

Title:	Issues of Noncompliance
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Policy and SOP:	1

1.1 Executive Summary

Investigators, research staff, the IRB, and the Office of Regulatory Compliance share responsibility for the ethical conduct of human subjects research and for compliance with federal regulations, applicable state laws, and university policy. NC State University encourages all faculty, staff, students, volunteers, and research participants, acting in good faith, to report suspected or actual wrongful conduct associated with human subjects research. It is the policy of the North Carolina State University (NCSU) Institutional Review Board (IRB) to uphold its role in ensuring prompt reporting of any serious or continuing noncompliance with [45 CFR Part 46](#), or the requirements or determinations of the IRB.

This document provides information regarding NC State’s noncompliance policy, our standard operating procedure regarding noncompliance (SOP), and definitions related to noncompliance (see Appendix A).

1.2. Noncompliance Policy

All NC State University researchers conducting human subjects research are expected to comply with the provisions of the IRB-approved study as well as all related federal regulations, university policies, and state and local laws. If a researcher becomes aware of any noncompliance then it must be reported to the NC State IRB Office.

If any allegations of noncompliance are made to the NC State IRB office, those allegations must be investigated and it must be determined whether the allegation has a basis in fact or not, and if the noncompliance is deemed serious and/or continuing. The procedures for this investigation are described in the Standard Operating Procedure detailed below..

1.3. Noncompliance Standard Operating Procedure (SOP)

All reports of alleged noncompliance or inappropriate involvement of humans in research are investigated and resolved.

1.3.a. Handling of Non-Compliance Allegations

Noncompliance reports may come from any source such as an IRB committee member, an investigator, a participant or their family members, the public, institutional personnel, other institutional committees, or the NCSU Regulatory Compliance Office.

Allegations of noncompliance will remain confidential to the extent permitted by North Carolina law, consistent with the need to conduct an investigation. The University will take reasonable steps to protect persons who file reports in good faith from retaliatory actions based on such filing.

Actions undertaken in response to an allegation or finding of noncompliance will be completed in a timely manner, based on the circumstances and seriousness of the potential noncompliance. Under

federal regulations, the IRB has the authority to suspend or terminate approval of research that is not conducted in accordance with the IRB's requirements or that has been associated with unexpected serious harm to subjects.

The IRB Full Board or its designee may suspend or terminate approval of an investigator's research and secure critical documents at any time during or following an inquiry or investigation if necessary to assure the protection of research participants. The Office of Regulatory Compliance will assure that the necessary resources are available to conduct a thorough review of all noncompliance.

In general, the goals of the IRB in investigating and managing issues of potential noncompliance include:

1. Appropriately identifying any issues related to the allegation of noncompliance
2. Assuring the safety and welfare of human participants by assessing risk associated with the allegations of noncompliance
3. Taking necessary immediate steps to reduce risk to participants
4. Developing action plans for researchers to prevent reoccurrence and promote future compliance and ethical behavior
5. Educating researchers to assure the understanding of federal guidelines, regulations, and NCSU IRB Policy
6. Reporting serious or continuing noncompliance to the Institutional Official in charge of the IRB, any appropriate research sponsor or federal department or agency head, the Office for Human Research Protections (when the research is federally funded or the IRB Full Board deems it necessary), and any other stakeholders identified by the IRB Full Board

If at any time during an investigation concerns arise regarding research misconduct, such concerns will be referred to The University Research Integrity Officer. Allegations of research misconduct are potentially related to IRB noncompliance, but are a separate issue covered by The University policy on responding to allegations of research misconduct ([REG.10.00.02](#)).

1.3.b. Investigation of Noncompliance and Outcomes

Once an allegation of noncompliance is brought to the attention of the IRB office or Full Board, an IRB staff member will investigate the allegation and collect information that informs decisions made regarding the alleged noncompliance. The expectations and steps regarding the investigation of noncompliance are noted below:

1. IRB staff will consult with the Chair of the IRB and, as necessary, with university counsel, on all non-exempt allegations of noncompliance.
2. Any individual with a potential conflict of interest may not participate in the investigation. The Principal Investigator (PI) and Co-investigators, as applicable, may be informed of an allegation of noncompliance or contacted for a response during the initial investigation.
3. During the investigation, the IRB office staff will engage in fact finding and information collection.
4. The investigator(s) will be informed in writing of the allegation and investigation. Depending on the nature of the potential noncompliance, a written response from the investigator will be requested to facilitate review and conclusion of the investigation. The PI, research staff, or others may be interviewed and/or an audit of the investigators' research may be conducted during the investigation, as necessary.

5. If the investigators are contacted for a response during the investigation, a written response will be requested. If the potential noncompliance is reviewed by the convened IRB, the PI and co-investigators may respond in person at the meeting during which the review will take place.
6. Based on the information gathered during the investigation the IRB staff will:
 - a. resolve the issue if the allegations of noncompliance are unfounded.
 - b. resolve the issue if the research activities and/or the allegations that are made are such that the activity in question would qualify as exempt research.
 - c. work with the IRB Chair to resolve issues of minor non-exempt noncompliance.
 - d. forward the information from the investigation including input from the PI to the IRB Convened Board for review and final determination.
7. Minor noncompliance determinations may be made during the investigation; however, serious and/or continuing noncompliance allegations identified during the investigation will be presented to the convened IRB Full Board.
8. Investigations will be completed promptly; however, the timing is dependent on the finding of noncompliance and on the nature of the potential noncompliance.
9. At a convened IRB Full Board meeting, the IRB responsible for reviewing the research will review allegations of noncompliance following the investigation. The IRB will consider the information from the investigation, the investigators' response (if any), and any other relevant materials to assess the seriousness of the potential noncompliance and to consider possible corrective action(s). The IRB Director will lead the discussion; materials as described above will be distributed to all scheduled attendees. The IRB will make final determinations in closed session by majority vote of a quorum of the members/alternates at the convened meeting.
10. The investigators will be notified in writing of the final decision of the IRB. Notification will also be sent to the persons originating the report of noncompliance within 30 days, as applicable. If not previously reported, any suspension or termination of IRB approval or noncompliance that is determined to be serious or continuing will be reported by the IRB staff.
11. Possible outcomes of the investigation as determined by the convened IRB include:
 - a. Corrective action required (such as changes to the protocol, communications with participants, destruction of data, monitoring, limitations, suspension or termination of the research project).
 - b. Referral to other appropriate University processes, such as misconduct review or to HIPAA privacy officers.
 - c. Education and training for all researchers.
 - d. Other outcomes determined necessary by the convened IRB Full Board.

1.3.c. Investigator Appeals

As required by regulations, any decision of the IRB with respect to research involving human subjects is final. However, the convened IRB may review an investigator's request for reconsideration or appeal to a determination regarding noncompliance and/or corrective actions as warranted by the presentation of new information or unusual circumstances. All investigator petitions must be made within 30 days of his/her notification of the IRB's findings. The IRB will review an investigator's request or appeal within 30 days, and the investigator will be notified in writing of the IRB's decision within 14 days of the review.

1.3.d. Reporting

Serious or continuing noncompliance is to be identified by the committee, and once identified by the committee, will be promptly reported to appropriate parties. The IRB Director or another appropriate IRB representative is responsible for reporting noncompliance to appropriate entities.

When the IRB identifies serious or continuing noncompliance in non-exempt research, the noncompliance will be promptly reported to the University Institutional Official, other appropriate entities such as research sponsors, collaborating institutions or investigators. When the research is federally funded, the appropriate federal department or agency heads and the federal Office for Human Research Protections will also be notified.

For multicenter research projects, only the institution at which the noncompliance occurred must report the event.

When reporting serious and/or continuing noncompliance, the IRB will include the following information:

1. Appropriate identifying information for the research protocol, such as the title, investigator's name, and the IRB project number
2. A detailed description of the noncompliance
3. An explanation of the basis for determining that the event, incident, experience, or outcome represents serious or continuing noncompliance
4. A description of any changes to the protocol or other corrective actions that have been taken or are proposed in response to the noncompliance

1.3.e. Records Retention

Records relating to review and investigation of noncompliance will be retained by the IRB office for a minimum of three years after completion of the research or any corrective actions (whichever is longer), in accordance with federal regulation, applicable state and local law, and university policy.

Appendix A

Noncompliance is the failure (regardless of intentionality) to comply with any federal, state, or local regulation governing human research including university policies on human research. It includes any deviation from the protocol approved by the IRB, or deviations from stipulations imposed by the IRB, as a condition of approval. Noncompliance may be serious, non-serious (minor), and may be continuing.

Minor Noncompliance is noncompliance that does not increase risk to research participants, compromise participants' rights or welfare, or that does not affect the integrity of the research, the data, or the human research protection program. Examples of minor noncompliance include:

- a. Lapses in continuing review approval
- b. Failure to obtain an exempt determination before exempt research with human subjects is conducted
- c. Minor editorial changes in an approved protocol. A minor editorial change does not increase risk to participants and includes, but is not limited to:
 - a. Editing sentence structure communicated to participants without IRB approval (not including typos)
 - b. Adding or removing items from recruitment, consent, and instruments (where doing so does not change the identifiable nature of study or increase risk to participants)
 - c. The changes to content/sentences should not change the nature of the message communicated to participants
- d. Minor deviations from an approved protocol. A minor deviation to a protocol does not increase risk to participants. A minor deviation includes, but is not limited to:
 - a. Removing a data collection method from an approved protocol, provided that removing the method does not change the risk/benefit analysis negatively
 - b. Implementing an instrument more than the approved number of times as identified in the approved protocol
 - c. Adding an additional recruitment method (ex: recruiting via social media when only approved to recruit via flyer or email)
 - d. Collecting extra biological samples, even when following the approved method for collection.

Serious Noncompliance is noncompliance where subjects were harmed due to researcher noncompliance, if there was risk of harm due to noncompliance, or if the risk to participants was increased due to noncompliance. Serious noncompliance may increase risk to research participants, compromise participants' rights or welfare, or affect the integrity of the research or data, or the human research protection program.

The committee may consider the level of risk of the research in determining if noncompliance is serious. Examples of serious noncompliance include:

- a. Non-exempt research involving human subjects that is conducted without IRB approval
- b. Changes that are made to non-exempt human subject research without appropriate IRB approval where these changes increase risk to participants
- c. Changes are made to approved research protocol involving human subjects where the convened IRB Full Board deems the changes to be significant in nature

- d. Any other instances of unethical or noncompliant activities that the IRB has deemed serious in nature due to the increased risk to participants or negative effect on the integrity of the data

Continuing Noncompliance is noncompliance where a researcher continues to deviate from the procedures and regulations of the NCSU IRB after prior intervention by the IRB. Continuing noncompliance may be found if a researcher repeats an action determined to be noncompliant by the IRB and may be found if a researcher commits different forms of noncompliance activities at different times.

Federally Funded Research is research that is directly or indirectly funded by any federal agency.

Federally Regulated Research is research that is subject to federal regulations regardless of funding relationships, such as research subject to regulation by the Food and Drug Administration (FDA).

Allegation of Noncompliance is an unconfirmed report of noncompliance.

Finding of Noncompliance is an occurrence or determination of noncompliance that does not require further confirmation or investigation.