



Stony Brook Medicine

Administrative Policy and Procedures

Subject: LD0038 Policy and Procedure for an Employee Responding to Governmental Investigations	Published Date: 05/24/2021
Leadership	Next Review Date: 01/28/2023
Scope: SBM Stony Brook Campus	Original Creation Date: 06/04/2001

Printed copies are for reference only. Please refer to the electronic copy for the latest version.

Responsible Department/Division/Committee:

Office of Compliance and Audit Services

Policy:

Stony Brook University Hospital and its campuses (collectively "SBUH") are committed to comply with the law and to cooperate during the course of a governmental investigation or inquiry. Hospital Representatives who receive information indicating that a government investigation of SBUH operations is underway must preserve all potentially relevant records and suspend routine document destruction and electronic record deletion practices including the deletion of e-mails until the investigation is completed and closed.

Definitions:

Hospital Representative - Employees; volunteers; trainees; medical staff members, including state, research foundation, professional employer organization, personnel employed through contracted agencies; the governing body; contracted or subcontracted agents; vendors or consultants who furnish products or services on behalf of SBUH; and other individuals affiliated with SBUH regardless of whether the individual is paid by SBUH.

Government Investigator – a representative of any federal, state or local government or regulatory agency that has jurisdiction to investigate SBUH for any reason.

Procedures:

- I. RESPONDING TO AN INVESTIGATOR’S REQUEST TO ANSWER QUESTIONS:
 1. A government investigator may attempt to interview a Hospital Representative regarding SBUH operations at the workplace or at home without prior notice. Hospital Representatives have certain rights when an investigator appears at work or home. Before answering any questions identify the agent by requesting identification and a business card and ask for the reason for the request. If the person does not have a business card, write down the person’s name and agency he/she represents.
 2. The Hospital Representative may ask questions to determine why the investigator wishes to speak to him/her.
 3. After obtaining this information, the Hospital Representative may set up an appointment to speak with the investigator at a later date and time (this applies whether the investigator contacts the Hospital Representative at home or at work). A Hospital Representative may speak with an investigator at any time, but an investigator cannot force consent to an interview on the spot. Further, a Hospital Representative has the right to request counsel’s presence during an interview.
 4. Once the Hospital Representative makes some or all of the above inquiries, they must immediately contact the Office of General Counsel. If unable to reach General Counsel, contact the Chief Compliance Officer (CCO) or the Administrator on Duty (AOD) who will proceed to contact counsel. If the government investigator is from the New York State and/or Suffolk County Department of Health, follow the same protocol, but also promptly notify the Chief of Regulatory Affairs (CRA). General Counsel or AOD will notify other senior leaders as appropriate.
 5. If a Hospital Representative decides to speak with an investigator:
 - a. The Hospital Representative must be truthful.
 - b. The Hospital Representative has the right to have a witness present during the interview, including personal or General Counsel.

- c. The Hospital Representative may take notes during an interview, and may record the names, titles, telephone numbers and addresses of individuals present.
- d. The Hospital Representative may terminate the interview at any time and/or seek counsel if not already present.

II. RESPONDING TO A SEARCH WARRANT

1. Validate the identity of the agent serving the search warrant (see I.1).
2. Ask to see the legal documentation requesting the search (search warrant and supporting affidavit, in some cases, affidavit may be sealed). Ask to make a copy of the documentation.
3. Contact General Counsel and/or the CCO. If neither is available, contact the ADN on duty.
4. Read the search warrant to determine if it specifies a time-period and scope for the search. A valid search warrant gives the government agent the right to conduct the search. Do not obstruct the search. However, if the agent searches beyond the scope of the warrant, the Hospital Representative may verbally object. The agent may interpret silence as consent.
5. A Hospital Representative should be assigned as a point person to follow the agent during the search and must document all observations.
6. Ask the agent(s) for a copy of their inventory list of seized items and obtain permission from the agent to make a copy of all seized documents.
7. Be cooperative and never obstruct the search.

III. EXAMPLES OF GOVERNMENT REQUESTS THAT ARE RECEIVED IN WRITING

1. Any Office of Inspector General requests received from any federal agency (e.g., Center for Medicare and Medicaid Services, National Institute of Health).
2. Standard government audits (e.g., the Department of Health, the U.S. Department of Health and Human Services, the Fraud Unit of any government payer).
3. Any governmental communication alleging regulatory non-compliance

(e.g., the Internal Revenue Service, a Department of Transportation notice regarding the improper disposal of medical waste, questionnaires from any fraud and abuse division of any governmental agency).

IV. COORDINATION OF THE INVESTIGATION/AUDIT PROCESS

1. Upon commencement of an audit or investigation, General Counsel and/or the CCO must assign a point person to coordinate and assist in the response and take responsibility for the oversight of the investigation/audit activities. This individual(s) works collaboratively with SBUH Operational staff, Finance, General Counsel and the Office of Compliance and Audit Services.
2. The point person is responsible to assemble a team of appropriate individuals to respond to the investigation/audit.
3. After completion of the investigation/audit, the point person must:
 - a. Prepare an analytical summary of their findings outlining all significant facts, observations, lessons learned and issues identified as well as a corrective action plan: and
 - b. Share the summary with SBUH General Counsel as applicable and the CCO.
4. The response team must conduct a post review to ensure any needed corrective action takes place.

Forms: (Ctrl-Click form name to view)

None

Policy Cross Reference: (Ctrl-Click policy name to view)

[LD0039 Corporate Compliance Code of Conduct](#)

[LD0068 Acceptance of Legal Papers](#)

Relevant Standards/Codes/Rules/Regulations/Statutes:

None

References and Resources:

None