

### § 46.403

#### § 46.403 IRB duties.

In addition to other responsibilities assigned to IRBs under this part, each IRB shall review research covered by this subpart and approve only research which satisfies the conditions of all applicable sections of this subpart.

#### § 46.404 Research not involving greater than minimal risk.

HHS will conduct or fund research in which the IRB finds that no greater than minimal risk to children is presented, only if the IRB finds that adequate provisions are made for soliciting the assent of the children and the permission of their parents or guardians, as set forth in § 46.408.

#### § 46.405 Research involving greater than minimal risk but presenting the prospect of direct benefit to the individual subjects.

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 holds out the prospect of direct benefit for the individual subject, or by a monitoring procedure that is likely to contribute to the subject's well-being, only if the IRB finds that:

- (a) The risk is justified by the anticipated benefit to the subjects;
- (b) The relation of the anticipated benefit to the risk is at least as favorable to the subjects as that presented by available alternative approaches; and
- (c) Adequate provisions are made for soliciting the assent of the children and permission of their parents or guardians, as set forth in § 46.408.

#### § 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

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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.

#### § 46.407 Research not otherwise approvable which presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of children.

HHS will conduct or fund research that the IRB does not believe meets the requirements of § 46.404, § 46.405, or § 46.406 only if:

- (a) The IRB 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; and
- (b) The Secretary, after consultation with a panel of experts in pertinent disciplines (for example: science, medicine, education, ethics, law) and following opportunity for public review and comment, has determined either:
  - (1) That the research in fact satisfies the conditions of § 46.404, § 46.405, or § 46.406, as applicable, or
  - (2) The following:
    - (i) The research presents a reasonable opportunity to further the understanding, prevention, or alleviation of a serious problem affecting the health or welfare of children;
    - (ii) The research will be conducted in accordance with sound ethical principles;
    - (iii) Adequate provisions are made for soliciting the assent of children and the permission of their parents or guardians, as set forth in § 46.408.