
NYU MEDICAL CENTER
NYU HOSPITALS CENTER
NYU SCHOOL OF MEDICINE

ADMINISTRATIVE POLICY AND PROCEDURE MANUAL

**TITLE: ACCEPTANCE AND/OR SOLICITATION OF GIFTS OR BENEFITS
FROM VENDORS, PATIENTS AND OTHERS**

REISSUED: December 1, 2006

Summary: No Hospital or School employee, faculty member or student may accept a gift or benefit from vendors, patients or others given because of the individual's association with the Medical Center and intended for the individual's personal use. A Medical Center officer or trustee may accept a gift, donation or other benefit for the Medical Center's academic, educational, research and/or patient care activities in accordance with the limitations stated in this Policy. This Policy is not intended to prohibit the exchange of holiday gifts among employees.

I. Policy

It is the policy of NYU Hospitals Center and the NYU School of Medicine (collectively, the "Medical Center") that Medical Center Individuals (defined below) may not accept or solicit from a vendor or patient a gift or benefit given as a result of Individual's position or association with the Medical Center and intended for the Individual's personal use.

The purpose of this policy is to provide guidance regarding appropriate practices for the acceptance and solicitation of gifts or benefits from vendors, patients and others in order to ensure compliance with all applicable federal and state laws and the Medical Center's Code of Conduct.

II. Background and Rationale

Relationships and transactions between academic medical institutions and industry are common and often complex. While offers of "free" goods, gifts, benefits, donations, honoraria, travel expenses or grants for teaching or research programs frequently serve an important and socially beneficial function, they may, in some circumstances, violate the federal Anti-Kickback Statute and similar New York state laws.

The federal Anti-Kickback Statute prohibits the knowing and willful solicitation or receipt, offer or payment, overtly or covertly, directly or indirectly, of any remuneration (anything of value) in cash or in kind in return for patient, product, or service referrals, or to induce such referrals. This prohibition extends to any purchasing, leasing, ordering, arranging for or

recommending any purchasing, leasing or ordering of any goods and services. The statute has been interpreted to mean that if even one purpose of the transaction is to induce referrals or an advantage for the person offering the remuneration, it is a violation of the statute even if it is not the sole purpose of the transaction.

As a violation of the federal and state anti-kickback laws may result in significant fines, imprisonment and exclusion from federal and state reimbursement programs for both the vendor and the recipient, it is imperative that you distinguish between appropriate and inappropriate practices and seek guidance if you are uncertain about the propriety of a particular situation.

II. Definitions

1. **"Gifts" or "Benefits"** are things of value, such as cash, checks, stock, subsidies, real property (including interests therein), meals, promotional items (including office products with the vendor's logo), goods, donations, honoraria, favors, prizes, offers of employment or business relationships, or anything reasonably regarded as providing a financial gain or advantage to either the recipient or his/her close family member.
2. **"Medical Center Individual" or "Individual"** means any Hospital and/or School trustee, officer, employee, faculty member (whether full- or part-time) and student.
3. **"Vendor"** means any individual or company that currently sells goods and/or services to, or seeks to do business with, the Medical Center.

A. Acceptance of Gifts and Benefits

1. Medical Center Individuals

A Medical Center Individual may not accept a gift or benefit from a vendor, patient or others given because of the Individual's association with the Medical Center and intended for the Individual's personal use.

2. Gifts to a Patient Unit

The director of a patient unit may accept a gift from a patient or a patient's family provided that the gift is of modest value and can be shared with all members of the unit, e.g., a basket of fruit or flowers. Under no circumstances may cash or cash equivalents (e.g., gift certificates) be accepted.

3. Solicitations for Fund Raising Events

Vendors may be solicited for gifts and donations to the Medical Center so long as the solicitation: (i) is for a charitable, academic or educational event organized, sponsored or approved by the Medical Center's Development Office; (ii) is made to all vendors in the community and not limited to those currently doing, or seeking to do, business with the

Medical Center; and (iii) clearly indicates that an affirmative or negative response will not factor into the vendor selection determination.

4. Gifts/Grants to Support Research or Education

Gifts from vendors to support research or education may be accepted by a Medical Center officer or trustee only if: (i) the gift is accompanied with the vendor's certification that the gift is given to support Medical Center research or education and is not intended to influence purchasing decisions or research outcomes and (ii) it is approved by the Vice President or Dean/Vice Dean designee with responsibility for the supported research or educational activity. This policy does not prohibit grants from, or contracts with, vendors for research or clinical trials under a formal agreement executed through the Office of Clinical Trials or Sponsored Research Administration.

5. Gifts to Underwrite Educational Conferences and Seminars at the Medical Center

A Medical Center officer or trustee may accept an offer from a vendor to underwrite or subsidize the costs of an educational conference, meeting or seminar so long as: (a) the subsidy is paid directly to the Medical Center (either the applicable department or, with respect to faculty, the Office of Continuing Graduate Medical Education) and (ii) the Medical Center retains responsibility for and control over the selection of content, faculty, education methods, ownership of the materials and Medical Center attendees. In no event should a subsidy ever be paid directly to a faculty member, student or employee involved with the conference, meeting or seminar.

6. Gifts for Conference Travel, Lodging or Meal Expenses

Gifts or donations to a special educational or scholarship fund established to underwrite attendance by students, residents, and fellows at educational conferences or research may be accepted by a Medical Center officer so long as: (i) the selection of individuals who will receive proceeds from the fund is made by Medical Center personnel; (ii) the conference or meeting meets the definition of appropriate; and (iii) the donation or gift is approved by the Vice President/Dean/Vice Dean designee with responsibility for the supported research or educational activity. For purposes of this policy, "appropriate" means educational, scientific or policy-making meetings or conferences of national, regional or specialty medical associations or courses given by visiting professors or faculty recognized as experts in their field; conferences or meetings which deal solely with the vendor's product(s) or services are not appropriate. This policy is not intended to discourage attendance at conferences or meetings that focus on a vendor's products or services, only to prohibit the acceptance of gifts or benefits in connection with attending such conferences or meetings.

- a. Medical Center Individuals may not accept vendor invitations to entertainment events, vacation resorts, etc. that serve no bona fide academic or educational purpose.

- b. Medical Center Individuals may accept reasonable honoraria and reimbursement for travel, lodging and meal expenses to attend conferences or meetings only if the individual lectures, makes a presentation, moderates or participates in a panel or otherwise performs a substantive educational role. If the individual's role at a conference is solely as an attendee, he/she may not accept either honoraria or reimbursement for travel, lodging and meal expenses.
- c. Medical Center Individuals may accept reimbursement for travel, lodging and meal expenses to attend conferences or meetings where they act as consultants or participate in panels regarding research issues (e.g., development of new clinical trial protocols or review of clinical trial research results or requirements for future trials).
- d. Medical Center Individuals may not accept payment or reimbursement for travel, lodging and meal expenses to attend a vendor's factory or offices to view equipment or products the Medical Center is considering purchasing.

It is impossible to enumerate every circumstance where acceptance of reimbursement from a vendor is appropriate or not appropriate, as there are often situations that are equally beneficial to the vendor and the Medical Center (e.g., vendor-organized focus groups that evaluate the vendor's product may lead to improvements in the product which will, in turn, ultimately benefit the Medical Center). If there is any question the situation should be discussed with the individual's Vice President/Dean/Vice Dean designee.

- 7. The following are examples where the acceptance of gifts or benefits is not permitted:
 - a. A grant to study a product which requires little or no actual scientific pursuit (e.g., the only work required by the Medical Center researcher is minimal record-keeping tasks);
 - b. A gift offered in return for prescribing or advocating the vendor's products or services; and
 - c. A gift offered in exchange for performing marketing tasks in the course of practicing medicine or providing research and development services (e.g., completing the vendor's evaluation form after using the vendor's product).
- 8. This policy is not intended to prohibit gift-giving between employees or among people who have independent personal relationships so long as the gift is not intended to influence nor perceived as influencing the status or compensation of the gift giver.

B. Review of Vendor Offers or Invitations

Any Medical Center Individual who receives an invitation or offer of a gift from a vendor or a patient or patient's family should disclose the situation, in writing, to his/her supervisor. If the supervisor determines that the invitation or offer should be declined, the supervisor's

decision may be appealed to the responsible Vice President/Dean/Vice Dean. If the supervisor has any doubts, he/she should confer with the Office of Compliance.

III. Violations

Violations of this policy are subject to disciplinary action in accordance with Medical Center disciplinary policies.

Adopted: 3/29/05