

[REDACTED]

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**From:** OC GCP Questions  
**Sent:** Wednesday, October 23, 2019 2:54 PM  
**To:** [REDACTED]  
**Subject:** RE: Definition of Continued and/or Serious non-compliance for human subjects research

Dear [REDACTED] -

Thank you for your question. I can speak to the FDA regulations, but if you have questions about interpretation and application of the HHS regulations at 45 CFR 46 for the protection of human subjects in research, you can contact OHRP at [OHRP@HHS.gov](mailto:OHRP@HHS.gov).

As you noted, the FDA regulations at 21 CFR 56.108(b) require an IRB to follow written procedures for ensuring prompt reporting to the IRB, appropriate institutional officials and the FDA of any unanticipated problems involving risks to human subjects or others; any instance of serious or continuing noncompliance with the regulations or the requirements or determinations of the IRB; or any suspension or termination of IRB approval. The regulations do not define the terms noncompliance, serious noncompliance or continuing noncompliance. When the regulations are silent, IRBs, institutions, sponsors, and investigators are free to develop their own procedures and practices as long as applicable regulatory requirements are met.

FDA/OHRP joint guidance entitled, "Institutional Review Board (IRB) Written Procedures" (see <https://www.fda.gov/media/99271/download>) recommends that operational details of the IRB's written procedures address information about reviewing instances of serious or continuing noncompliance with the regulations or IRB requirements or determinations and include a description of what might qualify as serious or continuing noncompliance.

I hope this information is useful. If you need further information and/or have additional questions, please feel free to contact us at the official GCP mailbox, [gcp.questions@fda.hhs.gov](mailto:gcp.questions@fda.hhs.gov). You may also find it useful to access the set of redacted GCP e-mails found at <https://www.fda.gov/science-research/clinical-trials-and-human-subject-protection/replies-inquiries-fda-good-clinical-practice> since we find that many questions and concerns are repeated over time.

Best Regards,

Janet

Janet Donnelly, RAC  
*Policy Analyst*

Office of the Commissioner  
Office of Good Clinical Practice  
U.S. Food and Drug Administration



This communication does not constitute a written advisory opinion under 21 CFR 10.85, but rather is an informal communication under 21 CFR 10.85(k) which represents the best judgment of the employee providing it. This information does not necessarily represent the formal position of FDA, and does not bind or otherwise obligate or commit the agency to the views expressed.

-----Original Message-----

From: [REDACTED]  
Sent: Monday, October 21, 2019 12:38 PM  
To: OC GCP Questions <gcpquestions@fda.hhs.gov>; OC GCP Questions <gcpquestions@fda.hhs.gov>  
Cc: [REDACTED]  
Subject: Definition of Continued and/or Serious non-compliance for human subjects research

Hello FDA,

Can you please provide me with the FDA's definition of these 3 terms please. I don't see them clearly defined.

Federal regulations (45 CFR 46.103(b)(5) and 21 CFR 56.108(b)(2)) require prompt reporting to the IRB, appropriate institutional officials, and agency heads (OHRP, and when involving a regulated product, the FDA) of serious or continuing noncompliance with Federal regulations regarding the protection of human subjects or with determinations of the IRB.

- (a) Noncompliance
- (b) Serious noncompliance
- (c) Continuing noncompliance

Thanks