10 Complaints, Concerns and Non-Compliance

As part of its commitment to protecting the rights and welfare of human subjects in research, CMU reviews all complaints and allegations of non-compliance and takes any necessary action to ensure the ethical conduct of research.

All PIs and other study personnel involved in human subjects research are required to comply with all laws and regulations governing their research activities, as well as with requirements and determinations of the IRB. Study personnel include the PI and any staff member directly involved with participants or the informed-consent process.

The following procedures describe how complaints and allegations of non-compliance are handled by the IRB.

At CMU all complaints, concerns and allegations of non-compliance are centrally reported to the Office of Research Compliance (ORC) through a variety of mechanisms including an on-line confidential reporting tool, a telephone hotline and e-mail. All reports received by the ORC are recorded on a log by the Director of Research Compliance (DRC) or designee. All IRB related reports are relayed to the IRB Chair by the Office of Research Compliance.

10.1 Definitions

Noncompliance –Failure to comply with any of the regulations and policies described in this document and failure to follow the determinations of the IRB. Non-compliance may be minor or sporadic or it may be serious or continuing.

Serious noncompliance –Failure to follow any of the regulations and policies described in this document or failure to follow the determinations of the IRB, and which, in the judgment of either the IRB Chair or the convened IRB, increases risks to participants, decreases potential benefits, or compromises the integrity of the HRPP. Research being conducted without prior IRB approval or participation of subjects in research activities without their prior consent (i.e., in studies where consent was not specifically waived by the IRB) is considered serious noncompliance.

Continuing noncompliance – A pattern of non-compliance that, in the judgment of the IRB Chair or convened IRB, suggests a likelihood that instances of non-compliance will continue without intervention. Continuing non-compliance also includes failure to respond to a request to resolve an episode of non-compliance.

Allegation of Noncompliance – An unproved assertion of non-compliance.

Finding of Noncompliance – An allegation of non-compliance that is proven true or a report of non-compliance that is clearly true. For example, a finding on an audit of an unsigned consent document, or an admission of an investigator that the protocol was wilfully not followed would represent reports of non-compliance that would require no further action to determine their truth and would therefore represent findings of non-compliance. A finding of non-compliance may also

occur subsequent to investigation when either the IRB Chair or convened IRB determines that the evidence supports the allegation of non-compliance. Once a finding of non-compliance is made, it must be categorized as serious, non-serious, or continuing.

Concern – An inquiry, question or request for clarification regarding conduct of research that is not specifically an allegation of non-compliance. Concerns are handled similarly to complaints unless it becomes apparent that the concern should be handled as an allegation of non-compliance.

10.2 Complaints

The Chair of the IRB will promptly handle (or delegate ORC or IRB staff to handle) and, if necessary, investigate all complaints, concerns, and appeals received by the IRB. This includes complaints, concerns, and appeals from investigators, research participants, and others.

All complaints, written or oral (including telephone complaints), and regardless of point of origin, are recorded on a complaint form and forwarded to the IRB Chair and DRC.

Upon receipt of the complaint, the Chair or DRC will make a preliminary assessment of whether the complaint warrants immediate suspension of the research project. If a suspension is warranted, the procedures in Section 3.10.1 will be followed.

If the complaint meets the definition of non-compliance, it will be considered an allegation of non-compliance according to Section 10.4

If the complaint meets the definition of an unanticipated problem involving risk to subjects or others, it will be handled according to Section 8.

Within three (3) business days of receipt of the complaint (or as soon as is practicable), the IRB Chair and/or DRC will generate a letter to acknowledge that the complaint has been received and is being investigated. Afollow-up contact name will be provided to the complainant/relator unless the complainant/relator has indicated they do not wish to be contacted or the report was submitted anonymously.

10.3 Noncompliance

Investigators and their study staff are required to report instances of possible non-compliance. The PI is responsible for reporting any possible noncompliance by study personnel to the IRB. Common reports to the IRB that are not serious or continuing are typically protocol violations. However, any individual or employee may report observed or apparent instances of noncompliance to CMU IRB. In such cases, the reporting party is responsible for making these reports in good faith, maintaining confidentiality, and cooperating with any IRB and/or institutional review of these reports.

If an individual, whether investigator, study staff, or other, is uncertain whether there is cause to report noncompliance, he/she may contact the IRB Chair, Vice Chair(s), IRB Coordinator, DRC or Assistant DRC directly to discuss the situation informally.

Reports of noncompliance must be submitted to the IRB Office within ten (10) working days of discovery of this noncompliance. The report must include a complete description of the noncompliance, the personnel involved.

Complainants may choose to remain anonymous.

10.3.1 Review of Allegations of Noncompliance

All allegations of non-compliance will be reviewed by the IRB Chair or designee in the Office of Research Compliance, who will review:

1. all documents relevant to the allegation;
2. the last approval letter from the IRB;
3. the last approved IRB application and protocol;
4. the last approved consent document;
5. the grant, if applicable; and
6. any other pertinent information (e.g., questionnaires, DSMB reports, etc.).

When the review is conducted by a designee, the designee will summarize the allegation review in a report and submit the report to the IRB Chair.

The IRB Chair will review the allegation and determine the truthfulness of the allegation. The Chair may request additional information or an audit of the research in question.

When the IRB Chair determines that noncompliance did not occur because the incident was within the limits of an approved protocol for the research involved, the determination is reported in writing to the PI and, if applicable, to the reporting party. The determination letter will be copied to the IO in cases where the IO and any other parties had been notified at the outset.

If, in the judgment of the IRB Chair, the reported allegation of non-compliance is true, the non-compliance will be processed according to Section 9.4.2 Review of Findings of Non-compliance.

If, in the judgment of the IRB Chair, any allegation or findings of non-compliance warrant suspension of the research before completion of any review or investigation to ensure protection of the rights and welfare of participants, the Chair may suspend the research as described in Section 3.10 with subsequent review by the IRB.

The IRB Chair may determine that additional expertise or assistance is required to make these determinations and may form an ad hoc committee to assist with the review and fact gathering process. When an ad hoc committee assists in the review process, the Chair is responsible for assuring that minutes of the meeting are generated and kept to help support any determinations or findings made by the ad hoc committee.

10.3.2 Review of Findings of Noncompliance

Noncompliance is not serious or continuing – When the IRB Chair determines that the noncompliance occurred, but the noncompliance does not meet definition of serious or continuing noncompliance, the determination is reported in writing to the PI and, if applicable, to the reporting party. The Chair will work with the PI to develop a corrective action plan to prevent future noncompliance. Reports of minor noncompliance and corrective action plans are submitted to the IRB individually by uploading these documents to the electronic protocol file and are presented individually or in summary form during a convened meeting. If, however, the PI refuses

to cooperate with the corrective action plan, the matter is referred to a convened meeting of the IRB with notification to the IO.

Serious or Continuing Noncompliance – When the IRB Chair determines that noncompliance has occurred and that the noncompliance meets the definition of serious or continuing noncompliance, the report of noncompliance is submitted for review by the IRB at the next convened meeting. However, the Chair may use discretion and call an emergency IRB meeting should the circumstances warrant such an urgent meeting.

All findings of serious or continuing non-compliance submitted to the IRB will be reviewed at a convened meeting. All IRB members will receive:

1. all documents relevant to the allegation,
2. the last approval letter from the IRB,
3. the last approved IRB protocol, and
4. the last approved consent document.

At this stage, the IRB may:

1. find that there is no issue of non-compliance,
2. find that there is noncompliance that is neither serious nor continuing and an adequate corrective action plan is in place,
3. find that there is serious or continuing non-compliance and approve any changes proposed by the Chair and/or ad hoc committee,
4. find that there may be serious or continuing non-compliance and direct that a formal inquiry (described below) be held, or
5. request additional information.

10.3.3 Inquiry Procedures

If the convened IRB is unable to make a determination regarding alleged non-compliance or requires additional information to substantiate an allegation, a determination may be made by the IRB that an inquiry is necessary. The IRB may choose to designate either a designee within the Office of Research Compliance or a subcommittee consisting of IRB members, ORC staff and non-members (if appropriate) to ensure fairness and expertise. ORC staff will work with the subcommittee (or designee) to ensure that records of the proceedings and findings of the subcommittee (or designee) are maintained and will draft any reports or letters that the subcommittee (or designee) requires. The subcommittee or ORC designee is given a charge by the IRB, which can include any or all of the following:

1. review of protocol(s) in question;
2. review of sponsor audit report of the investigator (if appropriate);
3. review of any relevant documentation, including consent documents, case report forms, subject's investigational and/or medical files, etc. as they relate to the investigator's execution of her/his study involving human subjects;
4. interview of appropriate personnel (if necessary);
5. prepare either a written or oral report of the findings, which is presented to the full IRB at its next meeting;

6. recommend actions if appropriate.

10.3.4 Final Review

The results of the inquiry will be reviewed at a convened IRB meeting where the IRB will receive a report from the subcommittee. If the results of the inquiry substantiate the finding of serious or continuing non-compliance, the IRB's possible actions could include, but are not limited to the following:

1. Request a correction action plan from the investigator.
2. Verify that participant selection is appropriate and observe the actual informed consent.
3. Increase data and safety monitoring of the research activity.
4. Request a directed audit of targeted areas of concern.
5. Request a status report after each participant receives intervention.
6. Modify the continuing review cycle.
7. Request additional PI and staff education.
8. Notify current subjects if the information about the non-compliance might affect their willingness to continue participation.
9. Require modification of the protocol.
10. Require modification of the information disclosed during the consent process.
11. Require current participants to re-consent to participation.
12. Suspend the study (see below).
13. Terminate the study (see below)

In cases where the IRB determines that the event of noncompliance also meets the definition of unanticipated problem involving risks to subjects or others, the policy and procedure for review of such events will also be followed.

The investigator is informed of the IRB determination and the basis for the determination in writing and is given a chance to respond. If the IRB determines that the non-compliance was serious or continuing, the results of the final review will be reported as described below in Section 11.