



New Jersey Institute of Technology  
University Policies and Procedures

Number: GC: H-001  
Date of Issue: July 2014

*Subject: HIPAA – Hybrid Entity Policy; Designation of NJIT as a Hybrid Entity*

**A. OVERVIEW**

NJIT is a single legal entity comprised of separate departments, units, services some of which provide “covered functions” as “health care components” of NJIT, as these terms are defined below.

**B. PURPOSE**

To define NJIT as one legal entity, specifically a hybrid entity, and identify NJIT’s health care components, in accordance with the privacy and security regulations (the “Privacy and Security Standards”) promulgated pursuant to the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) and the Health Information Technology for Economic and Clinical Health Act of 2009 (the “HITECH Act”). This Hybrid Entity Policy specifically addresses the requirements of 45 C.F.R. §§ 164.103 and 164.105.

**C. DEFINITIONS**

Covered Function	Those functions of a covered entity the performance of which makes the entity, a health plan, health care provider, or health care clearinghouse.
Health Care Component	A component or combination of components of a hybrid entity designated by the hybrid entity in accordance with 45 C.F.R. 164.105(a)(2)(iii)(C).
Hybrid Entity	A single legal entity whose business activities include both covered and non-covered functions that designates its health care components, documents the designation and establishes appropriate firewalls in accordance with HIPAA between covered and non-covered functions.

**D. AUTHORITY AND RESPONSIBILITIES**

1. **HIPAA Background:** A legal entity that performs both covered and non-covered functions may designate itself as a hybrid entity under HIPAA. A hybrid entity may exclude from its covered entity status the following non-covered functions:

- (a) non- health care components of the organization (e.g., the university's academic programs), and/or (b) health care components of the facility that do not engage in electronic transactions (e.g., a clinic that provides health care services but does not bill for its services). All covered health care components of the designating legal entity must comply with HIPAA.
2. A hybrid entity also may include a non-covered health care provider in its health care component, but if it does so, such non-covered health care component must comply with HIPAA. Additionally, a hybrid entity has the discretion as to whether or not to include business associate-like divisions within the health care component.
  3. A hybrid entity must designate as part of its covered functions any component that would meet the definition of a covered entity if it were a separate legal entity. For example, a health clinic that performs covered functions and that conducts covered transactions electronically (e.g., electronic claim submission) must be designated as a health care component of the facility, and will be subject to the Privacy and Security Standards.
  4. NJIT has designated itself a hybrid entity in accordance with 45 C.F.R. §§ 164.103 and 164.105.

#### **E. PROCEDURES TO IMPLEMENT**

1. Since the primary function of NJIT does not involve the provision of health care, NJIT has determined that it performs both covered functions and non-covered functions.
2. By the adoption and implementation of this policy, NJIT designates itself as a hybrid entity.
3. Attachment A – Lists the NJIT health care components, including business associate-like division(s) that are designated as part of the health care component.
4. Attachment A - Designating NJIT health care components shall be retained for at least six (6) years following any decision to terminate any division or department from the health care components. Designations should be retained indefinitely for on-going health care components.
5. Hybrid Entity Safeguard Requirements: As a covered entity that is a hybrid entity, NJIT must ensure that a health care component of the entity complies with the applicable requirements of HIPAA. Firewalls must be implemented between health care functions and non- health care functions. NJIT shall operationally segregate

all non-covered functions from the covered functions. In particular, NJIT will ensure that:

- (a) Each health care component does not disclose PHI to another (non-health care) component of the covered entity in circumstances in which HIPAA would prohibit such disclosure if the health care component
- (b) Business associate-like departments or divisions designated as part of the health care component:
  - i. Do not use or disclose PHI that it creates or receives from or on behalf of the health care component in a way that is prohibited by HIPAA's Privacy Standards; and
  - ii. Comply with the HIPAA Security Standards.
- (c) Where possible, staff and office space should be segregated between covered and non-covered functions.
- (d) If a person performs duties for both the health care component in the capacity of a member of the workforce of such component and for another component of the entity in the same capacity with respect to that component, such workforce member must not use or disclose PHI created or received in the course of or incident to the workforce member's work for the health care component in a way prohibited by the HIPAA Privacy and Security Standards.

## **Attachment A**

### **NJIT Health Care Component Designation**

The following clinics, departments and programs are considered health care components of NJIT:

1. NJIT's Student Health Services.
2. NJIT's Group Health Plan.
3. NJIT's Athletic Training Department.
4. Center of Building Knowledge.
5. Center of Pre-College Programs.
6. NJ HI-TEC.
7. The Office of Human Resources, to the extent that it performs covered functions as the administrator of the State Health Benefits Plan made available to employees, and employs the University's HIPAA Privacy Officer.
8. The Office of General Counsel, which performs covered functions with regard to legal and compliance services to covered or hybrid entities that are required to comply with HIPAA, and may be required to have access to HIPAA Protected Information in carrying out such functions.
9. The Internal Audit Office, which provides audit compliance services to NJIT and its HIPAA covered and/or hybrid entities that require access to HIPAA Protected Health Information.
10. The Office of Information Technology Services, to the extent that it performs covered functions as the administrator of the university's computing systems as a hybrid entity, and may be required to have access to HIPAA Protection Information in carrying out such functions.

**REVIEW:**

Holly C. Stein 7/23/14  
General Counsel Date

[Signature] 7/24/14  
President Date

**APPROVAL:**

Fred Rinehart 7/23/2014  
Provost and Senior Executive Vice President Date

[Signature] Date  
Senior Vice President for Administration and Treasurer

[Signature] Date  
Vice President for Human Resources

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Vice President Academic Support and Student Affairs