Title: NONCOMPLIANCE IN HUMAN RESEARCH **Version No.:** 1.6

SOP No.: FO-309 **Effective Date:** January 20, 2026

1. Purpose

This policy establishes procedures for investigating, managing, and reporting noncompliance, serious noncompliance and continuing noncompliance. This policy applies to investigators, research staff, employees of MSK, and the MSK IRBs.

2. Policy

Investigators, research staff, the IRBs, Clinical Research Administration, and MSK share responsibility for the ethical conduct of human research and for compliance with federal regulations, applicable state and local laws, and MSK policy. MSK encourages all faculty, staff, students, and volunteers, acting in good faith, to report suspected or actual wrongful conduct associated with human research.

3. Specific Procedures

3.1 Definitions

Noncompliance: Failure (intentional or unintentional) to comply with applicable federal regulations, state or local laws, the requirements or determinations of the IRB, or MSK policy regarding research involving human subjects. Noncompliance can result from action or omission.

Serious noncompliance: Noncompliance that adversely affects participants' safety, rights or welfare, or affects the integrity of the research/data or the human research protection program. Examples of serious noncompliance may include, but are not limited to the following: conducting or continuing non-exempt human subjects research without IRB approval; lack of legally effective informed consent from research participants; failure to report or review serious adverse events (SAE), unanticipated problems, or substantive changes in research; or inappropriate oversight of the research to ensure the safety of human subjects and the integrity of the research/data.

Continuing noncompliance: Noncompliance (serious or non-serious) that has been previously reported, or a pattern of ongoing activities that indicate a lack of understanding of human subjects protection requirements that may affect research participants or the validity of the research and suggest the potential for future noncompliance without intervention. Examples of continuing noncompliance may include, but are not limited, to the following: repeated failures to provide or review progress reports resulting in lapses of IRB approval, inadequate oversight of ongoing research, or failure to respond to or resolve previous allegations or findings of noncompliance.

Allegation of noncompliance: An unconfirmed report of noncompliance.

3.2 Responding to Allegations of Noncompliance

Information alleging or revealing noncompliance in studies that enroll human participants may come to the attention of the IRB through several pathways:

- Amendment applications
- Continuing reviews
- Audit or monitoring reports
- FDA audit reports
- Deviations
- SAE/Adverse event/safety reports
- Reports from collaborators, employees, participants
- Any other sources

All allegations of noncompliance should be forwarded to the HRPP Office. The HRPP Office staff, under the direction of the HRPP Director will process the allegation and request additional information if necessary. Allegations of noncompliance will remain confidential to the extent permitted by New York law, consistent with the need to conduct an adequate investigation. MSK will take reasonable steps to protect persons who file reports in good faith from retaliatory actions based on such filing, in accordance with state law and the MSK Compliance Code of Conduct for policy on employee retaliation. All allegations are reviewed in a consistent, prompt, and professional manner. All allegations of data related misconduct are reviewed by the MSK Research Integrity Officer.

If the HRPP Office staff determines that the allegation does not constitute noncompliance, the HRPP Office staff will inform the PI and no further action is needed.

If the HRPP Office staff determines that the noncompliance issue is non-serious or non-continuing, the office will review the details and corresponding corrective action plan. If applicable, the HRPP Office will request additional information or corrective action from the principal investigator.

The HRPP Office staff will forward noncompliance that is thought to be serious and/or continuing to the IRB Chair for review.

3.2.1 Preliminary Review: Determination of the Need to Suspend

The IRB Chair receives all reports of noncompliance that are thought to be serious and/or continuing by the HRPP Office. They determine if immediate suspension of study procedures or study enrollment is required for the protocol as well as for other protocols under the same investigator. This initial decision is based on preliminary review of available information, communication with the principal investigator involved in the noncompliance activities, and the seriousness of the event. This action may be necessary in order to prevent harm to human participants. In the IRB Chair's absence, initial review will be performed by an Associate Chair or the Institutional Official.

If research activities are suspended, reporting as detailed in MSK IRB SOP CO-602 will be followed.

3.2.2 Inquiry

After the preliminary evaluation by the IRB Chair, an inquiry of the noncompliance is undertaken. The IRB Chair leads the inquiry, supported by the HRPP Director and the HRPP Office staff. The purpose of the inquiry is fact finding and may involve examination of study records and discussion with the research team, other personnel, research participants, witnesses, the complainant, or others. The principal investigator and the complainant (if not anonymous) will be given the opportunity to address the noncompliance with the IRB Chair and/or HRPP Office staff.

3.2.3 Resolution of the Inquiry

After review of the information obtained during the inquiry, the IRB Chair provides an opinion as to whether the noncompliance:

1. Has a basis in fact;
2. Constitutes noncompliance but does not rise to the level of serious and/or continuing; or
3. Constitutes noncompliance that is serious or continuing.

Allegations that are deemed to have no basis in fact require no further action.

When the IRB Chair determines that the noncompliance activity does not rise to the level of serious and/or continuing, the HRPP Office staff will document the outcome of this decision in writing and process as described in section 3.2.

When the IRB Chair determines that the noncompliance activity is serious and/or continuing, the noncompliance "case" is forwarded to the convened IRB for review and management as described below.

If needed, the principal investigator and the complainant (if not anonymous), will be invited to review the noncompliance at a meeting of the IRB where they will be given the opportunity to address the allegations.

3.2.4 Serious and/or Continuing Noncompliance

All IRB members will have access to the noncompliance documents in the Protocol Information Management System (PIMS). This includes an initial management plan developed by the IRB Chair, the HRPP Office staff, and the PI (if needed). The convened IRB will vote 1) on whether or not the event constitutes serious and/or continuing noncompliance and 2) to either accept the proposed management plan or to require additional action.

If the convened IRB determines that the noncompliance activity is not serious and/or continuing, the HRPP staff will process as described in section 3.2.

If the convened IRB determines that the noncompliance activity is serious and/or continuing:

- The IRB will review the proposed management plan and propose additional action if needed. Actions that may be taken in response to the investigation of noncompliance:
  - No action;
  - Suspension: Suspend enrollment and/or all research procedures for the specific research study in question; (in accordance with MSK IRB SOP FO-310 Suspension and Termination of IRB approval)
  - Termination of the research; (in accordance with MSK IRB SOP FO-310 Suspension and Termination of IRB approval)
  - Require a response from the investigator with a plan for corrective action and proposed timeline within 10 days;
  - Initiate audits of all or part of the Investigator's active protocols;
  - Modification of the research protocol;
  - Modification of the information disclosed during the consent process;
  - Additional information provided to past participants;
  - Modification of the continuing review schedule;
  - Obtain more information pending final decision;
  - Conference with other IRBs involved with the research;
  - Requirement that current participants re-consent to participation;
  - Provide information to current participants whenever such information might relate to the participant's willingness to continue to participate in the research;
  - Monitoring of the research;
  - Monitoring of the consent process.
- The principal investigator and other individuals involved in the alleged noncompliance are notified by the IRB Chair and/or HRPP Office staff.

3.3 Reporting

Noncompliance determined to be serious and/or continuing will be reported in accordance with the requirements stipulated in MSK IRB SOP CO-602.

3.4 Record Retention

Records relating to review and investigation of noncompliance will be retained by the HRPP Office for a minimum of three (3) years after completion of the research or any corrective actions (whichever is longer).

4. Applicable Regulations and References

- 21 CFR 50.25(b)(5)
- 21 CFR 56.108(b)(2)
- 21 CFR 56.112
- 21 CFR 56.113
- 21 CFR 56.115(b)
- 45 CFR 46.103(b)(5)(i)
- 45 CFR 46.111(b)(5)
- 45 CFR 46.112
- 45 CFR 46.113
- 45 CFR 46.115(b)
- MSK IRB SOPs CO-602, FO-310

Revision History

Revision	Effective Date	Reason for Change
1.0	2/29/16	NEW
1.1	6/23/16	3.2.3 clarified distribution of documents to IRB and primary reviewers.
1.2	11/7/16	3.2 Added Deviations; clarified HRPP Office staff role in determining allegations of noncompliance. 3.2.3 Clarified that when IRB Chair determines the noncompliance activity is serious and/or continuing it is forwarded to convened IRB for review and management. 3.2.4 Clarified process for convened IRB review.
1.3	11/23/20	3.2 Clarified the process for when HRPP Office staff determine an event is non-serious or non-continuing 3.2.3 Moved language regarding PI or complainant invitation to an IRB meeting from 3.2.4 to this section 3.2.4 Removed the bullet about reporting since this is outlined in IRB SOP CO-602
1.4	1/31/22	Removed gendered language throughout SOP 3.2 Updated first bullet from new applications to amendment applications; replaced Research and Technology Management with the MSK Research Integrity Officer. 4 Updated to include MSK IRB SOPs referenced in this SOP
1.5	2/5/24	3.2.4 Removed duplicative text
1.6	1/20/26	3.2.2 Removed the requirement for an investigation of the inquiry to take place within 5 working days of the recognized concern.