

monetary gain for either, ‘first-to-publish’ status may be at stake and just as valuable. The ARENA/OLAW IACUC guidebook states that if an investigator submitting a protocol believes that an IACUC member has a potential conflict, the investigator may request that the member be excluded from reviewing the protocol⁵. It is our opinion that Newsome should resubmit her protocol with a request that Finster be excluded from the protocol review owing to a conflict of interest.

1. Animal Welfare Act Regulations. Code of Federal Regulations. Title 9, Chapter 1.
2. Mandrell, T.D. Alternatives and the Animal Welfare Act. *AWIC Newsletter* 2 (1991). <<http://www.nal.usda.gov/awic/newsletters/v2n1.htm>>
3. Morgan, D. Avoiding duplication of research involving animals. Occasional Paper No 7. (New Zealand National Animal Ethics Advisory Committee, 2011). <<http://www.biosecurity.govt.nz/files/regs/animal-welfare/pubs/naeac/occasional-paper-7.pdf>>
4. Public Health Service. *Policy on Humane Care and Use of Laboratory Animals* (US Department of Health and Human Services, Washington, DC, 1986; amended 2002).
5. ARENA/OLAW. Institutional Animal Care and Use Committee Guidebook 2nd edn. (OLAW, Bethesda, MD, 2002).

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RESPONSE

Above the regulations

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C. Andrew Matchett, DVM, DACLAM**

It seems appropriate that ‘finster’ is the German word for ‘sinister’. When Finster takes it upon himself to act as the whole committee, he violates regulations and guidance and probably the code of conduct of his facility. It is not necessarily the IACUC’s responsibility to determine scientific value of protocols, as outlined in 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.

The IACUC Chair does not have the authority to reject a research protocol outright before it reaches the committee. The Chair’s responsibilities are limited to overseeing the coordination and implementation of effective, efficient systems for protocol and program review by the IACUC in compliance with the PHS *Policy* and the AWARs. These review activities can be carried out only at a properly convened meeting of the IACUC³. The IACUC determines whether the proposed work is duplicative in nature² (section 2.31, d, 1, iii). Newsome’s protocol should have been sent out for committee review to allow the IACUC to evaluate whether the protocol was duplicative and, if so, whether duplication was justified. Before IACUC review, each member of the committee should be given a list of proposed activities. Written descriptions of all proposed activities that involve the care and use of animals should be available to all IACUC members, and any member may request full committee review of those activities² (section 2.31, d, 2).

In addition, Finster should have recused himself from the review process once he initially read Newsome’s protocol and found it to be nearly identical to his work. The AWARs² (section 2.31, d, 2) state, “no member may participate in the IACUC review or approval of an activity in which that member has a conflicting interest (e.g., is personally involved in the activity), except to provide information requested by the IACUC, nor may a member who has a conflicting interest contribute to the constitution of a quorum.”

Newsome is correct in taking her complaint to the Institutional Official, as Finster is operating outside of his defined responsibilities as Chair of the IACUC. When Finster copied Newsome’s protocol as his submission, he violated the AWA (regardless of the animal species involved in the protocol) and should be removed as the IACUC Chair. The AWA² (section 2157) states, “it shall be unlawful for any member of the committee to (1) to use or attempt to use to his advantages any information which is entitled to protection as confidential information and include penalties of removal from the committee and a fine of not more than \$1,000 and imprisonment of not more than one

year; or if willful, a fine of not more than \$10,000 and imprisonment of not more than three years.”

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).
2. Animal Welfare Act Regulations. Code of Federal Regulations. Title 9, Chapter 1.
3. Silverman, J., Suckow, M.A. & Murthy, S. *The IACUC Handbook* 2nd edn. (CRC Press, Boca Raton, FL, 2007).

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RESPONSE

Conflict of interest

Karen Strait, DVM, DACLAM

The Animal Welfare Act and Regulations¹ (AWARs) and the Public Health Service *Policy on Humane Care and Use of Laboratory Animals*² (PHS *Policy*) are explicit in outlining the methods by which an IACUC can conduct protocol reviews. Only two mechanisms of IACUC review are valid under these regulations: (i) full committee review (FCR) by a convened quorum of IACUC members or (ii) designated member review (DMR) by one or more qualified IACUC members (section 2.31(d)(2) of the AWARs¹ and section IV.C.2 of the PHS *Policy*²). The use of DMR is contingent on all members first having the opportunity to view descriptions of the proposed projects and to call for FCR. In this scenario, Finster is unilaterally reviewing and withholding approval of a protocol of which the full committee had no knowledge. This action is clearly outside his authority as IACUC Chair. In addition to behaving in a vindictive and unprofessional manner that jeopardizes Newsome’s NIH funding, Finster is putting his institution at risk.

Some IACUCs choose to carry out an administrative ‘pre-review’ (separate from the veterinary consultation) before formal IACUC review, and Finster may claim that he is doing just that. A pre-review is useful for ensuring completeness of an application