



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

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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 the institutional policies, including but not limited to the Code of Conduct, Corporate Compliance Program, and the policies set forth in the Faculty Handbook, Residency Training Program Contract, GME House Staff Manual, Postdoctoral Handbook, Student Handbook, Staff Handbook, By-laws of the Medical Staff, and Patient Care and Safety Standards (“Institutional Polices”). This Policy sets forth the responsibilities of the NYU Langone 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’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, consultants, and agents of NYU Langone. “NYU Langone” includes NYU Langone Health System (the “System”), NYU Hospitals Center (“NYUHC”), NYU School of Medicine (“NYUSOM”), and all entities that are controlled by the System. This Policy also has been adopted by the NYU Lutheran Family Health Centers; therefore, for purposes of this policy, “NYU Langone” also includes the NYU Lutheran Family Health Centers.

IV. Policy

Members of the NYU Langone community 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 the Institutional Policies.

Individuals are encouraged to contact the Office of Internal Audit, Compliance, and Enterprise Risk Management (“IACERM”), the Compliance Official (i.e., the Vice President of IACERM),

or one of the helplines described below, for clarification or advice in the event of any question regarding a compliance concern.

Individuals who in good faith report compliance concerns 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 or trustee, 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.

In consultation with the Compliance Official and IACERM, departments at NYU Langone develop and maintain compliance standards, policies, and procedures specific to their department and ensure any required NYU Langone-wide training, such as the Annual Compliance Training (including but not limited to fraud, waste, and abuse topics) and Annual Privacy and Security Training courses, is completed by applicable individuals within the department. All documentation of compliance training must be retained for a minimum of ten (10) years.

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 medical staff privileges. Having knowledge of inappropriate conduct and choosing not to report is, in itself, a violation of this Policy.

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

Employees are not excused from continuing to perform their roles or follow their department's legitimate rules because they have filed a complaint or have participated in an investigation.

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 policy and procedure violations (e.g., saving NYU Langone protected data to an unencrypted portable device),
- illegal acts, such as corruption, bribery, theft, or misuse of NYU Langone property,
- potential danger to the public or employees' health, safety, and security,
- research protocol violations,
- general compliance violations, and
- 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.
- to the Compliance Official directly or to IACERM by phone (212-404-4079) or email (ComplianceHelp@nyumc.org),
- anonymously to the Compliance Helpline by phone (1-866-NYU-1212) or by web at <https://compliance.nyulmc.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 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
- 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.

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 outside the scope of IACERM, the concern will be referred to a subject matter expert in a related department for a full investigation (e.g., Human Resources for specific HR issues or Security for theft).

Confidentiality

Individuals may be asked to assist in investigations and are responsible for providing accurate facts within a reasonable time frame. 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 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 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 community from reporting, as otherwise legally permitted, to any local, state, or federal agency, including an accreditation or otherwise regulatory agency.

V. Procedure

1. IACERM will acknowledge receipt of any reported issue within three (3) business days.
2. Concerns 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 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); and
 - 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 for a minimum of six (6) years, or as otherwise required by law or NYU Langone policy. Access to this drive is limited to designated IACERM staff in order to protect confidentiality associated with the report of compliance concerns.
7. The Compliance Official will provide the NYU Langone Health System Audit and Compliance Committee (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.

VI. Policy Enforcement

The Compliance Official, in conjunction with IACERM, is responsible for administering and distributing this Policy to all members of the NYU Langone community as defined herein. A copy of this Policy will be made available on the NYU Langone website: <http://nyulangone.org/policies-disclaimers/general-compliance>.

The Committee has oversight of the adoption of, 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.

VII. Related Policies and Documents

Breach Notification

By-laws of the Medical Staff

Complaints, No Retaliation, No Waiver of Rights

Corporate Compliance Program

Faculty Handbook

GME House Staff Manual

Notice to Employees Concerning Rights and Remedies Under the Pilot Program for Enhancement of Employee Whistleblower Protection (41 U.S.C. 4712)

Patient Care and Safety Standards

Postdoctoral Handbook

Residency Training Program Contract

Responding to Government Investigations

Staff Handbook

Student 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

Pilot Program for Enhancement of Contractor Protection from Reprisal for Disclosure of Certain Information, 41 U.S.C. § 4712