

DISQUALIFIED PERSON STATUS CHECKLIST

Name of Individual/Entity: _____

Hospital/Affiliate: _____

Completed by: _____ Date: _____, 20__

(Sign on page 2 along with the Individual covered by this Checklist)

*The purpose of this checklist is to determine whether or not a particular party may be a disqualified person ("DP") or is a deemed DP under Section 4958 of the Internal Revenue Code (other than for donor advised funds, to which additional factors apply under Section 4958). Indicate which of the following factors are true of one or more other parties to the transaction under review vis a vis the Exempt Organization ("EO") party, either now or within the past five years. It may be necessary to complete a checklist for the other parties' individual investors and investor groups. These factors are based primarily on the Section 4958 regulations regarding disqualified person status (26 C.F.R. § 53.4958-3), the initial contract exception (26 C.F.R. § 53.4958-4(a)(3), see also *United Cancer Council v. Commissioner*, 165 F.3d 1173 (7th Cir. 1999)), and the conflict of interest safe harbors (26 C.F.R. § 53.4958-6(c)(1)(iii)), supplemented with factors identified in IRS private letter rulings and denial letters. Section 4958(f)(1)(D), a 501(c)(3) organization may be a DP if it is a 509(a)(3) supporting organization. Also, pursuant to the regulations, (a) other 501(c)(3) organizations are not DPs, and (b) a 501(c)(4) organization currently is not a DP as to another 501(c)(4) but may be a DP as to a 501(c)(3) organization. See 26 C.F.R. § 53.4958-3(d)(1) & (2). Note that both individuals and entities may be disqualified persons. For purposes of what is a substantial portion of revenues, staff, etc., this checklist assumes a 15% threshold (see *Seasongood v. Commissioner*, 227 F.2d 907 (6th Cir. 1955); *Haswell v. U.S.*, 500 F.2d 1133 (Ct. Cl. 1974)); however, the IRS and courts have not defined "substantial" for this purpose.*

"Deemed DP" if within past 5 years (Check all that apply to Individual or a Family Member):

___ Voting director of EO	___ Family member of individual DP ¹
___ President, CEO or COO of EO	___ Material financial interest in EO's PSO ²
___ Treasurer or CFO of EO	___ 35% control (vote or equity) by deemed DPs/family

May be a DP if the individual or entity is/was within the past 5 years (Check all that apply to Individual or a Family Member – continued on p. 2):³

___ Voting director of affiliate	___ Founder of EO or affiliate
___ Appoints any EO/affiliate directors	___ Substantial creditor of EO/affiliate
___ Committee member of EO/affiliate	___ Substantial Contributor (\$5,000 + >2% of total gifts)
___ Officer of EO/affiliate	___ Medical Director
___ Manage department/facility	___ Medical Staff Officer or Committee Member
___ Top 5 admitters (volume or value)	___ Revenue-based compensation (___% of total comp.)
___ Other key admitter or key source of revenue	___ Control/ability to manipulate fee schedule in contract

¹ For this purpose, family members include: spouse; siblings (by the whole or half blood) and their spouses; ancestors; and children, grandchildren and great grandchildren and their spouses. 26 C.F.R. § 53.4958-3(b)(1).

² A material financial interest in a provider sponsored organization ("PSO") in which the tax-exempt hospital also participates. A PSO is defined in Social Security Act § 1855(e), 42 U.S.C. § 1395w-25 as essentially an organization established to provide a substantial portion of contracted Medicare items and services through the provider or its affiliates, which is majority owned by affiliated providers, and which affiliated providers directly or indirectly assume substantial financial risk for the provision of the items or services.

³ Note, the amount of revenues over which the potential DP has influence may affect the likelihood of disqualified person status on a fact and circumstances basis.

<input type="checkbox"/>	Generate 15% or more of EO revenues ⁴	<input type="checkbox"/>	Individual(s) own 35% (in vote or value) of DP entity
<input type="checkbox"/>	15% or more of medical staff	<input type="checkbox"/>	Entity owned 35% or more by DPs (aggregated)
<input type="checkbox"/>	15% or more of specialty/department staff	<input type="checkbox"/>	35% owners of entity managing department/facility
<input type="checkbox"/>	Approves pay/benefits of EO staff	<input type="checkbox"/>	Control actions of a nonprofit DP
<input type="checkbox"/>	Authority to hire and fire EO staff	<input type="checkbox"/>	Manages an entity that may be a DP
<input type="checkbox"/>	Supervises EO employees	<input type="checkbox"/>	Power to select manager(s)
<input type="checkbox"/>	Authority to approve expenses of EO/dept.	<input type="checkbox"/>	509(a)(3) supporting organization
<input type="checkbox"/>	Budgeting authority for Dept. or EO	<input type="checkbox"/>	Runs most or all of EO's fundraising
<input type="checkbox"/>	Signature authority over EO accounts	<input type="checkbox"/>	Listed in Form 990, Part VII, Sec. A in past 5 years ⁵
<input type="checkbox"/>	Advise EO on interested transaction	<input type="checkbox"/>	Listed in Form 990, Part VII, Sec. B in past 5 years
<input type="checkbox"/>	Long-term contract for essential service	<input type="checkbox"/>	Listed in Form 990, Schedule L in past 5 years
<input type="checkbox"/>	Exclusive contract for service line	<input type="checkbox"/>	Lessor/lessee of facility/department
<input type="checkbox"/>	Payment of expenses for family member(s)	<input type="checkbox"/>	Payment of personal or private business expenses
<input type="checkbox"/>	Other Influence (specify): _____		

May not be a DP if not a "Deemed DP" or "Substantial Contributor" and **(Check all that apply to Individual or a Family Member):**

<input type="checkbox"/>	501(c)(3) organization	<input type="checkbox"/>	Paid primarily on a fixed salary basis
<input type="checkbox"/>	501(c)(4) organization	<input type="checkbox"/>	Paid below 414(q)(1)(B)(i) amount (2025: \$160,000)
<input type="checkbox"/>	Wholly controlled subsidiary of EO	<input type="checkbox"/>	Vow of poverty in religious order
<input type="checkbox"/>	No management authority within	<input type="checkbox"/>	Minor admitter or minor source of revenues
<input type="checkbox"/>	Entity >35% owned by DPs (aggregated)	<input type="checkbox"/>	Retired physician/executive
<input type="checkbox"/>	Same benefits as comparable donors	<input type="checkbox"/>	Physician not on EO/affiliate Med Staff
<input type="checkbox"/>	Receives only incidental benefits	<input type="checkbox"/>	Direct supervisor is not a DP
<input type="checkbox"/>	All payments are from accountable plan	<input type="checkbox"/>	Professional advisor paid customary fees
<input type="checkbox"/>	Other (specify): _____		

Approved as accurate and complete to the best of our knowledge by:

[TYPE NAME/TITLE]

Date: _____, 20__

[TYPE NAME OF INDIVIDUAL REVIEWED]

Date: _____, 20__

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⁴ Include executives or physicians heading up departments that generate, and group practices or departments that, in the aggregate, generate more than 15% of hospital business by volume or value. Do not use this information to influence decisions to extend incentives or contracts or the amount of any of them.

⁵ High compensation alone, without other factors, is not enough to make someone a DP. PLR 201336020.