

Conciliation Agreement  
Between the  
U.S. Department of Labor Office of Federal Contract Compliance Programs  
And  
Yale University  
New Haven, CT

OFCCP Case No. R00203462

## **I. Preliminary Statement**

The Office of Federal Contract Compliance Programs (“OFCCP”) evaluated the Yale University (“Yale”) establishment located in New Haven, CT, beginning on May 8, 2017. OFCCP found that Yale failed to comply with Executive Order 11246, as amended “E.O. 11246”, and its implementing regulations at 41 C.F.R. Sections 60-1- 60-3, as it pertained to the compensation of four women in the Clinician employment category in the Cardiovascular Medicine Section of the Contractor’s School of Medicine.

In the interest of resolving the alleged violation without engaging in further legal proceedings even before the issuance of a Pre-Determination Notice and in exchange for sufficient and valuable consideration described in this document, OFCCP and Yale enter into this Conciliation Agreement (“Agreement”) and its attachments, and the parties agree to all the terms therein.

The attachments to this Agreement are deemed incorporated into this Agreement.

## **II. General Terms and Conditions**

1. In exchange for Yale’s fulfillment of all its obligations in this Agreement, OFCCP agrees not to issue a Pre-Determination Notice or a Notice of Violations in the compliance evaluation of the New Haven, CT campus and agrees not to institute administrative or judicial enforcement proceedings under E.O. 11246, Section 503 of the Rehabilitation Act of 1973, as amended, 29 U.S.C. § 793 (“Section 503”), the Vietnam Era Veterans’ Readjustment Assistance Act of 1974, as amended, 38 U.S.C. § 4212 (“VEVRAA”) and their implementing regulations, or other equal opportunity laws based on the alleged violation described in more detail in Section III below. However, OFCCP retains the right to initiate legal proceedings to enforce the Agreement if Contractor violates any provision of this Agreement, as set forth in Paragraph 11, below. Nothing in this Agreement precludes OFCCP from initiating enforcement proceedings based on future compliance evaluations or complaint investigations.
2. OFCCP may review Yale’s compliance with this Agreement. As part of this review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents. Yale will permit access to its premises during normal business hours for these purposes and will provide OFCCP with all hard copy or electronic reports and documents it requests, including those specified in this Agreement.

3. Nothing in this Agreement relieves Yale of its obligation to fully comply with the requirements of E.O. 11246, Section 503, VEVRAA, their implementing regulations, or other applicable laws requiring nondiscrimination or equal employment opportunity through affirmative action.
4. Yale and OFCCP agree that any release of claims required by this Agreement will only pertain to claims under E.O. 11246, Section 503, and/or VEVRAA.
5. Yale agrees that it will not retaliate against any potential or actual beneficiary of this Agreement or against any person who files a complaint, who has provided information or assistance, or who participates in any manner in any proceeding in this matter.
6. The parties understand the terms of this Agreement and enter into it voluntarily.
7. This Agreement, including its attachments, constitutes the entire Agreement and represents the complete and final understanding of the parties. This Agreement contains all of the terms binding the parties and it supersedes all prior written and oral negotiations and agreements. Any modifications or amendments to this Agreement must be agreed upon in writing and signed by all parties. If an administrative error is found, OFCCP will work in good faith with all parties to make the corrections.
8. This Agreement becomes effective on the day it is signed by the Northeast Regional Director (“Effective Date”).
9. If one or more provisions of this Agreement is deemed unlawful or unenforceable, the remaining provisions will remain in full force and effect.
10. This Agreement will expire sixty (60) days after Yale submits its final progress report required in Section VI, below, unless OFCCP notifies Yale in writing before the expiration date that Yale has failed to fulfill all of its obligations under the Agreement. In this instance, the Agreement is automatically extended until the date that OFCCP determines that Yale has met all of its obligations under the Agreement.
11. If Yale violates this Agreement:
  - a. The procedures at 41 C.F.R. 60-1.34 will govern:
    - i. OFCCP will send Yale a written notice stating the alleged violations and summarizing any supporting evidence.
    - ii. Yale shall have fifteen (15) days from receipt of the notice to respond, except in those cases in which such a delay would result in irreparable injury to the employment rights of affected employees.
    - iii. If Yale is unable to demonstrate that it has not violated the Agreement, or if OFCCP’s alleges irreparable injury, enforcement proceedings may be initiated immediately without issuing a show cause notice or proceeding through any other requirement.

- iv. In the event of a breach of this Agreement by Yale, OFCCP may elect to proceed to a hearing on the entire case and seek full make-whole relief, and not be limited to the terms agreed to in this Agreement.
  - b. Yale may be subject to the sanctions set forth in Section 209 of the Executive Order, 41 C.F.R. 60-1.27 and/or other appropriate relief for violating this Agreement.
- 12. Yale denies any violation of the Executive Order, Section 503 or VEVRAA, and agrees that there has not been an adjudication on the merits regarding any such violation.
- 13. OFCCP may seek enforcement of this Agreement itself and is not required to present proof of any underlying violation alleged in, and resolved by, this Agreement.
- 14. The parties understand and agree that nothing in this Agreement is binding on other governmental departments or agencies other than the United States Department of Labor.
- 15. Each party shall bear its own fees and expenses with respect to this matter.
- 16. This Agreement is limited to the facts of this case. Neither this Agreement, nor any part of the negotiations that occurred in connection with this Agreement, shall constitute admissible evidence with respect to any OFCCP policy, practice or position in any lawsuit, legal proceeding, administrative proceeding, compliance evaluation or audit, except for legal or administrative proceedings concerning the enforcement or interpretation of this specific Agreement.
- 17. All references to “days” in this Agreement, and in the Timeline included as Attachment C, are calendar days. If any deadline for an obligation scheduled to be performed under this Agreement falls on a weekend or a Federal holiday, that deadline will be extended to the next business day.

### **III. Alleged Violation**

During the Compliance Evaluation of Yale, OFCCP reviewed policies, practices, and records; interviewed management, and non-management employees; and analyzed individual compensation data, as of 10/01/2016, pertaining to over 16,000 Yale faculty and staff. Based upon the information gathered during these activities, OFCCP found pay disparities, as of the referenced date, based on gender as it pertained to four women in the Clinician employment category in the Cardiovascular Medicine Section of the Yale’s School of Medicine relative to similarly situated men in that employment category in that Section.

OFCCP found no disparities in pay in any other Faculty areas or Staff areas during its review of Yale.

As to the four referenced women, they were hired into the Clinician employment category in the Cardiovascular Medical Section through Yale’s acquisition of community practices and hospitals associated with the Yale-New Haven Hospital System. Each acquired practice had a different compensation structure which led to disparities in pay between and among the

acquired practices. OFCCP recognizes that Yale has improved its compensation practices with respect to this employment category. OFCCP also recognizes that Yale eliminated that employment category in June 2018 and has transitioned the Clinicians to a newly created Clinical Track, one of five Faculty Tracks, in the Cardiovascular Medicine Section in Yale's School of Medicine. A uniform compensation structure applies to all employees on that Clinical Track in that Section.

#### IV. Financial Settlement

- a. **Settlement Payment.** Within thirty (30) days after the Effective Date, Yale will pay the sum total of \$87,500.00 (consisting of \$77,049.54 in back pay and \$10,450.46 in interest) to resolve the alleged violation set forth above. This sum shall be allocated among the four Eligible Employees identified in Attachment A in accordance with the amounts specified in Attachment A, and the allocated amounts take into consideration their respective FTE status and, as to the women with an FTE status of 100%, their respective years since Terminal Degree. The settlement is a negotiated amount that represents estimated back pay and accrued interest. Yale's share of taxes on the portion representing back pay (such as federal, state and/or local taxes and Federal Income Contributions Act (FICA)) is not part of the Settlement Amount.
- b. **Payments to Eligible Employees.** Yale will issue a check or make an electronic payment to each Eligible Employee, as provided in Attachment A, within thirty (30) days of the Effective Date. Yale will provide OFCCP with evidence of the payments in the form of a report from its integrated payroll and financial system documenting the payment amount and check/advice number. OFCCP will receive timely documentation of any payments returned undelivered or any checks not cashed, as set forth on the Timeline. Any check that remains uncashed 180 days after the initial date the payment was issued to the Eligible Employee will be void. Any amount of money remaining from uncashed or undeliverable checks shall be deposited into an unclaimed property fund with the State of Connecticut Treasurer's Office. No portion of these funds shall revert back, directly or indirectly, to Yale or any affiliate.
- c. **Tax Payments, Forms and Reporting.** Individual payments to Eligible Employees will be subject to all appropriate withholdings and deductions required by law, such as federal, state and FICA taxes, insurance premiums, union dues, retirement, and any applicable post-employment or post-retirement benefits. Yale will pay the employer's share of FICA and any other fringe component based on the individual payments from additional funds separate from the Settlement Amount. The individual payments will be included in the Eligible Employee's 2020 IRS Form W-2. No Eligible Employee will be required to complete a W-4, CT-W4 or W-9 in order to receive payments under this settlement.

#### 2. Notice Process:

- a. **OFCCP and Yale Obligations under the Notice Process.** The Notice Process set forth in this Agreement is intended to provide Eligible Employees a meaningful opportunity to understand their rights and obligations and act on them in a timely

manner. This includes providing notice in multiple relevant languages to the affected workers and through multiple channels if appropriate and providing technical assistance to Eligible Employees seeking information about their rights and obligations under this Agreement. As specified in the Timeline and as otherwise necessary to fulfill this Agreement, Yale and OFCCP will regularly meet and confer in person, by phone and/or by email on the notice process to determine how best to carry out the Notice provisions of this Agreement, and to decide whether any activity, deadline or document should be modified. OFCCP and Yale agree not to unreasonably withhold consent to reasonable modifications proposed by either party.

- b. **Notice Documents.** Yale will distribute Notice Documents to Eligible Employees identified in Attachment A consistent with the sample Notice Documents contained in Attachment B. The Notice Documents may include other materials such as standard OFCCP or U.S. Department of Labor materials, instructions or a cover sheet, job applications, or other information that better enables Eligible Employees to understand their rights and obligations and act on them in a timely manner. Nothing in this section prohibits Yale from also providing informal notice to the Eligible Employees to alert them that they will be receiving Notice Documents and payments.
- c. **Timeline.** Attachment C sets forth the agreed Timeline for Notice and for the parties' other obligations under this Agreement. The parties will meet and confer on any reasonable modifications to the Timeline proposed by either party.
- d. **Distribution of Notice to Eligible Employees.** Yale will provide the Notice Documents through internal Yale correspondence methods for Eligible Employees currently employed by Yale and by regular first-class mail for Eligible Employees not currently employed by Yale. For Eligible Employees not currently employed by Yale, Yale will send copies of all of the Notice Documents as defined above, including a postage-paid return envelope, along with their payment checks by first class mail to the best available mailing address by the date set forth in the Timeline. If envelopes from the initial mail notice are returned with forwarding addresses, Yale will re-mail the Notice Documents within five (5) days of receipt of the forwarding address.
- e. **Exchange of Information Regarding Eligible Employees.** Yale and OFCCP will timely exchange information regarding Eligible Employees, including updated contact information and the results of any technical assistance provided.
- f. **Documentation of Payments.** By the deadline set forth in the Timeline, Yale will provide OFCCP with copies of cancelled checks or electronic documentation of all payments to Eligible Employees, including the amounts paid, the date payment was sent, the date payment was received or the check cashed, and any uncashed or returned checks.
- g. **Contractor's Expenses.** Yale will pay all expenses associated with carrying out its duties pursuant to this Section, from funds separate and apart from the amount designated in this Agreement for the Settlement.

## V. Modifications to Employment Practices and Other Non-Monetary Relief

Yale will ensure that all employees are afforded equal employment opportunities. Yale agrees to continue or to implement the corrective actions detailed below.

**Self-monitoring/ Auditing.** Within 120 days of the effective date of this Agreement, Yale will monitor base salary as well as the administration of non-base compensation for employees in the Clinical Track in the Cardiovascular Medicine Section of the School of Medicine. Yale will ensure that an in-depth analysis is conducted of its compensation practices with respect to the Clinical Track in its Cardiovascular Medicine Section, the Track to which the employees in the Clinician employment category were transitioned in or around June 2018. To ensure continued equal opportunity for employees in that Track, Yale will maintain an internal audit and reporting system which will include the following:

- a. Monitor records of compensation to ensure that Yale's nondiscriminatory policy is carried out and the degree to which equal employment opportunity and organizational objectives are attained;
- b. Review report results with management in the Cardiovascular Medicine Section and in Yale's Equal Opportunity Office and advise management of program effectiveness and any recommendations for improvement.

## VI. OFCCP Monitoring Period

1. **Recordkeeping.** Yale agrees to retain all records relevant to the violation alleged in Section III above and the reports submitted in compliance with Paragraph 2, below. These records include underlying data and information such as Human Resources Information System (HRIS) and payroll data, job applications and personnel records, and any other records or data used to generate the required reports. Yale will retain the records until this Agreement expires or for the time period consistent with regulatory requirements, whichever is later.

### 2. Yale Reports.

- a. **Schedule and Instructions.** Yale agrees to furnish OFCCP with the Progress Reports described below during the Monitoring Period according to the following schedule (*e.g.* reports on revised policies, pay adjustments, validity studies, etc.):

1<sup>st</sup> Report covering the period October 1, 2020 through September 30, 2021 is due on December 1, 2021.

2<sup>nd</sup> Report covering the period October 1, 2021 through September 30, 2022 is due on December 1, 2022.

1. Yale will submit reports to (b) (6), (b) (7)(E) at 135 High Street, Room 219, Hartford, CT 06103 or @dol.gov. Yale and OFCCP have a common interest in the information being provided in the reports pursuant to this Agreement. To the extent any of the reports Yale provides in accordance with this Agreement are customarily kept private or closely-held, and Yale believes should remain confidential under Exemption 4 of FOIA, Yale will provide such reports to OFCCP marked as “Confidential”. In the event of a FOIA request, OFCCP will treat any such documents received as confidential documents to the extent permitted by law.
  
- b. **Reports on Pay Adjustments.** In each Progress Report, Yale will report on all modifications of personnel and compensation practices as they pertain to employees on the Clinical Track in the Cardiovascular Medicine Section made to date pursuant to the Agreement and provide documentation of its compliance with the remedy provisions of this Agreement. At a minimum, the annual report should include:
  1. A description of the analysis conducted by Yale.
  2. The number of Clinical Track employees in the Cardiovascular Medicine Section that were part of the pay equity studies conducted pursuant to this Agreement.
  3. A summary of the findings regarding Yale’s current policies, procedures, and practices related to compensation of the Cardiovascular Medicine Section Clinical Track Faculty.
  4. Report on all pay adjustments made to date to Clinical Track Faculty in the Cardiovascular Medicine Section as well as the date of the adjustment.
  
- c. **Reports on Modifications to Personnel Practices.** In each Progress Report, Yale will report on all modifications of personnel practices made to date as they pertain to the Clinical Track in the Cardiovascular Medicine Section pursuant to the Agreement and provide documentation of its compliance with the remedy provisions of this Agreement. If any of the relevant documents such policies have not been modified since being provided during a prior reporting period, a statement to that effect is sufficient. The reports must include:
  1. The documentation of trainings conducted (or planned) for all individuals involved in compensation practices for the Cardiovascular Medicine Section Clinical Track, including copies of the training materials and a list of attendees.
  2. Any additional recommended actions or revisions to the compensation policies, procedures, and practices to ensure nondiscrimination in compensation.

3. **Close of Monitoring Period and Termination of Agreement.** This Agreement shall remain in effect until the monitoring period is completed. The monitoring period will close once OFCCP accepts Yale's final progress report as set forth in Section II, Paragraph 10 above. If OFCCP fails to notify Yale in writing within sixty (60) days of the date of the final progress report that Yale has not fulfilled all of its obligations under the Agreement, OFCCP will be deemed to have accepted the final report and the Monitoring Period and this Agreement will terminate. If OFCCP notifies Yale within the allotted time that it has not fulfilled all of its obligations, this Agreement is automatically extended until the date that OFCCP determines Yale has met all of its obligations under the Agreement.

## VII. SIGNATURES

The person signing this Agreement on behalf of Yale personally warrants that he or she is fully authorized to do so, that Yale has entered into this Agreement voluntarily and with full knowledge of its effect, and that execution of this Agreement is fully binding on Yale.

This Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and Yale University located in New Haven CT.

(b) (6), (b) (7)(C)

Alexander E. Dreier  
Senior Vice President for Institutional Affairs,  
General Counsel, and Senior Counselor to the President  
Yale University  
New Haven, CT

DATE: 09/21/2020

(b) (6), (b) (7)(C)

Diana Sen  
Regional Director  
Northeast Region OFCCP

DATE: 9/22/20

(b) (6), (b) (7)(C)

Mary Ellen Bentivogli  
District Director  
Buffalo and Hartford Offices  
Northeast Region

DATE: 09/22/2020

(b) (6), (b) (7)(C)

Tracey Mills  
Assistant District Director  
Hartford District Office  
Northeast Region

DATE: 9/22/2020



(b) (6), (b) (7)(C)

(b) (6), (b) (7)(E)

Equal Opportunity Specialist  
Hartford District Office

DATE: 09/22/2020

**Attachments:**

- A. List of Eligible Employees
- B. Notice Documents
  - B-1 Notice
  - B-2 Release Form
- C. Timeline

**Attachment A: List of Eligible Employees and Allocation of Settlement**

1. (b) (6), (b) (7)(C) \$27,500.00
2. [REDACTED] \$27,500.00
3. [REDACTED] \$20,000.00
4. [REDACTED] \$12,500.00

## Attachment: B-1 Notice

# *You may be eligible to get money because of a legal settlement between Yale University and the U.S. Department of Labor*

We are writing to provide information about a legal settlement between the U.S. Department of Labor and Yale University that may benefit you. This settlement involves claims of gender-based disparities in compensation affecting four employees, as of 10/01/2016, in the Clinician employment category in the Cardiovascular Medicine Section of the School of Medicine, and our records show that you may be one of the eligible employees covered by the settlement. If you take the steps described in this Notice by the deadline below, you may be eligible for a payment of back wages and interest with Yale University.

## ARE YOU AFFECTED?

OFCCP found a compensation disparity as to four women in the Clinician employment category in the Cardiovascular Medicine Section of the School of Medicine at Yale University between October 1, 2016 through September 30, 2017, and you are one of the affected women.

## WHAT IS THIS SETTLEMENT ABOUT?

The U.S. Department of Labor's Office of Federal Contract Compliance Programs (OFCCP) conducted a review of Yale University's compensation practices during October 1, 2016 through September 30, 2017. OFCCP is the government agency responsible for enforcing the nondiscrimination and equal employment opportunity through affirmative action requirements that apply to federal contractors. OFCCP alleges that there were compensation disparities as to four women in the Clinician employment category in the Cardiovascular Medicine Section of Yale's School of Medicine relative to men in that category. Yale University denies the claim. Ultimately, OFCCP and Yale University have agreed to resolve the issue through a Conciliation Agreement. A Conciliation Agreement is a legal document that explains the terms of an agreement between Yale University and OFCCP.

## WHAT DOES THIS MEAN FOR YOU?

Because you were employed in the Clinician employment category in the Cardiovascular Medicine Section of Yale's School of Medicine and subject to Yale University's compensation practices, during the relevant time frame, this settlement may provide you with some specific benefits:

- (1) **You may be eligible to receive a payment of at least \$**            (before adjustments for taxes and payroll contributions). This amount represents your share of back wages and other payments Yale University is making to settle the issues found. The final amount you will

receive will be reduced by deductions for items such as income tax withholding and Social Security contributions.

To get these benefits, you will need to release or agree to give up certain legal claims, and sign the enclosed form.

## WHAT IS YOUR NEXT STEP?

You should read this Notice and the enclosed Release of Claims Under Executive Order 11246 (“Release”) form.

Please do not ignore these forms or throw them away. Otherwise, you could miss an opportunity to receive money from Yale University.

To be eligible for a payment, you must complete, sign, and return the enclosed Release Form to:

Valarie Stanley, Senior Director, Office of Institutional Equity and Access  
P.O. Box 208256  
New Haven, CT 06520-8256

Campus Mail: 221 Whitney Avenue, 4<sup>th</sup> Floor

Electronic Mail: [valarie.stanley@yale.edu](mailto:valarie.stanley@yale.edu)

**DEADLINE: The form must be received by *[INSERT specific date for First or Second Notice deadline date in Attachment D]***

You may receive some or all of these benefits only if the form confirms that you are one of the individuals covered by the settlement. After correct completion and submission of the form, a final decision will be made about your eligibility.

**If you fail to return the signed Release form by the deadline above, or if your form does not verify your eligibility, you will not be eligible to receive any money, or any other benefits that are available to you by the settlement.**

## HOW CAN YOU GET MORE INFORMATION?

If you have any questions, you may contact Compliance Officer **(b) (6), (b) (7)(E)** at (860) 244-**(b) (6), (b) (7)(C)** You can also visit the U.S. Department of Labor Web site about this case at [www.dol.gov/ofccp/cml](http://www.dol.gov/ofccp/cml).

**Attachment B-2: Release Form**

**RELEASE OF CLAIMS UNDER EXECUTIVE ORDER 11246**

*PLEASE CAREFULLY READ THE ENCLOSED NOTICE BEFORE COMPLETING THIS RELEASE. YOU MUST RETURN A SIGNED RELEASE TO RECEIVE MONEY FROM THE SETTLEMENT*

This Release of Claims under Executive Order 11246 ("Release") is a legal document. The document states that in return for Yale University paying you money, you agree that you will not file any lawsuit against Yale University for alleged compensation discrimination under Executive Order 11246. It also says that Yale University does not admit it violated any laws enforced by OFCCP. This Release says you had sufficient time to look at the document, to talk with others about the document, including an attorney if you choose, and that no one pressured you into signing the document. Finally, it says that if you do not sign and return the document by a certain date, you will not receive any money.

In consideration of payment of \$ [redacted] (less adjustments required by law) by Yale University to me, which I agree is acceptable, I (print name) \_\_\_\_\_ agree to the following:

**I.**

By signing this Release, I agree that I have been made whole for any claim that could have been brought under Executive Order 11246 relating to Yale University's compensation practices during my employment with Yale University through the effective date of this Release. I hereby release Yale University, its predecessors, successors, related entities, parents, subsidiaries, affiliates and organizations, and its shareholders, owners, directors, officers, employees, agents, and assigns from any claim for additional make-whole relief obtained through any action based on or involving Yale University's compensation practices through the effective date of this Release that could have been brought under Executive Order 11246. Here, make-whole relief is defined as the total earnings lost, and includes: salary or wages, overtime, premium pay and shift differentials, incentive pay, raises, bonuses, lost sales commissions, cost-of-living increases, tips, medical and life insurance, fringe benefits, pensions, stock options, and awards.

**II.**

I understand that Yale University does not agree that it treated me unlawfully or unfairly in any way and that Yale University entered into a Conciliation Agreement with the U.S. Department of Labor, Office of Federal Contract Compliance Programs ("OFCCP") and agreed to make the payment described above to resolve alleged disparities in compensation as to four women and to resolve the matter without further legal proceedings in the Compliance Evaluation initiated by OFCCP related to the facility covered by the Conciliation Agreement. I further agree that the payment of the aforesaid sum by Yale University to me is not to be construed as an admission of any liability by Yale University.

**III.**

I declare that I have read this Release and that I have had a full opportunity to consider and understand its terms and to consult with my advisors and seek legal advice. I further declare that I have decided of my own freewill to sign this Release.

**IV.**

I understand that if I do not sign this Release and return it to Yale University, by the deadline listed on this form, I will not be entitled to receive any payment (less deductions required by law).

I have signed this document of my own free will.

**Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Printed Name:** \_\_\_\_\_

**Attachment C: Timeline**

<b>Activity</b>	<b>Date</b>
Yale Mails Notice Documents and Issues Payments	TBD (30 days from the Effective Date)
Yale Notifies OFCCP of Undeliverable Mailings	Within 15 days of receipt of undeliverable notice
OFCCP Provides Updated Contact Information to Yale	TBD (110 days from the Effective Date)
Yale Notifies OFCCP of Any Checks Returned as Undeliverable	Within 15 days of receipt of undeliverable notice
OFCCP Provides Updated Addresses	Within 21 days
Yale Mails Back Pay Checks to New Addresses	Within 21 days