

## Assent of Children Participating in Research

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## Objectives



- To review the following factors regarding assent of children in research:
  - Regulations
  - eResearch Ethical principles and issues
  - Ethical Principal and Issues
  - Practical matters involved in the assent process for researchers

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## Regulations Protecting Children

- Which regulations apply to children?
  - 45 CFR 46 Subpart D
    - Applies to all UM research
  - 21 CFR 50 Subpart D
    - Applies to all research under FDA oversight

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## Regulations Protecting Children

- Additional conditions required beyond those for adult research that must be met for all but minimal risk research
- Additional approvals required, beyond IRB approval, for studies that are greater than minor over minimal risk with no potential direct benefit
  - HHS Secretary, FDA commissioner, or OVPR
- *Not all of these are required for every study—protections increase according to the risks and benefits of a particular study.*

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## Regulations Protecting Children



- Additional permissions required
  - Two parents' permission instead of one for research without a potential of direct benefit for the child
  - Permission of an advocate for wards of state for research without a potential of direct benefit for the child
  - **Assent of the child**

*• Not all of these are required for every study—protections increase according to the risks and benefits of a particular study.*

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## Protections in the Regulations



- Assent of Children
  - 45 CFR §46.408
    - (a) In addition to the determinations required under other applicable sections of this subpart, the IRB shall determine that adequate provisions are made for soliciting the assent of the children, when in the judgment of the IRB the children are capable of providing assent . . .
  - 21 CFR §50.55
    - (a) In addition to the determinations required under other applicable sections of this subpart D, the IRB must determine that adequate provisions are made for soliciting the assent of the children when in the judgment of the IRB the children are capable of providing assent.

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## Protections in the Regulations <sup>(1)</sup>



- Assent of Children
  - This is similar to the process of informed consent with adult subjects.
  - It is children deciding for themselves whether or not they will agree to participate in research.
    - It is a protection in the sense that a child protects herself from things she doesn't want to do.
    - It is also a means of respecting children's autonomy and teaching them to exercise it.

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## What is assent? <sup>(1)</sup>

- "Assent" means a child's affirmative agreement to participate in research. Mere failure to object should not, absent affirmative agreement, be construed as assent. <sup>45 CFR 46.402(b)</sup>
- This means the child must actively show his or her willingness to participate in the research, rather than just complying with directions to participate and not resisting in any way.

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## IRB is an Ethical not a Legal Institution <sup>(2)</sup>



- Tuskegee was legal
- Events necessitating Nürnberg were legal
- IRB mandates morality
- What is Ethical Research?
  - Subject understanding risk and benefit
  - Subject willingness (not forced) to participate
  - Unnecessary significant risk is immoral
  - Children who can understand should be asked

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## What is assent? <sup>(2)</sup>

- Assent is a mechanism in federal regulations for giving independent legal authority to minors involved in research
- It is a minor's **legal authority** to say "No" to participating in research
  - Assent is **not** a minor's **automatic legal right**
  - The IRB must decide for each study whether or not assent will be required

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## What is assent? <sup>(2)</sup>



- Assent may be oral or written
  - For mature adolescents, the same document signed by the parents is often optimal (~14 & up)
- When the IRB determines assent will be required it must also determine if and how it must be documented

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## What is an assent process? <sup>(2)</sup>

- A reasonable, age appropriate effort to enable the child to understand, to the degree they are capable, what their participation in research would involve.
- An ongoing, interactive conversation between the research team and the child
- A child's spoken or written agreement to participate (or not)
- **Adherence to the child's decision**



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## What are the required elements of assent?<sup>(a)</sup>

- Unlike consent for adults, the regulations do not articulate specific elements
  - The appropriate information must be determined by the researcher and the IRB
- Recommended elements are:
  - Purpose of the study
  - Procedures
  - Risks and benefits
  - Voluntary nature of research



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## Recommended Elements and Language<sup>(a)</sup>



- Level of detail should be limited and consider issues of concern to children
  - How much will it hurt to be in the study?
  - Will it be embarrassing? How long will it take?
  - Is there drug or pregnancy testing?
    - Can parents find out results of tests?
  - Does participation require using birth control?

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## Who Should Obtain Assent?<sup>(a)</sup>

- What are the characteristics of the study
  - Research design
  - Direct risks to subject
  - Age and understanding of subject
- Are there child sensitive issues
  - Sexual activity
  - Pregnancy testing
- How well does the person obtaining assent understand children
  - Consider a Pediatrician/child psychologist



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## What if the parent and child disagree?<sup>(a)</sup>

- “ If a child is capable of assent and the IRB requires that assent be sought, it must be obtained before the child can participate in the research activity. Thus, if the child dissents from participating in research, **even if his or her parents or guardian have granted permission, the child's decision prevails.** ”

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## What if the parent and child disagree?<sup>(a)</sup>



- If the parent says YES and the child says NO, *the child cannot participate*
- If the parent says NO and the child says YES, *the child cannot participate*
- ***In other words, the dissenter wins.***

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## Which comes first—Parental Permission or Assent?<sup>(a)</sup>

- The regulations do not specify the order
- The type of research is a factor
- The order should be indicated in the IRB application

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## How old does one have to be to assent? <sup>10</sup>

- Regulations are not explicit. IRBs must consider:
  - Age, maturity and psychological state of the children
  - The nature of the proposed research activity
- Regulations give IRBs flexibility in deciding which minors the investigator must assent
  - A judgment may be made for all children to be involved in research under a particular protocol, or for each child.
  - The IRB's outcome should be suited/delineated for the study at hand.



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## How old does one have to be to assent? <sup>10</sup>

- FDA guidance says age 7
- OHRP guidance says children as young as 4 or 5, depending upon the nature of the research.

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## Can the IRB Waive the Requirement for Assent? <sup>10</sup>

- Assent can be waived for some or all subjects in a study when **at least 1** of these 3 criteria is met:
  - Research offers potential benefit unavailable outside the context of the research.
  - Some or all of the eligible children are incapable of assent.
  - The study is minimal risk and all of the following are met:
    - Subjects' rights and welfare aren't adversely affected
    - The research could not otherwise be done
    - When appropriate, the subjects will be provided pertinent information



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## eResearch and the Kiddie Regs <sup>10</sup>

10.2 <sup>10</sup> What types of informed assent for children and parental consent/permission will be obtained?  
NOTE: "Parent" or "Parental" below refers to parent or guardian. See *Help for Important Instructions on* selecting the appropriate category or categories. <sup>10</sup>

- Select all that apply:
- Written assent for children
  - Oral assent script (e.g., for young or impaired children)
  - Request for waiver of documentation of child's assent (e.g., the assent process will take place but the subjects will not sign or mark a document)
  - Request for waiver of oral or written child assent requirement (requires 10.2.1)
  - Parent comprehensive written consent/permission (if accessing records prior to consent, also check "Request for waiver of parental informed consent/permission")
  - Parent short form, oral script, and witness consent/permission (typically used when parent is unable to read the consent document)
  - Request for waiver of documentation of parental informed consent/permission (e.g., the consent process will take place but the parent(s) will not sign a document). A copy of the oral script, written summary, letter, survey, or other document with the required elements of informed consent must be provided in 10-1. Note—documentation cannot be waived on studies subject to FDA oversight unless the study is minimal risk and the research does not involve any procedures for which consent would be required outside of the research context.
  - Request to use substitute mechanism for parental permission where research is designed for conditions or for a subject population for which parental or guardian permission is not a reasonable requirement to protect the subjects (e.g., neglected or abused children). (Note: Parental permission cannot be substituted on studies subject to FDA oversight.)
  - Request for IRB to appoint an advocate for children who are wards of the state or any other agency, institution, or entity—required for studies related to the children's status as wards that are approved under §46.406 or §46.407 (see section 3.3) (Note: for other studies approved under §46.406 or §46.407 where the occasion may be recruited the investigator must contact the IRB to appoint an advocate and the advocate must agree to the child joining the study before the child can participate.)

Check all the applicable boxes.

• e.g.,—In a study with children 5 to 17 you may need:

- a waiver for the kids under 7
- written assent 7 and up
- parent comprehensive permission
- a waiver of parental permission for recruitment

10.2.2 <sup>10</sup> Describe the process to seek and obtain informed assent for children and parental consent/permission (e.g., setting, timing, personnel involved, arrangements for answering subject questions before and after the consent is signed).

Give details about who will be talking to the children and their parents. This is where you would indicate the order of assent/consent (who you plan to ask first, the parent or the child)

10.2.3 <sup>10</sup> What criteria will be used to determine whether or not a child's assent to participate will be obtained, whether that assent will be oral or written, and whether documentation of the child's assent (e.g., signature on the assent form) will be obtained? <sup>10</sup>

Describe the type of assent for each age group. If you intend to seek assent only for some subjects and not others based on the child's capabilities explain the criteria to be used in making that assessment.

10.2.4 <sup>10</sup> Are any of the following changes expected in the status of child subjects during the study?

- Check all that apply:
- Child subject reaches the age of majority (age 18 in Michigan)
  - Significant increase in cognitive capacity (i.e. gets older or regains consciousness)
  - Expect no change in status of child subjects

10.2.4.1 <sup>10</sup> If applicable, describe the plan to re-assent or obtain consent for the subject if any of the changes occur.

Not today's topic—HOWEVER—see the next slide!!!!


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## What happens if a child reaches the legal age of consent while in a study? <sup>10</sup>




- Researcher must obtain the legally effective informed consent for the now-adult subject for any ongoing interactions, interventions, or data-collection. with the subjects.
  - In some circumstances the IRB could waive informed consent for the data-collection phase

## eResearch and the Kiddie Regs

10-1.1 \* Upload all informed consent, assent, permission, and/or debriefing documents: 

*Merge fields must be present in informed consent documents. See Help for important information.*

*See Help for more information about working with documents (e.g. uploading, downloading, and deleting).*

Add		Delete
name		version
<input type="checkbox"/>	[Edit] 1_Parent-Permission_04-23-06.doc 	0.01
<input type="checkbox"/>	[Edit] 2_Child-Assent_ages_12-17_09-14-06.doc 	0.01
<input type="checkbox"/>	[Edit] 3_Child_Assent_Oral_ages_4-12_04-24-07.doc 	0.01

## Things that Make You Hummm <sup>(w)</sup>

- Consent Document should be at 8<sup>th</sup> grade level
- Consent Template written at 11<sup>th</sup> grade level (Hummm)
- If parents read at 8<sup>th</sup> grade level; what level of reading comprehension should assent be at for an 8<sup>th</sup> grader (Hummm)



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## Real or Documented?

(we want both) <sup>(w)</sup>

- Informed/Understanding
  - Most important element of consent
- Assent is a child's willingness to be involved
  - Understanding requires communication
  - Talk to not at the child
  - Read their expressions



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## Remember Your IRB Reviewer need a KISS not a Hug <sup>(w)</sup>

**Keep  
It  
Simple  
I'm Stupid**



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