

Jerald Silverman, DVM, Column Coordinator

Terms of suspension

Dr. Larry Covelli, chairman of the Great Eastern University IACUC, was more than just a little mad. Dr. Candice Cole, a Principal Investigator (PI) at the school, often had pushed the IACUC's patience to its limits. Although she had been reprimanded more than once for minor infractions of IACUC policies or federal regulations, it was clear now to Covelli and the entire committee that Cole's indiscretions were far more serious than previously recognized. At a full committee meeting with a quorum present, the IACUC voted to suspend Cole for a period of six weeks. Covelli assumed there would be an immediate backlash from Cole, but much to his surprise, Cole said nothing.

Shortly after Cole's suspension began, the supervisors at the school's vivarium noticed that Cole's research was progressing as if nothing had happened. The IACUC office was notified, and it was confirmed that Cole was suspended and therefore no additional work could be performed on her studies. This time, when Cole was told by the IACUC office to immediately stop her work, there was a major backlash. Cole said that she was suspended, rather than her research, and therefore there was no reason for the research to stop. Covelli was equally adamant that when the PI is suspended, there can be no ongoing research because no person has the responsibility for the oversight and proper implementation of

the studies. "Not so," said Cole, "I put my postdoc, Dr. Frank, in charge. I'm fully compliant with the IACUC's decision."

Covelli was frustrated and ready to call an emergency meeting of the IACUC to request that Cole's research be unequivocally suspended. But before doing that, he reflected on what had transpired and wondered if he was right in his assertions. What do you think? Can a research project continue without a PI? Does the animal species being used in the studies affect the outcome? If a PI is suspended, on vacation, at a meeting or so forth, is it acceptable for another person to assume that person's responsibilities without approval from the IACUC? How would you handle the problem facing Covelli?

RESPONSE

Suspend activity, not PI

Donna A. Sobieski

Covelli and the Great Eastern University IACUC have gotten themselves into a pickle with an incorrect suspension policy and an unclear definition of the role and responsibilities of the Principal Investigator (PI).

According to the Public Health Service *Policy on Humane Care and Use of Laboratory Animals*¹ (PHS Policy; Part IV.B.8. and Part IV.C.6.), the IACUC "may suspend an activity that it previously approved if it determines that the activity is not being conducted in accordance with applicable provisions of the Animal Welfare Act, the Guide, the Institution's assurance, or IV.C.1.a.-g. of this Policy." The activity, not the PI, may be suspended. All work on the activity must stop. Great Eastern's IACUC suspended the PI, not the activity. At my institution, if an animal activity is suspended for noncompliance,

the animals on it are immediately transferred to a holding protocol with the Vivarium Coordinator as PI, and access to those animals by the investigators on the suspended protocol is restricted.

The PHS *Policy*¹ further states that "the Institutional Official (IO) in consultation with the IACUC shall review the reasons for suspension, take appropriate corrective action..." (Part IV.C.7). Great Eastern's IO and IACUC did not meet with the PI to discuss the noncompliance and determine what corrective actions would bring the work into compliance for reinstatement of approval. Instead, the PI was suspended for an arbitrary length of time, without addressing the question of what was required to end the suspension. At my institution, the IACUC and the IO would meet as soon as possible with investigators on a suspended protocol to discuss the noncompliance and to determine corrective actions, requirements and timeline for reinstatement of approval and plans for continued monitoring of the activity when it resumes.

Finally, Great Eastern's IACUC does not have a very firm definition of the

role and responsibilities of a PI. The designation of PI cannot be casually shifted from investigator to investigator on a protocol—and certainly not behind the back of the IACUC! At my institution, the PI signs an Assurance statement for each protocol application, attesting to his or her understanding of his or her responsibility for animal care and compliance and stating that no changes will be made to the protocol without review and approval by the IACUC. This statement, signed by the named PI on the protocol, must be submitted to the IACUC with the application for protocol review or the IACUC will not review the application. After approval, a request to change the PI is treated as any other amendment, requiring review and approval by the IACUC. And of course, the new PI would need to sign the statement of PI assurances.

The species of animal being used has no bearing on the problem.

Covelli should immediately call a meeting of the IACUC, the IO, Cole and Frank to clarify the suspension of the activity and to

determine required corrective actions and a plan for reinstatement of approval and resumption of the work.

1. Public Health Service. *Policy on Humane Care and Use of Laboratory Animals* (US Department of Health and Human Services, Washington, DC, 1986; amended 2002).

Sobieski is Officer, Research Compliance and Support, American Red Cross, Holland Laboratory, Rockville, MD.

RESPONSE

Clarify language

Megan H. Nowland, DVM, DACLAM & Jennifer Lofgren, MS, DVM, DACLAM

The language used in this scenario could be the source of confusion. Cole interpreted the term 'suspension' to mean that she herself

was suspended from performing animal work. However, both the Public Health Service *Policy on Humane Care and Use of Laboratory Animals* (PHS Policy)¹ and the Animal Welfare Act and Regulations (AWARs)² refer to suspension of animal activity, not suspension of people. Depending on the animal species used in the studies, the suspension should be reported to OLAW and possibly to USDA/APHIS/AC. The IACUC

A word from OLAW and USDA

In response to the questions posed in this scenario, the Office of Laboratory Animal Welfare (OLAW) and the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Care (USDA, APHIS, AC) offer the following guidance:

In our analysis of the scenario, two instances of noncompliance occurred. First, the researchers committed the original noncompliance for which the Principal Investigator (PI) was suspended. Then the PI changed key personnel without IACUC approval, a second noncompliance. Under section 2.31 (d) (4) of the Animal Welfare Act Regulations (AWARs), a research activity is approved to be performed under the PI specified in the proposal¹. OLAW considers the transfer of PI authority for the activity a significant change requiring IACUC approval².

The AWARs describe standards for compliance regarding research activities and specifies that such activities can be suspended by the IACUC; they do not address direct actions against a PI¹. The Public Health Service (PHS) *Policy on Humane Care and Use of Laboratory Animals* (*Policy*) also permits the suspension of animal activities rather than the suspension of a PI (section IV.C.7)³. Therefore, the IACUC facilitated the second noncompliance by failing to provide an accurate explanation of the suspension in its notification to the PI.

The IACUC should consider the reasons for its initial sanction and determine that procedures to prevent a reoccurrence have been enacted before reinstating the PI. Under section 2.31 (d) (6-7) of the AWARs, suspension of an animal activity requires the Institutional Official (IO), in consultation with the IACUC, to review the reasons for the suspension and take appropriate corrective action¹. The PHS *Policy* uses nearly identical language (section IV.C.7)³. In addition, the underlying foundation of the PHS *Policy* is one of institutional self-evaluation, self-monitoring and self-reporting and not one of punitive sanctions⁴. As such, the IACUC may wish to require additional training or other educational activities as a corrective measure during the suspension period.

According to federal requirements, suspended animal activities must be reported. Under section 2.31 (d) (6-7) of the AWARs, in the instance of suspension of an animal activity, the IO must submit a full written explanation to APHIS and to any federal agency funding that activity¹. If the study was funded by the PHS, the suspension must be reported to OLAW and to the funding component of NIH that supported the grant award^{4,5}. The noncompliant actions of the PI that led to the suspension and the conduct of research by the lab staff without IACUC approval of the change in PI must be described in the report by the IACUC. The report must include corrective and preventive measures taken. In addition, no costs for the activities conducted without IACUC approval may be charged to NIH. In cases where charges have been made for unauthorized animal activities, appropriate adjustments must be made to the grant to remove charges⁵.

Whether approved or unapproved by the IACUC, change of PI constitutes a change in key personnel, which requires NIH approval of alternate arrangements for or replacement of the suspended individual. Change in status, including absence of the PI, requires the grantee to notify the Grants Management Officer in writing⁵. NIH must approve any alternate arrangement proposed by the grantee, including any replacement of the PI named in the Notice of Grant Award (NGA). The requirement to obtain NIH prior approval for a change in status pertains only to the PI and those key personnel NIH names in the NGA, regardless of whether the applicant organization designates others as key personnel for its own purposes⁵. The PI may delegate daily responsibilities for overseeing the lab and its activities to someone else when he or she is travelling or during other absences while retaining overall responsibility for the conduct of the funded research.

1. Code of Federal Regulations. Title 9, Ch. 1, Part 2, Subpart C.
2. Public Health Service. *Policy on Humane Care and Use of Laboratory Animals—Frequently Asked Questions*. Protocol Review, Question No. D.9. (US Department of Health and Human Services, Washington, DC, 2006, revised 2013). <http://grants.nih.gov/grants/olaw/faqs.htm#proto_9>
3. Public Health Service. *Policy on Humane Care and Use of Laboratory Animals* (US Department of Health and Human Services, Washington, DC, 1986; amended 2002).
4. Office of Laboratory Animal Welfare. *Guidance on Prompt Reporting to OLAW under the PHS Policy on Humane Care and Use of Laboratory Animals*. Notice NOT-OD-05-034. (National Institutes of Health, Washington, DC, 24 February 2005, updated 21 February 2013). <<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-05-034.html>>
5. US National Institutes of Health. NIH Grants Policy Statement; Part II Terms and Conditions of NIH Grant Awards, Subpart A: General. (US National Institutes of Health, Bethesda, MD, 2012). <http://grants.nih.gov/grants/policy/nihgps_2012/>

Patricia Brown, VMD, MS, DACLAM

*Director
OLAW, OER, OD, NIH, HHS*

Chester Gipson, DVM

*Deputy Administrator
USDA, APHIS, AC*

at Great Eastern should have been clearer in communicating its decision to Cole.

If the IACUC did suspend Cole herself (and not the animal activity), then no work should be done under her protocol. As the Principal Investigator (PI), Cole has provided her assurance³ that she is responsible for the work performed under her protocol. If Cole is suspended, then that assurance is invalid, and the proposed animal work cannot be performed.

Transferring responsibility for a protocol to another investigator (e.g., Cole's post-doc Frank) should be done formally with approval of the IACUC. Furthermore, transfer of protocol ownership does not mean that the animal activity can be automatically restarted. An IACUC should not lift a suspension until it has determined that the work will be done in full compliance with the AWARs, NIH/OLAW Animal Welfare Assurance, PHS Policy and *Guide for the Care and Use of Laboratory Animals*⁴. Thus, if Frank assumes responsibility for the protocol, a clear plan to bring all work into compliance must be presented to and approved by the IACUC before the suspension can be lifted.

This transfer of ownership is very different than a temporary assumption of short-term decision-making while the PI is unavailable (vacation, conference, etc.). In these cases, work is still being performed under an approved protocol, and the PI responsible for the direction of the work is still in good standing and compliant.

In this case, Covelli should clarify that the animal activity is suspended, not the PI Cole. Work may not be done on suspended animal activities. If personnel in Cole's lab are approved to do similar work under a different IACUC-approved protocol, they are free to do so. Covelli may also need to address some additional points: all data collected during the period of non-compliance will likely need to be discarded, and any funds used during the period of non-compliance may need to be repaid to the funding entity.

1. Public Health Service. *Policy on Humane Care and Use of Laboratory Animals* Section IV.B.8 (US Department of Health and Human Services, Washington, DC, 1986; amended 2002).
2. Animal Welfare Act and Regulations. 9 CFR. Section 2.31.c.8.
3. National Institutes of Health. NIH Announces Change in Business Process: Replacing Principal Investigator Signature on Grant Applications, Progress Reports, and Prior Approval Requests with an Institutional Compliance Requirement. Notice NOT-OD-06-054. (National Institutes of Health, Washington, DC, 7 April 2006, updated 26 April 2006). <<http://grants.nih.gov/grants/guide/notice-files/NOT-OD-06-054.html>>
4. Silverman, J., Suckow, M.A. & Murthy, S. *The IACUC Handbook* 2nd edn. 563 (CRC Press, Boca Raton, FL, 2007).

Nowland and Lofgren are Assistant Professors, Unit for Laboratory Animal Medicine, University of Michigan, Ann Arbor, MI.

RESPONSE

Nice try

**Leslie Birke, DVM, DACLAM,
Merlin Johnson, RLAT &
Diana Ramirez, LAT, RN**

Dealing with a wayward investigator can be challenging. Although Cole believes that she has cleverly found a loophole in the regulations, she is mistaken. Both the Animal Welfare Act¹ and the Public Health Service (PHS) *Policy on Humane Care and Use of Laboratory Animals*² clearly state that an animal activity can be suspended, but not an investigator. An activity is defined by the Animal Welfare Act as “those elements of research or testing or teaching that involve the care and use of animals”¹. Therefore, none of the work on Cole's protocol(s) should have continued, regardless of who did the work.

This distinction should have been made clear to Cole in the letter from the IACUC informing her of the suspension and the provisions thereof. However, Great Eastern's IACUC may have been confused on this issue as well, as the scenario

states that it “voted to suspend Cole for six weeks.” In addition, the suspension should have been reported to OLAW, if her research was covered by PHS funds. While the activity was suspended, the animals should have been placed on a holding protocol. Cole's and her personnel's access to the animals and possibly to the animal facility should have been revoked. These steps could have prevented the unapproved use of the animals.

In order for another person to assume responsibilities for work on an IACUC protocol in the absence of the Principal Investigator (PI), this change in responsibilities must be approved by the IACUC. The PI's IACUC protocol should list the personnel working on the protocol and detail their duties. If a change in personnel is necessary, the change must be submitted in an amendment and must be approved by the IACUC prior to the implementation of the change.

During the suspension period, the IACUC should attempt to understand Cole's motivation for noncompliance. By understanding and removing obstacles to compliance, the IACUC could develop a plan for correction. If the problem is a lack of understanding of the rules, additional training and clear communication of expectations may help. If money is the issue, helping the PI to find allowable ways of cutting costs can make a difference. Working with the PI in this manner can allow the suspension period to be a period of reform for the PI rather than just a punitive measure.

1. Animal Welfare Act and Regulations. 9 CFR.
2. Public Health Service. *Policy on Humane Care and Use of Laboratory Animals* (US Department of Health and Human Services, Washington, DC, 1986; amended 2002).

Birke is Clinical Veterinarian, Division of Animal Care, and Assistant Professor of Research, Department of Physiology; Johnson is Animal Health Technician, Division of Animal Care; and Ramirez is Assistant Laboratory Animal Technician, Division of Animal Care at LSU Health Sciences Center, New Orleans, LA.