

Human Subjects Committee Reviewer's Checklist

This checklist is intended to assist ASRS reviewers in their evaluation of whether a submitted or proposed scholarly activity is subject to IRB oversight per U.S. federal regulatory standards. Scholarly activities that are subject to IRB oversight and did not receive it cannot be accepted for presentation or publication by ASRS.

The exempt categories referenced in this checklist may not be used for FDA-regulated research or for research involving prisoners unless their inclusion is incidental (e.g., because they are part of a dataset of patients).

Importantly, more than one exempt category may be used as long as the research meets all of the requirements of each applicable exemption. For example, research that involves the collection of information via interviews with subjects and the secondary use of data that is protected by HIPAA could potentially qualify for exemption under Categories 2 and 4.

This checklist does not include every exempt category. Categories that are unlikely to apply to ASRS submissions have been excluded as have the exemptions that require limited IRB review by a formally constituted IRB.

See the **Important Definitions Guidance** for the regulatory definitions of the terms referenced in this checklist (e.g., 'human subject') and tips regarding their application.

Investigator Name(s): [Click or tap here to enter text.](#)

Abstract Title: [Click or tap here to enter text.](#)

Reviewer Name: [Click or tap here to enter text.](#)

Date of Review: [Click or tap to enter a date.](#)

Instructions: Complete the sections that are relevant to the type of scholarly activity. More than one section may apply.

1. Single Case Report - NA

Case reports describing a single individual or case are generally not considered 'research' under the U.S. Common Rule because the scholarly activity does not involve a 'systematic investigation'.

Likewise, case reports describing the use (on or off-label) of an FDA-regulated product are not subject to FDA regulations because the use of the product was for medical care (not as part of an 'investigation' or 'experiment') and the case report is simply a description of the use.

Is this case report 'research' as defined by the Common Rule or a 'clinical investigation' involving an FDA-regulated test article?

- No – IRB approval is not required
- Yes – the case report is 'research' per the Common Rule – see NOTE below
- Unable to determine, please ask the applicant the following: [Click or tap here to enter text.](#)

NOTE: When a case report is research per the Common Rule, reviewers should consider whether the report would qualify for exempt status under Category 4 (see Section 7 for the criteria for Exempt Category 4).

2. Case Series of ≤ 10 cases - NA

Case series of ≤ 10 cases are generally not considered ‘research’ under the U.S. Common Rule when they are descriptive in nature and do not include rigorous methods of analysis that are generally accepted as sufficient when establishing scientific evidence. Simple mathematical descriptors (e.g., percentages, numbers) are acceptable.

Case series that include seeking out cases from outside one’s own patients or practice begin to take on the appearance of a ‘systematic investigation’ but still may not meet the regulatory definition of ‘research’ as long as they are not ‘designed to develop or contribute to generalizable knowledge’.

Small case series describing the use (on or off-label) of an FDA-regulated product are not typically subject to FDA regulations because the use of the product was for medical care (not as part of an ‘investigation’ or ‘experiment’) and the case series simply describe the uses. However, FDA regulations may apply if the treatment with an FDA-regulated product was preferentially assigned in order to evaluate its safety or effectiveness.

Is this case series ‘research’ as defined by the Common Rule or a ‘clinical investigation’ involving an FDA-regulated test article?

- No – IRB approval is not required
- Yes – the case report is ‘research’ per the Common Rule – see NOTE below
- Yes – the case series is an FDA-regulated ‘clinical investigation’ – IRB approval is required
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

NOTE: When a case series is research per the Common Rule, reviewers should consider whether the series would qualify for exempt status under Category 4 (see Section 7 for the criteria for Exempt Category 4). When a case series is a ‘clinical investigation’ subject to FDA’s rules, IRB approval is required (the exempt categories do not apply to FDA-regulated studies).

3. Literature Review - NA

Literature reviews that do not include any review or use of individual level data are generally excluded from the requirement for IRB review because the activity does not involve ‘human subjects’ as defined by the U.S. Common Rule.

Literature reviews that do include the use of individual level data (e.g., for data validation) may still qualify as ‘not human subjects’ when the identities of the individuals included in the dataset(s) are not known to or readily ascertained by the persons performing the literature review.

FDA regulations are not applicable to literature reviews because reviewing literature does not constitute a ‘clinical investigation’ involving human subjects.

Does this literature review include the review of individual level data by the author(s) of the literature review?

- No – IRB approval is not required (the activity does not involve human subjects)
- Yes – Ask the author(s) of the literature review the following to help determine whether ‘human subjects’ were involved:

- Do you know, or can you readily ascertain, the identities of any of the individuals included in the dataset(s) you reviewed?
- Was the data coded, and if yes:
 - Do/did you have access to the key that would enable re-identification?
 - Is there an agreement or terms of use in place that prohibits re-identification?

Unable to determine, please ask the applicant the following: [Click or tap here to enter text.](#)

NOTE: When a literature review does involve human subjects, reviewers should consider whether the literature review would qualify for exempt status under Category 4 (see Section 7 for the criteria for Category 4).

4. Meta-analysis

As with literature reviews, meta-analyses that do not include any review or use of individual-level data are generally excluded from the requirement for IRB review because the activity does not involve ‘human subjects’ as defined by the Common Rule or a ‘clinical investigation’ involving human subjects under FDA regulations.

Meta-analysis methods that do include the review and use of individual-level data (e.g., for pooled analyses) may involve ‘human subjects’ when the data is identifiable, or coded and re-identification is reasonably possible (e.g., because the investigator(s) has access to the code, or the data may become readily identifiable as a result of the pooling of data).

Does this meta-analysis include the review of individual level data by the investigators performing the analysis?

- No – IRB approval is not required (the activity does not involve human subjects)
- Yes – Ask the investigator(s) of the meta-analysis the following to help determine whether ‘human subjects’ were involved:
- Do you know, or can you readily ascertain, the identities of any of the individuals included in the dataset(s) you reviewed?
 - Was the data used in the meta-analysis coded, and if yes:
 - Do/did you have access to the key that would enable re-identification?
 - Is there an agreement or terms of use in place that prohibits re-identification?
 - Would any of the methods used in the meta-analysis (e.g., result in the data becoming identifiable (i.e., the identities of subjects being known or able to be readily ascertained)?)
- Unable to determine, please ask the applicant the following: [Click or tap here to enter text.](#)

NOTE: When a meta-analysis does involve human subjects, reviewers should consider whether the analysis would qualify for exempt status under Category 4 (see Section 7 for the criteria for Category 4.)

5. Analysis of registry data (Vestrum, IRIS, or another large-scale professional database)

Much research utilizing data from a large-scale professional database can be excluded from the requirement for IRB review because the research does not involve ‘human subjects’ as defined by the Common Rule and does not constitute a ‘clinical investigation’ involving human subjects under FDA’s regulations. Common examples of this include:

- When the data provided to the investigator is in aggregate form

- When the dataset provided to the investigator is large and has been stripped of all identifying information, and the investigator does not have the means to readily re-identify subjects because they do not have direct access to the database, do not have access to any coding system that would enable re-identification, and, ideally, there are terms of use or an agreement that prohibits re-identification.

NOTE: When the investigator is conducting research using a small dataset (e.g., only patients with a rare diagnosis), or only using the data from their own practice that has been submitted to the database, the research may involve human subjects because the investigator knows, or may readily ascertain, the identities of at least some subjects. In such cases, reviewers should consider whether the research qualifies for exempt status under Category 4 (See Section 7 for the criteria for Category 4).

Does this analysis of registry data involve the use of identifiable private information?

- No – IRB approval is not required (the activity does not involve human subjects)
- Yes – identities of the individuals included in the dataset are known, or could readily be ascertained, by the investigator(s) – See NOTE above
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

6. Retrospective Chart Review (other than single case report or ≤ 10 case series)

Many retrospective chart reviews that are ‘human subjects research’ qualify for exemption under Category 4, sub-criterion (iii) (for information protected by HIPAA). For this exemption to apply, data including protected health information must remain appropriately secured within covered entities or be covered by an agreement that extends HIPAA protections. This exemption could not be used when data is shared with collaborators who are not part of a covered entity unless the data has been de-identified in accordance with HIPAA standards or is covered by a business associate or data use agreement (for Limited Data Sets).

Retrospective chart reviews that only use data about patients outside of the investigator’s practice may qualify as either:

- Not involving ‘human subjects’ if the data is provided in a fully de-identified format and the investigator does have the means to re-identify the information; or
- Qualify for exempt status under Category 4, sub-criterion (iii) (for information protected by HIPAA)

FDA regulations are not applicable to retrospective chart reviews because the review of gathered or generated for purposes other than the research (e.g., for health care) does not constitute a ‘clinical investigation’.

NOTE: When investigators conduct research analyses using the data of patients from within their own practice, such activities almost always constitute ‘human subjects research’ as defined by the U.S. Common Rule because the investigators know, or can readily ascertain, the identities of the individuals associated with the data.

Exceptions to this general rule may exist for certain internal quality activities, when the intent of the activity is purely for quality improvement, the design and analysis use accepted QA/QI methodologies (versus the types of design and analyses more commonly associated with research intended to establish scientific evidence), and any subsequent publication or presentation is descriptive in nature. Such activities would not constitute ‘research’ under the Common Rule, and thus IRB approval is not required.

a. Is this retrospective chart review ‘research’ as defined by the Common Rule?

- Yes – please answer 6.b
- No – IRB review is not required (no need to answer 6.b or c)
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

b. Does this retrospective chart review involve ‘human subjects’ as defined by the Common Rule?

- Yes – please answer 6.c
- No – IRB review is not required (no need to answer 6.c)
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

c. Does this retrospective chart review qualify for exempt category 4(iii) – secondary use of health information protected by HIPAA? (see Section 7 for the full criteria for this exemption and tips regarding its application)

- Yes – the research qualifies for exempt category 4(iii)
- No – Ask the investigator(s) the following to help determine whether the research qualifies for exempt category 4(ii) - de-identified research data (See Section 7 for more information about this exemption)
 - Was the data recorded in the research dataset without any identifiers or information that could lead to re-identification of subjects?
 - If a temporary list with identifying information was maintained (e.g., to avoid duplicate review), was the list destroyed before the research dataset was analyzed?
 - Please confirm that you have not contacted the subjects in relation to this research and that you will not attempt to re-identify the subjects.
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

7. Other Scholarly Activities

a. Interviews, Surveys, Questionnaires

Studies that include the collection of data through interviews, surveys, questionnaires, or focus groups may qualify for exemption under Category 2 as long as the data is recorded without identifiers or is recorded with identifiers, but any release of the data would not be harmful.

Exempt Category 2 Criteria:

- Research that only includes interactions involving educational tests (cognitive, diagnostic, aptitude, achievement) survey procedures, interview procedures, or observation of public behavior, if at least one of the following criteria is met:
 - The information obtained is recorded by the investigator in such a manner that the identify or the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects; **or**
 - Any disclosure of the human subjects’ responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects’ financial standing, employability, educational advancement, or reputation.

Reviewer Tips: The first criterion above allows an investigator to temporarily access and use identifiable information to create a research dataset, but the final dataset used for analysis must not include identifiable information and may not be linked to identifiable information via the use of a code and key or other means that would enable re-identification.

The second criterion encompasses research that does include the retention of identifiable or coded information but requires that any disclosure or breach of the data would not reasonably place the subjects at risk or be damaging to them.

Does the research qualify for exemption under Category 2?

- Yes – IRB approval is not required
- No - IRB approval is required
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

b. Prospective Data Collection

Studies that include prospective data collection may qualify for exemption under Category 4 as long as the data is being generated for another ‘primary’ purpose (e.g., provision of health care) and at least one of the sub-criteria is satisfied (publicly available data, data recorded without identifiers, or data protected under HIPAA).

Exempt Category 4 Criteria:

- Secondary research uses of identifiable private information or identifiable biospecimens, if at least one of the following criteria is met:
 - The identifiable private information or identifiable biospecimens are publicly available, **or**
 - Information, which may include information about biospecimens, is recorded by the investigator in such a manner that the identity of the human subjects cannot be readily ascertained directly or through identifiers linked to the subjects, the investigator does not contact the subjects, and the investigator will not re-identify subjects, **or**
 - The research involves only information collection and analysis involving the investigator’s use of identifiable health information when that use is regulated under [HIPAA], for the purposes of “health care operations” or “research” as those terms are defined at 45 CFR 164.501 or for “public health activities and purposes” as described under 45 CFR 164.512(b).

Reviewer Tips: This exemption may only be used for secondary research, all of the data and/or specimens must have been or will be generated as a result of another “primary” activity such as medical care or another research project.

The first sub-criterion above refers to publicly available identifiable information such as may be included in voter records, vital records, and data and specimen repositories that are “open access” meaning that any member of the public can request or access the information or specimens without restrictions.

The second criterion allows an investigator to temporarily access and use identifiable information to create a research dataset, but the final dataset used for analysis must not include identifiable information and may not be linked to identifiable information via the use

of a code and key or other means that would enable re-identification. The second criterion also requires that there be no contact with subjects for the research (e.g., this exemption could not be used when the research also includes interviews, surveys, questionnaires, follow up phone calls, etc.).

The third criterion requires that the information used in the research is protected by HIPAA at all times. The research information used for the research must be PHI and cannot ever leave the “umbrella” of a covered entity. For example, data sharing would be allowed with collaborators who are also part of a covered entity as long as the data is appropriately secured in accordance with HIPAA but not with collaborators who are not part of a covered entity unless the collaborator only has access to data that is de-identified in accordance with HIPAA standards or is covered by a business associate or data use agreement.

Does the research qualify for exemption under Category 4?

- Yes – IRB approval is not required
- No - IRB approval is required
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

c. Public Datasets

Studies that involve the use of data available to any member of the public may qualify as either “not human subjects” or qualify for exemption under Category 4. To differentiate, first determine whether the data is “identifiable private information”. Research involving public data that is not identifiable and/or not private does not involve human subjects per the Common Rule and does not have to be evaluated to determine if it qualifies for exempt status. When the data is available to the public, and is both identifiable and private (e.g., a public health dataset that could be re-identified by comparing it with other data or through the use of an algorithm), then the research should be evaluated for potential exemption under Category 4.

i. Does the research involve ‘private information’?

- Yes – please answer c.ii below
- No – IRB review is not required (no need to answer c.ii or iii)
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

ii. Is the private information identifiable?

- Yes – please answer c.iii below
- No – IRB review is not required (no need to answer c.iii)
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

iii. Does the research qualify for exemption under Category 4(i)? (Secondary research uses of publicly available identifiable private information or identifiable biospecimens (see Reviewer Tips above in 7.b for more information))

- Yes – IRB approval is not required
- No - IRB approval is required
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*

d. Education

Studies that involve the evaluation of educational strategies (e.g., provision of information to patients in a video versus a handout combined with a post-test to evaluate understanding) should be considered for exemption under Category 1. Category 1 should not be applied to research using novel educational strategies, a condition of the exemption is that the research only involves normal educational practices.

Studies that involve the use of educational tests, or the results of educational tests, may be considered for exemption under Category 2. Unlike Category 1, Category 2 may not be used when the research includes any sort of 'intervention' such as an educational strategy or manipulation of circumstances.

Exempt Category 1 Criteria:

- Research, conducted in established or commonly accepted educational settings, that specifically involves normal educational practices that are not likely to adversely impact students' opportunity to learn required educational content or the assessment of educators who provide instruction. This includes most research on regular and special education instructional strategies, and research on the effectiveness of or the comparison among instructional techniques, curricula, or classroom management methods.

Reviewer Tip: For the purposes of this exemption, commonly accepted educational settings may include non-classroom settings. For example, if a provider normally provides patient education within their practice, or provides educational opportunities for students in their practice, this exemption may be able to be used as long as the remaining conditions of the exemption are satisfied.

Exempt Category 2 Criteria:

- Research that only includes interactions involving educational tests (cognitive, diagnostic, aptitude, achievement) survey procedures, interview procedures, or observation of public behavior, if at least one of the following criteria is met:
 - The information obtained is recorded by the investigator in such a manner that the identify or the human subjects cannot readily be ascertained, directly or through identifiers linked to the subjects; **or**
 - Any disclosure of the human subjects' responses outside the research would not reasonably place the subjects at risk of criminal or civil liability or be damaging to the subjects' financial standing, employability, educational advancement, or reputation.

Reviewer Tips: The first sub-criterion above allows an investigator to temporarily access and use identifiable information to create a research dataset, but the final dataset used for analysis must not include identifiable information and may not be linked to identifiable information via the use of a code and key or other means that would enable re-identification.

The second sub-criterion encompasses research that does include the retention and use of identifiable or coded information but requires that any disclosure or breach of the data would not reasonably place the subjects at risk or be damaging to them.

Does the research qualify for exemption under Category 1 or 2?

- Yes – IRB approval is not required, exempt category 1 2 applies.

- No - IRB approval is required
- Unable to determine, please ask the applicant the following: [Click or tap here to enter text.](#)

e. **Other** – to be used when the proposal does not fall wholly within the prior types of scholarly activities

i. **FDA Evaluation**

FDA human subject regulations apply to clinical investigations of FDA-regulated products. A clinical investigation means any experiment that involves an FDA-regulated test article and one or more human subjects (including the use of human specimens to determine the safety or effectiveness of a device).

The review of data generated for other purposes, such as health care, to evaluate a drug, device, or biologic does not constitute an experiment and therefore is typically not considered a clinical investigation unless (1) care has been driven by or altered to facilitate the research (e.g., by preferentially administered a drug or using a medical device to generate data for study), or (2) the data will be used to support an application to the FDA (including for changes to labelling).

Does the activity involve a clinical investigation of an FDA-regulated drug, biologic, or medical device?

- Yes – IRB approval is required
- No - complete Section ii, Common Rule Evaluation.
- Unable to determine, please ask the applicant the following: [Click or tap here to enter text.](#)

ii. **Common Rule Evaluation**

Evaluation of whether an activity is subject to IRB approval per the Common Rule involves a series of determinations. First evaluating whether the activity is research, and, if so, whether the research involves human subjects per the Common Rule definitions. Scholarly activities that are not research, or are research but do not involve human subjects, do not require IRB approval. Human subjects research that qualifies for exempt status is addressed elsewhere in this checklist.

1. Does the activity involve ‘research’ as defined by the Common Rule? (*“Research means a systematic investigation, including research development, testing, and evaluation, designed to develop or contribute to generalizable knowledge” – See the Important Definitions Guidelines for more information and tips*)

- Yes – please answer 2 below
- No – IRB approval is not required – no need to answer 2
- Unable to determine, please ask the applicant the following: [Click or tap here to enter text.](#)

2. Does the research involve ‘human subjects’ as defined by the Common Rule? (*“Human Subject means a living individual about whom an investigator (whether professional or student) conducting research: (i) obtains information through intervention or interaction with the individual and uses, studies, or analyzes the information or biospecimens; or (ii) obtains, uses, studies, analyzes, or generates identifiable private information or*

identifiable biospecimens.” – See the Important Definitions Guidelines for more information and tips)

- Yes – IRB approval is required
- No – IRB approval is not required
- Unable to determine, please ask the applicant the following: *Click or tap here to enter text.*