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October 5th, 2012

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Should you have any questions or comments about our report, please contact one of us: Rebecca Armstrong, Director, Research Subject Protection; Robert DiMartino, CPHS-1 Chair; or Jane Mauldon, CPHS-2 Chair. Our contact information is as follows:

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Respectfully Submitted,

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Chair, Committee for Protection of Human Subjects (CPHS-1)
Professor, School of Optometry

Jane Mauldon, Ph.D.
Chair, Committee for Protection of Human Subjects (CPHS-2)
Associate Professor, Goldman School of Public Policy

Enc. CPHS Membership Roster 2011-2012
"As Internet-based research evolves, IRBs and PIs need updated guidance," IRB Advisor, June 2012
UCOP Commentary on ANPRM
UCB Commentary on ANPRM

Cc: Robert DiMartino, CPHS-1 Chair
Jane Mauldon, CPHS-2 Chair
Rebecca Armstrong, Director, Research Subject Protection

Report to the Research Compliance Advisory Committee

I. Committee Title and Report Period

Committee for Protection of Human Subjects - Report for July 1, 2011 - June 30, 2012

II. Executive Summary

In 2011-2012 the primary focus of the Office for the Protection of Human Subjects (OPHS) and the Committee for Protection of Human Subjects (CPHS) was keeping up with the workload while facing a staff shortage. OPHS was short at least 1 FTE for most of the year and up to 2 FTE for several months. Fortunately, there were no audits by regulatory authorities to contend with and the web-based research compliance management system, eProtocol, completed its second full year of operation without any serious problems.

In spite of the staff shortage, a great deal of work was completed: 1729 applications were reviewed and approved – the highest number in five years; a web-based consent building tool was developed; CPHS policies and procedures were updated to accurately reflect the business processes in eProtocol; a number of guidance documents were revised; and several new guidance documents were developed. Notably, IRB Member Vern Paxson, OPHS Analyst Adrienne Tanner, and Director Rebecca Armstrong were interviewed about the CPHS guidance document on Internet Research. The interview resulted in the cover article of the June 2012 issue of the IRB Advisor magazine.

III. Committee membership and number of meetings during the report period

The Committee is comprised of two panels: CPHS–1, which is primarily biomedical, and CPHS-2, which is primarily social-behavioral. Each committee convened 10 times. CPHS-1 did not meet in January and CPHS-2 did not meet in June. Meetings are not generally held in July due to difficulties obtaining quorum.

CPHS-1 included 16 members and CPHS-2 included 15 members (the 2011-2012 CPHS Membership Roster is attached). Federal law requires that IRBs have at least one member who is not otherwise affiliated with the institution and who is not part of the immediate family of a person who is affiliated. Regulations also require that a non-scientist member, defined by our committee as a community member without scientific training or a faculty member from a department or school generally not associated with scientific research, be present at every meeting. Of the committee members, four were drawn from the East Bay community to serve as the community members or “non-affiliated” members.

Professor Robert DiMartino began as the CPHS-1 Chair and Professor Jane Mauldon continued in her role as CPHS-2 Chair. Silvia Bunge accepted the role of CPHS-1 Vice Chair and Professor Oliver John continued as CPHS-2 Vice Chair. OPHS Director Rebecca Armstrong served as a designated reviewer assisting with the Expedited review of minor protocol Amendments and Continuing Review/Renewal applications. Professor Shachar Kariv serves as a designated reviewer to facilitate the Expedited review of protocols from the Haas School of Business Experimental Social Sciences Laboratory (Xlab).

IV. Summary of research protocols reviewed

Approvals

The CPHS and OPHS total review activity, including new, continuing review, and amendment applications, has been gradually increasing over the last few years. Figure 1 shows the total number of applications approved over the last five years. Table 1 breaks down the applications approved over the same period of time by type of submission and level of review. Both exclude from the count Noncompliances, Adverse Events, Unanticipated Problems, Administrative Actions, and submissions that were later withdrawn from consideration.

FIGURE 1. Total Applications Approved over 5yrs

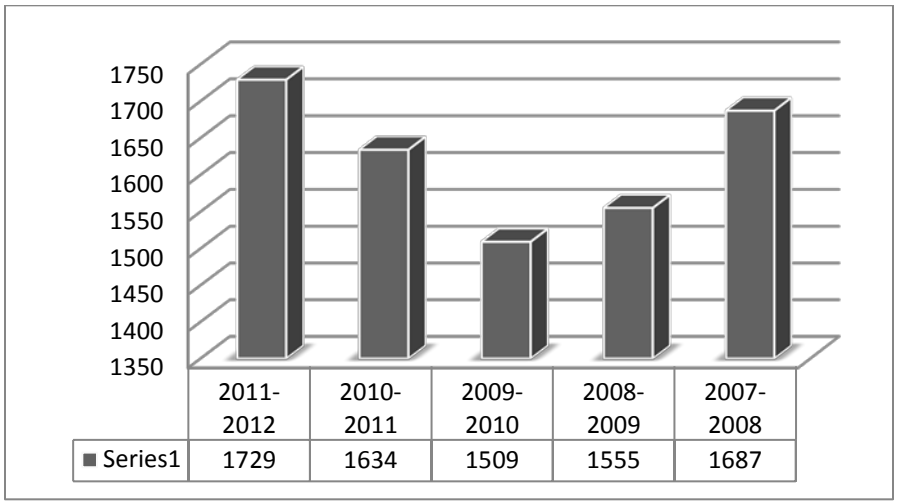


TABLE 1. Types of Applications Approved over 5 yrs
*Note: it is not possible to separate Exempt and Expedited Amendments from the total number prior to 2009-2010

Reporting Period:	**2011-2012**	**2010-2011**	**2009-2010**	**2008-2009**	**2007-2008**
New					
Exempt:	181	198	211	271	287
Expedited:	310	296	241	325	245
Full Board:	29	55	71	52	61
Total:	*520*	*549*	*523*	*560*	*593*
Amendment*					
Exempt:	94	56	34	-	-
Expedited:	480	363	371	-	-
Full Board:	13	14	13	31	18
Total:	*587*	*433*	*418*	*435*	*573*
Continuing Review					
Expedited:	584	611	532	526	475
Full Board:	38	41	36	34	46
Total:	*622*	*652*	*568*	*560*	*521*
Total Activity:	*1729*	*1634*	*1509*	*1555*	*1687*

Withdrawn Applications

Occasionally, applications are received by CPHS/OPHS and then later withdrawn from consideration. The majority of these are New applications. Figure 3 shows applications withdrawn over the last 2 years by level of review. We were unable to collect this information before the full implementation of eProtocol, our web-based protocol management system, and thus cannot provide any numbers prior to 2010. Out of the 136 applications that were withdrawn this year, 51 were New Exempt applications, 50 were New Expedited applications, and 7 were New Full Board applications. The remainder was comprised of Amendments and Continuing Review applications.

TABLE 2. Applications Withdrawn by Level of Review

Reporting Period:	2011-2012	2010-2011	2009-2010
Exempt:	54	91	-
Expedited:	71	77	-
Full Board:	12	7	-
Total:	*136*	*175*	-

Adverse Events and Unanticipated Problems
5 incidents were reviewed in the last year. As none of them were found to be a research related unanticipated problem involving risks to subjects or others, they did not need to be reported to university officials or regulatory authorities.

Noncompliances
22 noncompliances were reviewed in the last year, compared with 29 (2010-2011) and 61 (2009-2010) in the preceding years. Only one of the noncompliances reviewed in the last year was determined to be a serious or continuing noncompliance.

In our annual report for 2010-2011, we mentioned that CPHS/OPHS had received a complaint from a collaborator/study-site and that, due to the nature of the allegations, the Chair had immediately suspended the research pending further investigation. After completing the fact-gathering process, an Adhoc Committee was formed to review the extensive documentation concerning multiple events construed as possible non-compliance with human subjects research regulations. The Adhoc Committee indicated in its final report that these events met the criteria for serious noncompliance and made several recommendations to the CPHS. At a convened meeting, the CPHS reviewed the report by the Adhoc Committee and agreed with its conclusions. The recommended corrective actions were taken and the Vice Chancellor for Research was informed of the incident. As the research was not federally funded, OHRP was not notified about this matter.

Administrative Actions
In addition to the review work described above, OPHS handles a number of administrative actions. Part of this work involves determining when projects do not meet the definition of human subjects research (NHSR) per federal regulations. These projects do not require CPHS or OPHS review, but sometimes documentation of an NHSR determination is needed (for a sponsor, for example). OPHS made 48 NHSR determinations in 2011-2012 and this number has fluctuated very little over the last 3 years. This number includes only determinations that were made for applications that were submitted and does not include NHSR determinations that were made about inquiries received by phone or email.

Other administrative actions include processing requests for one institution to rely on the IRB review of another. These reliances help to prevent duplicative IRB reviews of collaborative projects that involve more than one institution. OPHS handles two types of reliances. Investigators can make use of the UC System Memorandum of Understanding (MOU) that permits one campus to rely on the IRB review of another. They can also work with OPHS to establish an inter-institutional IRB Authorization Agreements (IAA) between UC Berkeley and an institution outside of the UC system to permit one institution to rely on the review of another. Table 3 shows that researchers are making use of the MOU as well as the IAAs and the number of reliances under the MOU has been increasing over time.

TABLE 3. Reliances

Reporting Period:	2011-2012	2010-2011	2009-2010
Reliances under UC MOU			
UCB Reviewed:	18	12	20
UCB Relied:	54	31	17
Total:	*72*	*43*	*37*
Reliances under IAAs			
UCB Reviewed:	32	-	-
UCB Relied:	16	-	-
Total:	*48*	-	-

2011-2012 Turn-around Times

The table below shows the amount of time that an application spent with CPHS/OPHS and the amount of time spent with the Investigator(s) between submission and approval. Time spent with CPHS/OPHS includes the time taken to assign the submission to an OPHS analyst, the time the analyst spent on the preliminary review, and the time spent by the convened IRB or designated reviewer. Time is measured in business days and a value of "0" indicates that action was taken by that party in less than 24 hours. Turn-around times have been provided for New and Amendment applications because these applications are processed by date of submission. Continuing Review applications are instead processed by expiration and for this reason have not been included.

TABLE 4. Turn-around Times for New Applications

		Days with CPHS/OPHS	Days with Investigator(s)	Total
Exempt	Range	0 to 31	0 to 141	-
	Median	5	1	-
	Mode	5	0	-
	Average	6.4	9.7	16.1
Expedited	Range	4 to 94	0 to 181	-
	Median	29	11	-
	Mode	16	5	-
	Average	31.5	21.5	53
Full Board	Range	14 to 111	0 to 158	-
	Median	37	9	-
	Mode	37	9	-
	Average	42	27	69

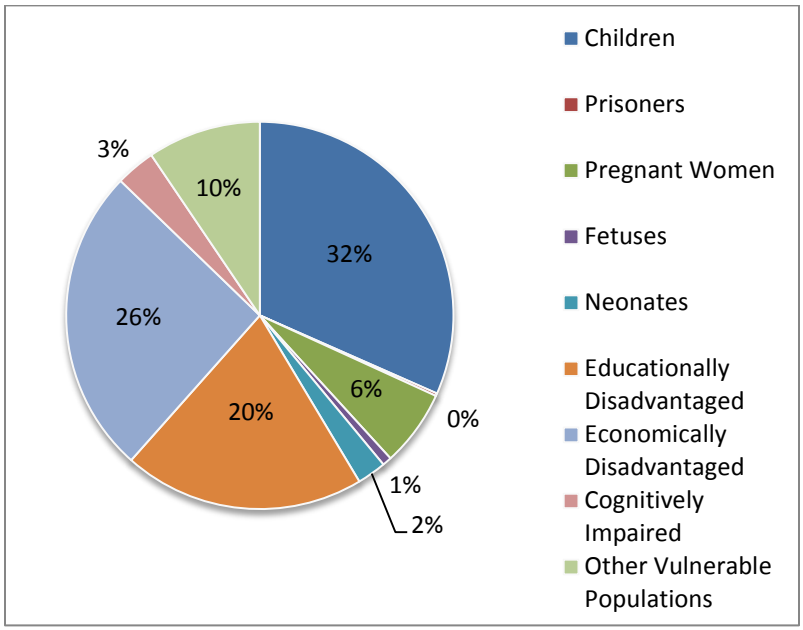
TABLE 5. Turn-around Times for Amendments

		Days with CPHS/OPHS	Days with Investigator(s)	Total
Exempt	Range	0 to 17	0 to 208	-
	Median	0	0	-
	Mode	0	0	-
	Average	3.8	3.9	7.7
Expedited	Range	0 to 62	0 to 98	-
	Median	7	0	-
	Mode	2	0	-
	Average	9.5	3.8	13.3
Full Board	Range	25 to 56	7 to 197	-
	Median	35.5	17.5	-
	Mode	-	-	-
	Average	38	59.8	97.8

Significant Details

- *Social-behavioral vs. biomedical research:* 78% of protocols (new and continuing review applications) approved in 2011-2012 were for social-behavioral research.
- *International research:* 25% of the protocols reviewed and approved included international sites.
- *Federally funded research:* 29% of the protocols reviewed and approved indicated that they were supported by federal funds.
- *Research with vulnerable populations:* 41% of the protocols reviewed and approved included vulnerable populations. Figure 2 shows the distribution of the vulnerable populations amongst these protocols.

FIGURE 2. Vulnerable Subjects 2011-2012



V. New laws, regulations or standards

Updated OHRP Guidance on Written IRB Procedures (July 5, 2011) – This guidance replaces OHRP's January 15, 2007 guidance on this topic. The document has been updated to be consistent with the following guidance: (i) OHRP's November 10, 2010 Guidance on Continuing Review of Research, (ii) OHRP's January 15, 2007 Guidance on Reviewing and Reporting Unanticipated Problems Involving Risks to Subjects or Others and Adverse Events, and (iii) OHRP's November 10, 2010 Guidance on IRB Approval of Research with Conditions.

HHS Proposal to Improve Rules Protecting Human Research Subjects Published in the Federal Register (July 26, 2011) – The U.S. Department of Health and Human Services announced that the federal government is contemplating various ways of enhancing the regulations overseeing research on human subjects was published as an Advance Notice of Proposed Rulemaking (ANPRM) in the July 26, 2011 issue of the Federal Register. In that ANPRM, entitled Human Subjects Research Protections: Enhancing Protections for Research Subjects and Reducing Burden, Delay, and Ambiguity for Investigators, the government sought the public's input on an array of issues related to the ethics, safety, and oversight of human research, before making changes to the regulations. Those regulations, often referred to as the Common Rule, have been in place since 1991. The proposed changes in the ANPRM were designed to strengthen protections for human research subjects.

Note: The University of California Office of the President prepared and submitted comments representing the 10 campus system in response to the ANPRM. The CPHS Executive Committee also responded to the ANPRM supporting the UCOP commentary and providing a differing perspective on certain points.

OHRP Correspondence on "Non-engaged" Scenarios (September 22, 2011) – As noted in OHRP's October 16, 2008 Guidance on Engagement of Institutions in Human Subjects Research, the scenarios of when an institution is not engaged in human subjects research are not all-inclusive. Since the guidance document was issued, on a case-by-case basis in response to specific requests from institutions, OHRP has found some institutions in certain circumstances to be not engaged, even though the exact non-engaged scenario is not included in the October 16, 2008 guidance document. These exceptions have been granted on a case-by-case basis in certain circumstances. Institutions should not extrapolate from these descriptions and determine that they are not engaged. If investigators or institutions have questions about whether their involvement in a non-exempt human subjects research study would make them engaged in the research, they should contact OHRP.

VI. New or modified campus procedures or programs

UC IRB Reliance Registry: New Online System for Processing Reliances under the UC MOU
UCOP procured funds for the development of a web-based application accessible to all campuses for the submission, review and approval of reliances under the UC System-wide Memorandum of Understanding. Several campuses, including UC Berkeley, provided input during the development phase. The UC IRB Reliance Registry pilot began in March 2012. UCB and UCSF took a lead role in piloting and debugging the system as well as providing workaround solutions while problems and bugs were being fixed. OPHS staff also took the lead in writing the user guides for IRB staff and investigators. As of July 2012 all studies in which our investigators rely on another UC campus or Lawrence Berkeley National Lab for IRB review, or vice versa, by means of the UC System Memorandum of Understanding (MOU) were to transition the registry and the paper process was be phased out.

Consent Builder: New Online Tool to Create Consent Forms
OPHS worked with RAC Information Systems to a web-based tool for creating Word document consent forms, based on the information the investigator enters online. This Word document may be edited further if needed, then saved as a PDF file and attached to the eProtocol application for a particular protocol. Anyone with a CalNet ID and password can access the system.

CPHS Guidelines
OPHS and CPHS developed the following new guidelines and templates for investigators:

- Clinical Laboratory Testing in Human Subjects Research
- Compensation of Research Subjects
- Protocol Deviations and Noncompliances
- Unanticipated Problems and Adverse Events
- Internet-based Research

OPHS and CPHS updated/revised the following guidelines and templates:

- Magnetic Resonance Imaging (MRI) in Research
- Pregnant Women, Fetuses and Neonates
- Informed Consent
- Instructions for Use of Template/Sample Consent Forms
- Template Consent Form - Biomedical Study
- Template Consent Form - Social-Behavioral Study
- Sample Consent Form - Interview with Audiotaping
- Sample Consent Form - Online Survey
- Sample Consent for Use of Media (Photo, Audio, or Videotape) Records

CPHS Policies and Procedures
OPHS and CPHS updated/revised the following policies and procedures:

- Research Protocol Submission Requirements
- Record Retention and Disposition
- Grant-Protocol Review

VII. Agency inspections and enforcement actions

There were no inspections or enforcement actions by any regulatory authorities in 2011-2012.

VIII. Education and Outreach

Education of Investigators
Director Rebecca Armstrong and OPHS staff conducted 22 training sessions for undergraduate and graduate students in the past year. The training sessions cover the fundamentals of the human subjects research approval and eProtocol submission processes. The Graduate Division co-sponsored and helped promote the 6th annual two-part workshop for graduate students across UCB in the spring of 2012. Below is a breakdown of where the presentations were given by school/college (excluding the two-part graduate student workshop):

College of Letters and Science (6)
School of Public Health (5)
College of Natural Resources (1)
School of Social Welfare (1)
Graduate School of Education (1)
School of Business (1)
Joint Medical Program (1)
School of Law (1)

This educational outreach helps improve the overall quality of protocol submissions received and demystifies the process of CPHS review and approval.

Education of CPHS Members
OPHS staff provide new CPHS Member training each semester regarding the IRB review process, as well as intermittent educational presentations on relevant topics, e.g., new/updated guidance.

Education of OPHS Staff
The budget did not permit for OPHS staff to attend the 2010 Advancing Ethical Research Conference and pre-conference program organized by Public Responsibility in Medicine and Research (PRIM&R) as in the past. However, the some staff members attended a one day conference in San Francisco put on by the Office for Human Research Protections (OHRP), Developing Your Human Research Protection Program: Regulatory Compliance and Additional Considerations. In addition, the following webinars were made available to them:

- *Ethical Internet Research: Informed Consent Regulations and Realities* by PRIM&R
- *Improving Informed Consent: Innovations in Form and Processes* by PRIM&R
- *When the Feds Come a Knockin': Nuts and Bolts of 45 CFR 46* by OHRP
- *Ethical Requirements in Exempt Research* by the Association for the Accreditation of Human Research Protection Programs

IX. Significant campus events during the report period

While the planning and re-organization for campus shared services, which the Director participated in, did not directly affect CPHS/OPHS, it did have an impact on the UC Berkeley research community. There was a noticeable increase in the level of stress and unhappiness amongst researchers and their staff in the past year.

X. Broader Issues

UC System issues:
The 2011 Pennsylvania State University child sex abuse scandal has led the University of California to re-evaluate risks regarding the presence of minors on campus as well as their involvement in research. The OPHS Director was involved in the discovery and data collection which resulted in a campus-wide forum on the topic.

General issues under discussion in the IRB world:

- Concerns about privacy and genetic testing
- Minimizing the regulatory burden
- Harmonizing OHRP and FDA regulations