


WCM Administrative Policy and Procedure		
 Weill Cornell Medicine	Policy Title	Antitrust Compliance
	Policy Number	OGC-110.01
	Department/Office	Office of General Counsel
	Effective Date	December 17, 2021
	Last Reviewed	December 17, 2021
	Approved By	Office of General Counsel; Provost for Medical Affairs and Dean of the Medical College
	Approval Date	August, 21, 2024

Purpose

The purpose of this policy is to ensure Weill Cornell Medicine (WCM) complies with Antitrust laws and avoids practices that create unlawful restraints and monopolies or amount to unfair business practices.

Policy

Weill Cornell Medicine (WCM) is committed to complying with all applicable Antitrust laws at both the state and federal level, including the federal Sherman Act, the federal Clayton Act, the Federal Trade Commission Act, New York State's Donnelly Act, and other laws. Many other countries also have laws concerning competition.

WCM expects all employees, including members of the administration, faculty members, and staff, to familiarize themselves with these guidelines, to comply with all applicable antitrust laws, and to consult with the Office of General Counsel (OGC) if there are any questions about whether a practice may implicate any Antitrust laws. The Antitrust laws are intended to promote market-based competition for goods and services, including in markets for healthcare products and services, in the tuition and fees charged for higher education and any financial aid offered or provided to students, and in the salaries paid to faculty members and staff at colleges and universities.

The Antitrust laws prohibit certain agreements between or among Competitors that may eliminate or reduce competition, such as price-fixing agreements, market-allocation agreements, agreements to boycott Competitors, bid-rigging agreements, and "no-poach" agreements between or among employers. The Antitrust laws apply not only to formal written contracts, but also to informal understandings and arrangements entered into between or among Competitors. For example, so-called "gentlemen's agreements", informal dinner party discussions, agreements or arrangements made orally or by email or text, and similar informal agreements or arrangements may implicate the Antitrust laws even if such agreements or arrangements are not reduced to a formal written contract. The Antitrust laws may also be implicated when competitively sensitive information is shared with a Competitor, even if an actual agreement is not entered into.

The Antitrust laws apply not just to for-profit businesses, but also to colleges, universities, medical providers, and not-for-profit institutions. Violations of the Antitrust laws can carry substantial penalties, including civil and criminal monetary fines and damages awards. Significant Antitrust violations may also result in the imprisonment of individuals found to be involved in wrongdoing.

Scope

This policy applies to all WCM employees, including members of the administration, faculty members, and staff.

Definitions

Competitor - The term “Competitor” as used in this policy should be construed broadly. There are many businesses and other entities and institutions that could constitute Competitors of WCM under the Antitrust laws. Organizations engaged in the same or similar activities as WCM may be considered Competitors. For example, the following entities, institutions or businesses may be considered a Competitor of WCM: those engaged in research, higher education or clinical practice; those that compete to hire or retain employees; those that compete to recruit and matriculate students; and those that compete for research grants or funding.

Procedure

A. Prohibited Agreements

WCM employees are prohibited from engaging in unlawful agreements, discussions or information-sharing with Competitors that violate applicable Antitrust laws. The term “Competitor” as used in this policy is defined below and should be construed broadly.

The Antitrust laws generally prohibit agreements or coordination between or among Competitors regarding how they will compete or not compete in a market. The following types of agreements with Competitors are prohibited:

- a) Agreements to set the prices or terms upon which products or services are purchased, sold, offered, or provided, including agreements concerning rebates, pricing methods, or any other matters relating to or affecting prices or the other terms upon which products or services are purchased, sold, offered, or provided;
- b) Agreements to boycott or refuse to deal with a particular person or business, such as a vendor or other provider of goods or services;
- c) Bid-rigging agreements (i.e., where competitive bidders coordinate in responding to bid requests);
- d) No-poach agreements (i.e., where Competitors agree not to hire or recruit each other’s employees or students);
- e) Wage-fixing agreements to fix wage or employee benefit levels or other agreements regarding any terms of employment; and
- f) Agreements to maintain current tuitions, fees, or other charges, or to modify them in any particular way.

B. Prohibited Discussions and Information-Sharing

Sharing certain information with Competitors may also implicate the Antitrust laws. WCM administrators, faculty and staff should avoid any discussions or information-sharing with Competitors concerning any competitively sensitive topics, including:

- a) Past, present, or future prices of products or services;
- b) The terms on which WCM or any Competitor does business or provides services, or intends to do business or provide services;
- c) The selection of suppliers or vendors for goods or services;
- d) Compensation or benefits of any faculty members or other employees of WCM, including current or future salaries, wages, or levels or ranges of salaries or wages;

- e) Plans or projections regarding future tuition or fees before they have been approved and publicly announced;
- f) How WCM will compete for students, including how students will be admitted or recruited;
- g) Financial aid offered or to be offered to particular prospective students; or
- h) Any other nonpublic information regarding tuition, fees, or financial aid.

WCM permits information to be shared for purposes of (i) responding to surveys and (ii) joint research, so long as, the guidelines below are adhered to.

C. Surveys

a. Responding to Surveys

If certain precautions are taken, information may also be shared in response to surveys concerning tuition, salaries, financial aid, and other subjects of interest to colleges, universities, or health care providers, without implicating the antitrust laws. The following guidelines should be followed when participating in such surveys:

1. The survey should be conducted by a third party rather than a Competitor such as another medical college or research institution;
2. At least five comparably-sized institutions should participate in the survey, with no participant accounting for more than 25 percent (on a weighted basis) of the reported statistic;
3. The data provided should be aggregated prior to disclosure; and
4. Any price, cost, or wage information provided should be at least three months old.

Only representatives of WCM authorized by the Dean or by members of the Dean's Leadership Council may respond to surveys seeking information regarding prices, tuition, fees, salaries, or other similar subjects. Individual employees may not participate in such surveys. Before responding to any surveys seeking information concerning prices, tuition, fees, salaries, or other similar subjects, representatives of WCM should consult the OGC.

b. Joint Research

WCM participates in partnerships or collaborations with several other institutions, and physicians, researchers, and others at WCM collaborate on research activities or scholarly endeavors with individuals at other institutions. While the antitrust laws generally do not prohibit such joint research efforts or scholarly collaborations, they do prohibit entering into agreements that eliminate or reduce competition in markets for goods and services. Another institution or employer may constitute a Competitor of WCM under the antitrust laws even if the institution participates in scholarly or research collaborations with WCM.

Compliance with this Policy

All WCM employees, including members of the administration, faculty members, and staff, are expected to comply with this policy and report any suspected, alleged, or actual violations of this Policy or the Antitrust laws through normal lines of communication to supervisors, department leaders or Deans. Failure to comply will be evaluated on a case-by-case basis and could lead to corrective action, up to and including termination, consistent with other relevant WCM and university policies. Instances of non-compliance that potentially involve a lapse of professionalism may lead to engagement of the Office of Professionalism for evaluation and intervention. Reports may also be made to the Office of General Counsel, Office of Compliance or to the University Ethics Hotline. No employee may be retaliated against for making a report in good faith, and any actual or threatened retaliation should be reported promptly to the University Ethics Hotline.

Contact Information

The Office of General Counsel is available to advise on any questions concerning compliance with this Policy or the Antitrust laws generally. Please reach out to the Office of General Counsel by calling (212) 746-0463 or by reaching out to the attorneys or staff listed for Weill Cornell Medicine at counsel.cornell.edu/contact-us.

To file an Anonymous Report, please contact the Cornell University Ethics Hotline at the following:

- Website: www.hotline.cornell.edu
- Phone Number: 866-293-3077

WCM Office of Compliance

- Website: compliance.weill.cornell.edu
- Telephone: (646) 962-6930
- Email: Compliance@med.cornell.edu

WCM Office of Professionalism

- Phone Number: 646-962-8791
- Email: OOP@med.cornell.edu

References

15 U.S.C. §§1-7 (Sherman Act)

15 U.S.C. §§12-27; 29 U.S.C. §§ 52-53 (Clayton Act)

15 U.S.C. §§41-58 (Federal Trade Commission Act)

NY CLS Gen Bus §340-347 (New York State's Donnelly Act)

NYLL §194-a(1) (New York Labor Law)

NYC Admin. Code §8-107(25) (NYC Administrative Code, Unlawful Discriminatory Practices)

Cornell University Policy 4.6 – Standards of Ethical Conduct

WCM Policy OOP-100.01 – Policy on Professionalism

Policy Approval

This policy was approved by the Office of General Counsel and Provost for Medical Affairs and Dean of the Medical College.

Version History

Date	Author	Revisions
12/17/2021	Office of General Counsel	Original date of issue. Compliance and Privacy Office Policy 1.02 – "Antitrust Compliance. Policy"
08/21/2024	Office of General Counsel	Transfer to new policy template. Transferred policy ownership to Office of General Counsel. Assigned new policy number, "OGC-110.01."