NYU Langone Health

Issuing Department: Internal Audit, Compliance, and Enterprise Risk Management

Effective Date: 12/1/2014
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Compliance Concerns: Reporting, Investigating, and Protection from Retaliation

I. Summary of Policy

NYU Langone is committed to ethical and legal conduct that complies with applicable federal, state, and local laws and regulations, professional standards, and Institutional policies. This Policy sets forth the responsibilities of the NYU Langone Health community with respect to reporting and investigating compliance concerns and the prohibition on retaliation against an individual who, in good faith, reports noncompliance or suspected noncompliance that is illegal, fraudulent, in violation of an adopted policy, or in violation of federal, state, or local law and regulation.

II. Policy Purpose

To provide guidance on reporting, investigating, and resolving compliance concerns, in addition to setting forth NYU Langone Health's commitment to encouraging an atmosphere that allows individuals who report compliance concerns in good faith under this Policy to be protected from retaliation.

III. Applicability of the Policy

This Policy applies to employees, trustees, officers, faculty, medical staff, residents, fellows, students, volunteers, trainees, vendors, contractors, subcontractors, independent contractors, consultants, sponsored individuals, and agents of NYU Langone Health.

IV. Definitions

Compliance Officer at NYU Langone Health is the Vice President of Internal Audit, Compliance, and Enterprise Risk Management ("IACERM").

Institutional Policies includes, but is not limited to, the Code of Conduct, Corporate Compliance Program, and policies set forth in the Faculty Handbook, Residency Training Program contract, GME House Staff Manual, Postdoctoral Handbook, Staff Handbook, Student Handbook, and the By-laws of the Medical Staff.

NYU Langone Health includes NYU Langone Health System, NYU Langone Hospitals (including all inpatient and ambulatory facilities), NYU School of Medicine, NYU Grossman Long Island School of Medicine, and all entities that are controlled by any of them, except where specifically excluded. This Policy has also been adopted by the Family Health Centers at NYU Langone (the "FHC"); therefore, for the purposes of this Policy, "NYU Langone Health" also includes the FHC, and any entity controlled by it, except where specifically excluded.

V. Policy

A. Duties. Members of the NYU Langone Health community have a duty to:

- report compliance concerns,
- assist and cooperate in any investigation,
- complete any required training or corrective action, and
- take all reasonable steps necessary to ensure compliance with all federal, state, and local laws and regulations, professional standards, and Institutional Policies.

Individuals are encouraged to contact IACERM, the Compliance Officer, or one of the helplines described below, for clarification or advice in the event of any question regarding a compliance concern.

B. Non-Retaliation. Individuals who in good faith report compliance concerns, or cooperate in an investigation, are protected from retaliatory academic or employment action, including, but not limited to: discharge, reassignment, demotion, unjustified negative performance reviews, denial of promotion, suspension, harassment, increased surveillance, other discrimination, or in the case of volunteer, trustee, or other sponsored individual, removal. Examples of retaliation and intimidation also include threats of the above-mentioned actions. Retaliation does not include disciplinary action taken against an employee as a result of the employee's own violation(s) of laws, rules, policies, procedures, or negative comments in an otherwise positive or neutral evaluation, or negative comments that are justified by an employee's poor work performance or history.

C. Related Policies. In consultation with the Compliance Officer and IACERM, departments at NYU Langone Health develop and maintain compliance standards, policies, and procedures specific to their department and ensure any required NYU Langone Health-wide training, such as the Annual Compliance Training (including but not limited to fraud, waste, and abuse topics) is completed by applicable individuals within the department.

D. Responsibility. Employees are not excused from continuing to perform their job duties or following their department's rules, policies, and procedures because they have filed a complaint or have participated in an investigation.

This Policy is neither a contract of employment nor does it create any rights or expectations regarding continued employment or benefits at NYU Langone Health.

Reporting

All individuals covered by this Policy have a duty to immediately report compliance suspicions or concerns. Compliance concerns include, but are not limited to:

- fraud, waste, and abuse (e.g., billing violations/false claims)
- Code of Conduct violations
- NYU Langone Health policy and procedure violations (e.g., saving NYU Langone Health protected data to an unencrypted portable device)
- illegal acts, such as corruption, bribery, theft, or misuse of NYU Langone Health property
- potential danger to the public or employees' health, safety, and security
- research protocol violations
- general compliance violations

- HIPAA violations (e.g., loss of protected health information)

Concerns can be reported via several avenues:

- to an immediate supervisor or other superior within the academic or administrative unit, as applicable, who can then report to IACERM as necessary
    - If a report has been made to a supervisor and the reporter believes that action has not been taken, a report should be made through one of the below avenues.
    - If the reporter believes that the supervisor or other superior may be involved in the issue, another avenue to report should be used.
- to the Compliance Officer directly or to IACERM by phone (212-404-4079) or email (ComplianceHelp@nyulangone.org)
- anonymously to the Compliance Helpline by phone (1-866-NYU-1212) or by web at https://compliancenyulmc.alertline.com
- to the HIPAA Helpline, when the matter is specifically related to HIPAA, by phone (1-877-PHI-LOSS) or by web at https://www.incidentform.com/HIPAA.nyulmc.jsp
- to Human Resources- Employee Relations at 212-404-3857
- to the Office of Legal Counsel at 212-404-4075
- to the Office of Inspector General (OIG) hotline at 1-800-HHS-TIPS
- to the New York State Office of the Medicaid Inspector General at 1-877-873-7283
- as otherwise permitted or available under an applicable New York University policy

In compliance with federal and state law, and in accordance with this Policy, IACERM will work to ensure that there will be no intimidation of or retaliation against any individual who reports, in good faith, any compliance concern. Reported compliance concerns are considered to be made in bad faith if they are made maliciously or with reckless disregard for their truth or falsity. Individuals making reports in bad faith may be subject to disciplinary or other employment action by NYU Langone Health.

Investigating

IACERM is responsible for investigating all reported compliance concerns, including claims of retaliation against individuals covered by this Policy. IACERM will utilize all reasonable and appropriate methods to determine the facts and circumstances related to an allegation or concern and to determine if a violation occurred, and the nature of any such violation.

For issues reported to IACERM, but outside the scope of IACERM, the concern will be referred to a subject matter expert in a related department for investigation (e.g., Human Resources for workplace conduct; Security for theft). For non-compliance related concerns reported directly to leadership, Human Resources, or the Office of Legal Counsel, the respective department will follow their procedures for addressing the concern, and will involve IACERM as appropriate. Determinations on escalation and notification of all reported concerns will be made based on the seriousness and potential impact of the reported concern. Reports may fall into three levels, as described below, and the preliminary assessment will direct the initial response.

- Level 1: Reports that do not relate to internal controls and are most often human resource matters or patient experience complaints (non-safety matters). For example, an employee complaint about not receiving approval for time off or a patient receiving another patient's discharge summary. The response to level one reports will follow the process specific to

the complaint, for example privacy breaches in accordance with IACERM internal procedures.

- Level 2: Reports that may involve or indicate a deficiency in the effectiveness of internal controls or are more serious or extensive in nature than a level 1 report. This level of allegation may have the potential to rise to the level of serious monetary or reputational harm. For example, business expense impropriety, theft of time, information security concerns, or research misconduct allegations. Professional misconduct allegations or patient care complaints may also fall into this level. If the issue is compliance related, IACERM will conduct the investigation, often in collaboration with Human Resources and/or the department, depending on the nature of the report (e.g., nursing or physician leadership, FGP). If non-compliance related, Human Resources, the appropriate department, or the appropriate process or committee will investigate. For example, professional misconduct cases will proceed in accordance with the NYU Langone Health Medical Staff Bylaws and in consultation with the Office of Legal Counsel.
- Level 3: Reports that have the potential to impact the completeness and accuracy of the financial statements, could indicate a material weakness in internal controls, or otherwise involve executive leadership. Level 3 reports are escalated to the General Counsel, who will advise and consult with the CEO and the NYU Langone Health System Board of Trustees ("Board"), through its Chairman and/or through the Chairman of the Audit and Compliance Committee ("Committee"). The Board and/or Committee will be notified of all level 3 reports and have the decision making authority to direct retention of outside counsel and/or investigators as necessary and appropriate.

In the event a reported concern involves or appears to involve a member of executive or senior management or leadership or involves serious, sensitive, or criminal conduct, the Compliance Officer and/or General Counsel, at their discretion, may also determine to utilize a qualified external party to conduct an investigation. This ability shall not be impeded by any member of executive leadership and the Compliance Officer may bring the concern to the Committee should s/he encounter any resistance or disagreement. Per the Committee's Charter, the Committee shall have the full authority to conduct any review or investigation it deems appropriate to fulfilling its responsibilities and to retain, at NYU Langone Health's expense, special legal, accounting, or other consultants or experts it deems necessary in the performance of its duties. IACERM may also consult, at their discretion, with external subject matter experts for certain matters pertaining to an investigation as necessary and appropriate.

IACERM shall have access to and be provided with any documentation that may be relevant to any compliance investigation, including access to individuals' NYU Langone Health email account with the approval of the General Counsel and/or a Senior Vice President. No member of the NYU Langone Health community shall knowingly or recklessly alter, destroy, mutilate, conceal, cover up, or falsify any record or document with the intent to impede any investigation or that is relevant to such investigation.

No member of the NYU Langone Health community may record, including video and/or voice, any interview conducted by IACERM and/or Human Resources pursuant to this Policy without specific pre-confirmed approval from the Compliance Officer, General Counsel, or Senior Vice President of Human Resources.

Confidentiality

Individuals may be asked to assist in investigations and are responsible for providing accurate facts within a reasonable period. Reasonable and appropriate efforts will be made to maintain confidentiality or reporter anonymity to the extent feasible to conduct a thorough investigation and to the extent possible under applicable law. Should disciplinary or legal action be taken against a person or persons as a result of a report, such persons may also have the legal right to know the reporter's identity.

Members of the NYU Langone Health community have a duty to maintain the confidentiality of a reported concern and any ongoing or completed investigation and refrain from discussing these matters except as needed to assist NYU Langone Health and IACERM with its investigation. The inappropriate disclosure of confidential information relating to an investigation under this Policy will be viewed as a serious disciplinary offense. This section is not intended to preclude any member of the NYU Langone Health community from reporting, as otherwise legally permitted, to any local, state, or federal agency, including an accreditation or otherwise regulatory agency.

VI. General Procedures for Investigations

1. IACERM will acknowledge receipt of any reported issue within three (3) business days.

2. Concerns received by IACERM but not via one of the helplines will be logged manually into the helpline log by IACERM, including the nature of the concern, all relevant dates, and known parties involved.

3. IACERM will establish a preliminary plan to conduct the investigation and involve other parties as necessary to appropriately and thoroughly address all concerns based on the seriousness and potential impact of the report. For example, IACERM may conduct interviews and request documentation (including emails, memos, etc.).

4. IACERM will document the investigation and process in the helpline log, for example:
    - methods used for analysis
    - summary or notes from any interviews, conversations, etc.
    - description and/or reference to any documents collected or reviewed during the investigation
    - any findings or conclusions
    - recommendations for corrective or remedial actions (e.g., new compliance controls, broadcast notification reminders, re-training, and disciplinary action)
    - reference to notifications or reports (e.g., federal or state authorities or internal reports)
    - any other information gathered relevant to the investigation and outcome

5. Upon discovery of any fraud, waste, abuse, or other similar illegal activity, IACERM will engage the necessary parties to stop further illegal action from taking place. IACERM will assist the involved parties in taking appropriate corrective action to mitigate inappropriate past activity.

6. All relevant documentation will be retained in the helpline number-associated folder on IACERM's network drive. Access to this drive is limited to designated IACERM staff in order to protect confidentiality associated with the reported compliance concern.

7. The Compliance Officer will provide the Committee with reports concerning the implementation of and compliance with this Policy when requested or as necessary, but at least annually. In addition, IACERM will report and refer any criminal activity to the appropriate legal authorities as necessary or required by law.

VII. Policy Enforcement

A. The Compliance Officer, in conjunction with IACERM, is responsible for administering and distributing this Policy to all members of the NYU Langone Health community. A copy of this Policy is available on the NYU Langone Health website: http://nyulangone.org/policies-disclaimers/general-compliance.

B. The Committee has oversight of the adoption and implementation of, and compliance with, this Policy. The Committee is responsible for periodically reviewing and adopting any revisions to this Policy. As necessary, the Committee will report to the NYU Audit and Compliance Committee any issues arising under this Policy that rise to a material level.

C. Individuals who are found to be noncompliant with applicable federal, state, and local laws and regulations, professional standards, or the Institutional Policies, including any violation of this Policy, may be subject to disciplinary action up to and including termination of employment or association with NYU Langone Health in accordance with NYU Langone Health disciplinary policies and procedures applicable to the individual in question. Having knowledge of inappropriate conduct and choosing not to report is, in itself, a violation of this Policy.

VIII. Administration

All documentation related to reported compliance concerns, including investigation related notes, and any documentation related to corrective action or training will be maintained in accordance with applicable law and NYU Langone Health's Record Retention Policy.

IX. Related Policies and Documents

Breach Notification
By-laws of the Medical Staff
Code of Conduct
Complaints, No Retaliation, No Waiver of Rights
Compliance Concerns: What You Need to Know About Reporting & the Investigation Process Guide
Corporate Compliance Program
Faculty Handbook
GME House Staff Manual
Human Resources Policies and Procedures: Policy 1.1 Code of Conduct Policy
Notice to Employees Concerning Rights and Remedies Under the Pilot Program for Enhancement of Employee Whistleblower Protection (41 U.S.C. 4712)

Postdoctoral Handbook
Preventing and Reporting Suspicions of Fraud, Waste, and Abuse
Residency Training Program Contract
Responding to Government Investigations and Law Enforcement Requests
Staff Handbook
Student Handbook

X. Legal Authority/References

Federal Deficit Reduction Act, 42 U.S.C. § 1396a(a)(68)
Federal False Claims Act 31 U.S.C. § 3729-3731
New York State Department of Health Office of Medicaid Inspector General Compliance Program Guidance for General Hospitals, N.Y. Soc. Serv. Law § 363-d(1), (2) and (4); 18 N.Y.C.R.R. § 521.1(a) and § 521.3(a)
New York State False Claims Act, State Finance Law, §187-194
New York State Nonprofit Revitalization Act of 2013, Non-For-Profit Corporation Law, §715-b
OIG Compliance Program Guidance for Hospitals, 63 Federal Register 8987, February 23, 1998, Federal Sentencing Guidelines
OIG Supplemental Compliance Program Guidance for Hospitals, 70 Federal Register 4858, January 31, 2005
Pilot Program for Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information, 41 U.S.C. § 4712

IV. Version History

December 1, 2014	Original Policy
September 26, 2016	Reviewed and Revised
September 12, 2018	Reviewed and Revised
August 1, 2019	Reviewed and Revised
August 1, 2022	Reviewed and Revised

This version supersedes all NYU Langone Health (as defined in this Policy) previous policies, including but not limited to NYU Hospitals Center, New York University School of Medicine, Lutheran Medical Center, and Winthrop University Hospital.