

Guidance Regarding Lotteries/Drawings/Raffles*

California Department of Consumer Affairs states, "California law prohibits lotteries. A lottery is any scheme for the disposition of property by chance among persons who have paid or promised to pay any value for the chance of obtaining the property, with the understanding that it will be disposed of by chance." State law places restrictions on the use of raffles, lotteries and drawings. As a general rule, participation in any of these three schemes cannot be conditioned on providing some form or consideration. "Courts have used certain rules to decide whether a scheme includes consideration because it is not always clear. If a person is eligible to win a prize without purchase, there is no considerations and the contest is legal. In such a case, if some people may pay money, for example, an admission charge or a product, there is not necessarily consideration if other people may enter without such a purchase. If eligibility to win a prize is limited to those who have paid money, hover, there is consideration. Alternatively, if some persons must pay in order to have a chance at a prize while others do not, there is consideration."

Applicability to research

Many researchers use lotteries/drawings/raffles as an incentive for subjects when enrolling in studies. Applying the statutory requirements to a research project, the following must be addressed:

- The study must be minimal risk;
- Appropriate compensation is offered;
- The research plan must include the following:
 1. Procedures to ensure that any individual who is asked ot participate in the research study but declines, who consents/assents to enroll in the study, or who fails to complete the study, will be given equal compensation by having an equal chance of winning. If an individual is eligible to participate in the study, and therefore the lottery/raffle/drawing, they must be eligible to participate in the scheme;
 2. Procedures to include any individual not recruited but wishes to take part in the lottery, drawing, raffle;
 3. A fair method of choosing the winner and procedures for notifying the winner; and
 4. Disclosure of the approximate chance of winning.

Assent/Consent

The above information must be part of the assent/consent process. The subjects must be made aware that their chances of winning and this is their compensation for participating.

IRB Review

The IRB will review the procedures regarding the implementation of the lottery/raffle/drawing and determine if it meets the requirements addressed above. A determination regarding the prize and whether it could be construed as coercive will also be made.

References

State of California, Department of Consumer Affairs, Legal Guide U-2-Rules Prohibiting Lotteries, http://www.dca.ca.gov/publications/legal_guides/u-2.shtml

For questions about this guidance, or about HSR data destruction or disposition, please contact: irboffice@ucmerced.edu.

* Adapted from UCSD SOP Section 3.17 and USC Guidelines Regarding Lotteries/Raffles/Drawings