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Ethics, Institutional Review Boards, and the Changing Face of Educational Research

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Educational research has enjoyed special exemptions from formal ethical oversight of research on human subjects since the original mandate from the federal government that such oversight must occur. Although interpreting these exemptions has always been a potential source of controversy and conflict for university Institutional Review Boards, the burgeoning use of qualitative methods has further complicated matters. This article discusses the original rationale for special exemptions for educational research and then examines which varieties of qualitative educational research are consistent with it and which varieties are not. The article also examines the formal ethical oversight of student research practica, an issue also complicated by the advent of qualitative methods. Specific policies are offered both for determining which varieties of qualitative research should qualify for the special educational exemptions and for formally overseeing student research practica.

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ducational research has historically enjoyed a special status with respect to formal ethical oversight because a significant portion of it is singled out for "exempt" status in the Code of Federal Regulations for the Protection of Human Subjects (45 CFR 46). Determining precisely which educational research projects should qualify as exempt has always been a source of conflict, potential as well as real, between educational researchers and the university Institutional Review Boards (IRBs) responsible for interpreting and applying the federal regulations. (The ambiguity of "exempt," to be discussed later, is an important part of the problem.) However, this source of conflict has become more pronounced over approximately the last decade, as the face of educational research has been changed by the ever-increasing use of qualitative methods. Because of the intimate and open-ended features of qualitative methods (also to be discussed later), their increased prominence within educational research raises new ethical issues with which educational researchers must grapple. These features also provide the impetus for taking a closer look at the general rationale and criteria for affording educational research a special status vis-á-vis IRB review.

In this article we will discuss several ethical issues associated with qualitative research, with a particular emphasis on the role of IRBs. This emphasis squares with what initially motivated our reflection, namely, controversies between education faculty and the IRB at our university about what should be required of educational research to adequately protect human subjects-controversies rooted in uncertainty about how to apply key provisions of the Code of Federal Regulations and about how to fill in the gaps where the regulations are largely silent. Three such controversies will be the focus of our analysis: the interpretation of the special exemptions for educational research, the accommodation of qualitative research methods, and the oversight of student research practica.

Preliminary to our analysis, however, we will make a few remarks about our position regarding IRB oversight of educational research, for it is by no means universally shared among educational researchers and is itself a source of controversy.

Generally speaking, we believe IRB oversight is a good thing (granting that the ways in which IRBs actually function sometimes leave much to be desired). Contrary to our view, many educational researchers challenge IRB oversight on the grounds that it is researchers, not members of IRBs, who possess the specialized knowledge and experience needed to appreciate the ethical nuances associated with different research methods and different research contexts. They charge IRBs with, among other things, obstructing academic freedom, obstructing the free pursuit of knowledge, and being especially hostile toward qualitative research (e.g., Murphy & Johannsen, 1990). Accordingly, these researchers question the legitimacy of IRBs' looking over their shoulders and demanding they fill out the designated forms.

In our estimation, this view is misguided. In the first place, the portrait of researchers assumed is a bit unrealistic. Although moral abominations in social research are rare (but consider Milgram¹), other pressures—for instance, pressures to "publish or perish"—are real and ubiquitous, and one need not be a bad person to be tempted to cut ethical corners in response to them, especially if cutting corners is the norm. Furthermore, one need not be a bad person to sometimes be oblivious to ethical worries that others are able to detect, particularly others who have a good deal of experience with the pertinent issues. The portrait of researchers assumed also misconstrues the nature of ethics, inasmuch it commits what the ethicist Robert Veatch (1977) labels the "fallacy of generalized expertise." For example, just as physicians qua physicians have no special expertise regarding whether a women should accept a slightly greater risk

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of death from breast cancer by opting for radiation therapy over a mutilating mastectomy, educational researchers qua educational researchers have no special expertise regarding whether parents should be given the opportunity to refuse to have their children involved in a given educational research project. Indeed, given their aims and interests, physicians and educational researchers are probably in the worst position to make these judgments. It is for this reason that 45 CFR 46 requires IRBs to be staffed by persons who represent a range of perspectives and interests, including at least one member of the community who is not affiliated with the university and at least least one member whose chief interests are nonscientific (e.g., member of the clergy, lawyer, or ethicist).

In the second place, although IRBs are often overly bureaucratic and discharge their duties in a rather perfunctory manner that takes too lightly the ethical complexities involved (Christakis, 1988; Dougherty & Howe, 1990), they are the only formal mechanism in the United States for overseeing social research (McCarthy, 1983). The shortcomings in the practices exemplified by IRBs is insufficient to abandon or radically change this oversight tool. The alternative of no policing or self-policing is likely to have worse consequences, on balance, than the consequences associated with the institution of IRBs, especially if the choice is to err on the side of overzealousness in protecting human subjects rather than generating social scientific knowledge. Furthermore, remedies for these shortcomings are not altogether lacking (e.g., Silva & Sorrells, 1988, suggest ways for IRBs to enhance informed consent by focusing on the process of consent rather than the wording of the consent form). Finally, IRBs can serve an important educational function. In our experience (which we suspect reflects what is generally true), the IRB is the chief, and often only, locus of reflection and debate about the ethics of social research.

Assuming, then, that IRBs both serve a legitimate function and are here to stay, we now return to the three controversies introduced previously.

The Interpretation of Special Exemptions for Educational Research

Paragraph 46.101(b)(1) of 45 CFR 46 singles out the following kinds of educational research as "exempt" from its requirements:²

Research conducted in established or commonly accepted educational settings involving normal educational practices [italics added] such as (i) research on regular and special educational instructional strategies, or (ii) research on the effectiveness of or the comparison among instructional techniques, curricula or classroom management methods.

This provision potentially includes a large part of educational research, but is so vaguely worded as to leave much room for competing interpretations among educational researchers and local IRBs. In view of the inherent vagueness of this provision, it will be useful to begin with a brief examination of its history and rationale.³

The first policies set up for the protection of human subjects were done with a primary focus on biomedical research, which had already shown itself to be potentially harmful to the subjects involved. At that time, in the early 1960s, research in the social sciences was not believed to be hazardous to those involved because it did not involve

any "invasive" procedures. However, as the National Institutes of Health, and then the Department of Health and Human Services, became involved, the initial guidelines were seen as more and more problematic. Thus, in the 1970s a national commission was set up for the protection of human subjects which thoroughly reviewed policies for the social sciences, including education. With the commission using essentially the same model as medical research, the idea of an independent review board and the emphasis on the need for informed consent prevailed in the new policies on social research.

The commission made provisions in its final recommendations to allow some discretion on the part of IRBs to reduce the burden placed upon them. Specifically, a series of thresholds were developed that defined three levels of review: exempt (no IRB review), expedited (review by a representative of the IRB), and full IRB review. The commission also reduced the burden placed upon IRBs by giving prospective research subjects, through the vehicle of informed consent, a significant role in determining the worth and moral acceptability of research projects for which they are recruited. (Partly because of this, the issue of informed consent has become of paramount concern for research in the social sciences.)

The commission believed that educational research, in particular, required less stringent oversight than other varieties of social research, both because the risks were perceived as slight and because district- and school-based procedures to screen and guide research were believed to already exist. Thus, the commission believed that educational research was one area where the IRBs' role could be minimized, especially since it believed that mechanisms of accountability for educational research were already in place at the local level. Accordingly, it crafted 45 CFR 46 so as to provide explicit exemptions for educational research.

The commission, nonetheless, mandated in 45 CFR 46 that some sort of administrative review (e.g., by department or college) would take place in every case of research involving human subjects. As a consequence, the apparent wide latitude afforded educational research was significantly narrowed by many universities as they went about the task of articulating the purview and responsibilities of their IRBs. In particular, IRBs typically do not permit educational researchers (or any other social researchers, for that matter) to decide for themselves whether their research is exempt from the 45 CFR 46 regulations. Instead, in order to comply with the 45 CFR 46 requirement that all research involving human subjects undergo some kind of institutional review (and perhaps because of some prodding from federal agencies4), many universities simply extended the scope of their IRBs (Dougherty & Howe, 1990). Under this system, if an educational researcher believes that his or her research is exempt, then he or she submits a proposal to the IRB indicating that the proposed research is of this kind. A delegated member of the IRB then decides whether the research is exempt from certain requirements of the regulations (e.g., informed consent) and may proceed as proposed, or whether it should go before the full IRB committee. In short, in many universities "exempt" has come to mean exempt from certain requirements and full committee review, not exempt from IRB oversight altogether.

This interpretation of "exempt" will be assumed hereafter. An important consequence of it is that IRBs, not educational researchers, are responsible for determining when educational research qualifies as exempt from the normal requirements of 45 CFR 46, and this engenders potential conflicts between educational researchers and IRBs. For taking the responsibility for determining what educational research satisfies the exemptions in 45 CFR 46 out of the hands of educational researchers, and placing it in the hands of IRBs, makes the IRBs the arbiter of key questions such as what constitutes "normal educational practice." This is problematic for educational researchers because IRBs are composed mostly of university faculty who have little knowledge of the workings of public schools.

With this brief historical digression in hand, we may now return to the issue of how to interpret paragraph 46.101(b)(1). Two related questions need be addressed: (a) What kind of educational research should qualify as exempt, and (b) who should make this determination?

The first question may be answered by explicating the rationale employed by the commission. In particular, certain educational research has features that should qualify it for special exemptions, namely, educational research that is very low risk and aimed at evaluating and improving normal instructional practices. First, such research is often indistinguishable from or closely resembles the kinds of activities in which schools engage informally as part of their normal efforts to evaluate instruction (e.g., trying out new instructional methods and materials and assessing their effectiveness). Second, such research promises rather immediate benefits regarding instructional practice at the sites of research, exclusive of or in addition to the more customary social science aim of contributing to "generalizable knowledge." Both of these features mitigate the ethical concern attending much social research that only the investigators rather than the subjects (participants) and institutions under investigation stand to benefit from the conduct of research.

This leads to the second question of who should make the determination of when educational research satisfies the above description. We are skeptical of the commission's claim that local school authorities can be depended upon to independently oversee educational research conducted by universities, for there is no evidence to support this assumption—indeed, many rest their approval solely on the approval of the university IRB (Dougherty & Howe, 1990). But we are also skeptical of allowing educational researchers to decide for themselves whether their research should be judged exempt. As we observed earlier, educational researchers are not necessarily the best judges of what research should be permitted and under what constraints.

Notwithstanding what our arguments so far might suggest, we share the concern of other educational researchers about whether the typical IRB is composed of individuals who are in a good position to determine when educational research should qualify as exempt, that is, qualify as "normal educational practice." In our view, there is an answer to the question of how to make such a determination that stops short of the extremes of permitting educational researchers to decide for themselves, or placing the decision exclusively in the hands of IRBs. Our suggestion is to formally include school people in the review process, particularly regarding the judgment of what is to count as "normal educational practice." (This suggestion strikes us as so straightforward and simple that we were amazed to find that it is novel; Dougherty & Howe, 1990).

We do not advocate including school people as arbiters regarding educational research. We advocate including them in order to provide an additional, needed perspective in the IRB review process. Given this proviso, including school people in the review process can take at least two forms. First, IRBs might include in their regular membership a person who works in the schools and who has broad knowledge of local norms and practices, and that person could take special resonsibility for determining whether a proposal for educational research should be classified as exempt. Second, IRBs might develop a procedure whereby an appropriate representative of the school at which the research is to be conducted assures the IRB that the proposed research constitutes "normal educational practice" and satisfies certain other conditions regarding risks, benefits, confidentiality, and the like.5

Either kind of policy has the advantage of requiring the active involvement of school people in determining what educational research should qualify as normal—a determination that they are typically in a better position to make than members of an IRB and about which they are likely to be less biased than educational researchers. In particular, the second policy—requiring the input of school people closely connected to the site(s) of research—also helps ensure that school people will be explicitly involved in evaluating, and will therefore be knowledgeable about, the research proposed for and conducted in their schools.

The Accommodation of Qualitative Research Methods

Our discussion in the preceding section is partially responsive to the changed face of educational research to the extent that our suggested policies could result in exempt status for certain qualitative research techniques (e.g., short interviews of students regarding a lesson). Because we include certain provisos, however-that such techniques not be too personal, not depart in any significant way from what ordinarily goes on in given schools, and not require students to forgo educational benefits as a result of being pulled out for such activities (see note 5)—our suggested policy alternatives serve largely to cull the more traditional educational research methods and aims from the newer, qualitative ones. As a consequence, much qualitative research presently conducted in schools would not qualify as exempt and would be subject to the same IRB requirements as social research generally.

We wittingly and explicitly embrace this outcome. In our view, qualitative research has two features—intimacy and open-endedness—that both significantly muddy the ethical waters and exclude much of it from the scope of the special 45 CFR 46 exemptions for educational research.

Qualitative research is intimate (in comparison with experimental research) because it reduces the distance between researchers and "subjects." Indeed, there is a tendency to abandon reference to "subjects"—for whom "treatments" are to be developed—in preference to "participants"—with whom "meanings" are to be negotiated. The methods associated with this general emphasis engender certain potential ethical difficulties that do not typically attend experimental methods. Interviewing, for example, requires one-to-one contact as well as removing children from their "normal" educational activities. Video- and audiotaping create records that poses a potential threat to confidentiality.

Qualitative research is open-ended (again, in comparison

with experimental methods) because parameters and a mapped research direction—instead of having to be set at the outset—unfold during the course of the investigation. This significantly complicates obtaining participants' 'fully informed consent' before the research begins because research directions will constantly be renewed and revised as a result of the researcher's activities and discoveries along the way. In particular, the prior weighing of research risks and benefits, not unproblematic in the case of experimental research, is further complicated by the open-ended nature of qualitative research.

In light of these features of qualitative research, it should be borne in mind that the special exemptions for educational research were formulated prior to the advent of qualitative methods in educational research. These special exemptions were justified on the grounds that educational research is extremely low risk and does not substantially deviate from practices routinely conducted by schools themselves for the purposes of evaluating and improving curricula, testing, and teaching methods. When educational research departs from this model to take a close look at social structure and to establish an intimate relationship with participants, there is no justification for providing it with greater latitude than other social research merely because it has to do with education, is conducted in schools, or is conducted by educational researchers.

Viewed another way, the advent of more intimate and open-ended methods in educational research creates a distinction between educational research as conceived in 45 CFR 46 and what might be termed social research on education. The latter variety includes much of "qualitative" research and is "educational research" by virtue of only its topics and settings, not its aims and methods. In its aims, and methods, this kind of educational research is thus indistinguishable from the work of other researchers, particularly fieldwork sociologists and anthropologists, working in other contexts. Accordingly, it should receive no especially liberal treatment with respect to the protection of human subjects.

As we have already intimated, the issue of informed consent is especially tangled and contested where qualitative methods are involved. However, we cannot accept the suggestion (e.g., by Lincoln, 1990; Murphy & Johannsen, 1990) that, because the informed consent requirements of 45 CFR 46 were initially designed primarily for biomedical and experimental research, they are inappropriate for qualitative research. Informed consent is central to research ethics per se, not to any particular kind of research method: It is the principle that seeks to ensure that human beings retain their autonomy and judge for themselves what risks are worth taking for the purpose of furthering scientific knowledge. It just so happens that accomplishing these aims is more difficult in the case of qualitative research than in experimental research for two reasons, having to do with the distinguishing features of qualitative research discussed previously. First, because qualitative research typically involves more intimate interpersonal relationships among researchers and subjects (participants), it is more ethically charged and unpredictable from the outset. Second, because qualitative research is open-ended regarding its questions, participants, and modes of analysis, informed consent, even if obtained to a reasonable degree initially, can decay over time as the research process unfolds. (This contrasts with experimental research, in which the description of "treatments," their duration, and what is being looked for can be stated relatively precisely ahead of time.)

We are thus led to the conclusion that instead of abandoning or loosening the requirement of informed consent for qualitative research, we should, if anything, make it more demanding. We are not alone in advancing such a suggestion. One proposal for more demanding consent procedures has been advanced by a pair of qualitative educational researchers (Cornett & Chase, 1989) in response to the issue of open-endedness. In particular, they suggest (and have tried out) periodic reaffirmations of consent as a study unfolds. In a similar vein, Smith (1990), also a qualitative educational researcher, has suggested reconceiving informed consent in the context of qualitative research as ongoing "dialogue." To also take into account the intimacy of qualitative methods, we might take this one step further and add the requirement that someone other than the researcher(s) obtain the consent. This would help mitigate the potential for subjects (participants) to be subtly pressured to continue in studies from fear of possible repercussions for withdrawing or from a sense of personal obligation to the researcher(s).

The Oversight of Student Research Practica

As qualitative methods in educational research have proliferated, so have undergraduate and graduate courses that teach their use. Such courses often take the form of practica, in which students try out and practice the qualitative techniques. Just as the advent of qualitative methods in educational research prompts closer scrutiny of the question of what kinds of educational research should qualify as exempt, their introduction into courses prompts closer scrutiny of the question of whether such student research should fall within the purview of IRBs.

The 45 CFR 46 regulations nowhere explicitly refer to research practica. Instead, they apply to university "research," which they define as "a systematic investigation designed to develop or contribute to generalizable knowledge." Given that most research that is required as part of a course is variously perceived as no more than a "trial run," a "pilot study," "getting one's hands a little dirty" (Dougherty & Howe, 1990), and, in particular, not as an attempt to contribute to generalizable knowledge, it would seem that it should not fall within the scope of the regulations.

Although the appeal to the criterion of whether an activity "contributes to generalizable knowledge" is certainly germane to its ethical dimensions—for example, it is related to the intent of an activity and to whether information about individuals will become public—it is quite insensitive to the ethical dimensions of the interactions between persons, particularly the intimate ones associated with qualitative methods. Furthermore, given the nature of such interactions, one can reasonably ask whether neophytes, just learning to interact with research subjects (participants), might require more, not less, oversight than experienced researchers.

In this connection, our preceding observations about the potential for increased ethical difficulties associated with qualitative research—particularly its intimacy and openendedness—apply a fortiori to student research in courses. There simply is no defense for the kind of policy common among university IRBs (Dougherty & Howe, 1990) in which the ethical standards and procedures governing studies

done by the most inexperienced members of a research community are lax or nonexistent in comparison with those governing studies by its more experienced members. (Compare medical students' interactions with patients.)

On the other hand, it does not necessarily follow that student research in courses should be subject to the very same review procedures as faculty research, in which each and every student activity must be submitted to the IRB. A sensible policy would be not too cumbersome relative to the protections it provides for human subjects. In our view, a workable alternative places responsibility on course instructors to judge when a student activity is exempt and when it should be submitted to the IRB.6 Such a policy provides some oversight but avoids the absurdity that research which would be reviewed by the full IRB if conducted by a faculty member escapes such review if conducted by a student. On the other hand, it also avoids burdening students and instructors with preparing, and IRBs with reviewing, numerous virtually risk-free exercises (e.g., passive observation of public behavior) whose function is merely to provide students with practice in applying data collection techniques.

In addition to being ethically sound, this kind of policy also has a desirable educational spin-off. To comply with its requirements, instructors and students alike must familiarize themselves with the ethical requirements of research involving human subjects, particularly regarding the different levels of review associated with different kinds of research activities. Such issues typically receive too little attention, and too late. (Students often don't give ethics a thought until—surprise!—they learn they must have their dissertation proposals approved by the IRB.)

Insofar as more sophisticated and ethically complex research requires normal IRB review, this policy will no doubt inhibit instructors from encouraging and students from conducting such research. But this is not a bad thing, for students just learning to conduct research involving human subjects are the least prepared to grapple successfully with ethically complex situations that arise in the course of planning and carrying it out.

Conclusion

The general arguments of this article are not to likely endear us to educational researchers, particularly qualitative researchers who believe their methods and special problems are poorly understood by IRBs. We should make clear that we offer our arguments tentatively and with humility, not with the intent to inflame those who may substantially disagree with us. On the other hand, we wouldn't mind being responsible for providing the spark that might prompt more serious and sustained attention by both university IRBs and the educational research community to the issues we have raised—and to the ethics of educational research more generally.

Notes

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¹Stanley Milgram conducted a series of studies on obedience in which he deceived subjects into believing they were participating in the investigation of the relationship between punishment and learning (see, e.g., University of Pennsylvania, 1969). In one experimental situation, subjects communicated with a sham subject whom they could hear

but not see. They were instructed to read a series of unrelated words to the sham subject, ask the sham subject to repeat the words, and administer an electric shock, which increased in severity, each time the sham subject responded incorrectly. Placed in front of the subjects was a board for administering the shocks (also a sham). It had a number of switches, ranging from low voltages to very high voltages that were accompanied by a warning that they shouldn't be used.

As the sham subject responded incorrectly more and more, and the intensity of the (sham) shocks increased, he began to say ouch to protest that he wanted to stop, to claim he had a bad heart, and ultimately to fall silent. As these events unfolded, subjects began to protest that the experiment should stop, but a researcher (part of the sham) would insist that they continue, no matter what the (sham) subject did. A surprising number of subjects continued to administer what they believed to be real shocks until they reached the highest level, even after the sham subject had presumably been rendered unconscious if not dead.

Milgram's studies are ethically objectionable (and would never be permitted today) for the extreme distress (if not permanent harm) experienced by subjects that resulted from the related actions of deceiving subjects, failing to obtain their informed consent, and refusing to permit them to withdraw from the research.

²Paragraph 46.101(b)(2) singles out another variety of educational research as exempt: "Research involving use of *educational tests* (italics added)... if information taken from these sources is recorded in such a manner that subjects cannot be identified directly or through identifiers linked to the subjects." We have not included this exemption in our discussion because, at least at our university, it has not been an issue. This does not mean, of course, that it does not have the potential to raise serious ethical questions, particularly given the current clamor for more and more testing.

³Our subsequent discussion of these issues depends heavily on an interview with Charles MacKay, former deputy director of the Office for the Protection of Research Subjects (OPPR), as reported in Dougherty and Howe, 1990.

⁴A reviewer of this article suggested that this is probably the case. We have no reason to doubt this claim. Indeed, our IRB periodically distributes the *Human Research Report*, and the October 1991 issue is devoted to a discussion of the increasing scope of IRBs mandated by new federal regulations.

⁵This is the kind of policy that has been adopted at the University of Colorado at Boulder (with the approval of the School of Education Faculty). It reads as follows:

In order for a project involving educational research to be reviewed under the exempt category, the investigator must supply a letter from the appropriate school district official that certifies the project meets the following conditions:

The research activities will:

- 1. not differ in any significant ways from the normal range of activities of the classroom, school, or district
- 2. involve only customary and noncontroversial instructional goals
- 3. not deny any students educational benefits they would otherwise receive
- 4. promise direct benefits (at least in the form of evaluative information) to the classroom, school, or district
- 5. incorporate adequate safeguards to protect the privacy (i.e., anonymity or confidentiality) of all individuals who might be subjects of the research OR
- 6. involve only existing data on students that is, or is to be rendered, non-identity specific.

⁶We are familiar with two variants of this policy. Michigan State University employs a policy as roughly described in the body of this article, in which instructors are solely responsible for making the judgment of when student activities should be subject to IRB review. At the University of Colorado at Boulder, instructors collaborate with liaisons from the IRB in making these decisions.

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