



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

Effective Date: 12/23/2005
Reissue Date: 6/18/2018

Prohibition Against Employing or Contracting with Ineligible Persons and Exclusion Screening

I. Summary of Policy

NYU Langone Health is committed to complying with applicable federal and state laws and regulations governing the exclusion, sanction, restriction, debarment, and/or ineligibility of individuals and entities from participating in Federal Health Care Programs and from receiving government contracts or awards (i.e., Ineligible Persons). This Policy sets forth NYU Langone Health's responsibilities and standard processes with respect to screening for individuals and entities to ensure that NYU Langone Health and its affiliates do not employ, contract, or do business with such Ineligible Persons.

II. Policy Purpose

The purposes of this Policy are:

- To provide that NYU Langone Health does not employ, contract, or do business with Ineligible Persons,
- To establish the processes for identifying Ineligible Persons, for ensuring that NYU Langone Health does not employ, contract, or do business with any Ineligible Persons, and for complying with any reporting and reimbursement obligations as required by applicable laws and regulations; and
- To provide that any Ineligible Persons are subject to termination of employment, medical staff privileges, appointment, or association with NYU Langone Health.

III. Applicability of the Policy

This Policy applies to all employees, trustees, officers, faculty, medical staff, residents, fellows, students, volunteers, trainees, vendors, contractors, consultants, and agents of NYU Langone Health. In addition, this Policy applies to external providers who refer patients to NYU Langone Health (also known as Referring Providers).

IV. Definitions

Federal Health Care Program means any plan or program that provides health benefits, whether directly, through insurance, or otherwise, and that is funded directly, in whole or in part, by the U.S. Government or a State health care program (except for the Federal Employees Health Benefits Program). Federal Health Care Programs include, but are not limited to, Medicare, Medicaid, and Tricare.

Ineligible Person refers to an individual or entity who is excluded, suspended, debarred or otherwise deemed ineligible to participate in Federal Health Care Programs or to receive government contracts or awards, such as those by the National Institutes Health (NIH).

Exclusion means a temporary or permanent sanction, restriction, and/or debarment from a Federal Health Care Program or government contract, grant, or award program. Items or services furnished by an Ineligible Person will not be reimbursed under Federal Health Care Programs.

Exclusion List(s) refers to the federal and state sanction list(s) that identify excluded, sanctioned, restricted, or debarred individuals or entities (i.e., Ineligible Person). In addition to the Exclusions Lists referenced below, NYU Langone Health screens against other international, federal, and state level exclusion and disciplinary lists as deemed appropriate. Examples of Exclusion Lists include, but are not limited to:

- HHS Office of Inspector General’s (“OIG”) List of Excluded Individuals and Entities (“LEIE”)
- General Services Administration (“GSA”) System for Award Management (“SAM”)
- New York State Office of the Medicaid Inspector General’s (“NYS OMIG”) List of Restricted, Terminated or Excluded Individuals and Entities

NYU Langone Health includes NYU Langone Health System, NYU Langone Hospitals (including all inpatient and ambulatory facilities), NYU 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.

Referring Providers refers to all external providers who have the ability to refer patients to NYU Langone Health. Referring Providers are not members of the NYU Langone Health community for purposes of this Policy.

Vendors means all vendors, contractors, consultants, and agents of NYU Langone Health, and other external parties with which NYU Langone Health does business.

V. Policy

A. General Policy. In compliance with federal and state law, NYU Langone Health will not knowingly employ, contract, or do business with Ineligible Persons, and will terminate any existing employment, medical staff privileges, appointment, association, or business with any Ineligible Persons.

B. Exclusion Screening. NYU Langone Health performs Exclusion screenings on prospective and current members of the NYU Langone Health community, Vendors, and Referring Providers, in order to ensure:

- 1) the identification of any Ineligible Person,
- 2) the prevention or termination of employment, medical staff privileges, appointment, association, or business with NYU Langone Health as appropriate for any Ineligible Person, and
- 3) the fulfillment of any reporting and reimbursement obligations.

C. Reporting Obligations – Existing Business Arrangements. In the event that any person subject to this Policy becomes aware that they or any other such party is an Ineligible Person and/or subject to a temporary or permanent sanction, restriction, and/or debarment from a Federal Health Care Program or government contract, grant, or award program, such person must disclose such fact to NYU Langone Health and its Office of Internal Audit, Compliance, and Enterprise Risk Management (“IACERM”) immediately.

D. Terminating Existing Arrangements. In the event any such Ineligible Person is identified in an Exclusion screening contemplated by Section V.B. or disclosed as contemplated by Section V.C., IACERM will work with the applicable department(s) to review such identification and disclosure and, if such status is confirmed (see Section VIII below), to terminate NYU Langone Health’s association with such Ineligible Persons as provided above. In addition, IACERM will fulfill all reporting and reimbursement obligations to Federal Health Care Programs as required by applicable laws and regulations.

E. Reporting Obligations – New Business Arrangements. All prospective members of the NYU Langone Health community and Vendors are required to report to NYU Langone Health and the applicable department and/or IACERM if he/she/it is an Ineligible Person prior to association with NYU Langone Health. NYU Langone Health will not employ, appoint, associate, or do business with a party who is an Ineligible Person at such time.

F. Contracting Vendors. In addition to the Exclusion screening processes and reporting requirements, NYU Langone Health’s standard contracting terms for most agreements with Vendors include clauses requiring the Vendor to represent that it, its parent(s) or affiliate(s), and the employees working on matters contemplated by the agreement, are not an Ineligible Person. NYU Langone Health will not do business with Vendors unable to make this representation to NYU Langone Health and will terminate agreements with Vendors who breach this representation.

VI. Procedures for Pre-Association Exclusion Screening

Several NYU Langone Health departments are responsible for Exclusion screening prior to onboarding, granting of medical staff privileges, appointment, or other association, including contracting, with the individual or entity. The responsible department is dependent on the type of individual being screened. The pre-association screenings contemplated in this Section VI apply to all individuals or entities seeking employment, contracting, or doing business with NYU Langone Health, regardless of whether they had a previous employment or association with NYU Langone Health.

The departments listed herein, in consultation with IACERM, may modify from time to time the screenings it conducts as needed to ensure compliance with this Policy and any Federal Healthcare Programs and/or government contract or award requirements. As of the date of this Policy, the following details the departments’ responsibility.

- A. The Office of Human Resources and Organizational Development and Learning (“HR”) HR is responsible for Exclusion screenings for all prospective employees, medical staff, residents, fellows, trainees, and non-traditional volunteers of NYU Langone Health. HR

uses a third party vendor to perform Exclusion screenings prior to the start date, granting of medical staff privileges, and/or appointment. HR's screening includes social security number traces, county and state criminal and sex offender registry database searches, and comprehensive checks against the Fraud and Abuse Control Information System ("FACIS"). As part of the FACIS (Level 3) screenings, searches are performed against the Office of Foreign Assets Controls ("OFAC"), NYS OMIG, OIG, SAM, Food and Drug Administration (FDA), and State Attorney Generals' databases, Medicaid task force content, state level or procurement debarment data, and additional sources from all 50 states.

B. Medical Staff Services ("MSS") Office

MSS is responsible for conducting screenings for prospective NYU Langone Health-compensated physicians, certain allied health professionals (Physician Assistants, Nurse Practitioners, and Certified Registered Nurse Anesthetists), and non-compensated medical staff who will have patient care responsibilities prior to appointment and re-appointment to the medical staff. MSS's screening include checks against the New York State Professional databases to verify licensure, the Office of Professional Misconduct, Medicare and Medicaid Opt-Out Lists, the National Plan and Provider Enumeration System National Provider Identifier Registry ("NPI"), the Drug Enforcement Administration's (DEA) Diversion Control databases, and the Social Security Death Master File ("SSDMF"). MSS screens these lists directly and utilizes IACERM's third party vendor for the SSDMF check. MSS's screening is in addition to any applicable HR screening contemplated above.

C. Office of Graduate Medical Education ("GME")

GME is responsible for conducting a limited Exclusion screening for non-NYU Langone Health, non-compensated residents ("in-rotator house staff"). GME screens the OIG list and the NPI registry directly for all in-rotator house staff.

D. NYU School of Medicine Office of Admissions ("Office of Admissions")

The Office of Admissions is responsible for performing Exclusion screenings for all students accepted into NYU School of Medicine prior to their specific program acceptance. The Office of Admissions screens such prospective students against the SAM database, social security number traces, and federal, national, state, and county criminal background and sex offender registry screenings. The Office of Admission provides results from the screening to the clerkship programs prior to the medical students beginning their clinical rotation.

E. The Office of Patient Experience ("Patient Experience")

Patient Experience is responsible for performing Exclusion screenings for traditional volunteers. Patient Experience utilizes HR's third party vendor for these screenings, which include social security number traces, county and state criminal and sex offender registry database searches, and comprehensive checks against FACIS as noted in the HR section above.

F. Supplier Onboarding Team (“SOT”)

The SOT is part of the Finance Data Governance Department and is responsible for reviewing all paper and electronic supplier onboarding requests for Vendors, including but not limited to those received from Supply Chain Management (“SCM”), Medical Center Information Technology (“MCIT”), and Real Estate Development and Facilities (“RED&F”), and for performing the Exclusion screenings for such Vendors. The SOT screens the OIG’s LEIE and OFAC databases directly before onboarding suppliers, vendors, and payees into the PeopleSoft Financials system.

G. SCM

SCM staff, such as buyers and sourcing specialists, are responsible for screening the SAM and OIG databases directly for all prospective Vendors who wish to conduct business with NYU Langone Health as part of the Vendor onboarding process in which SCM negotiates the contract. SCM provides screening documentation to the SOT when submitting a request to onboard a prospective Vendor. For prospective Vendors whose individuals (e.g., employees) will be working on-site at NYU Langone Health, SCM is responsible for ensuring that the prospective Vendor is registered in the Vendor credentialing system and all its individuals who are working at NYU Langone Health are processed through a more comprehensive checklist that includes Exclusion screenings as referenced above.

H. Ad Hoc Screening by IACERM, SCM, MCIT, RED+F, and Others

Departments may also contact IACERM directly to perform an Exclusion screening. Certain SCM, MCIT, and RED+F staff have access to IACERM’s third party vendor screening and, at their discretion, may directly conduct an ad hoc screening of a prospective Vendor or other party during the negotiation and contracting process as appropriate.

VII. Procedures for Post-Association Exclusion Screening

IACERM is generally responsible for Exclusion screenings after onboarding, granting of medical staff privileges, appointment, or other association, including contracting, with the individual or entity. IACERM utilizes a third party vendor to conduct these Exclusion screenings against designated federal and state Exclusion Lists and databases for all current members of the NYU Langone Health community, Vendors, and Referring Providers. IACERM may modify from time to time the screenings it conducts as needed to ensure compliance with this Policy and any Federal Healthcare Programs and/or government contract or award requirements.

Most ongoing screenings are conducted on a monthly basis; however IACERM also conducts other checks (e.g., in-rotator house staff) and additional ad hoc screenings upon need or request.

As part of IACERM’s screening processes, IACERM’s third party vendor reviews any potential match and eliminates the match using pre-defined clearing rules, which include utilizing other data elements such as name, date of birth, social security number, or other unique identifier. If any of these data elements are inconsistent with the Ineligible Person listed on the Exclusion List, the individual or entity is not a confirmed match as an Ineligible Person. If an individual or entity cannot be cleared by IACERM’s third party vendor, the potential match is escalated to

IACERM for additional investigation. If a match is confirmed, IACERM addresses the matter as outlined in this Policy in accordance with the procedures outlined in Section VIII below.

As noted in Section VI. B. above, MSS also conducts certain Exclusion checks, including checks against the SSDMF, prior to re-appointment to the medical staff.

VIII. Procedures for Identified Ineligible Persons

A. Pre-Association

- 1) During the preliminary Exclusion screenings process contemplated by Section VI above, if a prospective member of the NYU Langone Health community is identified as an Ineligible Person, offers of employment, medical staff privileges, appointment, or other association, including contractual obligations, must be withdrawn and will not be reinstated unless to HR's and IACERM's full satisfaction:
 - a. the Ineligible Person provides satisfactory evidence to HR, IACERM, and the designated responsible department (as applicable) indicating the Ineligible Person is not the individual who appears on the Exclusion List, or
 - b. the Ineligible Person provides satisfactory proof of reinstatement for participation in Federal Health Care Programs or eligibility to receive government contracts or awards and HR, *and* the designated responsible department confirms the authenticity of the reinstatement and removal of the Ineligible Person from the Exclusion List.

Any reinstatement of an offer is at NYU Langone Health's discretion. NYU Langone Health is under no obligation to reinstate any offer of employment, medical staff privileges, appointment, or other association withdrawn pursuant to this sub-section.

- 2) If a prospective Vendor is determined to be an Ineligible Person, neither NYU Langone Health nor any entity, department, or division thereof enter into any contract or agreement with the prospective Vendor until the prospective Vendor can demonstrate to NYU Langone Health's satisfaction that it is no longer an Ineligible Person, is fully reinstated and able to participate in a Federal Health Care Program, and is eligible to receive government contracts or awards. Additional validation will be performed by SCM and/or IACERM to confirm the authenticity of the reinstatement or eligibility in these instances. NYU Langone Health is under no obligation to enter into any arrangement with a prospective Vendor determined to have been an Ineligible Person, even if reinstated as provided in this sub-section.

B. Post-Association

- 1) In the event any Ineligible Person is identified and confirmed among members of the NYU Langone Health community, IACERM and the appropriate department(s) will work promptly to terminate the employment, medical staff privileges, appointment, or other association with NYU Langone Health of such Ineligible Person.

IACERM will also notify the following, dependent on the type of individual involved:

- a. Employees, residents, fellows, trainees, medical students, traditional and non-traditional volunteers – the Senior Vice President, Vice Dean of HR, or designee, and other appropriate leadership, such as GME, Faculty Group Practice, Office of Admissions, and the Office of Science and Research.
 - b. Medical Staff – MSS staff, via a monthly memo which notes any physician who is an Ineligible Person (as an additional step to ensure that MSS does not provide privileges to or reinstate an Ineligible Person.)
- 2) In the event any Ineligible Person is identified and confirmed among Referring Providers, IACERM will deactivate the individual as an approved Referring Provider in the NYU Langone Health electronic medical record system. IACERM will also notify the Referring Provider of such deactivation and non-acceptance of referrals.
 - 3) In the event any Ineligible Person is identified and confirmed among Vendors, IACERM will notify SCM and/or the contracting department(s) and they will work promptly to terminate the Ineligible Person and or the engagement of such Vendor as promptly as is permitted and appropriate in the applicable contracts with the Vendor.

IX. Policy Enforcement

- A. Any member of the NYU Langone Health community or Referring Provider who is determined to be an Ineligible Person is subject to disciplinary action, up to and including termination of employment or association with NYU Langone Health, as provided in this Policy.
- B. Violations of this Policy are 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 procedure applicable to the individual in question.

X. Administration

- A. Questions. Any questions relating to this Policy should be directed to NYU Langone Health's Vice President, IACERM (the Compliance Officer).
- B. Record Retention. Documentation related to initial, ongoing, or ad hoc Exclusion screenings for members of the NYU Langone Health community, Vendors, and Referring Providers must be maintained by the applicable screening department (e.g., Human Resources and IACERM) in accordance with applicable law, NYU Langone Health's Record Retention Policy, and any additional requirements of the maintaining department.

XI. Related Policies and Documents

Code of Conduct
Compliance Concerns: Reporting, Investigating and Protection from Retaliation Policy
Corporate Compliance Program

XII. Legal Authority/References

Health Care Programs: Fraud and Abuse; Revisions to the Inspector General’s Exclusion Authorities, 42 CFR Parts 1000, 1001, 1002 and 1006
Exclusion of Certain Individuals and Entities from Participation in Medicare and State Health Care Programs, 42 USC 1320a-7
Executive Order 12549, 51 F.R. 6370, February 18, 1986, Debarment and Suspension
OIG Model Compliance Program Guidance for Hospitals, 63 FR 8987-8998, February 23, 1998.
OIG Supplemental Compliance Program Guidance for Hospitals, 70 FR 4858-4875, January 31, 2005
OMB Guidelines to Agencies on Government-wide Debarment and Suspension (Nonprocurement), 42 CFR 180, November 15, 2006
Updated Special Advisory Bulletin, “The Effect of Exclusion from Participation in Federal Health Care Programs,” May 2013

XIII. Version History

December 23, 2005	Original Policy
June 18, 2018	Reviewed and Revised