB review. A clear conflict of interest arises when ones own research protocol comes up for review. It is the policy of the RU IRB to have IRB members absent themselves during the deliberative discussion and vote on the affected research. IRB members may not contribute to the review of their own research protocols except to provide information the IRB asks for as any investigator is allowed.

It is important to note that financial influences are not the only sources for conflict of interest. Investigators and IRB members should be aware that any situation that has a potential to bias their judgment where one primary interest (subjects' welfare, integrity of research) may be biased by a secondary interest such as personal gain can cause a conflict of interest. A conflict of interest exists whether or not an improper action has taken place and simply states that there is a potential for bias, not that bias has occurred.

REFERENCES

AAHRPP III-1.A. The Investigator and research staff consider conflicts of interest that might affect the relationship with the participant or the outcome of the research, and with Rutgers University, identifies and manages them.

Daniel K. Nelson and Robert J. Amdur (2003). Researcher Conflict of Interest. In Amdur, R. *The Institutional Review Board Member Handbook*. Sudbury MA: Jones and Bartlett Publishers, Chapter 3-2.

B. Study design, reporting and monitoring

The Rutgers University IRB reviews both quantitative and qualitative human subjects research applications in the biomedical and social sciences. The IRB takes into account the differing criteria for study design, informed consent and requirements for monitoring among these types of research. Biomedical risks to human subjects are broadly recognized. Less well known are the risks in social science research, which can be quite severe: for example, breach of confidentiality (which can result in harms ranging from embarrassment to loss of insurability, employment or employability), unintentionally reinforcing unwanted behavior by subjects or others indirectly connected to the research, or possible harms to secondary subjects.

Research design, of all the steps in research, has the greatest effect on research subjects.¹ An ethical position toward research subjects is inherent in decisions about the following aspects of study design, all of which call for nuanced evaluation. Ethically principled design can be determined only in terms of the particular conditions of the study and participants, for example:

- Balancing the range and types of risk against the direct and indirect benefits expected from the research
- Mechanisms, procedural steps, training, resources and controls to protect anonymity or confidentiality
- In studies of treatment interventions, whether to include research arms for medical or behavioral placebos (as opposed to active controls employing known effective treatments); and, in behavioral research, defining an appropriate ‘placebo’ condition or active controls
- Whether and how to randomize
- Processes for selecting and informing subjects.

Beyond launching a study, good research design also provides mechanisms to monitor procedures and outcomes throughout the term of the study, to ensure that a high level of protection for subjects is maintained over time.

Rutgers University investigators draw on standards of research design, professional ethics and conduct in their field. Supplementary guidance is available on the IRB website and in the standard operating procedures for the IRB Domain II. The [IRB application](#) asks sufficient questions about the proposed study for reviewers to evaluate these dimensions of research design.

REFERENCES:

AAHRPP III-1.B. The Investigator employs sound study design in accordance with the standards of the discipline and implements reporting mechanisms that provide information relevant to monitoring the rights and welfare of participants.

¹Jeremy Sugarman, MD, (2003) *Ethics in the Design of Research*, sponsored at Rutgers University by the Office of Research and Sponsored Programs under NIH grant number OD-02-003.

Howard Mann, M.D. (n.d.). ASSERT website: [*Recommendations for the review and monitoring of randomized controlled clinical trials*](#). The following checklist for quantitative, Randomized Controlled Trials (RCT) is from this document:

C. Risk alternatives and plans for detecting and mitigating harm

Research risks and examples of actions that researchers may take to ameliorate them are summarized in Standard II-4.A. and B. The primary IRB tools to educate researchers in their responsibility are the [applications and their instructions](#), backed up by an online investigator manual. In addition, investigators have recourse to the standards of ethics of their professions (e.g. American Psychological Association: <http://www.apa.org/ethics/code2002.html>. See Social psychology website list of references for research ethics: <http://www.socialpsychology.org/methods.htm#ethics>.)

Some of the specific items investigators should keep in mind when designing their experiments and filling out the application for human subjects research are the following:

- Investigators should propose research that incorporates the least risky procedure that is scientifically sound and appropriate to the purpose of the research.
- Investigators should provide the IRB with pertinent information to permit IRB re-evaluation of research at sufficient intervals to conduct re-appraisals of the risks to participants.
- A review of informed consent documents demonstrates that investigators are including alternatives appropriate to the research.
- Documents and interviews reflect that investigators conduct and present appropriate safety testing prior to proposing interventional research
- Investigators should provide the IRB with information sufficient to evaluate the adequacy of such safety testing.
- Investigators should propose appropriate monitoring devices or procedures to detect and evaluate unexpected events.

REFERENCE:

AAHRPP III-1.C. In research involving greater than minimal risk to participants, the Investigator provides the IRB with an evaluation of less risky alternatives, if any, and with plans for detecting harm promptly and mitigating potential injuries.

D. Fair and equitable recruiting of subjects

Investigators are required to recruit subjects in a fair and equitable manner. *Fairness* means presenting the invitation to participate in the study in a manner that 1) seeks the active consent of the person to participate; 2) avoids coercion; 3) protects the privacy of the prospective participant; and 4) offers complete and accurate information about the study. *Equity* means ensuring that prospective participants who might benefit (or whose communities might benefit) from the study or its results are neither included nor excluded arbitrarily for reasons of convenience (See Standard II-5.A.).

In the initial application for review PIs provide the IRB with a description of their recruitment process. As part of the initial application, investigators describe the composition of the proposed subject pool and identify all vulnerable subjects (both those identified as vulnerable in Federal regulations, and those who may be vulnerable due to the specifics of the study design). The application for initial review also requires investigators to include samples of their recruiting materials. At continuing review, the application requires Investigators to describe any recruitment or retention issues they have encountered.

The IRB may provide advice on the proposed process and, where risks to subjects are affected, may require corrections before approving the protocol. The IRB follows the guidelines in the [FDA information sheet](#) (rev.1998) to be sure that advertising fairly represents the research and provides a basis for an informed decision about possible participation. (See Standard II-5.B.)

The following specific guidance on recruiting practices is disseminated to PIs:

Ethical Concerns

The researcher and the IRB must consider the following ethical questions when evaluating a recruitment strategy:

- **Respect for privacy:** Does the recruitment strategy respect an individual's reasonable expectations for privacy? Will subjects be upset when they learn researchers will have access to their data without permission?
- **Lack of pressure:** Is the study introduced in a way that allows subjects ample time to consider, with no undue pressure resulting from the timing of the request, who makes the request, how the request is made, or the offer of excessive inducements? Will participants be put in a situation where they may hesitate to say "no" to their own employer, teacher or health care provider? How will pressure be minimized?
- **Unbiased presentation:** Is all information accurate, balanced, and free of misleading emphases that make the study excessively attractive? Is the information as complete as is appropriate for each stage of recruitment?

The following additional concerns need to be addressed where the study involves patients of mental health or medical services:

- **The “Therapeutic Misconception:”** Patients tend to believe that a clinical trial—or anything proposed by health care providers—will benefit them, even if they’re told there is no assured benefit. Does the recruitment strategy work to counteract this misconception?
- **Conflicting concerns:**
 - Subjects may prefer that someone involved in their care contact them about research, but they may find it hard to say no to a care provider.
 - Clinicians may find their clinical judgment in conflict with a desire to enroll patients in their research.

Ethical principles in recruitment

Handling sensitive identifiable information

The following principles apply when designing recruitment processes that might involve biomedical, mental health or other records containing sensitive personally identifiable information:

- **Use of Information:** The amount of identifiable information gathered and the number of people who have access to identifiable information must be minimized.
- **Use of clinical records:** Access to clinical records and identifiable health (or mental health) information by people not directly involved in a patient’s care should be avoided.
- **Contact:** In clinical research, people directly involved in the care of prospective research subjects, not unknown researchers, should contact them.

Exceptions: Exceptions to these principles may be granted where necessary. The IRB application must explain why exceptions are necessary – approval is not automatic.

Acceptable Recruitment Methods

The following methods of recruiting subjects have been used in studies being conducted at Rutgers University. Depending on circumstances, any of these methods may be in compliance with the federal Common Rule (45 CFR 46) [and the federal HIPAA Privacy Rule relating to personally identifiable health information (45 CFR 164) where applicable], but there also may be ethical and practical problems with any of the methods. The Investigator must discuss the method of recruitment within the IRB application.

1. In the consent form the PI requests permission from participants ahead of time to be contacted for future research. Investigators contact patients about particular studies in accord with their signed consent.
2. Advertisements, notices, and/or media are used to recruit subjects. The IRB must first approve the text of these. Subjects will contact the study investigators to respond.

3. Study investigators provide their colleagues with a "Dear [prospective subject]" letter describing the study. This letter can be signed by the faculty member / treating clinician and would inform prospective subjects how to contact the study investigators. The study investigators are prohibited from having access to names, addresses, or phone numbers: prospective subjects must initiate contact. See 7.b) below for additional options.
4. Study investigators send an IRB-approved letter to colleagues asking for referrals of eligible individuals interested in the study. The study investigators may provide their colleagues an IRB-approved information sheet about the study to give to potential subjects. If interested, the prospective participant will contact the PI. Or, with documented permission from the individual, the PI may be allowed to contact prospective participants about enrollment.
5. Study investigators who are also clinicians providing direct care recruit their own patients directly. Nurses or staff working with the investigators also may approach the patients. This respects privacy but also raises ethical concerns because of the difficulty of saying no and the therapeutic misconception (see discussion of ethical concerns above).
6. Study investigators recruit potential subjects who are unknown to them. Examples include snowball sampling (asking current subjects to refer people they know for possible enrollment), use of social networks, direct approach to unknown people in public situations, and random digit dialing. The protocol should explain the recruitment process.
7. Study investigators request a Waiver of Consent/Authorization for recruitment purposes. In all cases the waiver must be justified in the IRB application. Waivers are granted in three primary situations:
 - a) In minimal risk studies in which subjects will not be contacted (e.g., many chart review studies) researchers request a complete waiver of consent / authorization. The application must explain why the study cannot be done without the waiver.
 - b) If the study requires researchers to review clinical or other sensitive records to identify prospective subjects who will then be contacted and asked to be in the study, the justification for the waiver to review records must show why the study cannot be done without the waiver. The waiver covers collecting only the minimum amount of information needed to make contact; consent is obtained before additional information is gathered.
 - c) Large-scale epidemiological studies and other population-based studies may need to identify subjects through registries, medical or other records in multiple institutions, or other sources. The researchers may need to contact prospective subjects directly. This approach involves a greater invasion of privacy than other methods, because researchers without approval from individuals gather significant personal information or private health information about them, and then contact the prospective participants directly. Because this approach is an exception to the IRB's usual policies, the application must explain in detail why it is impossible to do the study unless the IRB (1) waives authorization/consent to obtain subjects' identities and (2) allows researchers to contact subjects directly.

Who May Recruit

Individuals initiating contact (in person or by phone) with potential subjects must have basic knowledge about the study (so they can answer questions) and training in the voluntary nature of research participation. They also should be prepared to provide prospective subjects with

- a researcher's name and phone number (for questions about the study) and
- the phone number of the IRB (for questions about a research subject's rights).

For purposes of recruitment, people are considered "involved in the patient's care" (and therefore eligible to review HIPAA-protected information without an authorization or waiver) if they are (1) health care professionals actually involved in the care or (2) administrative or research staff working with the professionals involved in the care.

Recruitment Documents the IRB must review

The following types of recruitment documents must be submitted as part of the initial application for IRB review. The PI must submit any additions or changes to these documents to the IRB as formal amendments to the study:

- **Letters to Subjects:** All letters to subjects or their representatives, regardless of who signs the letters, including the PI, a primary care provider, or an organization the subject has joined.
- **Advertisements:** All advertisements in all media, including flyers, posters, newspaper ads, radio or television announcements, and informational videos. TV or video materials should be submitted as tapes or DVDs.
- **Scripts:** All scripts or guides that will be used for in-person or telephone recruitment interviews.
- **Web Postings or Pages:** Submit printouts of postings or pages used for direct recruitment.

Special Cases

Keeping Information About Refusers: In general, no identifiable information may be kept about prospective subjects.

Sponsor's Role:

- In general, Rutgers University does not permit its researchers to provide subject contact information to sponsors unless specified in the contract and included in the informed consent process. Sponsors may not directly contact prospective subjects based on information from Rutgers researchers.
- If the sponsor plans a national or local advertising campaign to recruit subjects, all materials must be submitted for IRB review, including any scripts or guides used when prospective subjects call the sponsor's representatives.

Recruitment in Classrooms: Potential participation in research must be presented as a voluntary option. Participation cannot be tied to grades. It must be clear that there will be

no stigmatization of students who decline to participate. If class time will be taken for research participation, equivalent alternative activities should be provided for those who decline (especially in pre-college levels). (See [Rutgers policy on use of students in research.](#))

Telephone Scripts: In telephone surveys, the initial recruitment call sometimes leads directly into the consent process. In such studies, the script should include, at least, the names of the persons responsible for the study, reference to Rutgers University, a description of the types of questions that will be asked, an estimate of the time it will take to complete the interview, and the direct question of whether or not a person wishes to participate. The interviewers also should have available an investigator's telephone number in case the prospective subjects have questions about the study that the interviewer cannot answer, and the IRB phone number if there are questions about a research subject's rights.

Incentives and Referral Fees: Per-patient incentive payments or referral fees, whether paid for each referral or each enrollment, are not allowed. Such payments may encourage recruiters to put inappropriate pressure on prospective subjects. Lump sum payments not tied to the number of patients referred or enrolled may be allowed in particular studies. Investigators should include all information about incentives and/or referral fees in the recruitment section of the protocol.

Videos: Videos used in subject recruitment must be reviewed and approved by the IRB, just like other recruitment tools. Investigators should obtain IRB approval for a concept or script before making a major investment in video production. No subject may appear in the video. When a sponsor has prepared a video in advance the video should be submitted for review. If the video is not approved, the IRB may allow the study to proceed as long as the local investigator does not use the video and the local investigator does not accept referrals from any advertising campaign that uses the video.

REFERENCE:

AAHRPP III-1.D. The Investigator or research staff recruits participants in a fair and equitable manner, weighing the potential benefits of the research to the participants against their vulnerability and the risks to them.

Sample subject recruiting guidelines (UCSF):

http://www.research.ucsf.edu/IRB/IRB_recruitment.htm (last accessed 7/16/2003)

E. Adequate resources and facilities

The initial and continuing review applications require investigators to document the adequacy of resources and facilities to carry out the proposed research.

REFERENCES:

AAHRPP III-1.E. The Investigator conducting a research study involving human participants must document in the protocol that there are adequate resources and facilities to carry out the research.

[Application](#) for Initial Review

[Application and instructions](#) for Continuing Review

F. Informed consent process and documentation

Investigators are given clear information about their obligations in regard to informed consent. See ORSP SOP Standards II-7 and the guidance provided to investigators on the [ORSP website](#) and in the [Application](#) requesting review of research. The Application requires investigators to document their process. The IRB may provide advice on the proposed process and, where risks to subjects are affected, may require corrections before approving the protocol.

REFERENCE:

AAHRPP III-1.F. The Investigator develops an informed consent process and method of documentation appropriate to the type of research and the study population, emphasizing the importance of participant comprehension and voluntary participation.

G. Response to subjects' complaints or information needs

Investigators and research staff are responsible for responding to any complaints or requests for information from research participants. The Rutgers IRB does not proactively monitor PI's responsiveness to participants at this time. However, documents given to participants, including the informed consent documentation, inform participants of their rights, and provide contact information both for research staff and for the Sponsored Programs administrator, who acts as a participant Ombudsman.

All consent forms must display the email address of the IRB, humansubjects@orsp.rutgers.edu, unless a waiver of some or all of the elements of informed consent has been approved by the IRB per 45 CFR 46.116(d). Additionally, ORSP will provide on its website and to PI's copies of the OHRP human subjects brochure "Becoming a Research Volunteer". This brochure provides subjects with general information about their rights as well as the contact information for the Rutgers IRB.

REFERENCE:

AAHRPP III-1.F. The Investigator and research staff respond to participants' complaints or requests for information.

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