

<b>Title:</b>	Noncompliance
<b>Responsible Office:</b>	Institutional Review Office (IRO)
<b>Responsible Official:</b>	Karen Hansen, IRO Director
	<i>Karen Hansen</i> <i>October 20, 2009</i>
	Signature/date
<b>Effective Date:</b>	November 01, 2009
<b>Policy:</b>	1.9

**POLICY STATEMENT**

Confirmed or suspected serious or continuing noncompliance with (i) federal laws relating to research involving human subjects, (ii) the human subject protection program of FHCRC (HRPP) or (iii) the requirements or determinations of the FHCRC IRB, must be reported promptly to either the IRO Director, the Office of the Director, the Office of General Counsel or through other normal organizational channels as provided in this policy. Principal investigators and study staff are required to report all serious or continuing noncompliance within ten (10) calendar days of discovering it. If there is any question or possibility that noncompliance could constitute serious or continuing noncompliance, it should be reported. Allegations of noncompliance reported under this policy will be promptly investigated. Noncompliance which is or is possibly serious or continuing will be reviewed by the IRB in accordance with this policy and appropriate steps will be taken to minimize any risks to research participants. Confirmed instances of serious or continuing noncompliance will be reported to appropriate institutional and government officials as provided under applicable law, *IRB Policy 2.8, IRB Requirements for Reporting to Institutional Official and External Officials* and this Policy. The President & Director may impose sanctions on employees responsible for serious or continuing noncompliance.

**DEFINITIONS**

***Allegation of noncompliance:*** An assertion that noncompliance has or may have occurred that requires further investigation to determine whether noncompliance has in fact occurred.

***Confirmed noncompliance:*** A report of noncompliance that can be determined to be true without further investigation or an allegation of noncompliance that is determined to be true after investigation under this policy. Unless circumstances clearly indicate otherwise, reports of noncompliance by or at the direction of principal investigators relating to studies for which they are responsible will be considered confirmed noncompliance for purposes of this policy.

***Continuing noncompliance:*** Noncompliance that while not serious evidences a pattern of behavior that, if unaddressed, might jeopardize the rights and welfare of research participants the integrity of the study data or the integrity of the HRPP. Examples include a pattern of behavior that evidences a lack of attention to or knowledge of the HRPP or the protection of research participants or that is likely to continue without intervention.

**Minor noncompliance:** Noncompliance that is neither serious nor continuing. Unless required by the applicable protocol, instances of noncompliance that clearly constitute minor noncompliance do not need to be reported. Minor noncompliance includes, but is not limited to, individual instances of the omission or modification of research activities that are in the best interests of human research participants; provided, that the omission or modification does not materially increase the risks to or otherwise seriously jeopardize the rights and welfare of human research participants or materially impair the integrity of the study data. It is recommended that principal investigators initially prepare and, as necessary, amend protocols to minimize instances of minor noncompliance.

**Noncompliance:** An intentional or unintentional action or activity relating to human subjects research by a person subject to the HRPP that violates or otherwise fails to adhere to one or more of (i) the requirements or determinations of the IRB, (ii) the HRPP, or (iii) laws or regulations governing the conduct of human subjects research including applicable FDA and DHHS regulations. For purposes of this policy, noncompliance may be serious, continuing or minor. "Noncompliance" does not include protocol deviations that are beyond the immediate control of the principal investigator and his or her study staff (e.g. delays caused by weather or by the acts or omissions of third parties such as outside labs or scheduling changes not caused by the principal investigator or his or her staff). However, this type of protocol deviation may constitute an unanticipated problem involving risks to research subjects or others reportable under *IRB Policy 2.6, Unanticipated Problems Involving Risks to Subjects or Others*.

**Serious noncompliance:** Noncompliance that materially increases the risks to or otherwise seriously jeopardizes the rights and welfare of human research participants or materially impairs the integrity of the study data. Serious noncompliance may include, but is not limited to, (i) the failure to obtain IRB approval of human subjects research when required under the HRPP or applicable laws and regulations, (ii) enrolling a research participant who does not fit the inclusion and exclusion criteria in the protocol, (iii) Failing to obtain or document informed consent, (iv) administering a drug required by the protocol at a dose or schedule that has not been approved by the IRB except when necessary to eliminate apparent immediate hazards to the research participant (see IRB Policy 2.5).

## **INDIVIDUALS AFFECTED BY THIS POLICY**

The contents of this policy apply to IRO staff, IRB members, principal investigators and employees of FHCRC and University of Washington (UW) consortium, study monitors, auditors or sponsors. Instructions for reporting are posted on the IRO website.

## **PRINCIPLES/OVERVIEW**

Ensuring that noncompliance with the HRPP is promptly and effectively addressed is essential to protecting the rights and welfare of research participants and to the integrity of the HRPP. The HRPP requires that FHCRC employees and agents and persons conducting research for which the FHCRC IRB is the IRB of record report any serious or continuing noncompliance or suspected serious or continuing noncompliance of which they become aware. In addition, federal law requires that the IRB follow written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials and certain government agencies of (i) serious or continuing violations of federal regulations governing human subjects research, or (ii) the requirements or determinations of the IRB. This policy establishes procedures for reporting, investigating and addressing noncompliance relating to the HRPP, applicable laws and regulations and the requirements or determinations of the IRB.

## PROCEDURES

### 1. Reporting Requirements

- a. Reporting by Principal Investigators and Study Staff. Principal investigators and their study staffs are required to report each event of serious or continuing noncompliance relating to human subjects research which they are conducting within ten (10) calendar days of learning of the event. If there is any question or possibility that noncompliance could constitute serious or continuing noncompliance, it should be reported.

The *Expedited Reporting Form for Unanticipated Problems or Noncompliance* found in the Forms Section of the FHCRB website should be used for reporting noncompliance. Unless circumstances clearly indicate otherwise, reports by principal investigators or study staff under this Section 1a will be considered confirmed noncompliance. These reports should be filed with the IRO Director or his or her designee and will be reviewed under Section 2 and Section 4.

- b. Reporting by Others. Persons other than principal investigators and study staff should report any actual or suspected noncompliance to the IRO Director, the Office of the Director, the Office of General Counsel or through other normal organizational channels such as the FHCRB ombudsperson. Generally, reports of noncompliance involving the IRO Director or members of the IRB (in their capacity as such) should be made to the Office of the Director or the Office of the General Counsel. If possible, the *Allegation of Human Subjects Research Noncompliance Reporting Form* found in the Forms Section of the FHCRB website should be used for reporting under this Section 1b.
- c. Minor Noncompliance. Minor noncompliance does not need to be reported unless required by the IRB approved protocol.

### 2. Preliminary Assessment of Reported Noncompliance

Any FHCRB official receiving a report that such person determines is a report of actual or suspected noncompliance will promptly notify and forward the report to the IRO Director or his or her designee unless the noncompliance involves the IRO Director or a member of the IRB in his or her capacity as such, in which case the person will notify and forward the report to the Office of the Director.

The IRO Director (or designee) or the Office of the Director will preliminarily assess whether or not there is (i) confirmed noncompliance or (ii) an allegation of noncompliance. In making this determination, the IRO Director (or designee) or Office of the Director may collect additional information necessary to making this determination although it is not intended that a full investigation of alleged noncompliance be conducted at this stage of review.

If the IRB Director (or designee) determines that the report is an allegation of noncompliance, Section 3 will be followed.

If the IRB Director (or designee) determines that the report is confirmed noncompliance, Section 4 will be followed.

For reports of noncompliance made under Section 1a. by principal investigators and study staff, the IRO Director (or designee) will complete the  *Screener: Expedited Reporting Form for Unanticipated Problems or Noncompliance* or  *Screener: Allegation of Human Subjects Research Noncompliance Reporting Form* to screen these reports.

### 3. Review of Allegations of Noncompliance

The Chair of the IRB that approved the research to which the allegation of noncompliance relates (or designee) will review the report and any supporting documentation including the *IRB Chair Report Checklist* and relevant *Allegation of Human Subjects Research Noncompliance Reporting Form*. This review should normally occur within forty-eighty (48) hours of the time the report is received by the IRO. Based on this review, the IRB Chair (or designee) will determine whether the allegation of noncompliance is confirmed noncompliance or has no basis in fact. In making this determination the IRB Chair (or designee) will collect or instruct others to collect additional information necessary to making this determination and may, in his or her discretion conduct or ask others to conduct a full investigation of the alleged noncompliance.

- If the IRB Chair (or designee) determines that the allegation of noncompliance has no basis in fact, then no further action will be taken under this policy.
- If the IRB Chair (or designee) determines that the allegation of noncompliance is confirmed noncompliance, then Section 4 will be followed.

The IRB Chair, in his or her discretion, may refer the determination of whether an allegation of noncompliance is confirmed noncompliance or has no basis in fact to the full IRB. In that case, the IRB Chair (or designee) will provide the report and all appropriate supporting documentation to the IRB. The IRB will collect or instruct others to collect additional information necessary to making its determination and may, in its discretion conduct or ask others to conduct a full investigation of the alleged noncompliance.

If the allegations of noncompliance involve the IRO Director or members of the IRB (in their capacity as such), the President & Director (or designee) rather than the IRB Chair will conduct the review and make the determinations required under this Section 3.

### 4. Review of Confirmed Serious or Continuing Noncompliance

a. Review by the IRB Chair. The Chair of the IRB that approved the research to which the noncompliance relates (or designee) will review any supporting documentation including the *IRB Chair Report Checklist* and relevant *Expedited Reporting Form for Unanticipated Problems or Noncompliance*. This review should normally occur within forty-eighty (48) hours of the time the report is received by the IRO. Based on the review, the IRB Chair (or designee) will determine whether (i) the confirmed noncompliance is definitely neither serious nor continuing or (ii) or is possibly serious or continuing.

- If the IRB Chair (or designee) determines that the confirmed noncompliance is definitely neither serious nor continuing, the IRB Chair (or designee) may work with the investigator, if appropriate, to develop a corrective action plan.
- If the IRB Chair (or designee) determines that the noncompliance is or is possibly serious or continuing, then Section 4b will be followed.

If the noncompliance involves the IRO Director or members of the IRB (in their capacity as such), the President & Director (or designee) rather than the IRB Chair will conduct the review and make the determinations required under this Section 4a.

- b. Review and Action by the IRB. The IRB is responsible for reviewing confirmed noncompliance that is or is possibly serious or continuing.

The IRO Director (or designee) and IRB Chair will provide the following documentation to all IRB members in connection with any report of noncompliance that is or is possibly serious or continuing:

- The protocol.
- The current consent document(s).
- Copy of the reported information along with any supporting documents.
- The *Expedited Reporting Form for Unanticipated Problems or Noncompliance* and *IRB Chair Report Checklist*.

The IRB first will determine whether the noncompliance is serious or continuing. The IRB may request that additional facts be collected or that a further investigation be conducted if necessary for it to make this determination.

If the IRB determines that the noncompliance is neither serious nor continuing, then the report will be referred to the IRB Chair (or designee) for development of a corrective action plan as described in 4a. If the IRB determines that the noncompliance is serious or continuing, then the IRB will consider at a minimum the following actions to remedy the noncompliance and protect research participants and others:

- Requiring additional information from the principal investigator with a plan for corrective action
- Auditing of the active protocol
- Requiring modification of the protocol
- Requiring modification of the consent
- Requiring the re-consenting of and/or providing additional information to current research participants (Must occur when such information may affect the willingness of current participants to continue to take part in the research.)
- Requiring the re-consenting of and/or providing additional information to past research participants
- Requiring more frequent review of the study
- Requiring additional training of study staff
- Prohibiting use of the data collected for publication
- Suspending or terminating the protocol
- Requesting that the President & Director (or designee) withhold funding for the study conditioned on appropriate corrective measures.

In appropriate cases, the IRB may also recommend to the President & Director that disciplinary or other action be taken against any FHCRC employee or other person subject to the HRPP including, without limitation, the following:

- Suspending the right to conduct or participate in human subject research at FHCRC pending completion of additional training or other requirement
- Terminating or limiting the right to conduct or participate in human subject research at FHCRC
- Requiring additional supervision of the principal investigator

- Terminating employment
- Conducting an investigation into scientific or other misconduct.
- Terminating an appointment to serve on the IRB

Upon completion of its review the IRO Director (or designee) will notify the principal investigator of the IRB's conclusions and any actions. The IRO Director (or designee) will then follow *IRB Policy 2.8, IRB Requirements for Reporting to Institutional and External Officials*.

If the noncompliance involves the IRO Director or members of the IRB (in their capacity as such), the persons involved may not participate in the review under this Section 4b. If necessary, the President & Director (or designee) will appointment someone else to assume the responsibilities of the person or persons involved in the noncompliance for purposes of the review.

- c. Review and Action by the President & Director. The President & Director or his or designee will promptly review the conclusions of the IRB including any recommended actions to address the noncompliance. The decision to take disciplinary or other action against a person engaged in noncompliance is within the sole discretion of the President & Director or his or designee.

## **APPENDICES**

Screener: Expedited Reporting Form for Unanticipated Problems or Noncompliance  
 Screener: Allegation of Human Subjects Research Noncompliance Reporting Form  
 IRB Policy 2.8 IRB Requirements for Reporting to Institutional and External Officials  
 Office of Director Human Research Protection Program Policy  
 Expedited Reporting Form for Unanticipated Problems or Noncompliance  
 Allegation of Human Subjects Research Noncompliance Reporting Form  
 IRB Chair Report Checklist for Noncompliance