Department: **UAMS Institutional Review Board**
Policy Number: **7.13**
Section: **Procedures for Study Review**
Effective Date: **December 11, 2020**
Revision Date:

SUBJECT: Department of Defense-Conducted and –Supported Research

Policy:
Department of Defense (DoD)-conducted and –supported human subject research is subject to additional requirements developed by the DoD. When reviewing and conducting DoD research, UAMS investigators, the UAMS IRB, and any other relevant component of the UAMS Human Research Protection Program will follow DoD requirements as described in this policy, in addition to other applicable policies and regulations.

Definitions:
Minimal risk: For DoD-conducted or –supported research, risks "ordinarily encountered in daily life or during the performance of routine physical or physiological examination or tests," do not include inherent risks certain subjects face in their everyday life, such as those encountered by Service members in a combat zone, law enforcement, or first responders while on duty; resulting from or associated with high-risk behaviors or pursuits or by people with a medical condition involving frequent medical tests or constant pain.

Research involving a human being as an experimental subject: An activity, for research purposes, where there is an intervention or interaction with a living individual for the primary purpose of obtaining data regarding the effect of the intervention or interaction. Research involving a human being as an experimental subject is a subset of research involving human subjects. This definition relates only to the application of Section 980 of Title 10, U.S.C. Research involving human subjects is defined at 45 CFR 46.102 and at 32 CFR 219.102; this definition does not relate to the application of those parts.

Procedure:
A. Clarifications pertaining to the applicability of the human research protection program to DoD-conducted or –supported projects.
   1. Non-exempt classified research must be conducted following the requirements of Instruction 3216.02.13
   2. The following activities shall not be considered research involving human participants for DoD-conducted or –supported projects:
      a. Public or internal information collections of facts or opinions, obtained initially or in follow-up requests, from individuals (including those in control groups) under treatment or clinical examination in connection with research on, or prophylaxis to prevent, a clinical disorder;
      b. Direct treatment of that disorder; or
      c. The interpretation of biological analyses of body fluids, tissues, or other specimens; or the identification or classification of such specimens.
   3. Human participant research involving the testing of chemical or biological agents is prohibited. Some exceptions for prophylactic, protective, or other peaceful purposes apply.
      a. Explicit written approval must be obtained from the DoD Office for Human Research protections before any excepted testing of chemical or biological agents involving human subject research may begin.
      b. In the event UAMS becomes engaged in such research, the IRB will collaborate with the PI to ensure such written approval is in place before the research begins.
      c. This IRB/PI process will occur either during the IRB's study review or as part of the local context review process, if the UAMS IRB is not the IRB of record.
   4. UAMS does not at this time oversee research led by DoD-affiliated personnel. This policy will be modified if/when that changes.

5. The UAMS IRB will not approve research involving detainees or prisoners of war as subjects.
    a. This prohibition does not apply to activities subject to FDA regulations allowing the use of investigational drugs or devices for treatment or diagnosis of a patient's medical condition.
    b. Such treatment may be offered to detainees or prisoners of war with their informed consent only when the same product may be available to others consistent with FDA regulations and established medical practices.

B. Researcher Requirements specific to DoD-conducted or –supported projects
1. Education: Researchers shall be responsible for ensuring the following education and training requirements are met
    a. Initial and continuing ethics education is required for all personnel who conduct, review, approve, oversee, support, or manage research involving human participants.
    b. UAMS Administrative Guide Policy 16.1.06 describes UAMS requirements for human subject protection education. All UAMS staff engaged in DoD-conducted and –supported research are subject to Policy 16.1.06.
    c. Additional DoD educational requirements may apply. Researchers shall be responsible for ensuring any DoD requirements are met, and the Principal Investigator is responsible for ensuring all research staff have completed DoD-mandated education requirements. Researchers should consult with their DoD Program Officer to determine which agency education requirements apply.
2. Ethical considerations surrounding subject selection, recruitment, consent, and compensation
    a. For each study, the PI shall ensure the following DoD requirements are met.
        i. Women and minority groups members who are members of the Armed Forces are included as appropriate (note the Secretary of Defense may waive requirements pertaining to the inclusion of these groups under certain circumstances).
        ii. When research involves military personnel, ensure military personnel do not receive pay or compensation for research during duty hours. Pay is permissible for research during non-duty hours.
        iii. Federal employees while on duty and non-federal persons may be paid up to $50 for research blood draws
        iv. Non-federal persons may be reasonably compensated for other, non-blood-draw research participation as approved by the IRB.
    b. The PI shall recognize that Service members and all Reserve Component and National Guard members in a federal duty status are considered 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 less than 18 years old, the PI shall be required to justify their inclusion, so the IRB may carefully consider the recruitment process and the need to include such a member as a human participant.
3. International research: The investigator shall ensure the following for research involving foreign populations (i.e. conducted outside the US and involving subjects who are not US citizens or DoD personnel):
    a. Permission to conduct research in the foreign country has been granted by certification or local ethics review
    b. All local laws, regulations, customs, and practices applicable to the research will be followed.
4. Survey research: The investigator shall ensure research involving surveys of or interviews with DoD personnel receives any required DoD review of the survey or interview instruments after IRB approval and before the study begins.
5. Civilian researchers attempting to access military volunteers should seek collaboration with a military researcher familiar with service-specific requirements.

C. IRB requirements in the review of DoD-conducted and –supported research
1. IRB staff, reviewers, and the chair(s) shall receive training on considerations specific to DoD-conducted or –supported research. This training may be provided via methods including, but not necessarily limited to, training before IRB meetings; individual or small-group consultation with those processing or reviewing such research; and making this policy available.

2. The UAMS IRB shall ensure the study's scientific merit was reviewed, including consideration of feasibility of study completion, of DoD-conducted and –supported research for which it is the IRB of record.
    a. This review may happen before or during the IRB's review.
    b. The IRB may rely on outside experts to provide an evaluation of the scientific merit.
3. The IRB will require the PI of DoD-conducted or –supported research to confirm any relevant DoD component has conducted an appropriate administrative review of the research involving human participants before the research may begin.
4. When acting as the reviewing IRB for a study involving a DoD institution, the UAMS IRB must ensure:
    a. Each engaged institution must have a current federal assurance of compliance.
    b. The involvement of DoD personnel in the conduct of the research is secondary to that of the non-DoD institution.
    c. The DoD institution, non-DoD institution, and the non-DoD institution's IRB shall have a written agreement defining the responsibilities and authorities of each organization in complying with all legal requirements.
5. If the UAMS IRB reviews DoD-supported human subject research involving classified information, the classified information may be limited to that needed for IRB approval and oversight of the research, to inform the human participants during the consent process, and information provided by the human participants during the research.
6. If the research is to be done in an international setting, (i.e. involving subjects who are not US citizens or DoD personnel), the IRB shall, in its review, consider the country-specific circumstances in the setting where the research is taking place.
    a. The IRB shall rely on the PI to ensure that any local ethics board/IRB review is completed at the site where the research is being done. The IRB may ask for written confirmation that such review has been completed.
    b. Methods the IRB may use to ensure the local site's cultural context is taken into account include, but are not limited to, ensuring the study team is collaborating with a local partner; reviewing the International Compilation of Human Research Standards on OHRP's website; and/or asking a consultant to review the submission, as described in IRB Policy 3.9.
    c. The IRB shall require the study team to confirm the team will follow local laws, regulations, customs, and practices as applicable to the study.
7. When acting as the reviewing IRB for research involving DoD-affiliated personnel, the IRB shall ensure the following is addressed in the submission:
    a. DoD-affiliated personnel, military and civilian supervisors, officers in the chain of command:
        i. Are prohibited from influencing their subordinates to participate in research involving human participants
        ii. Must not be present at any human participant recruitment sessions or during the consent process for DoD-affiliated personnel.
        iii. May participate in separate human participant research recruitment sessions.
    b. For greater-than-minimal-risk research involving recruitment of DoD personnel, when recruitment occurs in a group setting, the IRB must appoint an ombudsperson who:
        i. Does not have a conflict of interest with the research and is not part of the research team.
        ii. Must be present during recruitment, monitoring that the recruitment and informed consent process explain participation is voluntary, and that information provided about the research is consistent with IRB-approved materials.
        iii. Should be available to address DoD-affiliated personnel's concerns about participation.

8. Research involving prisoners, pregnant women and neonates, or children is subject to the additional subject protections at 45 CFR 46 Subparts B, C, and D, with the following additional requirements.
    a. Pregnant women, fetuses, and neonates
        i. For purposes of applying these regulations, the phrase “biomedical knowledge” in Subpart B of 45 CFR 46 (henceforth “Subpart B”) is replaced with “generalizable knowledge.”
        ii. Subpart B’s applicability is limited to research involving pregnant women as human subjects that is greater than minimal risk and includes interventions, as defined in 32 CFR 219, or invasive procedures involving either the woman or the fetus OR fetuses or neonates as human subjects.
        iii. Fetal research must comply with Sections 289g-289g-2 of 42 U.S.C., Chapter 6A, Subchapter III, Part H, 289g, when such research is allowed under Arkansas law and institutional policy, as follows:
            - 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.
            - For human participant research that would not otherwise be approved but presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of pregnant women, fetuses, or neonates, DoD organizations must demonstrate to the senior designated official that the IRB has fulfilled its duties in accordance with Subpart B. Before human participant research activities may begin, the senior designated official must receive explicit written approval from the DoD Office for Human Research Protections.
        iv. For research not otherwise approvable but that presents an opportunity to understand, prevent, or alleviate a serious problem affecting the health or welfare of pregnant women, fetuses, or neonates, the IRB shall ensure that any necessary approvals from the DoD Office for Human Research Protections are obtained. (Applicable to research involving DoD organizations.)
    b. Research involving prisoners may be conducted as described in 45 CFR 46 Subpart C (henceforth “Subpart C”) and UAMS IRB Policy 17.9, with the following clarifications:
        i. DoD-conducted or -supported research involving prisoners that would otherwise meet exemption criteria may be conducted but must first be approved by an IRB.
        ii. Epidemiologic research permissible under Subpart C must involve no more than inconvenience to prisoner-participants.
        iii. If the research involves DoD-affiliated personnel, the IRB shall confirm the key investigator received command or Component approval to execute the research.
9. The IRB shall ensure research involving large-scale genomic data (LSGD) from DoD-affiliated personnel include the following required additional protections.
    a. Written materials describe administrative, technical, and physical safeguards commensurate with risk, including the secondary use or sharing of deidentified data or specimens.
    b. A certificate of confidentiality is in place for all research involving LSGD from DoD-affiliated personnel.
    c. Such research is subject to DoD component 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.

10. The IRB shall retain records that document compliance or noncompliance with DoD requirements for at least three years, and these records shall be made accessible for inspection and copying by DoD representatives at reasonable times and in a reasonable manner as determined by the supporting DoD component.

D. The consent process for DoD-conducted and –supported research shall be subject to the following additional requirements.
   1. If consent is to be obtained from a legally authorized representative of an experimental subject, the research must intend to benefit each participant enrolled in the study.
   2. When the study involves DoD-affiliated personnel as participants, consent documents must also include the following.
      i. If the study involves risks to their fitness for duty, consent materials must describe those risks and advise that they should seek command or Component guidance before participating.
      ii. When applicable, a statement of potential risks for the revocation of a clearance, credentials, or other privileged access or duty.
      iii. A statement that DoD or a DoD organization is funding the study, and that DoD representatives may review the research records.
   3. For greater than minimal risk research, consent materials must describe that participants may, for the study's duration, be eligible for care for research-related injuries at a military treatment facility, and this eligibility extends to such time after the study has ended, even if the subjects' participation has previously ended.
   4. Subjects will be informed of treatment options available to them for research-related injuries as described in this policy and in IRB policy 15.1. Treatment options shall include that as described above, when appropriate, and any others the study team, sponsor/funder, and the IRB determine are appropriate. UAMS will follow its standard policies for treatment of research-related injuries, including informing subjects of options, and following the requirements of any contracts or funding agreements regarding covering the cost of treatment. Barring a separate agreement to the contrary, UAMS does not routinely cover the cost of care for research-related injuries; this limitation shall be described in the consent form.
   5. The participant must provide informed consent for the disclosure of identifiable information for any purpose other than statistical purposes, if the data/information is acquired by the DoD Component under a pledge of confidentiality for exclusively statistical purposes.
   6. Waiver of the consent process
      a. For experimental subjects, as defined above, the IRB may not waive the consent process unless a waiver has been obtained from the Assistant Secretary of Defense for Research and Engineering (ASDRE), in accordance with the ASDRE's waiver requirements.
      b. Waivers of the consent process are prohibited in classified research.
      c. The IRB may waive the consent process if a research participant does not meet the "experimental subject" definition.

E. Reporting requirements for DoD-conducted and –supported research: In addition to reporting requirements described in IRB Policy 2.6, the following shall be reported to the DoD Human Research Protection Program or the DoD HRPP Officer.
   1. The IRB and the institutional official shall collaborate with the local study team to ensure the following items are reported within the listed timeframes.
      a. Results of for-cause audits, reviews, or assessments (within 5 days)
      b. Allegations of serious or continuing non-compliance substantiated by investigation and subsequent actions taken based on the findings (within 5 days)
      c. Substantiated allegations related to classified human subject research (immediately)
      d. Any suspension or termination of research (within 5 days)
      e. Any unanticipated problems involving risks to participants or others (within 5 days)
      f. When UAMS is notified by any federal department, agency, or national organization that any part of the HRPP is under investigation for cause involving a DoD-supported research protocol. (within 30 days)
      g. A previously enrolled research subject becomes incarcerated, or the investigator learns a previously enrolled subject is incarcerated, and the protocol was not reviewed in accordance with Subpart C (within 30 days)

h. A previously enrolled human participant becomes pregnant, and the protocol was not reviewed in accordance with Subpart B. (within 30 days)
i. A determination of decreased benefit or increased risk to participants (within 30 days)

2. The investigator shall ensure timely reporting of the below items
   a. IRB approval of significant protocol changes (within 30 days)
   b. Addition of vulnerable populations or DoD personnel as participants (within 30 days)
   c. Results of IRB continuing review (within 30 days)
   d. Change of reviewing IRB (within 30 days)
   e. A DoD-supported study's closure (within 30 days)

References:

Section 980, Title 10, U.S.C. (describes conditions under which DoD funds may be used for research involving a human being as an experimental subject)
DoD Instruction 3216.02, *Protection of Human Subjects and Adherence to Ethical Standards in DoD-Conducted and –Supported Research*
SECNAV Instruction 3900.39E, *Human Research Protection Program*
UAMS Administrative Guide Policy 16.1.06, Mandatory Education Policy
AAHRPP Elements I.1.A, I.1.E, I.1.F, I.5.D, II.2.E, II.2.F, II.2.G, II.2.H, II.3.A, II.3.C, II.3.E, II.3.F, II.3.G, II.4.A, II.4.B, II.5.A, II.5.B, and III.1.E
AAHRPP Standards I-2 and I-3