DEPARTMENT OF HEALTH & HUMAN SERVICES

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OFFICE OF PUBLIC HEALTH AND SCIENCE

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December 20, 2000

Dr. Alison F. Richard
Provost
Yale University
47 College Street
New Haven, CT 06520

RE: Human Research Subject Protections Under Multiple Project Assurance (MPA) M-1452

Dear Dr. Richard:

The Office for Human Research Protections (OHRP) has reviewed your letter of December 7, 2000, regarding the protection of human research subjects at Yale University (Yale).

OHRP has determined that Yale has adequately responded to all required corrective actions and concerns stipulated in OHRP's letter of November 8, 2000. Specifically, OHRP finds the following:

(1) Yale has submitted a corrective action plan to ensure that all IRB members have access to relevant survey instruments in order to make the determinations required for approval of research under Department of Health and Human Services (HHS) regulations governing the protection of human research subjects, at 45 CFR 46.111.

(2) The institutional review board (IRB) for the Yale University Faculty of Arts and Sciences (FAS) is re-evaluating its procedures for including minors in the Psychology Subject Pool, and has recognized that obtaining parental permission for participation of minors is not necessarily impracticable under HHS regulations at 45 CFR 46.116(d)(3). The IRB will ensure that in approving waivers of parental permission it makes and appropriately documents the findings required by HHS regulations at 45 CFR 46.116(d).

(3) With respect to research involving prisoners, Yale is amending its Operations Manual to include the requirement that the IRB must certify to the Secretary of HHS (OHRP) that

the IRB has made the findings required by HHS regulations at 45 CFR 46.305(a) that are necessary for approval of research involving prisoners.

(4) Yale will ensure that each IRB review of a protocol involving prisoners as subjects will involve a prisoner representative who is a voting member of the IRB and whose own research interests and/or academic affiliations create no actual or apparent conflicts of interest.

(5) OHRP acknowledges the efforts of Yale's four IRBs to develop and share best practices for implementing the requirements of the HHS regulations, including procedures for documenting required findings clearly and consistently. OHRP is particularly impressed with quality and substance of the recent minutes of meetings of the two Yale Human Investigations Committee IRBs.

As a result of the above determinations, there should be no need for further involvement of OHRP in this matter. Of course, OHRP must be notified should new information be identified which might alter these determinations.

At this time, OHRP provides the following additional guidance:

(1) HHS regulations at 45 CFR 46.108 require that, except when an expedited review procedure is used, the IRB review proposed research at convened meetings at which a majority of the members of the IRB are present. OHRP emphasizes that should the quorum fail during any IRB meeting (e.g., those with conflicts being excused, early departures, loss of a nonscientist), the meeting is terminated from further votes unless the quorum can be restored. The minutes of the FAS IRB meeting on August 15, 2000 appear to indicate that a majority of the IRB members were not in attendance. If so, any actions taken at the August 15, 2000 IRB meeting must be considered invalid.

(2) Where HHS regulations require specific findings on the part of the IRB, such as (a) approving a procedure which alters or waives the requirements for informed consent [see 45 CFR 46.116(d)]; (b) approving a procedure which waives the requirement for obtaining a signed consent form [see 45 CFR 46.117(c)]; (c) approving research involving prisoners (see 45 CFR 46.305-306); or (d) approving research involving children (see 45 CFR 46.404-407), the IRB should document such findings. OHRP strongly recommends that all required findings be fully documented in minutes of each of Yale's IRBs, including protocol-specific information justifying each IRB finding.

OHRP appreciates the continued commitment of Yale to the protection of human research subjects.

Please do not hesitate to contact me should you have any questions.

Sincerely,

Carol J. Weil, J.D.
Division of Compliance Oversight

cc: Dr. Melody Lin, OHRP
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