

December 6, 2022 Agreement between AAUP-AFT and the University Concerning Salary Equity Program

The negotiated agreement between the AAUP-AFT and the University on Out-of-Cycle Salary Adjustments (Article 8, Part Five of the parties' 2018-2022 collective negotiations agreement) shall be modified to conform to the terms of this Settlement. Sections A through D of this Settlement Agreement are incorporated into the parties' CNA by reference and are subject to enforcement through Article 9 of the CNA, except as provided for herein. This Settlement Agreement is intended to supplement, not replace, the negotiated procedure in Article 8, Part Five, Section B of the parties' CNA, however, to the extent Sections A through D of this Settlement Agreement conflict with Article 8, Part Five, Section B of the CNA, the provisions of Sections A through D of this Settlement Agreement shall govern.

A. Definitions

The following definitions apply to all parts of this Settlement Agreement:

1. "Case" or "pay equity case" as used in all sections of this Settlement Agreement mean a request for a pay equity adjustment filed by a negotiations unit member of the AAUP-AFT pursuant to Article 8, Part Five, Section B of the July 1, 2018 to June 30, 2022 collective negotiations agreement between the University and AAUP-AFT ("CNA").
2. "Faculty requestor" or "faculty member" is a member of the AAUP-AFT negotiations unit who files a request for a pay equity adjustment pursuant to Article 8, Part 5, Section B of the CNA.
3. "Pending" pay equity cases are those cases filed by faculty requestors prior to October 1, 2021.
4. "New" pay equity cases are those cases filed by faculty requestors on or after October 1, 2021.
5. "Day" or "Days" as used in this MOA means working days. For purposes of this Agreement, working days shall not include University holidays and closings identified on the University's posted holiday and closing schedule.

B. The following process shall be used for pending equity cases:

1. On September 27, 2021, University Compensation Services ("CS" or "Compensation Services") issued recommendations with respect to cases filed by

faculty requestors prior to January 31, 2020 (the first tranche of cases).¹

2. On or before May 1, 2022, CS shall issue recommendations with respect to the cases filed by faculty requestors between February 1, 2020 and up to September 30, 2021 (the second tranche of cases).
3. CS and/or the Dean may consult with the chancellor with regard to cases that fall under the respective chancellor's governance.
4. The recommendation from CS shall contain the following information: (a) the comparators selected by the Dean to develop the recommendation pursuant to the criteria set forth in Article VIII(Part Five)(B) of the CNA; (b) the regression utilized for the requestor (including the allocation of "explained" components and the residual difference)²; and (c) if a salary adjustment is recommended, the amount of any recommended salary increase.
5. Faculty requestors shall have thirty (30) days from receipt of the salary recommendation from CS (November 9, 2021)³ or confirmation from CS that the Dean has not supported the application (for the reasons previously provided to the requestor by the Dean for not supporting the application) ("confirmations of non-support") to forward comments to the Chancellor. No faculty requestor shall contact CS with respect to the recommendation of CS. All comments by faculty requestors must follow the exclusive process provided for in this Settlement Agreement. CS recommendations or confirmations of non-support shall be provided to the AAUP-AFT. Faculty members' comments to the Chancellor may challenge the application of the regression equation to the particular requestor but not the use of regression analysis; faculty members also may challenge other

¹ Any faculty requestor whose final comparators endorsed by the Dean differed from comparators earlier endorsed by the Dean also received an amended letter (on the same date as the release of recommendation letter from CS) from CS, setting forth the comparators ultimately relied upon in making a recommendation to the Chancellor.

² The following information will be provided to a faculty requestor in the CS letter pursuant to B(4)(c): (1) the requestor/comparator(s) pay gap (average annual salary of comparator(s) - annual salary for requestor); (2) the explainable pay gap (average predicted salary of comparators - predicted salary for requestor); and (3) the unexplainable pay gap.

³ The date used here, November 9, 2021, and below in paragraph (B)(6) (January 4, 2022) are applicable only to the first tranche of cases. The time limits in those paragraphs, however, shall be what is applied to the second tranche of cases.

methodologies used by CS, Deans or Chancellors to calculate the requestor's pay equity adjustments.

6. The file forwarded from CS to the Chancellor shall consist of the faculty requestor's pay equity application, the Dean's written comments, the recommendation or confirmation of non-support of CS, and any comments submitted by the faculty requestor. If the faculty requestor's written comments to the CS recommendation provide information that the final comparators endorsed by the Dean differed from the list of comparators earlier endorsed by the Dean, the Chancellor shall obtain from the Dean a detailed written explanation for changing the original comparators endorsed by the Dean. The Dean shall provide the detailed explanation to the Chancellor and to the faculty requestor within thirty (30) days of receiving the Chancellor's request.⁴ The faculty requestor shall have ten (10) days from receipt of the Dean's explanation for the change in comparators to submit a response to the Chancellor. The Chancellor shall have until January 4, 2022 (forty (40) days from November 9, 2021) to issue a decision.⁵ The Chancellor shall forward, through CS, their decision to the faculty requestor and the AAUP-AFT.
 - a. The Chancellor's decision shall set forth the basis for accepting, rejecting, or modifying (upward or downward) the recommendation of CS. If the faculty member challenges the Dean's change in or selection of comparators, the Chancellor's decision shall set forth the reasons for either accepting or rejecting the changed/selected comparators.⁶

⁴ This provision regarding what shall be provided here by the Dean does not apply to the first tranche of cases.

⁵ For those requestors in the first tranche of cases (the approximately 103 CS decisions) who did not receive a CS letter because the Dean did not support the request, CS will issue a letter (date to be determined) stating that the faculty member may request that the Chancellor conduct a review of the Dean's letter and faculty comments and determine whether to affirm the Dean's decision or remand the request to the Dean with instructions to reevaluate and submit through the CS process. Once the CS letter is issued, the timelines of 30 days for the requestor to submit comments, if any, to the Chancellor and 40 days (after the end of that 30 day period) for the Chancellor's decision to issue, will apply.

⁶ This provision regarding what shall be contained in the Chancellor letters does not apply to the first tranche of cases. However, faculty requestors, upon request, shall be provided with the information required by B(6)(a) so that they may determine whether to appeal the chancellor's decision and, if they appeal the decision, will have this information to use as a basis for challenging the decision.

- b. Salary adjustments will be processed as soon as possible and will be retroactive to the date of submission of the original pay equity application to CS. Faculty members in the first and second tranches of cases will receive the salary adjustment set forth in the Chancellor's decision, along with retroactive pay, regardless of whether a faculty member appeals the Chancellor's decision to the Executive Vice President for Academic Affairs (EVPAA).
- c. A faculty member may appeal the Chancellor's decision to the EVPAA in accordance with the procedure set forth below in subsection B(7) of this Settlement Agreement. In the event the faculty member also received notice that the final comparators endorsed by the Dean or from those endorsed by the faculty member differed from comparators earlier endorsed by the Dean and the faculty member raised that issue in the written comments to the Chancellor, the faculty member may provide the EVPAA with information supporting a request that the EVPAA deviate from the comparators ultimately relied upon by the Chancellor.

7. Appeals of chancellor decisions for pending cases.

- a. **Salary Equity Appeal Committee:** The University agrees to establish a Salary Equity Appeal Committee (SEAC) for the purpose of providing input to the EVPAA on appeals filed by faculty requestors.
 - i. The SEAC is advisory to the EVPAA. The final decision on the appeal rests with the EVPAA.
 - ii. The SEAC shall be comprised of six members. The Union and the University each will select three members, all of whom shall be tenured faculty members or faculty administrator employees. In so doing, the parties agree that there must be at least one representative for each chancellor-led unit. One person from each group will be selected to serve as Co-Chairs of the SEAC.
 - iii. All members of the SEAC shall be full-time faculty or faculty administrator employees of the University.
 - iv. Any member of the SEAC who was directly involved in preparing a faculty requestor's pay equity application or appeal or who participated in the review of the faculty requestor's request conducted by the Dean, CS, or the Chancellor shall recuse themselves from any review by the SEAC of the faculty requestor's appeal and shall not participate in discussions with other Committee members or otherwise influence the SEAC-recommendation process. If a SEAC member is recused from

deliberations, an alternate member shall be selected by the University if the recused member was originally chosen by the University, or the Union if the recused member was originally chosen by the Union.

- v. SEAC members shall avoid conflicts of interests, actual or reasonably perceived, in the discharge of their SEAC duties. The SEAC Co-Chairs shall determine whether a conflict of interest exists with respect to any SEAC member, including the Co-Chairs. If a conflict of interest is deemed to exist by the Co-Chairs, the SEAC member shall recuse themselves from any review by the SEAC of the faculty member's appeal and not participate in discussions with other Committee members or otherwise influence the SEAC recommendation process.

- b. A faculty member shall have twenty (20) days from the date of the Chancellor's determination, or twenty (20) days from the date this Settlement Agreement is executed, whichever is later, to submit an appeal to the EVPAA. The faculty member shall complete a Salary Equity Appeal Form and submit it via email to evpaa@rutgers.edu within such time. A link to the form shall be provided in the Chancellor's determination letter. Along with the Appeal Form, the faculty member may submit supporting documents and information, including, but not limited to, information relative to comparators relied upon by the Chancellor and comparators rejected by the Chancellor. Faculty members appealing Chancellor decisions may challenge the application of regression equations to the particular requestor but not the use of regression analysis; faculty members also may challenge other methodologies used by CS, Deans, or Chancellors to calculate the requestor's pay equity adjustments.

- c. The SEAC shall meet to review an appeal within forty-five (45) days from the date of its submission.

- d. In reviewing the appeal, the SEAC shall only consider the faculty requestor's pay equity application and supporting documentation, the Dean's written comments in response to the application, CS's recommendation, the faculty requestor's comments to the Chancellor, the Chancellor's decision, and the faculty requestor's appeal submission. The SEAC (but not individual members of the SEAC) may request, through the EVPAA, clarification of the information provided to the SEAC from the faculty member, Dean, Chancellor or CS. Within ten (10) days of its meeting, the Committee will provide a written summary of its deliberations to the EVPAA. The written summary from the SEAC shall address all allegations raised in the faculty member's appeal, including,

but not limited to, the Chancellor's reliance on comparators changed by the Dean.

- e. In reviewing the appeal, the EVPAA shall consider the faculty requestor's pay equity application and supporting documentation, the Dean's written comments, CS's recommendation, the SEAC's written summary of deliberations, the Chancellor's decision, and the faculty requestor's appeal submission.
- f. Within fifty (50) days following receipt of the SEAC's written summary of its deliberations, the EVPAA shall make a determination sustaining or denying the appeal, in whole or in part. In making that determination, the EVPAA may consult with the Senior Vice President of Equity (SVPE). If the appeal is sustained in whole or in part, the EVPAA shall remand the appeal to the Chancellor with instructions. The EVPAA shall inform the faculty requestor in writing of such determination via email, copying the Chancellor, AAUP-AFT, and the SEAC. The EVPAA's decision shall set forth the reasons for the decision, along with the summary of deliberations prepared by the SEAC.
- g. If a case results in a salary increase, such change will be processed retroactive to the date of the original pay equity application submitted by the faculty requestor to CS.
- h. All SEAC members have an obligation to maintain the confidentiality of the review of submitted appeals. All non-public appeal information and documents reviewed by SEAC members shall be kept confidential by all members. SEAC meetings to review the appeal shall be conducted in confidence, including only the members of the SEAC.
- i. The decision of the EVPAA shall not be grievable. However, a faculty requestor is not precluded from filing an Article 9 grievance based on an alleged violation of Article 4 of this Agreement following the final decision of the EVPAA or a grievance alleging procedural violations of this section of the Settlement Agreement. The time for filing a grievance under Article 4 shall begin to run upon receipt of the decision of the EVPAA, or if the case is remanded to the Chancellor, from the date of receipt of the Chancellor's decision on remand.

C. The process for deciding new pay equity applications.

- 1. A faculty member requesting a pay equity adjustment shall submit a written request with supporting documentation to the Dean and to CS. Faculty members shall be eligible to submit a request for a pay equity adjustment during the window

between January 1 and February 28 of each academic year.⁷ CS shall provide to the AAUP-AFT copies of the CS recommendations for each faculty request for pay equity adjustment.

2. Within thirty (30) days of February 28, in the given academic year, the Dean shall submit to CS and to the faculty requestor written comments in response to the faculty member's request. CS and/or the Dean may consult with the chancellors with regard to the pay equity process.
3. Within ten (10) days from receipt of the Dean's comments to CS, the faculty requestor may submit a response to the Dean's comments to CS and to the Dean.
4. CS shall review the faculty member's request for a pay equity adjustment and supporting documentation, the Dean's written comments, and the faculty requestor's response to the Dean's comments, and shall collect and review any other information it deems relevant to its inquiry.
5. Within ninety (90) days from the submission of the faculty member's response to the Dean's written comments (or ninety (90) days from the expiration of the ten (10) day period set forth above in (C)(3) if no response is submitted by the faculty member) in response to a request for a pay equity adjustment by a faculty member, Compensation Services shall communicate the results of its review and the basis for the results in writing to the faculty member and the respective Chancellor. If CS recommends an equity adjustment, it shall recommend the amount of the compensation increase. If a salary adjustment is not recommended by the Dean, CS shall provide notification that the Dean has not supported the application (for the reasons previously provided to the requestor by the Dean for not supporting the application) ("confirmation of non-support").
6. The recommendation from CS shall contain the following information: (a) the comparators selected by the Dean to develop the recommendation pursuant to the criteria set forth in Article VIII(Part Five)(B) of the CNA; (b) the regression utilized for the requestor (including the allocation of "explained" components and the residual difference)⁸; and (c) if a salary adjustment is recommended, the amount of any recommended salary increase.

⁷ This also shall include requests filed from October 1, 2021 through February 28, 2023.

⁸ The following information will be provided to a faculty requestor in the CS letter pursuant to B(4)(c): (1) the requestor/comparator(s) pay gap (average annual salary of comparator(s) -annual

7. Faculty requestors shall have thirty (30) days from receipt of the salary recommendation from CS or confirmation of non-support from CS to forward comments to the Chancellor. Faculty members' comments to the Chancellor may challenge the application of the regression equation to the particular requestor but not the use of regression analysis; faculty members also may challenge other methodologies used by CS or Deans to calculate the requestor's pay equity adjustment. No faculty requestor shall contact CS with respect to the recommendation of CS. All comments by faculty requestors must follow the exclusive process provided for in this Settlement Agreement. CS recommendations or confirmations of non-support shall be provided to the AAUP-AFT.
8. **A Salary Equity Review Committee (SERC)** shall be established for purposes of advising the Chancellors prior to the issuance of a Chancellor level decision.
 - a. The SERC shall be comprised of six members. The Union and the University each will select three members, all of whom shall be tenured faculty members or faculty administrator employees. In so doing, the parties agree that there must be at least one representative for each chancellor-led unit. One person from each group will be selected to serve as Co-Chairs of the SERC.
 - b. Initially two members selected from the AAUP-AFT list and two members selected from the University list shall be appointed for four (4) year terms and one member selected from the AAUP-AFT list and one member selected from the University list shall be appointed to two (2) year terms. Thereafter, all members selected by the AAUP-AFT and by the University shall be appointed for four (4) year terms.
 - c. The SERC shall be subject to the same procedures and criteria for recusal of members, avoidance of conflicts of interest, and for maintaining confidentiality of deliberations and materials as the SEAC.
9. Within ten (10) days following receipt by the Chancellor of comments by a faculty requestor, in response to the recommendation of CS, the Chancellor shall transfer the entire file to the SERC. If a faculty requestor does not submit comments to the recommendation of CS, the Chancellor shall issue a decision based on his/her review of the record without referring the file to the SERC.

salary for requestor); (2) the explainable pay gap (average predicted salary of comparators - predicted salary for requestor); and (3) the unexplainable pay gap.

10. The SERC shall meet to review the file within thirty (30) days from receipt of the file from the Chancellor.
11. The SERC shall only review the faculty requestor's pay equity application and supporting documentation, the Dean's written comments in response to the application, CS's recommendation, and the faculty requestor's comments. The SERC (but not individual members of the SERC) may request, through the Chancellor, clarification of the information provided to the SERC from the faculty member, Dean, or CS. The SERC will provide a written summary of its deliberations to the Chancellor reflecting the SERC's views. The written summary of deliberations from the SERC shall address all allegations raised in the faculty member's comments, including, but not limited to, CS's reliance on comparators changed/selected by the Dean. The SERC does not have jurisdiction to decide alleged violations of the CNA that do not arise under this Settlement Agreement or Part Five of Article 8.
12. Within ten (10) days of its meeting, the SERC shall forward a summary of its deliberations to the Chancellor.
13. The Chancellor shall have forty (40) days from receipt of the SERC's summary of deliberations to issue a decision and shall forward their decision to the faculty requestor and the AAUP-AFT and the SERC, along with the summary of deliberations prepared by the SERC. The Chancellor's decision shall set forth the basis for accepting, rejecting, or modifying (upward or downward) the recommendation of CS. If the faculty member challenges the Dean's change in or selection of comparators, the Chancellor's decision shall set forth the reasons for either accepting or rejecting the changed/selected comparators.
14. All pay equity adjustments shall be retroactive to the date the faculty requestor submitted a pay equity application to CS. If the faculty requestor does not file an appeal following this process and a salary adjustment has been recommended, no such adjustment will be paid prior to the expiration of the time for filing an appeal to the EVPAA.
15. The faculty member may appeal a decision of the Chancellor to the Executive Vice President for Academic Affairs.
 - a. A faculty member shall have twenty (20) days from the date of the Chancellor's determination to submit an appeal to the Executive Vice President for Academic Affairs (EVPAA). The faculty member shall complete a Salary Equity Appeal Form and submit it via email to evpaa@rutgers.edu within such time. A link to the form shall be provided in the Chancellor's determination letter. Along with the Appeal Form, the faculty member may submit supporting documents and information. Faculty members appealing Chancellor decisions may challenge the

application of the regression equations to the particular requestor but not the use of regression analysis; faculty members also may challenge other methodologies used by CS, Deans or Chancellors to calculate the requestor's pay equity adjustments.

- b. In reviewing the appeal, the EVPAA shall consider the faculty requestor's pay equity application and supporting documentation, the Dean's written comments in response to the application, CS's recommendation, the SERC's written summary of deliberations, the Chancellor's decision, and the faculty requestor's appeal submission.
 - c. Within twenty (20) days following receipt of the faculty member's appeal, the EVPAA shall make a determination sustaining or denying the appeal. If the appeal is sustained, in whole or in part, the EVPAA shall remand the appeal to the Chancellor with instructions. The EVPAA shall inform the faculty requestor in writing of such determination via email, copying the AAUP-AFT. The EVPAA's decision shall set forth the reasons for the decision.
 - d. If an appeal results in a change to the salary recommendation, such change will be processed retroactive to the date of the original pay equity application submitted by the faculty requestor to CS.
16. The decision of the EVPAA shall not be grievable. However, a faculty requestor is not precluded from filing an Article 9 grievance based on an alleged violation of Article 4 of this Agreement following the final decision of the EVPAA or a grievance alleging procedural violations of this section of the Settlement Agreement. The time for filing a grievance under Article 4 shall begin to run upon receipt of the decision of the EVPAA, or if the case is remanded to the Chancellor, from the date of receipt of the Chancellor's decision on remand.

D. Funding of Pay Equity Increases:

The University commits to funding pay equity increases approved by the Chancellor, or if applicable, the EVPAA.

E. The Use of the Regression Model

- 1. The University agrees to exclude campus as a factor from the regression model.
- 2. If the University continues to utilize the results of the regression analysis in evaluating requests for pay equity adjustments, the University agrees to use the analysis as just one component of a comprehensive evaluation of the requestor's pay equity application and of its assessment as to whether a faculty member's

salary is equitable based on appropriate comparators and pursuant to the terms of this Agreement.

3. The parties agree that the application of the regression model used to calculate the explainable pay gap for pay equity applications shall be fully disclosed to the Union and that the regression model and its application shall be fully transparent. The University has provided to the Union the following: (a) the programming code used to clean the data and create the data sets used to estimate the regression model(s); (b) copies of the data set(s) used to estimate the regression model(s); and (c) final printouts of the estimated regression model(s) used to adjust salaries. The University will disclose any changes in the specification of the regression model(s), the data sets, or definitions of variables used in the regression model(s).

F. University's Ongoing Commitment to the Development of the Pay Equity Process

1. The University agrees that the oversight and implementation of the pay equity program negotiated between the AAUP-AFT and the University will be coordinated by the Office of the EVPAA, in conjunction with the Office of the Senior Vice President for Equity ("SVPE") and the Office of the Senior Vice President for Human Resources ("SVPHR").
2. The Offices of the EVPAA, SVPE, and the SVPHR will be responsible for the development of training and mentoring materials for faculty and management with respect to pay equity issues, including guidelines for starting salaries and out-of-cycle increases to facilitate compliance with the law and applicable collective negotiations agreement.
3. The Offices of the EVPAA, SVPE, and the SVPHR shall consult with two faculty members, one designated by the AAUP-AFT and one designated by the University for a two-year appointment, with expertise in the area of pay equity and compensation (faculty experts), with respect to (a) the development of training and mentoring materials for faculty and management with respect to pay equity issues; and (b) the evaluation of the pay equity program and areas for improvement in the negotiated pay equity process. In evaluating the pay equity program, the faculty experts, in consultation with the Offices of the EVPAA, SVPE, and the Office of the SVPHR may also review and analyze pay equity data to assist in the development of a methodology for properly analyzing and reporting on the pay equity process.

The initial faculty expert appointed by the AAUP-AFT shall be given a one-time, one course release to serve in a consultant capacity to the Offices of the EVPAA, SVPE, and the Office of the SVPHR in the commencement of the tasks described in this paragraph.

4. **Annual Report**

An Annual Report on Pay Equity will be issued jointly by the Offices of the SVPHR, SVPE, and the EVPAA to the University President, the University Senate, and the Board of Governors. The Report shall be a public record and posted on the University website. Prior to its issuance, the Report shall be transmitted to the SERC and the recommendations of the SERC as to the content of the Report shall be considered by the University. The contents of the report shall include:

- a. The number of pay equity applications received pursuant to the process described in this agreement and the collective negotiations agreement;
- b. The number of those applications that resulted in pay equity adjustments;
- c. The average percent increase in the faculty requestors' salary for all applicants; and
- d. Following consultation with the SERC and the two faculty experts, recommendations for modifications to the pay equity review process.
- e. A comprehensive analysis of the impact of the pay equity program on compensation inequities.

5. **Conference on Pay Equity**

The University, in coordination with the Committee on Diversity, Race and Gender and the SERC, shall facilitate a national conference, hosted jointly by the AAUP-AFT and the University on "Meeting the Challenge of Pay Equity in Higher Education." The conference will be held during the 2022-2023 academic year. The costs of the conference shall be borne by the University.