

When Assigned but Now Unavailable

Dr. Jerry Silverman, Great Eastern University's (GEU) most prominent faculty member and researcher, was waiting for the Designated Member Reviewer (DMR) IACUC review of his

protocol's triennial renewal. Jerry submitted the renewal more than two months ahead of the expiration date, responded to a round of comments and requested revisions from the DMRs; but it was

now only two weeks before expiration and he hadn't received any further communication. When he asked the IACUC office for an update, he was told that one of the assigned Designated Reviewers (DRs) was currently unavailable.

After another week, Jerry called the IACUC Chair, Dr. Crick, to see what could be done. Hearing Jerry's account of the situation, Crick called the IACUC office for clarification. Gwen Skladnost, the IACUC Administrator, informed Crick that one of the DRs who originally reviewed the protocol went to a conference and decided to stay for subsequent vacation. Skladnost told Crick that although she sent several emails to the DR, she has not received a reply except for the out of office message.

Crick then asked Skladnost to reassign the protocol to him and said that he would replace the DR who is now unavailable. Skladnost was not comfortable with this request; she felt that reassigning a DR after the initial review was not compliant with the proper conduct of DMR. Crick indicated that there was no alternative because the next IACUC meeting was two weeks away and they really couldn't let Jerry's protocol expire – not only is the work PHS-funded but there are animals, namely cats, that are in the middle of a lengthy study. Skladnost suggested that Crick call an emergency IACUC meeting to conduct a Full Committee Review (FCR) of the protocol. Crick was not convinced that FCR was needed; he was certain that he could step in as DR for the unavailable IACUC member and get the protocol approved via DMR.

What do you think; can DRs be reassigned in the middle of DMR (and why or why not)?

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A WORD FROM OLAW AND USDA

This scenario asks whether the IACUC chair may replace an assigned designated reviewer (DR) who is unexpectedly unavailable to complete their review with another reviewer.

Response from OLAW

Designated member review (DMR) is one of the two protocol review methods recognized by the PHS Policy¹. The Policy allows the IACUC chair to designate at least one qualified member to conduct the review. The Policy places no restrictions on the number of members that the chair designates, nor does it limit the chair from changing the appointed members. In this case, because an initial DR has not completed a timely review impacting the continuation of ongoing research, the chair may substitute another member, including themselves, or proceed with the review using the remaining DRs. For institutions whose Animal Welfare Assurance with OLAW states that their IACUC policy requires a certain number of DRs, the chair must appoint a substitute to avoid noncompliance². In proceeding, the DRs: 1) must review identical versions of the protocol; 2) agree unanimously on any modifications identified by the review; 3) must return the protocol for full committee review if a DR requests it, and 4) must be unanimous if they approve the protocol^{3,4}. The IACUC may consider having a standard procedure to address such unexpected situations and allow the DMR process to continue.

Response from USDA

Under the Animal Welfare regulations, an IACUC has two options for reviewing and approving activities involving animals (i.e., protocol review). If full Committee review is not requested, the chairman of the IACUC may designate at least one

member of the Committee (DR), who they deem qualified, to conduct the review (i.e., designated member review or DMR)⁵. In regard to the central question arising from this scenario – can DRs be reassigned in the middle of DMR (and why or why not)? – the Animal Welfare regulations are silent. Similarly, while not explicitly stated, there is nothing in the regulations that would prohibit the chairman from appointing themselves to serve as a DR. Provided, of course, there are no conflicts of interest⁵. These matters are left to the discretion of the IACUC to address in any institutional policies or SOPs. □

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- Animal Welfare Act and Regulations. 9 CFR, Chapter 1 Subpart A-Animal Welfare Section 9 CFR § 2.31(d)(2).

Planning for the unexpected with DMRs

Yes, absolutely, DMRs can be reassigned in the middle of DMR.

The only federal requirement is: “If full committee review is not requested, at least one member of the IACUC, designated by the chairperson and qualified

to conduct the review, shall review those research projects and have the authority to approve, require modifications in (to secure approval), or request full committee review of those research projects.”^{1,2} “The Chair may select one or more members, qualified

to review this specific protocol, who will act on behalf of the entire IACUC to approve the protocol, request additional information from the PI to approve it, or refer it for full review.”¹

How can these issues be avoided?

1. Have the Chair assign only one DMR. There is no requirement that more than one person be assigned DMR. Avoid creating self-imposed regulatory burden by requiring more than one DMR in institutional policies, PHS Assurance and/or AAALAC Program Description. By assigning more than one DMR, the review now requires: “all participants must either approve or require (the same) modifications for approval; failing this, they must submit the protocol for full-committee review. In this case, the reviewers will not actually be voting with a majority-rules outcome.”¹
2. Have the Chair assign one DMR and one or more qualified members of the IACUC to “consult” on the review but not serve as additional DMRs. They should receive all the same information as the DMR, prepare their assessment and be ready by the response deadline; however, they do not officially transition to be the DMR until it is determined that the member originally assigned to serve as DMR is unavailable. This will facilitate a comprehensive review with more than one perspective, but won't delay the review as only the member assigned by the chairperson who is qualified to conduct the review shall have the authority to approve, require modifications in (to secure approval), or request full committee review of those research projects.
3. “Prior to the review, each IACUC member shall be provided with a list of proposed research projects to be reviewed. Written descriptions of research projects that involve the care and use of animals shall be available to all IACUC members, and any member of the IACUC may obtain, upon request, full committee review of those research projects.”² When soliciting the IACUC for the type of review (FCR or DMR), request/collect any comments, questions or concerns raised during that polling period and provide them to the DMR. This informs the DMR of any concerns or information other IACUC members want the DMR to ask the

COMPLIANCE CONSIDERATIONS

The Protocol Review coordinators offer the following compliance considerations:

1. What is a Designated Reviewer (DR)?

There are two accepted methods of protocol review: Full Committee Review (FCR) and Designated Member Review (DMR). When DMR is utilized, the DRs are the voting committee members who¹:

- The IACUC Chair has selected and deemed “qualified to conduct the review.”
- Act on behalf of the entire IACUC to approve the protocol, request additional information from the PI to approve it, or refer it for full review (note: DRs do not have the authority to withhold approval).

2. What does it mean to “assign” DRs for IACUC review?

The PHS Policy states that “If full committee review is not requested, at least one member of the IACUC, designated by the chairperson and qualified to conduct the review, shall review those research projects and have the authority to approve, require modifications in (to secure approval) or request full committee review of those research projects.”²

Although the federal mandates do not prescribe the method by which members selected to serve as DRs are assigned to protocols or amendments, the IACUC Chair is solely responsible for assigning DRs to IACUC submissions, based on the committee member's expertise.

When DMR Subsequent to FCR³ (DMR/S/FCR) is utilized, the IACUC Chair still must assign at least one qualified member (i.e., DR(s)) to review the revised application after FCR (i.e., the request for additional information from the PI is sent to the PI and the PI responds).

3. Can DRs be reassigned in the middle of DMR?

A few things to keep in mind about the process of DMR:

- a. DMR requires only one DR.

- b. If more than one DR is assigned, then the DRs must⁴:

- Be unanimous in any decision;
- Review identical versions of the protocol/amendment; and
- Be aware of and all agree to any modifications requested by any one of the DRs.

At the end of the day, the review is not completed until either the full committee approves the protocol and/or submission, or until the DR(s) approve the submission. If, during a DMR review, the IACUC Chair finds it necessary to terminate the current review and initiate a new DMR review that is appropriate (i.e., reassign the IACUC review to a different committee member), this process simply reinitiates the review through the new DMR. The “new” DR would follow the DMR process and, by regulation, need not address any of the issues identified by the past DR(s). However, all DRs must be unanimous in any decision, which, if only one of the original DRs was reassigned, could create a situation where the new DR doesn't agree with the other DR. As always, the alternative is that any IACUC member can ask that the review be conducted by FCR. □

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4. PHS Policy on Humane Care and Use of Laboratory Animals – Frequently Asked Questions. <https://olaw.nih.gov/faqs/#/guidance/faqs>

Principal Investigator (PI) to address in the submission. The final decision of the submission of course still rests with the assigned DMR. □

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Just because you can, should you?

Requirements for DMR outlined by the NIH Office of Laboratory Animal Welfare (OLAW) and the USDA APHIS 9 CFR AWR does not prohibit reassigning a protocol review to another reviewer by the Chair if all the members of the IACUC were given a reasonable opportunity to call for Full Committee Review (FCR) when the renewal was first submitted for review^{1,2}. However, whether this is a viable option for an institution is dependent upon what is stated in the Assurance that is on file with OLAW and any IACUC-approved institutional policies.

While reassigning the protocol to a different DMR may avoid expiration of a time-sensitive protocol, the waste of animals and possible reports to regulatory agencies, it may not be a best practice. It is not necessarily bad to have a new reviewer who may catch issues the prior reviewer missed, but the new reviewer may not follow up on Principal Investigator (PI) responses to the prior reviewer's comments as extensively. This means some concerns may not be fully addressed to the satisfaction of all reviewers involved. Also, one must ask how the Chair becoming the reviewer would be perceived by a USDA inspector

or AAALAC International site visitor if they ask for this protocol's records. There could be a negative perception of the institution's commitment to a robust protocol review process and, ergo, animal welfare.

Convening an emergency IACUC meeting for FCR of the protocol may or may not resolve the issue of impending expiration, but obtaining availability of a quorum on such short notice may not be possible. Would this meeting only be to allow the other members of the committee an opportunity to approve reassignment or would it be to conduct a group review of the protocol itself? If the idea is to review the protocol, it could, in fact, result in many additional comments that would need to be addressed perfectly in an impossibly short period of time and still result in expiration. If the meeting is intended to obtain approval of the review reassignment, then why convene a meeting? The IACUC members could be notified either through an electronic protocol database or via carefully worded email to avoid the appearance of polling.

In order to avoid this scenario regularly reoccurring in the future, it would be advisable to examine the current protocol management process and

perhaps institute some of the following recommendations:

1. Periodically ask reviewers to provide you with a week's notice if they will be away so they will not be assigned time-sensitive reviews, or you can ask them to submit their reviews sooner.
2. Develop a protocol tracking system and follow up with the PIs/reviewers if they do not submit in a timely manner – do not wait for them.
3. Obtain emergency contact information from your reviewers so that, if necessary, you can reach them.
4. Generate official SOPs or policies regarding DMR processes if they do not yet exist. □

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