



a place of mind

THE UNIVERSITY OF BRITISH COLUMBIA

EDUC 500: Research Methodology in Education

Lecture Notes

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Research Ethics & Law



1. Research Ethics

- a. Research Conditions
 - i. Invasive v Noninvasive
 - ii. Obtrusive v Unobtrusive
- b. UBC RISE, ORS, BREB
 - i. [UBC Researcher Information Services \(RISe\)](#)
 - ii. [UBC Office of Research Services \(ORS\)](#)
 - iii. Behavioural Research Ethics Board (BREB)
- c. TCPS
 - i. [TCPS 2 \(Tri-Council Policy Statement: Research Ethics\)](#)
 - ii. [TCPS Tutorial](#)
- a. Definitions
 - i. Tri-Council Policy Statement (TCPS 2) governs formal research ethics across Canada. <http://www.pre.ethics.gc.ca/eng/policy-politique/initiatives/tcps2-epc2/Default/>
 1. The TCPS 2 defines **research** as “a systematic investigation to establish facts, principles or generalizable knowledge” (p. 17).
<http://www.pre.ethics.gc.ca/eng/archives/tcps-epc/section1-chapitre1/#1A>
 - ii. The Social Sciences and Humanities Research Council (SSHRC) is the primary federal research policy and funding agency for educational researchers and is bound to the TCPS 2.
 1. SSHRC’s “Definitions of Terms” elaborates on **research / creation**: “Any research activity or approach to research that forms an essential part of a creative process or artistic discipline and that directly fosters the creation of literary/artistic works. The research must address clear research questions, offer theoretical contextualization within the relevant field or fields of literary/artistic inquiry, and present a well-considered methodological approach. Both the research and the resulting literary/artistic works must meet peer standards of excellence and be suitable for publication, public performance or viewing.”
- b. [TCPS 2 \(Tri-Council Policy Statement: Research Ethics\)](#)
 - i. The following distinguishes research requiring REB review from non-research activities that have traditionally employed methods and techniques similar to those employed in research. Such activities are not considered “research” as defined in this Policy, and do not require REB review. Activities outside the scope of research subject to REB review (see [Articles 2.5](#) and [2.6](#)), as defined in this Policy, may still

raise ethical issues that would benefit from careful consideration by an individual or a body capable of providing some independent guidance, other than an REB. These ethics resources may be based in professional or disciplinary associations, particularly where those associations have established best practices guidelines for such activities in their discipline.

- ii. "Exempt from REB Review"
 1. **Article 2.3** REB review is not required for research involving the observation of people in public places where:
 - a. it does not involve any intervention staged by the researcher, or direct interaction with the individuals or groups;
 - b. individuals or groups targeted for observation have no reasonable expectation of privacy; and
 - c. any dissemination of research results does not allow identification of specific individuals.
 2. **Article 2.4** REB review is not required for research that relies exclusively on secondary use of anonymous information, or anonymous human biological materials, so long as the process of data linkage or recording or dissemination of results does not generate identifiable information.
 3. **Article 2.5** Quality assurance and quality improvement studies, program evaluation activities, and performance reviews, or testing within normal educational requirements when used exclusively for assessment, management or improvement purposes, do not constitute research for the purposes of this Policy, and do not fall within the scope of REB review.
 4. **Article 2.6** Creative practice activities, in and of themselves, do not require REB review. However, research that employs creative practice to obtain responses from participants that will be analyzed to answer a research question is subject to REB review.
 - iii. **In most cases**, self-study and teacher inquiry fall under a category of "Exempt from REB Review" (see above from [TCPS 2](#)). One of the revisions from TCPS 1 to TCPS 2 was a close look at the Exemptions as it became clear that many practices, including most of teaching, is self-governed by professional Codes of Ethics (e.g., BCTF). And in most cases what is submitted to Reviews Boards (e.g., UBC BREB) falls under the category of Minimal Risk.
 - iv. For **media productions** or Graduating Projects, **in most cases** as you broadcast, present, report, write, etc., you will be paraphrasing your students' comments. Or, in terms of the TCPS 2, directly quoting comments that are "publicly accessible" with "no reasonable expectation of privacy" (e.g., blog comments, etc.). That's fine and well within exemption. However, some of you may deem it necessary to quote written comments your students make in the more private forums created for your innovations (e.g., Moodle).
 1. If you prefer not to paraphrase in these cases, it's good practice to request consent.
 2. For the GPs, it is not advisable to quote students under 14 years of age. Those able to give Consent under Minimal Risk are 14 years or older. Under 14 requires parental assent.
 3. Of course, **all and any names** (students, classes, schools, etc.) should be changed with pseudonyms as you broadcast, present, report, write, etc.
- c. Forms
 - i. [Assent Form \(Images\)](#)
 - ii. [Consent Form \(Images\)](#)
 - iii. [Consent Form \(Extended Participant Quotation\)](#)
 - d. **MEd Graduating Projects**

- iv. **In most cases**, self-study and teacher inquiry fall under a category of "Exempt from REB Review" (see above from [TCPS 2](#)). One of the revisions from TCPS 1 to TCPS 2 was a close look at the Exemptions as it became clear that many practices, including most of teaching, is self-governed by professional Codes of Ethics (e.g., BCTF). And in most cases what is submitted to Reviews Boards (e.g., UBC BREB) falls under the category of Minimal Risk.
 - v. See *Inquiry & Research Guide* <http://blogs.ubc.ca/educ500/files/2016/07/Teacher-Inquiry-Guide.pdf>
- e. **Codes of Ethics**
- i. [American Anthropological Association](#)
 - ii. [American Educational Research Association](#)
 1. AERA. (2011). Code of ethics. *Educational Researcher*, 40(3). 145–156.
 - iii. UNESCO *Ethical Research Involving Children*
 1. <http://childethics.com/wp-content/uploads/2013/10/ERIC-compendium-approved-digital-web.pdf>
 - iv. [Canadian Psychological Association](#)
 - v. Canadian Society for the Study of Education
 - vi. [Human factor and Ergonomics Society](#)
 - vii. [Society for Research in Child Development](#)
 - viii. [Society of Professional Journalists](#)
- f. **Indigenous Research Ethics**
1. TCPS 2 Chapter 9 “Research Involving The First Nations, Inuit and Métis Peoples of Canada” <http://www.pre.ethics.gc.ca/eng/policy-politique/initiatives/tcps2-eptc2/chapter9-chapitre9/>
 - a. Research involving Aboriginal peoples in Canada has been defined and carried out primarily by non-Aboriginal researchers. The approaches used have not generally reflected Aboriginal world views, and the research has not necessarily benefited Aboriginal peoples or communities. As a result, Aboriginal peoples continue to regard research, particularly research originating outside their communities, with a certain apprehension or mistrust.
 2. **Four Rs of Indigenous Research Ethics** (Kirkness & Barnhardt, 1991, “First Nations and Higher Education: The Four Rs—Respect, Relevance, Reciprocity, Responsibility”)
 - a. Respect
 - b. Relevance
 - c. Reciprocity
 - d. Responsibility
 3. **Indigenous Research Ethics** (Whyte, 2013)
 - a. Respect for indigenous sovereignty and self-determination
 - b. Respect for indigenous knowledges
 - c. Respect for appropriate control over information/knowledge
 - d. Early involvement
 - e. Commitment to youth involvement
 - f. Commitment to cross-cultural education
 - g. Integration of scientific/technical work with indigenous values
 - h. Balanced decision-making
 4. **Indigenous Pedagogy**
 - a. e.g., 3 Rs
 - i. Rediscovering (research)
 - ii. Respect and
 - iii. Recovering the culture and traditions of Our Peoples.

- ii. **Three Rs** of Research Ethics
 - 1. Rights
 - 2. Respect
 - 3. Reciprocity
- iii. **Five Rs** of Research Ethics
 - 1. Respect
 - 2. Reciprocity
 - 3. Relationality
 - 4. Relevance
 - 5. Responsibility
- g. **Key Issues**
 - i. **Consent & Assent**
 - 1. **Informed Consent**
 - a. See forms
 - b. (Williams, 2005): Meaningful informed consent is one cornerstone of human subjects protections. To provide informed consent, a potential research subject must both understand what participation in a study entails (in other words, be informed), and agree to participate (consent). The Common Rule requires that a researcher obtain informed consent (usually in writing) from a living person or their legally authorized representative before the person can be admitted to a study.
 - 2. **Age of Consent**
 - a. TCPS 2 <http://www.pre.ethics.gc.ca/eng/policy-politique/interpretations/consent-consentement/>
 - i. TCPS 2 does not rely on the concept of “age of majority” to determine whether people have the necessary capacity to consent to research. In the case of post-secondary students recruited as research participants, the relevant criterion is not their age, but rather whether these students have the capacity to consent on their own behalf in the context of the particular study (see Article 3.10). In their application for REB review and approval, researchers should point out the issue of consent, the age group of the prospective participants, and their plans to address the issue in light of the capacity of students to understand the particular research project. Do they understand the consequences of their participation in research i.e. their ability to assess the risks and potential research benefits of research?
 - b. Consent in research is clarified as “informed consent” or a voluntary agreement to participate in an informed way. It is the “informed, written consent of the parent or guardian when seeking to engage children in research” (Dockett, Einarsdottir, & Perry, 2009, p. 286). In terms of formal research, consent refers to informed decisions to participate given by an individual or their authorized representative, in this case a parent or guardian.
 - i. It is not advisable to quote students under 14 years of age unless you have parental assent. Those able to give Consent under Minimal Risk are 14 years or older. Under 14 requires parental consent and commonly calls for a child’s or student’s assent.
 - 3. **Assent**

- a. The US Code of Federal Regulations for research defines assent as “a child’s affirmative agreement to participate in research” (46.402b). This is somewhat similar to consent. Glantz (1998) notes that children give assent while parents or guardians give consent.
4. References
 - a. Dockett, S., Einarsdottir, J., & Perry, B. (2009). Researching with children: Ethical tensions. *Journal of Early Childhood Research*, 7(3), 283-298.
 - b. Glantz, L. H. (1998). Research with children. *American Journal of Law and Medicine*, 24(2&3), 213-244.
 - c. Graham, A., Powell, M., Taylor, N., Anderson, D., & Fitzgerald, R. (2013). i. Florence: UNICEF Office of Research – Innocenti.
- ii. **Participation**
 1. Freedom from Coercion (see Informed Consent)
 2. Freedom to Withdraw from Study
 3. Vulnerable Participants
 4. Children (individuals who have not attained the legal age for consent to the treatments or procedures involved in the research, under the applicable law of the jurisdiction in which the research will be conducted);
 5. Pregnant women and fetuses;
 6. Prisoners (individuals involuntarily confined or detained in a penal institution, including individuals detained in other facilities by virtue of statutes or commitment procedures which provide alternatives to criminal prosecution or incarceration in a penal institution, and individuals detained pending arraignment, trial, or sentencing);
 7. Individuals who are cognitively impaired or lack decision-making capacity; and
 8. Individuals who otherwise may be subject to coercion or undue influence (e.g., economically or educationally disadvantaged persons; employees or students of investigators conducting the study; patients of physician-investigators).
- iii. **Deception**
- iv. **Anonymity**
 1. **Privacy**
 - a. Anonymity is a key protection of privacy
 - b. **Pseudonymity** is a key protection of anonymity
 2. For the most part, all and any names (informants, participants, students, classes, schools, etc.) should be changed with pseudonyms. Identity is protected by through anonymity.
- v. **Confidentiality**
 1. Journalism examples
 - a. Source confidentiality
 - b. Informant confidentiality
 2. **Privilege**
 - a. Confidentiality is not privilege in the legal sense
 - i. Lawyer-client privilege v
 - ii. Researcher-participant privilege
 3. Confidence
- vi. **Conflict of Interest**
 1. Multiple Roles
 2. Action Research
- vii. **Responsibility**

1. Responsibility to follow-up with Participants
 - a. Neumeister (NYU Professor) / Pfizer case: Experimental trials with FAAH inhibitors, which simulate effects of marijuana
http://www.nytimes.com/2016/06/28/health/nyu-cannabis-ptsd-psychiatry.html?_r=0
 - b. “at least three subjects were not assessed 24 hours after taking the drug – a breach in research standards.”
<http://www.laboratoryequipment.com/news/2016/06/violations-lead-suspension-nyu-studies-resignation-lead-researcher>
 - c.
- viii. **Power**
- ix. **Positionality**
 1. See Identity
 2. See Paradigms
- x. **Risk**
 1. Minimal Risk
 2. Informed Consent
- xi. **Safeguard**
- h. Data**
 - i. Third Party Data
 1. The use of third party interviews or data, in this case, falls under the Section 2.2 exemption of the *Tri-Council Policy Statement (TCPS2)*. The [Section 2.2 exemption states](#): “Research that relies exclusively on publicly available information does not require REB review when... the information is publicly accessible and there is no reasonable expectation of privacy.” The Section continues, and clarifies that
 - a. Cyber-material such as documents, records, performances, online archival materials or published third party interviews to which the public is given uncontrolled access on the Internet for which there is no expectation of privacy is considered to be publicly available information.
 2. TCPS2 reiterates the exemption expressed in the TCPS (2005) [Statement on Third Party Interviews or Secondary Use of Data](#): “Information derived from publicly available third-party interviews does not require REB review, because such research involves no interaction with research participants, and the data is publicly accessible through public records or archives.”
 - ii.
- i. Ethics**
 - i. Deontological ethics emphasizes intentions over consequences. What is right or wrong is based on our intentions since consequences are beyond our control. We hold individuals responsible for their intentions, where consequentialism and utilitarianism tend to absolve individuals from responsibilities for consequences. Our conscience and good will ought to be our guides, says deontology.
 - ii. Privilege and duty go hand in hand. Moral obligation means that we adopt the principles of three golden rules:
 1. Do not do unto others what you would not have done to you (Principle of Maleficence).
 2. Do unto others as you would that others do unto you (Principle of Beneficence).
 3. Weigh actions by what is fair (Principle of Justice).

4. These are summarized as "do no harm," "try to create good," and "be fair."

Table 1. Systems of ethics and practice (Adapted from Flinders, 1993).

Ethics Practice	Utilitarian	Deontological	Relational	Ecological
Recruitment	Informed Consent	Reciprocity	Collaboration	Cultural Sensitivity
Fieldwork	Avoidance of Harm	Avoidance of Wrong	Avoidance of Imposition	Avoidance of Detachment
Reporting	Confidentiality	Fairness	Confirmation	Responsive Communication
Justification	Validity	Confirmability	Resonance	Authenticity

Source: Flinders, D. J. (1992). In search of ethical guidance: Constructing a basis for dialogue. *Qualitative Studies in Education*, 5(2), 101-115.

j. EDUC 500 Research Activities

i. Researcher-Student-Participant Role

1. BREB
2. TCPS Tutorial
3. Consent Forms
4. Research Process