DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of the Secretary
Office of Public Health and Science

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Charles F. Zukoski
Vice Chancellor for Research
University of Illinois
at Urbana-Champaign
Fourth Floor Swanlund Building
601 East John Street
Champaign, IL 61820-5711

RE: Human Research Subject Protections Under Federalwide Assurance FWA 8584

Dear Dr. Zukoski,

The Office for Human Research Protections (OHRP) has reviewed the University of Illinois at Urbana-Champaign's (UIUC) November 10, 2006 letter, which was submitted in response to OHRP's letter of October 12, 2006.

In its October 12, 2006 letter, OHRP made the following determinations and notes the following additional corrective actions taken by UIUC:

(1) OHRP found that the institutional review board (IRB) failed to conduct continuing review of some research at least once per year, as required by Department of Health and Human Services (HHS) regulations at 45 CFR 46.109(e).

Corrective Action: The UIUC IRB has updated its e-mail templates and is working to develop an automated notification system to alert investigators of expiration dates of their protocols. OHRP finds that these corrective actions adequately address the above finding, and are appropriate under the UIUC FWA.

(2) OHRP found that an investigator initiated human subject research in one study without obtaining the parental permission for the subjects enrolled in the research, as required by HHS regulations at 45 CFR 46.408(b). In addition, OHRP found no evidence that the IRB made the four specific determinations required for approving a waiver or alteration of

some or all of the required elements of informed consent under 45 CFR 46.116(d). Corrective Action: OHRP notes that the principal investigator involved notified the IRB and destroyed all the data collected. In addition, OHRP notes that the UIUC IRB has altered its protocol application to include separate forms requesting a waiver of informed consent or waiver of the documentation of informed consent. OHRP finds that these corrective actions adequately address the above finding, and are appropriate under the UIUC FWA.

(3) OHRP found that serious noncompliance was not reported to OHRP, as required by HHS regulations at 45 CFR 46.103(a) and 46.103(b)(5).

Corrective Action: OHRP notes that the incident in question occurred in1996 and that the UIUC IRB has updated its written procedures to address the steps necessary to notify OHRP of serious noncompliance. OHRP finds that this corrective action adequately addresses the above finding, and is appropriate under the UIUC FWA.

(4) OHRP found that the informed consent documents reviewed and approved by the IRB for protocol 02187 failed to include a complete description of the procedures to be followed, as required by HHS regulations at 45 CFR 46.116(a). After further discussion, OHRP notes that while the protocol in question was part of a grant involving EROS, the particular protocol did not actually involve EROS activities. Based upon review of the information provided to OHRP, it appears that the determinations related to the protocol 02187 in OHRP's October 12, 2006 letter were incorrect.

(5) OHRP found that the informed consent document approved by the IRB for two studies included examples of complex language that would not be understandable to all subjects, as required by HHS regulations at 45 CFR 46.116.

Corrective Action: OHRP notes that the informed consent documents for the two protocols noted in its October 12, 2006 letter have been changed to make it more understandable to the subject or the subject's legally authorized representative. In addition, the UIUC IRB has made changes to its protocol application form to remind investigators that language provided in the informed consent document must be understandable to the subject or the subject's legally authorized representative. OHRP finds that these corrective actions adequately address the above finding, and are appropriate under the UIUC FWA.

At this time OHRP acknowledges the following additional corrective actions undertaken by UIUC:

(6) The UIUC IRB has requested training from the OHRP Division of Education and Development, including specific training related to how the HHS regulation relate to research involving children.

(7) the UIUC IRB has updated its roster to include a prisoner representative, and altered its written procedures to require a prisoner representative for review of research involving prisoners.

(8) UIUC plans to meet with those involved in subject pools and discuss how coercion can be minimized.

As a result of these corrective actions, OHRP finds that UIUC has adequately addressed the determinations and additional concerns in OHRP's letter of October 12, 2006. Therefore, there should be no need for further involvement of OHRP in this matter.

At this time, OHRP would like to provide the following additional guidance:

(9) OHRP notes that UIUC's November 12, 2006 letter stated that protocol 03279 did not involve human subjects research. After reviewing you report, OHRP believes that the collection of information as described would constitute human subjects research. However, such research may be exempt under HHS regulations at 45 CFR 46.101(b)(2).

(10) OHRP notes that UIUC's November 12, 2006 letter indicated that the approval period for protocols starts "... the date that the convened IRB approved the research or the date the convened IRB deferred the research for non-substantive issues." For clarity, OHRP would like to reiterate the following guidance:

> When the convened IRB requests substantive clarifications or modifications regarding the protocol or informed consent documents that are directly relevant to the determinations required by the IRB under HHS regulations at 45 CFR 46.111, IRB approval of the proposed research should be deferred, pending subsequent review by the convened IRB of responsive material. Please note that a protocol that is deferred cannot be approved by expedited review (unless the protocol is eligible for expedited review) and must be returned to the convened IRB before approval can occur.

OHRP appreciates the continued commitment of your institution to the protection of human research subjects. Please do not hesitate to contact me should you have any questions.

Sincerely,

Patrick J. McNeilly, Ph.D.
Compliance Oversight Coordinator
Division of Compliance Oversight

cc: Dr. Melanie Loots, Associate Vice Chancellor for Research, UIUC
Ms. Susan Keehn, IRB Director, UIUC
Dr. Eva Pomerantz, IRB Chair, UIUC
Dr. Sam Shekar, NIH
Dr. Bernard Schwetz, OHRP
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