

Title 21
Code of Federal Regulations
Part 56
January 27, 1991
and revised June 18, 1991
April 1, 2001 – Children (in bold)

PART 56 INSTITUTIONAL REVIEW BOARDS

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**PART 56 - INSTITUTIONAL REVIEW
BOARDS**

SUBPART A. -- GENERAL PROVISIONS

§ 56.101 Scope

- (a) This part contains the general standards for the composition, operation and responsibility of an Institutional Review Board (IRB) that reviews clinical

investigations regulated by the Food and Drug Administration under sections 505(i), 507(d), and 520(g) of the act, as well as clinical investigations that support applications for research or marketing permits for products regulated by the Food and Drug Administration including foods, including **foods including dietary supplements, that bear a nutrient content claim or a health claim, infant formulas, food** and color additives, drugs for human use, medical devices for human use, biological products for human use, and electronic

products. Compliance with this part is intended to protect the rights and welfare of human subjects involved in such investigations.

- (b) References in this part to regulatory sections of the Code of Federal Regulations are to Chapter I of Title 21, unless otherwise noted.

§ 56.102 Definitions As used in this part:"

- a) **"Act"** means the Federal Food, Drug, and Cosmetic Act, as amended (secs. 201-902, 52 Stat. 1040 et seq., as amended (21 U.S.C. 321-392)).
- b) **"Application for research or marketing permit"** includes:
- 1) A color additive petition, describe in Part 71.
 - 2) Data and information regarding a substance submitted as part of the procedure for establishing that a substance is generally recognized as safe (GRAS) for a use which results or may reasonably be expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, described in § 170.35.
 - 3) A food additive petition, described in Part 171.
 - 4) Data and information regarding a food additive submitted as part of the procedures regarding food additives permitted to be used on an interim basis pending additional study, described in § 180.1.
 - 5) Data and information regarding a substance submitted as part of the procedures for establishing a tolerance for unavoidable contaminants in food and food packaging materials, described in section 406 of the act.
 - 6) A "Notice of Claimed Investigational Exemption for a New Drug" described in Part 312.
 - 7) A new drug application, described in Part 314.
 - 8) Data and information regarding the bioavailability or bioequivalence of Drugs for human use submitted as part of the procedures for issuing, amending or repealing a bioequivalence requirement, described in Part 320
 - 9) Data and information regarding an over-the-counter drug for human use submitted as part of the procedures for classifying such drugs as generally recognized as safety and effective and not misbranded, described in Part 330.
 - 10) Data and information regarding an antibiotic drug submitted as part of the procedures for issuing, amending or repealing regulations for such drugs described in Part 430.
 - 11) An application for a biological produce license, described in Part 601.
 - 12) Data and information regarding a biological product submitted as part of the procedures for determining that licensed biological products are safe and effective and not misbranded, as described in Part 601.
 - 13) An application for an Investigation Device Exemption:" described in Parts 812 and 813.
 - 14) Data and information regarding a medical device for human use submitted as part of the procedures for classifying such devices, described in Part 860.
 - 15) Data and information regarding a medical device submitted as part of the procedures for establishing, amending, or repealing a standard for such device, described in Part 861.
 - 16) An application for premarket approval of a medical device for human use, described in section 515 of the at.
 - 17) A product development protocol for a medical device for human use described in section 515 of the act.
 - 18) Data and information regarding an electronic product submitted as part of the procedures for establishing, amending, or repealing a standard for such products, described in section 358 of the Public Health Service Act.
 - 19) Data and information regarding an electronic product submitted as part of the procedures for obtaining a variance from any electronic product performance standard, as described in § 1010.4
 - 20) Data and information regarding an electronic product submitted as part of the procedures for granting,

- amending, or extending an exemption from a radiation safety performance standard, as described in §1010.5.
- 21) Data and information regarding an electronic product submitted as part of the procedures for obtaining an exemption from notification of a radiation safety defect or failure of compliance with a radiation safety performance standard, described in Subpart D of Part 1003.
- (21) Data and information about a clinical study of an infant formula when submitted as part of an infant formula notification under section 412(c) of the Federal Food, Drug, and Cosmetic Act.**
- (22) Data and information submitted in a petition for a nutrient content claim, described in Sec. 101.69 of this chapter, and for a health claim, described in Sec. 101.70 of this chapter.**
- (23) Data and information from investigations involving children submitted in a new dietary ingredient notification, described in Sec. 190.6 of this chapter.**
(pediatric addition 4/24/01)
- c) **"Clinical investigation"** means any experiment that involves a test article and one or more human subjects, and that either must meet the requirements for prior submission to the Food and Drug Administration under section 505(i), 507(d), or 520(g) of the act, or need not meet the requirements for prior submission to the Food and Drug Administration under these sections of the act, but the results of which are intended to be later submitted to, or held for inspection by, the Food and Drug Administration as part of an application for a research or marketing permit. The term does not include experiments that must meet the provisions of Part 58, regarding nonclinical laboratory studies. The terms "research," "clinical research," "clinical study," "study," and "Clinical investigation" are deemed to be synonymous for purposes of this part.
- d) **"Emergency use"** means the use of a test article on a human subject in a life-threatening situation in which no standard acceptable treatment is available, and in which there is not sufficient time to obtain IRB approval.
- e) **"Human subject"** means an individual who is or becomes a participant in research, either as a recipient of the test article or as a control. A subject may be either a healthy human or a patient.
- f) **"Institution"** means any public or private entity or agency (including Federal, State, and other agencies). The word "facility" as used in section 520(g) of the act is deemed to be synonymous with the term "institution" for purposes of this part.
- g) **"Institutional Review Board" (IRB)** means any board, committee, or other group formally designated by an institution to review biomedical research involving humans as subjects, to approve the initiation of and conduct periodic review of such research. The primary purpose of such review is to assure the protection of the rights and welfare of the human subjects. The term has the same meaning as the phrase "institutional review committee" as used in section 520(b) of the act.
- h) **"Investigator"** means an individual who actually conducts a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to, or used involving, a subject, or in the event of an investigation conducted by a team of individuals, is responsible leader of that team.
- i) **"Minimal risk"** means that the probability and magnitude of harm or discomfort anticipated in the research are not greater in and of themselves than those ordinarily encountered in daily life or during the performance of routine physical or psychological examinations or tests.
- j) **"Sponsor"** means a person who initiates a clinical investigation, but who does not actually conduct the investigation, i.e., the test article is administered or dispensed to or used involving, a subject under the immediate direction of another individual. A person other than an individual (e.g., corporation or agency) that uses one or more of its own employees to conduct a

clinical investigation it has initiated is considered to be a sponsor (not a sponsor-investigator) and the employees are considered to be investigators.

- k) **"Sponsor-Investigator"** means an individual who both initiates and actually conducts, alone or with others, a clinical investigation, i.e., under whose immediate direction the test article is administered or dispensed to or used involving , a subject. The term does not include any person other than an individual, (e.g., corporation or agency.
- l) **"Test Article"** means any drug (including a biological product for human use, medical device for human use, human food additive, color additive, electronic product, or any other article subject to regulation under the act or under sections 351 and 354-360F of the Public Health Service Act (42 U.S.C. 262 and 263b-n).
- m) **"IRB approval"** means the determination of the IRB that the clinical investigation has been reviewed and may be conducted at an institution within the constraints set forth by the IRB and by other institutional and Federal requirements.

§ 56.103 Circumstances in which IRB review is required.

- a) Except as provided in §§ 56.104 and 56.105, any clinical investigation which must meet the requirements for prior submission (as required in Parts 312,812, and 913) to the Food and Drug Administration shall not be initiated unless that investigation has been reviewed and approved by, and remains subject to continuing review by, an IRB meeting the requirements of this part. The determination that a clinical investigation of this part(sic)
- b) Except as provided in §§ 56.104 and 56.105, the Food and Drug Administration may decide not to consider in support of an application for a research or marketing permit any data or information that has been derived from a clinical investigation that has not been approved by, and that was not subject to initial and continuing review by, an IRB meeting the requirements may not be considered in support of an application for a research or marketing permit does not, however,

relieve the applicant for such a permit of any obligation under any other applicable regulations to submit the results of the investigation to the Food and Drug Administration.

- o) Compliance with these regulations will in no way render inapplicable pertinent Federal, State or local Laws or regulations.

§ 56.104 Exemptions from IRB

requirements: The following categories of clinical investigations are exempt from the requirements of this part for IRB review:

- a) Any investigation which commenced before July 27, 1981, and was subject to requirements for IRB review under FDA regulation before that date, provided that the investigation remains subject to review of an IRB which meets the FDA requirements in effect before July 27, 1981.
- b) Any investigation commenced before July 27, 1981 and was not otherwise subject to requirements for IRB review under Food and Drug Administration before that date.
- c) Emergency use of a test article, provided that such emergency use is reported to the IRB within 5 working days. Any subsequent use of the test article at the institution is subject to IRB review.
- d) Taste and food quality evaluations and consumer acceptance studies, if wholesome foods without additives are consumed or if a food is consumed that contains a food ingredient at or below the level and for a use found to be safe, or agricultural, chemical, or environmental contaminant at or below the level found to be safe by the Food and Drug Administration or approved by the Environmental Protection Agency or the Food Safety and Inspection Service of the U.S. Department of Agriculture.

§56.105 Waiver of IRB requirement.

On the application of a sponsor or sponsor-investigation, the Food and Drug Administration may waive any of the requirements contained in these regulations, including the requirements of IRB review, for specific research activities or for classes of

research activities, otherwise covered by these regulations.

SUBPART B – ORGANIZATION AND PERSONNEL

§ 56.107 IRB membership.

- a) Each IRB shall have at least five members with varying backgrounds to promote complete and adequate review of research activities commonly conducted by the institution. The IRB shall be sufficiently qualified through the experience and expertise of its members, and the diversity of the members' including consideration of race, gender, cultural sensitivity to such issues as community attitudes, to promote respect for its advice and counsel in safeguarding the rights and welfare of human subjects. In addition to possessing the professional competence necessary to review specific research activities, the IRB shall be able to ascertain the acceptability of proposed research in terms of institutional commitments and regulations, applicable law and standards of professional conduct and practice. The IRB shall therefore include persons knowledgeable in these areas. If an IRB regularly reviews research that involves a vulnerable category of subjects, such as children, prisoners, pregnant women, or handicapped or mentally disabled persons, consideration shall be given to the inclusion of one or more individuals who are knowledgeable about the experienced (sic) in working with those subjects
- b) Every nondiscriminatory effort will be made to ensure that no IRB consists entirely of men or entirely of women, including the institution's consideration of qualified persons of both sexes, so long as no selection is made to the IRB on the basis of gender. No IRB may consist entirely of members of one profession.
- c) Each IRB shall include at least one member whose primary concerns are in the scientific area and at least one member whose primary concerns are in nonscientific areas.
- d) Each IRB shall include at least one member who is not otherwise affiliated with the institution and who is not part of

the immediate family of a person who is affiliated with the institution.

- e) No IRB may have a member participate in the IRB's initial or continuing review of any project in which the member has a conflicting interest, except to provide information requested by the IRB.
- f) An IRB may, in its discretion, invite individuals with competence in special areas to assist in the review of complex issues which require expertise beyond or in addition to that available on the IRB. These individuals may not vote with the IRB.

SUBPART C – IRB FUNCTIONS AND OPERATIONS

§ 56.108 IRB Functions and

Operations: In order to fulfill the requirements of these regulations, each IRB shall:

- a) Follow written procedures
 - 1) for conducting its initial and continuing review of research and for reporting its findings and actions to the investigator and the institution;
 - 2) for determining which projects require review more often than annually and which projects need verification from sources other than the investigators that no material changes have occurred since previous IRB review.
 - 3) for prompt reporting to the IRB of changes in a research activity,
 - 4) for changes in approved research, during the period for which IRB approval has already been given, may not be initiated without IRB review and approval except where necessary to eliminate apparent immediate hazards to the human subjects;
- b) Follow written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials and the Food and Drug Administration of:
 - 1) Any unanticipated problems involving risks to human subjects or others;
 - 2) any instances of serious or continuing noncompliance with these

- regulations or the requirements or determinations of the IRB; or
- 3) any suspension or termination of IRB approval.
- c) Except where an expedited review procedure is used (see § 56.110), review proposed research at convened meetings at which a majority of the members of the RIB are present, including at least one member whose primary concerns are in nonscientific areas. In order for the research to be approved, it shall receive the approval of a majority of the members present at the meeting.

§ 56.109 IRB review of research

- a) An IRB shall review and have authority to approve, require modifications in (to secure approval), or disapprove all research activities covered by these regulations.
- b) An IRB shall require that information given to subjects as part of informed consent is in accordance with §50.25. The IRB may require that information, in addition to that specifically mentioned in §50.25, be given to the subjects when in the IRB's judgment the information would meaningfully add to the protection of the rights and welfare of the subjects.
- c) An IRB shall require documentation of informed consent in accordance with §50.27 of this chapter except as follows:
- 1) The IRB may, for some or all subjects, waive the requirement that the subject, or the subject's legally authorized representative, sign a written consent form if it finds that the research presents no more than minimal risk of harm to subjects and involves no procedures for which written consent is normally required outside the research context, or
 - 2) The IRB may, for some or all subjects, find that the requirements in §50.24 of this chapter for an exception from informed consent for emergency research are met.
- d) An IRB shall notify investigators and the institution in writing of its decision to approve or disapprove the proposed research activity, or of modifications required to secure IRB approval of the

research activity. If the IRB decides to disapprove research activity, it shall include in its written notification, a statement of the reasons for its decision and give the investigator an opportunity to respond in person or writing.

In cases where the documentation requirement is waived, under paragraph (c)(1) of this section, the IRB may require the investigator to provide subjects with a written statement regarding the research.

- e) An IRB shall conduct continuing review of research covered by these regulation at intervals appropriate to the degree of risk, but not less than once per year, and shall have authority to observe or have a third party observe the consent process and the research.

For studies involving an exception to informed consent under §50.24 of this chapter, an IRB shall promptly notify in writing the investigator and the sponsor of the research when an IRB determines that it cannot approve the research because it does not meet the criteria in the exception provided under §50.24(a) of this chapter or because of other relevant ethical concerns. The written notification shall include a statement of the reasons for the IRB's determination

- f) *An IRB shall provide in writing to the sponsor of research involving an exception to informed consent under §50.24 of this chapter a copy of information that has been publicly disclosed under §50.24(a)(7)(ii) and (a)(7)(iii) of this chapter. The IRB shall provide this information to the sponsor promptly so that the sponsor is aware that such disclosure has occurred. Upon receipt, the sponsor shall provide copies of the information disclosed to FDA.*
- (g) ??
- (h) *When some or all of the subjects in a study are children, an IRB must determine that the research study is in compliance with part 50, subpart D of this chapter, at the time of its initial review of the research. When some or all of the subjects in a study that is ongoing on April 30, 2001 are children, an IRB must conduct a review of the research to determine compliance with part 50, subpart D of this chapter, either at the time of continuing review*

or, at the discretion of the IRB, at an earlier date.

§ 56.110 Expedited review procedures for certain kinds of research involving no more than minimal risk, and for minor changes in approved research.

- a) The Food and Drug Administration has established, and published in the Federal Register, a list of categories of research that may be reviewed by the IRB through an expedited review procedure. The list will be amended, as appropriate, through periodic republication in the Federal Register.
- b) An IRB may use the expedited review procedure to review either or both of the following:
 - 1) Some or all of the research appearing on the list and found by the reviewer(s) to involve no more than minimal risk,
 - 2) minor changes in previously approved research during the period (of 1 year or less) for which approval is authorized.

Under an expedited review procedure, the review may be carried out by the IRB chairperson or by one or more experienced reviewers designated by the IRB chairperson from among the members of the IRB. In reviewing the research, the reviewers may exercise all of the authorities of the IRB except that the reviewers may not disapprove the research. A research activity may be disapproved only after review in accordance with the nonexpedited review procedure set forth in § 56.108(c)

- c) Each IRB which uses an expedited review procedure shall adopt a method for keeping all members advised of research proposals which have been approved under the procedure.
- d) The Food and Drug Administration may restrict, suspend, or terminate and institutions, or IRB's use of the expedited

review procedure when necessary to protect the rights or welfare of subjects.

§ 56.111 Criteria for IRB approval of research.

- a) In order to approve a study the IRB must find that all of the following requirements (21 CFR 50 and 56) are satisfied. Nothing in this review will assure that all state laws are satisfied.

- 1) Risks to subjects are minimized by (i) using procedures consistent with sound research design and which do not unnecessarily expose subjects to risk, and (ii) whenever appropriate, by using procedures already being performed on the person for diagnostic or therapeutic reasons.
- 2) Risks to subjects are reasonable in relation to anticipated benefits, if any, to subjects, and the importance of the knowledge that may be expected to result.

In evaluating risks and benefits, the IRB should consider only those risks and benefits that may result from the research (as distinguished from risks and benefits of therapies that subjects would receive even if not participating in the research.)

The IRB should not consider possible long range effects of applying knowledge gained in the research (for example, the possible effects of the research on public policy) as among those research risks that fall within the purview of its responsibility.

- 3) Selection of subjects is equitable. In making this assessment, the IRB should take into account the purposes of the research and the setting in which the research will be conducted. and should be particularly cognizant of the special problems of research involving vulnerable populations, such as children, prisoners, pregnant women, handicapped, or mentally disabled persons, or economically or educationally disadvantaged persons.
- 4) Informed consent will be sought from each prospective subject or the subject's legally authorized

representative, in accordance with and to the extent required by 21 CFR Part 50. Waiver from the obligation to gain consent may be approved under 21 CFR 50.23. (See Section VII-B)

- 5) Informed consent will be appropriately documented, in accordance with and to the extent required by 21 CFR 50.27, "Documentation of Informed Consent." (See Section VII-B)
 - 6) Where appropriate, the research plan makes adequate provisions for monitoring the data collected to ensure the safety of subjects.
 - 7) Where appropriate, there are adequate provisions to protect the privacy of subjects and to maintain the confidentiality of files.
- b) Where some or all of the subjects such as children, prisoners, pregnant women, handicapped, or mentally disabled persons, or economically or educationally disadvantaged persons, are likely to be vulnerable to coercion or undue influence, appropriate additional safeguards have been included in the study to protect the rights and welfare of these subjects. (See Section IX).
- c) When the research involves an exception from informed consent for emergency research under §50.24 of this chapter, the IRB finds and documents that the safeguards set forth in §50.24 are included.
- (c) In order to approve research in which some or all of the subjects are children, an IRB must determine that all research is in compliance with part 50, subpart D of this chapter.**

§ 56.112 Review by Institution

Research covered by these regulations that has been approved by an IRB may be subject to further appropriate review and approval or disapproval by officials of the institution. However, these officials may not approve the research if it has not been approved by an IRB.

§ 56.113 Suspension or termination of IRB approval of research

An IRB shall have authority to suspend or terminate approval of research that is not being conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects. Any suspension or termination of approval shall include a statement of the reasons for the IRB's action and shall be reported promptly to the investigator, appropriate institutional officials, and the Food and Drug Administration.

§ 56.114 Cooperative research.

In complying with these regulations, institutions involved in multi-institutional studies may use joint review, reliance upon the review of another qualified IRB, or similar arrangements aimed at avoidance of duplication of effort.

SUBPART D - RECORDS AND REPORTS

§ 56.115 IRB Records

- a) An institution, or where appropriate an IRB, shall prepare and maintain adequate documentation of IRB activities, including the following:
 - 1) Copies of all research proposals reviewed, scientific evaluations, if any, that accompany the proposals, approved sample consent documents, progress reports submitted by investigators and reports of injuries to subjects.
 - 2) Minutes of IRB meeting which shall be in sufficient detail to show attendance at the meetings: actions taken by the IRB; the vote on these actions including the number of members voting for, against, and abstaining; the basis for requiring changes in or disapproving research; and a written summary of the discussion of controverted issues and their resolution.
 - 3) Records of continuing review activities
 - 4) Copies of all correspondence between the IRB and the investigators
 - 5) A list of IRB members identified by name, earned degrees,

- representative capacity; indications of experience such as board certifications, licenses, etc., sufficient to describe each member; chief anticipated contributions to IRB deliberations; and any employment or other relationship between each member and the institution; for example; full-time employee, part time employee, a member of governing panel or board, stockholder, paid or unpaid consultant.
- 6) Written procedures for the IRB as required by § 56.108(a) and (b).
 - 7) Statements of significant new findings provided to subjects as required by § 50.25.
- b) The records required by this regulation shall be retained for at least 3 years after completion of the research, and the records shall be accessible for inspection and copying by authorized representatives of the Food and Drug Administration at reasonable times and in a reasonable manner.
 - c) The Food and Drug Administration may refuse to consider a clinical investigation in support of an application for a research or marketing permit if the institution or the IRB that reviewed the investigation refuses to allow an inspection under this section.

SUBPART E -- ADMINISTRATIVE ACTIONS FOR NONCOMPLIANCE

§ 56.120 Lesser administrative actions

- a) If apparent noncompliance with these regulations in the operation of an IRB is observed by an FDA investigator during an inspection, the inspector will present an oral or written summary of observations to an appropriate representative of the IRB. The Food and Drug Administration may subsequently send a letter describing the noncompliance to the IRB and to the parent institution. The agency will require that the IRB or the parent institution respond to this letter within a time period specified by FDA and describe the corrective actions that will be taken by the

IRB, the institution or both to achieve compliance with these regulations.

- b) On the basis of the IRB's or the institution's response, FDA may schedule a reinspection to confirm the adequacy of corrective actions. In addition, until the IRB or the parent institution takes appropriate corrective action, the agency may:
 - 1) Withhold approval of new studies subject to the requirements of this part that are conducted at the institution or reviewed by the IRB;
 - 2) Direct that no new subjects be added to ongoing studies subject to this part;
 - 3) Terminate ongoing studies subject to this part when doing so would not endanger the subjects; or
 - 4) When the apparent non compliance creates a significant threat to the rights and welfare of human subjects, notify relevant State and Federal regulatory agencies and other parties with a direct interest in the agency's action of the deficiencies in the operation of the IRB.
- c) The parent institution is presumed to be responsible for the operation of an IRB, and the Food and Drug Administration will ordinarily direct any administrative action under this subpart against the institution. However, depending on the evidence of responsibility for deficiencies, determined during the investigation, the Food and Drug Administration may restrict its administrative actions to the IRB or to a component of the parent institution determined to be responsible for formal designation of the IRB.

§ 56.121 Disqualification of an IRB or an institution.

- a) Whenever the IRB or the institution has failed to take adequate steps to correct the noncompliance stated in the letter sent by the agency under § 56.120(a) and the Commissioner of Food and Drugs determines that this noncompliance may justify the disqualification of the IRB or of the parent institution, the Commissioner will institute proceedings in accordance with the requirement for a regulatory hearing set forth in Part 16.

- b) The Commissioner may disqualify an IRB or the parent institution if the Commissioner has determined that:
- 1) The IRB has refused or repeatedly failed to comply with any of the regulations set forth in this part, and
 - 2) The noncompliance adversely affect the rights or welfare of the human subjects in a clinical investigation.
- c) If the Commissioner determines that disqualification is appropriate, the Commissioner will issue an order that explains the basis for the determination and that prescribes any actions to be taken with regard to ongoing clinical research conducted under the review of the IRB. The Food and Drug Administration will send notice of the disqualification to the IRB and the parent institution. Other parties with a direct interest, such as sponsors and clinical investigators, may also be sent a notice of the disqualification. In addition, the agency may elect to publish a notice of its action in the Federal Register.
- d) The Food and Drug Administration will not approve an application for a research permit for a clinical investigation that is to be under the review of a disqualified IRB or that is to be conducted at a disqualified institution, and it may refuse to consider in support of a marketing permit the data from a clinical investigation that was reviewed by a disqualified IRB as conducted at a disqualified institution unless the IRB or the parent institution is reinstated as provided in § 56.123.

§ 56.122 Public disclosure of information regarding revocation.

A determination that the Food and Drug Administration has disqualified an institution and the administrative record regarding that determination are disclosable to the public under Part 20.

§ 56.123 Reinstatement of an IRB or an institution.

An IRB or an institution may be reinstated if the Commissioner determines, upon an evaluation of a written submission from the IRB or institution that explains the corrective action that the institution or IRB plans to take, that the IRB or institution has provided adequate assurance that it will operate in compliance with the standards set forth in this part. Notification of reinstatement shall be provided to all persons notified under § 56.121(c)

§ 56.124 Actions alternative or additional to disqualification

Disqualification of an IRB or of an institution is independent of, and neither in lieu of nor a precondition to, other proceedings or actions authorized by the act. The Food and Drug Administration may, at any time, through the Department of Justice institute any appropriate judicial proceedings (civil or criminal) and any other appropriate regulatory action in addition to or in lieu of, and before, at the time of, or after, disqualification. The agency may also refer pertinent matters to another Federal, State, or local government agency for any action that the agency determines to be appropriate.