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

Effective/Reissue Date: 07/01/2014

Protection from Retaliation for Reporting Compliance Concerns

I. Summary of Policy

NYU Langone Medical Center ("Medical Center"), which is comprised of NYU Hospitals Center and NYU School of Medicine, is committed to ethical and legal conduct that complies with applicable federal, state and local laws and regulations, professional standards, and institutional policies, including but not limited to the Code of Conduct, Corporate Compliance Program, medical staff bylaws, and the faculty and staff handbooks. This policy sets forth the Medical Center's prohibition of retaliation against an applicable individual who, in good faith, reports noncompliance or suspected noncompliance that is illegal, fraudulent or in violation of an adopted policy or federal, state or local law or regulation.

II. Policy Purpose

To set forth the requirements related to the Medical Center's commitment encouraging an atmosphere that allows individuals who report compliance concerns in good faith under the Policy on Reporting and Investigating Compliance Concerns to be protected from retaliation.

III. Applicability of the Policy

This policy applies to all employees of the Medical Center, including trainees, volunteers who provide substantial services to the Medical Center, as well as trustees of Board of Directors of the Medical Center. A copy of this policy will be distributed to employees, volunteers who provide substantial services to the Medical Center and trustees.

IV. Policy

In accordance with the Medical Center's Policy on Reporting and Investigating Compliance Concerns, all employees, volunteers providing substantial services and trustees have a duty to report compliance concerns, assist in any investigations, as necessary, complete any required training, and take all reasonable steps necessary to ensure compliance with all federal, state and local laws and regulations, professional standards, and institutional policies, including but not limited to the Code of Conduct, Corporate Compliance Program, medical staff bylaws, and the faculty and staff handbooks.

This policy protects employees, volunteers providing substantial services and trustees making a good faith report of compliance concerns 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 a volunteer or trustee, removal. Examples of retaliation and

intimidation also include threats of the aforementioned reprisals. Retaliation does not include disciplinary action taken against an employee as a result of the employee's own violation(s) of laws, rules, policies or 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.

This policy is not a contract of employment and does not create any rights or expectations regarding continued employment at the Medical Center. All employment is deemed at-will (i.e. can be terminated by you or the Medical Center at any time, with or without cause) unless there exists a written contract of employment setting forth a specific duration and executed by an authorized Medical Center signatory. Notwithstanding the statements in the policy, the Medical Center remains free to repeal, modify or amend the policy, and to change wages, benefits and all other working conditions, without prior notice.

Nothing in this policy is intended to interfere with legitimate employment decisions.

Reporting

Employees, volunteers providing substantial services and trustees can report complaints of intimidation and retaliation via several avenues:

- to an immediate supervisor or other superior within their academic or administrative unit as applicable, who can then report to Internal Audit, Compliance, and Enterprise Risk Management ("IACERM");
- to IACERM directly by phone (212-404-4079) or email (ComplianceHelp@nyumc.org);
- to the Compliance Helpline by phone (1-866-NYU-1212) or by web at https://compliancenyulmc.alertline.com;
- 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; or
- to the HIPAA Helpline, when the reprisal is specifically related to a HIPAA concern, by phone (1-877-PHI-LOSS) or by web at https://www.incidentform.com/HIPAA.nyulmc.jsp.

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 the Medical Center and may also be subject to legal claims by the individuals about whom the bad faith reports were made.

Investigating

In accordance with the Medical Center's Policy on Reporting and Investigating Compliance Concerns, IACERM is responsible for investigating all reported compliance concerns including claims of retaliation against employees, volunteers providing substantial services and trustees who reported noncompliance. 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.

Confidentiality

If requested, all reasonable and appropriate efforts will be made to maintain confidentiality or reporter anonymity to the extent feasible to conduct a thorough investigation concerning allegation(s) of retaliation to the extent possible under applicable law. The Medical Center will keep the name of the person reporting instances of intimidation and retaliation confidential unless he or she agrees with disclosing his or her name, or if the name is already known to persons described in the report. Reports of retaliation, whether anonymous or not, will be shared only with those who have a need to know so the Medical Center can conduct an effective investigation and determine an appropriate course of action. Those with a need to know may include such third parties as the Medical Center's external auditors, outside counsel, or law enforcement personnel to the extent necessary. 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. Those reporting retaliation are likewise expected to maintain the confidentiality of their report and any ongoing investigation or after an investigation has been completed, and refrain from discussing these matters except as needed to assist the Medical Center 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 and, with respect to Medical Center employees, may result in discipline, up to and including termination of employment.

V. Procedure

1. IACERM will acknowledge receipt of a reported retaliatory action within three (3) business days.

2. Reports not received 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. For example, IACERM may conduct interviews, request documentation (including emails, memos, etc.), and consult with others.

4. IACERM will document all aspects of the investigation and process in the helpline log, for example:
    - methods used for analysis;
    - history of original compliance concern report(s), if available or applicable;
    - 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); and
- any other information gathered relevant to the investigation and outcome.

5. All relevant documentation will be retained in the helpline number-associated folder on IACERM's network drive for a minimum of six (6) years, or as otherwise required by law or Medical Center policy. Access to this drive is limited to only designated IACERM staff in order to protect confidentiality associated with the report of compliance concerns.

6. IACERM will report and refer any recommendations and findings as appropriate. This includes reporting any criminal activity to the appropriate legal authorities as necessary or required by law.

7. The Vice President of IACERM will report investigation information to the Medical Center Audit and Compliance Committee when requested or as necessary, but at least annually.

VI. Policy Enforcement

IACERM is responsible for implementing and administering this policy. This policy will not change the terms of employment. Individuals who are found to be noncompliant with applicable federal, state and local laws and regulations, professional standards, or institutional policies, including but not limited to the Code of Conduct, Corporate Compliance Program, medical staff bylaws, and the faculty and staff handbooks may be subject to disciplinary action up to and including termination of employment or medical staff privileges. This policy shall remain in effect unless terminated or superseded by a revised and/or updated policy issued by IACERM.

VII. Related Policies and Documents

Breach Notification
Complaints, No Retaliation, No Waiver of Rights
Faculty Handbook
Medical staff bylaws
Reporting and Investigating Compliance Concerns
NYU Medical Center Corporate Compliance Program
Responding to Government Investigations
Staff Handbook
Your Guide to the Investigations Process

VIII. 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