Department: UAMS Institutional Review Board
Policy Number: 12.6
Section: Quality Assurances
Effective Date: March 5, 2008
Revision Date: January 24, 2011; February 15, 2016; July 6, 2020

SUBJECT: IRB Determinations of Non-Compliance and UPIRTSOs

POLICY
When the IRB staff determine that information reported and reviewed under IRB Policy 12.5 rises to the level of potential noncompliance or a potential unanticipated problem involving risk to subjects or others (UPIRTSO), these reports shall be forwarded to the convened IRB for review. The convened IRB shall make the final determination regarding whether a report meets the definition of a UPIRTSO as described in IRB policy 10.2, or noncompliance. If the latter, the IRB will determine which level of noncompliance, as defined below, applies.

DEFINITIONS
Minor Non-compliance: Unintentional or willful failure to comply with applicable Federal Regulations, UAMS IRB policies and procedures, UAMS and/or other institutional policies and procedures or the determinations of the UAMS IRB, when such failure to comply does not meet the definition of serious or continuing non-compliance.

Serious Non-compliance: An action or omission which places, or could place, a subject at risk of significant harm or affects the rights and welfare of human participants or violates the basic principles of the Belmont report to which the institution has promised to adhere. This category may also include actions that could compromise the validity and integrity of the research data.

Continuing Non-Compliance: A pattern of repeated actions or omissions that indicates a deficiency in the ability or willingness to comply with Federal Regulations, UAMS and/or other institutional policies and procedures, or the determinations of the UAMS IRB; or affects or could affect the rights and welfare of human subjects or violates the basic principles of the Belmont report to which the institution has promised to adhere.

Scientific Misconduct: Fabrication, falsification, or plagiarism in proposing, performing or reviewing research, or in reporting research results.

Unanticipated problem involving risks to subjects or others (UPIRTSO): An incidence that is unanticipated or unexpected; related to the research, and involves new or increased risks to subjects or others.

PROCEDURE
A. Classify -- The IRB shall determine whether the report falls into one of the above categories, and if so, which one.
    1. The IRB may also determine the report represents none of the above categories.
    2. The IRB may find it needs additional information to make a determination, and send back a letter deferring final consideration until such information is received.
B. Remediate – The IRB shall consider any proposed remediation to determine its adequacy and to assess whether additional actions should be taken.
    1. If previous action had been taken on the report due to its having been thought to put subjects or the study's validity at risk, the convened IRB shall whether it concurs with that action.

2. Possible remediations include, but are not limited to:
    a. Requiring additional investigator or study staff education.
    b. Requiring changes in study design or methodologies
    c. Reassignment of study personnel to different roles in the research
    d. Suspension of any or all of the following study activities:
        i. Subject recruitment
        ii. Screening and enrollment activities
        iii. Research interventions and interactions
        iv. Follow up activities
    e. Suspension of the investigator's research privileges
    f. Termination of the investigator's research privileges
    g. Termination of the study for cause
    h. No further action may be needed if the investigator has presented an adequate corrective action plan.
3. The IRB may require additional changes to ensure compliance and/or support subjects' rights, safety, and welfare, including, but not limited to:
    a. Revision or modification of the protocol, consent or other study processes
    b. Verification that subject selection is appropriate
    c. Direct observation of the informed consent process by the ORC or individual IRB members.
    d. Require current subjects be re-consented to participation
    e. Enhanced monitoring of the research activity through such mechanisms as: the employment of data safety monitors or a data safety monitoring board, or continued evaluation by the ORC.
    f. Request an off-cycle data and safety monitor or board review
    g. Request further directed reviews by ORC of targeted areas of concern
    h. Require the investigator to issue a status report after each subject receives an intervention
    i. Modify the continuing review cycle
    j. Require the Investigator, and his or her staff, to receive focused education relevant to the area of non-compliance
    k. Notify current subjects, if the information about the non-compliance might affect their willingness to continue participation
    l. Notification of other groups such as the CCTRA, PRMC, Institutional Biosafety Committee, etc.
4. Appropriate and timely communication to affiliate institutions involved will occur through the entire process.

C. Reporting to the relevant agencies, funders, and/or institutional offices shall be done in accordance with UAMS IRB Policy 2.6.
D. Preliminary reports may be made to notify federal agencies or others about the event within the timeframe described in IRB Policy 2.6. Follow-up reports may be submitted later after final determinations are made about the event and any remediation.
E. If Scientific Misconduct is suspected at any time during the review, the preliminary findings shall be reported to the Vice Chancellor for Research and Innovation and/or the Vice Chancellor for Compliance and Managing Associate General Counsel.

REFERENCES

45 CFR 46.108(a)(4)
21 CFR 56.108(b)
AAHRPP Elements I.5.D, II.2.G, III.2.D
AAHRPP Tip Sheet 14, *Non-Compliance*
AAHRPP Tip Sheet 21, *Suspensions and Terminations of IRB or EC Approval*
AAHRPP Tip Sheet 23, *Unanticipated Problems Involving Risks to Participants or Others*
OHRP Guidance *Unanticipated Problems Involving Risks & Adverse Events Guidance*