

BUSINESS PRACTICE CHANGES

As described in the Class and PAGA Settlement Agreement and Release executed by the Parties, Defendants shall do the following:¹

A. Validated Job Analysis and Job Grouping

Defendants shall undertake the following with respect to jobs in two job families (Administrative Support and Consulting Services) and those otherwise meeting class jobs parameters – i.e., the Covered Positions in Appendix 1.

The Parties have jointly selected APTMetrics (or APT), an independent industrial organizational psychology expert (“I/O expert”), to complete a validated job analysis, in coordination with Defendants’ industrial organizational psychologist and staff. APT’s qualified project team will include racially diverse talent. APT’s work will be paid for by Defendants.

APT’s job analysis will include a determination of the knowledge, skills, and abilities required to perform the duties of the jobs studied. APT will also validate similarly situated job groupings and confirm the grouping of jobs of those performing substantially similar work. During the job analysis work, APT will include among the individuals to be interviewed the currently employed Named Plaintiffs/Class Representatives.

APT will complete this work within one year after the Effective Date.

B. Pay Practices

Defendants shall undertake the following with respect to jobs in two job families (Administrative Support and Consulting Services) and those otherwise meeting class jobs parameters.

1. Monitoring Pay Equity

Beginning one year after the Effective Date and continuing for three annual pay equity cycles (ending four years after the Effective Date), Defendants shall retain an independent compensation expert, approved by the Parties, to analyze annually (1) base pay, (2) incentive pay, and (3) merit increase awards. The purpose of the annual studies is to help ensure that persons who perform substantially similar work are being paid equitably. Defendants shall pay for the work of this expert.

Based on results of its own job analysis work, independent I/O expert APTMetrics will provide input into the compensation expert’s statistical models used annually to analyze pay equity.

¹ While the types and scope of Defendants’ personnel covered by these business changes varies to some extent depending on the topic at issue, in no event will any of TPMG’s or SCPMG’s obligations described in this “Business Practice Changes” agreement cover physicians or HR personnel exclusively responsible for supporting physicians.

The independent compensation expert will complete the annual pay analysis at the direction of Defendants' counsel under attorney-client privilege. Defendants shall be required to report the results of that analysis to Class Counsel on an annual basis as part of ongoing confidential settlement communications.

2. Remediation for Pay Equity

If the pay equity analyses reveal that African Americans are underpaid in base pay, incentive pay, or merit increase awards, Defendants will remediate the pay (*i.e.*, adjust the base, incentive, or merit pay upwards, and also pay back pay if indicated). This remediation shall be completed within three months of the completion of each of the annual pay equity analyses.

On an annual basis, if remediation is needed, Defendants will share with Class Counsel a remediation plan describing the scope and amount of remediation, as well as the timeline for completing it, as part of ongoing confidential settlement communications.

Consistent with their current practices, if remediation is indicated for any employee, Defendants shall not ask or require that the employee execute a release of claims in order for his, her, or their compensation to be remediated. In no event will Defendants reduce the pay of any Class Member as a result of the pay equity analyses in order to equitize pay between employees who are substantially similar.

As part of the remediation process, Defendants shall continue to comply with all applicable laws regarding employees discussing or sharing their own pay information.

C. Promotion Practices

Defendants shall undertake the following for jobs in two job families (Administrative Support and Consulting Services) and those otherwise meeting class jobs parameters.

1. Enhanced Selection Process

Within 18 months after the Effective Date, APTMetrics, the independent I/O expert selected by the parties and paid for by Defendants, shall:

- a. Incorporate the validated qualifications (*e.g.*, minimum qualifications ("MQs"), or preferred qualifications ("PQs")) and competencies from the job analysis work into job descriptions and promotion selection criteria.
- b. Develop training for managers in the use of validated selection criteria for selection decisions.
- c. Provide, or guide the development of, improved tools/templates for use in making selection decisions (*e.g.*, structured interview guides).

2. Monitoring

Beginning one year after the Effective Date and continuing for three annual cycles (ending four years after the Effective Date), the outside compensation expert agreed to by the Parties shall conduct annual monitoring of Defendants' promotion data for disparate impact and to ensure that open jobs have been posted consistent with Defendants' posting policy under the attorney-client privilege. This work will be paid for by Defendants. If any impact is indicated, Defendants shall undertake further privileged drill down/spot audits to determine any potential root causes (e.g., specific decisionmakers or pockets of the organization).

The results of this promotion monitoring will be reported to Class Counsel on an annual basis as part of the ongoing confidential settlement communications.

Defendants also will continue workforce equity analytics and auditing efforts for the next three years (e.g., workforce equity action planning designed to promote equitable opportunities for underrepresented talent by assessing and updating workforce practices to mitigate against potential bias, consulting on equitable practices, etc.).

D. Career Development

Defendants shall undertake the following for jobs in two job families (Administrative Support and Consulting Services) and that otherwise meet class jobs parameters, with a focus on job positions that will be determined following the job analysis.

1. Career Progression

In order to help employees in the Administrative Support and Consulting Services be able to understand what they need to learn and/or do in order to move to the next level, as well as what next level roles are possible avenues for promotion, APTMetrics, the independent I/O expert selected by the parties and paid for by Defendants, shall use the job analysis to identify career tracks and develop career guides. Such work shall include:

- Overview of roles and similarities/differences in competencies and competency proficiencies, goals, and responsibilities.
- Likely roles to be promoted to-from within/across the related job families and role entry requirements.
- Developmental recommendations (incorporating information outlined below) and formal development steps, if appropriate (e.g., licenses, training).
- Real employee interviews/life stories detailing compelling career journeys across the roles, highlighting specific opportunities and challenges.

Defendants shall implement improved processes within 18 months after the Effective Date.

2. Developmental Resources

APTMetrics shall also provide input and consult on the creation of developmental resource guides for certain roles in the Administrative Support and Consulting Services job families, to be determined after the job analysis is completed. This work shall include using job analysis output and working with subject matter experts (SMEs) to identify resources (e.g., books, videos, training programs, articles) and experiences (e.g., supervisor-provided, conferences, stretch assignments) that facilitate the development of skills for movement into identified jobs.

For the same purpose, APTMetrics shall also identify the appropriate materials and teachings (in light of the information learned from the job analysis) within Defendants' existing KP Learn training/education offerings.

Defendants shall pay for this work. Defendants shall implement improved processes within 18 months after the Effective Date.

E. Manager Development

Defendants shall undertake the following for management-level Administrative Support and Consulting Services employees.

1. Leadership Development and Assessment

APTMetrics shall review and provide expert guidance on leadership development and building a diverse bench, including ways to facilitate managers' understanding of and demonstrated capacity to consistently apply diversity, equity, and inclusion ("DEI") practices. In particular, Defendants will consult with Keith Caver, the Vice President of Leadership Assessment and Development for APTMetrics. Mr. Caver is a recognized leader on organizational effectiveness, including talent management, executive coaching, innovation, diversity, change leadership, and cultural transformation. See <https://aptmetrics.com/wp-content/uploads/2018/11/BIO-Keith-Caver-June-2015.pdf>.

Based on the job analysis output and relevant leadership needs, Mr. Caver and APTMetrics will assist Defendants in determining whether and how to develop and implement leadership assessment(s) focused on modeling the capabilities and competencies (including DEI) that are needed for particular management-level and above jobs.

2. Mentorship Programs Supporting African American Managers

APTMetrics will review existing mentorship programs designed to support managers from historically underrepresented groups, including African Americans, in the Administrative Support and Consulting Services job families. Defendants will maintain and/or evaluate for improvement such mentorship programs based on feedback from APTMetrics through the three-year implementation of the Settlement.

3. Reporting

Defendants shall report to Class Counsel annually on the progress of all of this Career Development work as part of ongoing confidential settlement communications as part of the Reporting described in Section H below.

F. Personnel Processes Training

Within one year after the Effective Date:

1. Defendants shall utilize the information developed through APTMetrics' job analyses project to update trainings that are required or available on relevant personnel topics, such as: (a) pay practices/decisions; (b) candidate screening and selection decisions; and (c) anti-harassment, equal employment opportunity (EEO), and unconscious bias.

2. Defendants shall develop and provide "in-application support" (*e.g.*, automatic prompts to ensure guardrails for equity are observed) in the Taleo applicant software program and salary offer tool that will support legally compliant and equitable practices and direct recruiters and managers to embedded guidance materials at particular steps of a process.

3. APTMetrics will provide guidance on training managers on their accountability to established decision-making criteria.

4. APTMetrics shall advise for Defendants' consideration whether compensation training can be made more effective and, if so, how.

Class Counsel will receive annual reporting on progress on these programs as part of ongoing confidential settlement communications.

G. Diversity, Equity & Inclusion

The following additional actions have been or will be implemented:

1. Work with NeuroLeadership Institute (NLI) (*see* <https://neuroleadership.com>):

a. Inclusive mindsets training: to develop and implement science-based learning tools designed to inspire and embed inclusive mindsets and habits with anecdotes tailored to different workforces. (This is work pioneered by Carol Dweck of Stanford University on implicit theories of intelligence and how mindsets influence motivation and success.) This will also involve participatory learning, through short videos followed by participant guides focused on how to be more inclusive.

b. Training for members of Talent Acquisition: on avoiding bias in candidate screening/selection. Assessments shall be conducted of the efficacy of this training by evaluating participants' understandings during the training and at a follow-up at least 90 days after the training is completed.

c. Co-host with NLI: a three-part "Advancing Workforce Equity" Virtual

Series. This virtual series will be mandatory for all National Equity Inclusion & Diversity (“NEID”) employees and Human Resources Vice-Presidents, Director Human Resources Business Partners, Human Resources Business Partners, and Human Resources Consultants in California not on an approved leave to complete within one year after the Effective Date and includes:

- Part 1: The Science of Inclusion
- Part 2: How Mitigating Bias and Growth Mindset Impacts Our Workforce
- Part 3: Grow Together

d. Provide a Leader Toolkit: on racial equity and social justice actions and resources to managers across the organization.

Class Counsel will receive annual reporting on progress on these above-listed programs as part of ongoing confidential settlement communications, and the NLI 3-part series will be shared with Class Counsel.

2. Upstander Intervention Training

All NEID employees and Human Resources Vice-Presidents, Director Human Resources Business Partners, Human Resources Business Partners, and Human Resources Consultants in California not on an approved leave will be required to complete upstander intervention training within one year after the Effective Date. Defendants shall also make available upstander intervention course training to all of Defendants’ California non-union employees, along with multiple messages to the workforce about the availability and value of such training. This training will also be offered as a session at the annual Diversity Conference.

Assessments shall be conducted of the efficacy of the above training in this Section (G.2) by evaluating participants’ understandings during the training and at a follow-up at least 90 days after the training is completed. Class Counsel will receive annual reporting on progress on these programs as part of ongoing confidential settlement communications.

Within one year of the Effective Date, Defendants also agree to make available to their workforces for recommended further reading *Prejudice: The Target’s Perspective*, by Janet K. Swim and Charles Stangor, an article by or about the diversity and inclusion teachings of independent diversity expert Kenji Yoshino, and Sam Finch’s article, “9 Phrases Allies Can Say When Called Out Instead of Getting Defensive.”

Class Counsel will receive annual reporting on progress on these programs as part of ongoing confidential settlement communications.

3. “Belong@KP” campaign

Defendants have implemented or will implement a holistic, leader-endorsed initiative to promote workplace equity and inclusion called Belong@KP. The program is launching with a 2021 goal of 75 percent participation by employees who are managers of people. This research-

based program addresses understanding and breaking bias through everyday behavior changes and concludes with the foundational methods of uprooting and dismantling racism and oppression. It will include virtual instructor-led workshops, team-based learning, communication messaging, discussion and application tools. The training and tools will include:

- Inclusive behaviors to bring out the best in our people
- Respecting every voice
- Identifying and offsetting bias
- Feeling safe to bring your “whole self” to work (authenticity)
- Speaking up without fear
- Racial equity and social justice action

The program includes objective measurements to determine impact of this program, which shall be reported to Class Counsel, as part of ongoing confidential settlement communications.

H. Public Statements

Internal statements have been or will be issued from senior leadership that: (1) acknowledge societal racism can cause health issues to the public at large as well as to the health and well-being of Defendants’ staff, patients, and communities served, and that for this and other reasons building a workplace culture that is diverse, equitable, inclusive, and anti-racist has been and will continue to be an important priority; and (2) support Black Lives Matter and related social crisis discussions and resources advancing racial equity.

The Kaiser Permanente Internet home page will be enhanced with public statements of company identity to include its commitment to employee diversity and inclusion

as follows:

Because health isn’t an industry. It’s a cause.

Kaiser Permanente was founded on the radically simple idea that everyone deserves the chance to live a healthy life. That’s why you can find high-quality care and coverage in one place.

As a member, you’re at the center of everything we do — from pioneering new ways to treat cancer to building useful tools that make it easier to stay on top of your health. Kaiser Permanente’s world-class professional staff, who proudly reflect and embrace the diversity of our surrounding community, is here for you. At Kaiser Permanente, we strive to eradicate racial disparities in health outcomes and within our organizations. We thrive by making healthcare delivery equitable and inclusive for all stakeholders.

I. Investigations

From the Effective Date and for three years after, Defendant Kaiser Foundation Health Plan (“KFHP”) will increase and maintain EEO investigation unit staffing to total at least fifteen (15) investigators (employees and/or outsourced external investigators). Investigators in

the EEO unit will participate in a more in-depth de-biasing training (to be agreed to by the parties) than is offered generally to the organization. In addition, every EEO unit investigator employed by KFHP will be encouraged to read *White Fragility* by Robin DiAngelo, and will have available to them for recommended reading on the internal Intranet *How To Be An Antiracist* by Ibram X. Kendi, *Biased: Uncovering the Hidden Prejudice That Shapes What We See, Think, and Do* by Jennifer L. Eberhardt, *Prejudice: The Target's Perspective*, by Janet K. Swim and Charles Stangor, an article by or about Kenji Yoshino's D&I-related teachings, and Sam Finch's article, "9 Phrases Allies Can Say When Called Out Instead of Getting Defensive."

Class Counsel will receive annual reporting on progress on these programs as part of ongoing confidential settlement communications.

J. Complaint Audit

Beginning one year after the Effective Date and continuing for three years, Class Counsel will receive annual reporting on progress on the below programs as part of ongoing confidential settlement communications:

1. EEO Complaint Logs

On an annual basis, Vice President Todd Trotter (or his delegees) will conduct an annual audit of EEO complaint logs for trends and potential repeat issues with certain managers or within certain parts of the organization. Mr. Trotter will share the results of the audit with KFHP's Chief Human Resources Officer to consider appropriate remediation efforts, if any. The audit will be conducted, and remediation guided, by KFHP's legal counsel, under privilege.

2. Race Discrimination Complaints of African Americans

On an annual basis, Vice President Todd Trotter (or his delegees) will examine EEO internal complaints of race discrimination by African Americans and report on the nature of the complaint (*e.g.*, promotion denial), the Region and employing entity, whether the complaint was found to be substantiated or unsubstantiated, and the comparative rates of complaints and substantiation for White complainants alleging EEO matters. If the data reveal a pattern of negative personnel decisions with respect to persons in a protected class, Defendants will take corrective action with the relevant manager(s). This information will be provided to Class Counsel on an annual basis as part of ongoing confidential settlement communications.

K. Compliance

Beginning one year after the Effective Date and continuing for three years, the following semi-annual compliance process and reporting shall take place:

1. Internal Accountability

Vice President Todd Trotter will be the internally-designated Compliance Monitor responsible for ensuring timely implementation of all aspects of the previously described Changes in Business Practices, as well as the external reporting described below.

2. Reporting to Class Counsel

Class counsel will receive semi-annual written reports from the Compliance Monitor summarizing Defendants' progress on implementing and/or completing each term of the Business Changes described herein as part of ongoing confidential settlement communications ("Compliance Monitor's Compliance Report"). The reporting will include the results of the independent data analyses, as well as a summary of instances, if any, where APTMetrics made a recommendation with which Defendants disagreed and declined to adopt, and the reasons for that decision. They shall be shared with Class Counsel at least 2 weeks prior to each semi-annual Compliance meeting.

3. Regular Compliance Meetings

Class Counsel, Defendants' Counsel, and representative(s) of APTMetrics, will meet semi-annually to discuss the reports and audits. Other individuals from Defendants may attend if agreed to by the parties. In addition, if the parties agree in advance of a meeting, they together may determine that APTMetrics is not required to attend a meeting.

4. Recordkeeping

The Parties agree that any and all analyses and reporting that are shared with Class Counsel pursuant to the previously described changes in business practice will be considered a confidential settlement communication. Class Counsel further agree that they will not share any such analyses or reporting with any persons. Nevertheless, nothing in the agreement is intended to make confidential any data or report that Defendants are required to maintain, disclose, submit, or make available to any employee, member of the public, or any public agency. Defendants agree to maintain records of documents and data generated pursuant to this agreement consistent with existing business retention policies.

5. Supplementation of Actions Required By Law

The Parties agree that the terms and programs described herein are intended to supplement rather than supplant Defendants' obligations under applicable state or federal laws.