

# Financial compensation of oocyte donors: an Ethics Committee opinion

The Ethics Committee of the American Society for Reproductive Medicine

American Society for Reproductive Medicine, Birmingham, Alabama

Financial compensation of women donating oocytes for reproductive or research purposes is justified on ethical grounds and should acknowledge the time, inconvenience, and discomfort associated with screening, ovarian stimulation, oocyte retrieval, and postretrieval recovery and not vary according to the planned use of the oocytes or the number or quality of oocytes retrieved. This document replaces the document of the same name published in 2016. (*Fertil Steril*® 2021;116:319-25. ©2021 by American Society for Reproductive Medicine.)

**El resumen está disponible en Español al final del artículo.**

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## ESSENTIAL POINTS

- Financial compensation of women donating oocytes for reproductive or research purposes is justified on ethical grounds.
- Compensation is in accord with principles of fairness, occurring within the framework of a professional relationship.
- Compensation should acknowledge the donor's time, inconvenience, and discomfort associated with screening, ovarian stimulation, oocyte retrieval, and postretrieval recovery. Compensation should not vary according to the planned use of the oocytes (reproductive or research) or the number or quality of oocytes retrieved.
- Compensation should be fair and should not be an undue enticement that negatively impacts a donor's ability to make an informed decision about the donation process and the risks involved with donation.
- All oocyte-donor recruitment programs, including agencies, egg banks, and fertility clinics, should individually adopt and implement effective processes for information disclosure and counseling in order to promote informed decision-making by prospective donors.
- Treating physicians owe the same professional duties to oocyte donors as to all other patients.
- Programs should ensure equitable and fair provision of services to oocyte donors.
- Programs should individually adopt and disclose policies regarding coverage of an oocyte-donor's medical costs should she experience complications associated with the oocyte retrieval process.

**T**he practice of compensating women for undergoing ovarian stimulation and oocyte retrieval for the benefit of others is commonly referred to as oocyte or egg "donation," despite the mismatch between the plain meaning of "donation" and the provision of compensation for such services. Since its introduction in the 1980s, oocyte donation has increasingly been accepted as a method of assisting prospective parents without viable oocytes

to have children. Couples and individuals in need of donor oocytes can procure these gametes in a variety of ways. Prospective recipients can seek out voluntary and often altruistic donation of oocytes from friends and relatives, although intended parents are cautioned to consider the impact of intrafamilial donation on themselves and their offspring (1). In addition, couples and individuals may arrange services of oocyte donors directly

through their own offers of compensation, typically accomplished through advertising or other outreach efforts. Most commonly, however, oocyte donation is arranged through recruitment programs including agencies, egg banks, and fertility clinics that facilitate the exchange of oocytes from donors to recipients. In addition to procurement of oocytes for reproductive use, oocyte donation has become an important source of material for use in research involving stem-cell therapy, regenerative medicine, and genetic-based reproductive technologies (2-4).

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Three decades ago, when oocyte donation first became clinically available, sources of donor oocytes included women undergoing in vitro fertilization who produced more oocytes than could be reasonably employed for their own use (often termed “egg sharing”), women undergoing an unrelated surgical procedure who underwent ovarian stimulation so that oocytes could be retrieved during surgery, and women who agreed to undergo ovarian stimulation and oocyte retrieval specifically to provide oocytes to others. Today, the source of donor oocytes has shifted away from the first two groups toward oocyte retrieval specifically for the purpose of donation. One reason for this shift is the clinical success of oocyte and embryo cryopreservation that has led most women in the first group to choose to have all their oocytes frozen or fertilized and the resulting embryos stored for their own future use (5). The evolution of the oocyte retrieval procedure from a more invasive laparoscopic surgery to a less invasive transvaginal needle aspiration introduced an acceptably safe and attractive means for women to donate their oocytes. In the face of a growing medical need for donor oocytes, financial compensation of oocyte donors in the third group has become routine and generally accepted as ethically justified. Furthermore, improvement in the cryopreservation of oocytes has allowed for the development of “egg banks,” entities that receive and store cryopreserved oocytes for purchase by intended parents (6, 7).

The issue of financial compensation for oocyte donors raises numerous ethical questions, three of which are discussed in this opinion. Do recruitment practices incorporating remuneration sufficiently protect the health interests and safety of oocyte donors? Does financial compensation devalue human life by treating oocytes as property or commodities? Does prohibition of financial compensation to oocyte donors devalue the services women are uniquely positioned to supply by creating a system of forced altruism?

## THE PRACTICE OF REMUNERATION

In recognition of the significant time, inconvenience, and discomfort associated with oocyte donation, remuneration of donors has become a common practice. Oocyte donation utilizing the services of paid donors is now established as a component of assisted reproductive technology (ART). In 2016, approximately 9% of all ART cycles reported to the Society for Assisted Reproductive Technologies (SART) involved the use of donor oocytes, including both fresh oocytes and oocytes that were previously frozen and thawed (8). An early survey published in 1993 found that approximately 60% of responding programs offered compensation to women undergoing oocyte retrieval solely to provide oocytes to others (9). In 2016, 88% of the 463 assisted reproduction programs reporting to SART stated that they offered oocyte donation services (8). Although SART collects data on the use of donor oocytes in ART cycles, it does not ask clinics to report on their donor-compensation practices and policies. Decisions concerning such policies and practices are for clinics to make individually.

Although there is some variation in compensation arrangements, they have certain features in common. Egg donor agencies, egg banks, fertility clinics, and infertile indi-

viduals and couples recruit women for oocyte donation through advertising, often using online postings and notices in college or other local media sources. The amount of compensation offered varies, and it may be difficult for prospective donors to know exactly what the compensation would be for their donation based solely on the postings, notices, or media sources. One study indicated that disclosure of fee schedules varied depending on whether the recruiter was an agency or an infertility clinic (10). At least one state has enacted legislation requiring all advertising for egg donation to include an express warning that “not all selected egg donors receive the monetary amounts or compensation advertised” (11). The Committee believes that oocyte donation advertising and remuneration representations made by any entity or individual recruiting donors should be accurate and transparent.

## ETHICAL CONCERNS RAISED BY REMUNERATION

Concerns surrounding financial compensation of oocyte donors often focus on the welfare of women who agree to act as donors and on the impact of that compensation. Monetary compensation could create the possibility of undue inducement and exploitation of women participating in oocyte donation. Women may agree to provide oocytes based on their financial need. High levels of compensation also could lead some prospective donors to conceal medical information relevant to their own health or that of their genetic offspring in order to be more likely to be selected for oocyte donation. There is a possibility that women could discount the physical, social, and emotional risks of oocyte donation out of eagerness to address their personal financial interests. Financial compensation could raise ethical issues on the grounds that it conflicts with the prevailing belief that gametes should not become products bought and sold in the marketplace. A further ethical concern is that the commodification of gametes could translate into the devaluation of donor-conceived offspring who will be viewed in relation to their market value rather than their intrinsic worth (12).

Women undergoing retrieval purely to provide oocytes to others are exposed to physical and psychological risks that they would not otherwise face. There is some risk of unintentional pregnancy, because hormonal contraceptives must be discontinued prior to participation. Donors also are exposed to risks of morbidity and a remote risk of mortality from ovarian stimulation and oocyte retrieval (13). Although current data are reassuring, it is possible that fertility drugs and procedures involved in oocyte donation might increase a woman’s future health risks, including the risk of impaired fertility (14). Young women may be prone to dismiss the potential psychological consequences of donation, particularly those that could arise if they later experience infertility problems themselves. They may also underestimate the psychological and legal consequences of their agreement to renounce parental rights and future contact with children born to oocyte recipients. The renunciation of future contact may turn out to be illusory, however, as increasingly sophisticated genetic testing, coupled with the reach of the Internet,

may enable donor-conceived offspring to contact their oocyte donors long into the future, even if the donor made the decision to keep the fact of her donation private.

Another ethical concern is that compensation for oocytes could imply that gametes are property or commodities that can be bought and sold and thus could devalue their inherent linkage with human life. At the outset, it is noteworthy that this critique is rarely, if ever, levied against the practice of sperm donation and appears uniquely in the realm of oocyte donation. For some, the concern about human commodification is based on the presumption that compensation to individuals for reproductive and other tissues is inconsistent with maintaining important values related to respect for human life and dignity. Arguably, this view is reflected in state and federal laws prohibiting direct compensation to individuals providing organs and tissues for transplantation. Yet, such laws generally permit organ and tissue donors to receive reimbursement for expenses and other costs associated with the donation procedure. In the analogous circumstance of biomedical research, human subjects exposed to physical and psychological risks are often reimbursed for expenses. Moreover, they may receive additional compensation for the time and inconvenience associated with study participation. These facts support the compensation of oocyte donors regardless of the ultimate use of the oocytes (e.g., fertility therapy or research).

Compensation based on the time, inconvenience, and discomfort associated with oocyte retrieval can and should be distinguished from payment for the oocytes themselves. Such compensation is also consistent with sperm donation and with employment and other situations in which individuals are compensated for activities demanding time, physical effort, and risk.

Arguments that support a no-compensation policy often focus on the perceived impact compensation will have on the donors and on any offspring born of their donation. For example, some argue that as compensation to women providing oocytes increases in amount, the ethical concerns will increase as well. The higher the compensation, arguably the greater the possibility that women will discount risks to themselves or be less forthcoming about their medical and social history in order to be accepted as a donor. Higher levels of compensation, particularly for women with specific characteristics, may also convey the idea that oocytes are commodifiable. To the extent that such compensation may reflect an effort to promote the birth of persons with traits deemed socially desirable, it may be seen as a form of positive eugenics. Such efforts to enhance offspring are morally troubling to some, insofar as they objectify children rather than assigning them intrinsic dignity and worth. Finally, compensation could make donor oocytes available only to the very wealthy, increasing social and distributive injustice related to access to fertility treatment (12, 15).

## JUSTIFICATIONS FOR PERMITTING REMUNERATION

Although the potential for harm must be acknowledged and addressed, financial compensation can be defended and is

justified on several ethical grounds: 1) The existence of a system of fair recompense within the context of a professional relationship shows respect for women's autonomy and honors their capacity to make informed choices about their bodies and economic lives. 2) Rather than regarding women and their contributions as commodities, fair compensation for oocyte donation is in line with routine reimbursement for medical services, including those in connection with reproduction. 3) Providing compensation for donation may increase the number of oocyte donors, which in turn, would allow greater options for infertile persons and provide more choice in selection of oocyte donors. 4) The provision of compensation does not necessarily discourage altruistic motivations; indeed, in surveys of women receiving compensation, most reported that helping childless persons remained a significant factor in their decision to donate (16–20). In a survey of donors who had been compensated by up to \$5,000, 88% of donors reported that the best thing about the donation experience was “being able to help someone” (18). 5) Financial compensation may be defended on the grounds that it advances the ethical goal of fairness to donors. There is no doubt that oocyte donors bear burdens on behalf of recipients and society, and compensation for bearing those burdens may be justified morally. Because the burdens of donation are similar regardless of the ultimate use of the oocytes, compensating donors of oocytes for research is also ethically justified. There has been some movement at the state level to permit compensation to research donors, which stands in contrast to the approach articulated by the National Academy of Sciences with respect to compensation for oocyte donation for stem-cell research (21). In 2009, New York became the first US state to implement a policy permitting researchers to use public funds to reimburse women who donate oocytes directly and solely for stem-cell research, not only for the woman's out-of-pocket expenses, but also for the time, burden, and discomfort associated with the donation process (22). A law enacted in California in 2019 likewise requires women who provide human oocytes for research to be compensated for their time, discomfort, and inconvenience in the same manner as other research subjects, removing a previous prohibition of compensation of research donors (11).

As an ethical matter, permitting compensation for oocyte donation for reproductive purposes but not research purposes fails to recognize the donor's significant contributions when donating oocytes for either of these uses. Such an approach also would treat female gamete donors differently from sperm donors, who typically receive compensation (albeit a modest one) for a much less risky and invasive procedure. 6) The emotional pressures created by financial incentives do not necessarily exceed, and may actually be less than, those experienced by women asked to make altruistic donations to relatives or friends. Even if compensation were considered unethical, there would still be a need for donor oocytes. Such an approach would require infertile women to turn to friends and relatives to supply the unique materials needed for their treatment, which can be demeaning and particularly difficult for patients who already experience high levels of anxiety caused by infertility. Such an approach may also

leave potential donors more vulnerable to coercion than a system in which compensation can help attract donation of oocytes by others (23).

Although the physical and psychological risks entailed in oocyte donation are real, they are not so severe as to justify limiting the autonomous decision-making authority of adult women. Programs offering financial incentives should take steps to minimize the possibility of undue influence and exploitation by incorporating certain safeguards into the disclosure and counseling processes. For example, agencies, egg banks, and infertility clinics should be encouraged to provide written information to prospective donors setting out their reimbursement structure and requirements for donors. They should also disclose any exclusion to becoming a donor, such as age limits and medical contraindications.

## DISCLOSURE AND COUNSELING

Prospective donors should be fully informed about the potential medical and psychological risks of undergoing oocyte retrieval for reproduction or research (10). This ethical obligation to ensure the informed consent of prospective donors attaches to any party or program seeking the services of an oocyte donor, including providers assisting intended parents, fertility clinics, egg banks, and agencies involved in recruiting or matching donors and recipients. Women donating oocytes for research should be afforded the additional protection of review by an institutional review board or other required oversight body with authority for approval of the informed consent process and documents.

The potential negative health and psychological effects of oocyte donation should be openly acknowledged. Prospective donors should understand the measures they must take to avoid unwanted pregnancy during a stimulation cycle. They also should understand that they could later develop desires to establish contact with their genetically related children, desires that may be difficult to satisfy because of legal or other barriers. Alternatively, donors should be apprised that remaining anonymous to the recipient(s) or resulting offspring may not be possible because of increasingly sophisticated genetic tracing and social-media technologies.

Donor candidates should be encouraged to explore their possible emotional responses, particularly those that could develop if they experience infertility problems themselves. To reduce the incidence of subsequent psychological problems, it would be prudent to limit donors to women who are 21 years old or older and who are more likely to possess the emotional maturity to make such decisions (24).

To enhance the likelihood that information relevant to donation will be fully explored, programs are encouraged to designate an individual with training and expertise in mental-health care to be available to consult with prospective donors (24). This individual's primary responsibilities should be to ensure that the prospective donor understands and appreciates the relevant information and that her consent is freely given. She should be made aware that she may withdraw from the process at any point in time prior to egg retrieval. The prospective donor's motivation for participating should be explored during the session, with the goal of

providing information to allow her to assess her decision to donate her eggs, given the potential consequences of her donation and possible associated risks, and to ensure that she is not unduly influenced by financial hardships that might compel her to participate.

Empiric data suggest that some oocyte donors may wish to know whether children are born as a result of their donation. Others may have preferences about how their donated oocytes are used (25). For example, donors may not want their oocytes to be provided to unmarried persons, same-sex couples, or persons of a different religion or race, or may not want unused embryos produced with their oocytes to be destroyed or used for research. Program staff should discuss with prospective donors the amount of information they will be given about whether a birth occurs and any control they will have over oocyte disposition. Women donating oocytes specifically for research should be informed about potential uses of their tissues. Explicit consent should be given when donors are providing embryos for research whose intent is to create embryos for study. In no case should research embryos be used for reproductive purposes without prior informed consent of the donor.

## THE COMPENSATION STRUCTURE

Compensation to women providing oocytes should be fair and not used as an undue enticement that will lead prospective donors to discount risks. Monetary compensation should reflect the time, inconvenience, and physical and emotional demands associated with participating in oocyte donation. Thus, each clinic or donor agency may decide for itself in any particular case and in the exercise of its own judgment that a woman who withdraws from donation for medical or other reasons may be paid a portion of the fee proportionate to the time and effort she contributed. To protect the donor's right to withdraw, oocyte recipients must accept the risk that a donor may change her mind at any time prior to egg retrieval. In no circumstances should compensation be conditioned on successful retrieval of oocytes or the number of oocytes retrieved. Likewise, donors should never be required to cover the costs of the interrupted cycle. To avoid putting a price on human oocytes, compensation should not vary according to the number or quality of oocytes retrieved (24).

## ADDITIONAL ETHICAL CONSIDERATIONS

Once the donation process begins, oocyte donors become patients and are owed the same professional duties present in any physician-patient relationship. Programs should ensure that every donor has a physician whose primary responsibility is caring for her. The staff of oocyte-donor programs should recognize that physicians providing services to both donors and recipients may encounter conflicts in promoting the best interests of both parties and should create mechanisms ensuring equitable and fair provision of services.

Programs offering oocyte donation should adopt and disclose policies regarding whether coverage exists of an oocyte-donor's medical costs should she experience health complications from the procedure (24). Ideally, programs should ensure that donors are covered for any health care

costs incurred as a result of participating. The limits and terms of coverage need to be explained to and accepted by the donor. Programs should also offer referral for psychological services to donors who experience subsequent distress related to the procedure, including the experience of being excluded from a potential donation (26).

All programs offering compensation for donation should ensure that advertisements for donors are accurate and responsible (11). If compensation is noted in advertisements, the existence of risks and burdens also should be acknowledged therein. Donors independently recruited by prospective oocyte recipients, agencies, or egg banks should undergo the same disclosure and counseling processes as donors recruited by fertility practices. It is ethically permissible for a program to refuse to accept a prospective oocyte donor if they become aware that a prospective oocyte recipient or recruiting agency has offered gifts or payments that the program, in the exercise of its own ethical judgment, believes compromise the donor's free choice or are otherwise ethically inappropriate. Programs should not assume that known donors, such as family or friends, are not being financially compensated. In one study of recipients using both known and anonymous donors, 19 of 20 of the known donors had been compensated, and there were no differences in the amounts provided to known and anonymous donors (27).

To reduce the potential health risks of repeated donations and the risk of inadvertent consanguinity among offspring, programs may wish to limit the number of times a woman may undergo retrieval procedures purely to provide oocytes to others. A good-faith effort should be made to avoid accepting women who have already made a high number of donations elsewhere (24, 28). Finally, the Committee encourages further study of the medical and psychological effects of oocyte donation on donors. Findings from such research promise to improve understanding of risks and benefits and allow programs to provide more accurate information to prospective donors.

## CONCLUSIONS

The use of donor oocytes for reproductive and research purposes is well established, resulting in family formation for couples and individuals who lack viable oocytes as well as supporting potential advances in medical discoveries, treatments, and therapies. In the United States, it is common for women who provide oocytes for reproductive use to receive financial compensation. This remuneration compensates donors for the time, inconvenience, and discomfort associated with the oocyte retrieval process and is ethically justified. Compensation for donors of oocytes for research purposes is also ethically justified. Concerns over the commodification of human gametes and its impact on human dignity are acknowledged; but, on balance, the need to respect women's autonomy and their capacity to make informed choices compels support for a system of financial compensation for oocyte donors. Compensation should not vary according to the number or quality of oocytes retrieved. Compensation should be fair and not become an undue enticement that

negatively impacts a donor's ability to make an informed decision about the donation process.

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**Compensación económica en las donaciones de ovocitos: opinión del Comité de Ética.**

La compensación económica a las mujeres donantes de ovocitos con fines reproductivos o para investigación está justificada por motivos éticos y debe reconocer el tiempo, los inconvenientes y las molestias asociadas con su cribado, la estimulación ovárica, la punción de ovocitos y la recuperación posterior a la intervención y no depender del uso planificado de los ovocitos o del número y la calidad de los mismos. Este documento reemplaza el documento con el mismo nombre publicado en 2016.