

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of the Attorney General



In the Matter of Georgetown University

SETTLEMENT AGREEMENT

The Attorney General for the District of Columbia, on behalf of the District of Columbia (“District”), and Respondent Georgetown University (“the University”) (together, the “Parties”), hereby enter into this Settlement Agreement, and agree as follows:

I. THE PARTIES

1. The Attorney General for the District of Columbia is the chief legal officer for the District of Columbia. The Attorney General has general charge and conduct of all legal business of the District and all suits initiated by and against the District and is responsible for upholding the public interest.

2. The University is a private not-for-profit University located in Washington, D.C. Its administrative offices are located at Healy Hall, 37th and O Streets NW, Washington, D.C. 20057.

II. COVERED CONDUCT

3. The District alleges that from March 1, 2020 through the present, certain non-exempt staff employees working at the Georgetown University Medical Center (“GUMC”) and the University’s Graduate School of Arts and Sciences (“GSAS”) performed work off the clock without compensation in violation of the Minimum Wage Revision Act (“MWRA”), D.C. Code

§ 32-1001, *et seq.*, and the Wage Payment and Collection Law (“WPCL”), D.C. Code § 32-1301, *et seq.*

4. The University denies the District’s allegations. Nothing contained in this Settlement Agreement is or may be construed to be an admission by the University of any violation of law or regulation, any other matter of fact or law, or any liability or wrongdoing.

III. DEFINITIONS

5. “**Acceptance Period**” means the sixty (60) day period beginning from the date of the first mailing of the Notice and Claim Form, during which an Eligible Employee can submit a Claim Form and Release to receive a Settlement Check, except that (a) where notice is sent after a skip trace has been performed, the sixty (60) day period begins from the date of the mailing sent using the updated contact information in the skip trace, and (b) where email information was available but email notice was provided more than five business days after the date of the first mailing of the Notice and Claim Form, the Acceptance Period shall run from the date the email notice was sent.

6. “**Authorized Claimant**” means each Eligible Employee who timely files a Claim Form and Release in accordance with the terms of this Agreement and who is therefore entitled to receive a Settlement Check.

7. “**Claim Form and Release**” means the form, a copy of which is attached hereto as Appendix A, that an Eligible Employee must sign and return during the Acceptance Period to become an Authorized Claimant.

8. “**Effective Date**” shall be the last date upon which any party executes the Settlement Agreement.

9. “**Eligible Employee**” is any current and former hourly, non-exempt staff employee who has worked compensable hours in at least one eligible workweek in GUMC or

GSAS. Eligible Employee does not include student employees.

10. An “**Eligible Workweek**” is any workweek on or after March 1, 2020 through the Effective Date during which an Eligible Employee worked in GUMC or GSAS as an hourly, non-exempt staff employee.

11. “**Notice**” means the notice of settlement that is submitted, along with the Claim Form and Release, to Eligible Employees, and attached hereto as Appendix A.

12. “**Overtime Hours**” are any time worked in an Eligible Workweek after the first 40 hours and identified as “Overtime Hours” in the Claim Form attached hereto as Appendix A.

13. “**Qualified Settlement Fund**” means the account established and controlled by the Settlement Claims Administrator for the purposes of retaining and distributing the Final Settlement Amount in accordance with this Agreement. The Qualified Settlement Fund will be controlled by the Settlement Claims Administrator subject to the terms of this Agreement.

14. “**Straight Time Hours**” are the first 40 hours worked in an Eligible Workweek and identified as “Regular Hours” in the Claim Form attached hereto as Appendix A.

15. “**Regular Hourly Rate**” is the hourly rate of pay in effect for the Eligible Workweek of each Eligible Employee for use in calculating the claim payment amount.

IV. INJUNCTIVE TERMS

16. The University agrees to pay overtime wages to all non-exempt employees at a rate of 1.5 times the employee’s base rate of pay for all hours worked above 40 hours in a week.

17. The University agrees to provide all non-exempt staff employees at GUMC and GSAS with training that explains that they are entitled to payment at 1.5 times their base rate of pay for each hour they work over 40 hours in a week, and informs them that complaints may be filed with OAG by emailing workers@dc.gov.

18. The University agrees to provide all direct supervisors of hourly staff employees in GUMC and GSAS with training regarding appropriate timekeeping practices, prohibitions on off-the-clock work, overtime, and the University's non-retaliation policy.

V. PAYMENT TERMS

19. **Payments to Eligible Employees.** The University shall make a payment of four hundred thousand dollars and zero cents (\$400,000.00) to an account with a third-party claims administrator within 30 days of the Effective Date, to be distributed to Authorized Claimants as set forth below:

a. *Claims Administrator.* Within fifteen (15) days of the Effective Date, the University shall retain a third-party claims administrator (the "Administrator") to administer a claims procedure to distribute payments to Authorized Claimants. The University shall pay for all expenses related to the Administrator and claims procedure. The Administrator shall permit Eligible Employees to submit claims electronically.

b. *Class List.* Within twenty (20) business days of the Effective Date, the University shall provide the Administrator the Class List. The Class List will be in an electronic format, preferably Excel, that includes the names, last known addresses, social security numbers, and last known email addresses during the Settlement Period, of each respective Eligible Employee, and any data to be used for allocation and distribution of the settlement proceeds as discussed below.

c. *Claims Notice.* The claims administrator will send the Claim Form and Notice to Eligible Employees via first class mail and email, and, if both these methods are deemed to be undeliverable, will perform a skip trace and resend,

within one (1) day of receipt, any Notice and Claim Form returned without a forwarding address, or resend to those with a new forwarding address.

d. *Claims Period.* To be eligible for payment, all claims must be postmarked or received (by mail or electronically) within 60 days of the date that the Claims Administrator effected notice of the Eligible Employee under paragraph 19.c.

e. *Claims Procedure.* To file a claim, Eligible Employees must complete and submit (by mail or electronically) the Claim Form and Release attached hereto as Appendix A to self-certify the hours they worked for which they claim they have not received compensation.

f. *Claims Validation.* For all claims submitted, the Claims Administrator will validate that all claims relate only to Eligible Workweeks. For claims for Eligible Workweeks, claims of 90 uncompensated hours or fewer and involving 10 Eligible Workweeks or fewer, the University will use the Eligible Employee's self-certified hours claimed to determine the amount of payment to the employee. For claims of more than 90 uncompensated hours or involving more than 10 Eligible Workweeks, the University may verify the number of qualifying workweeks and estimated hours by using available information including payroll, leave and timekeeping information and data. Specifically, where such information demonstrates definitively that an Eligible Employee's claimed hours could not have been performed (*e.g.* where the claim includes workweeks before the employee began their employment with the University or after termination of the employee's employment, did not perform work at either GUMC or GSAS, or includes workweeks where the employee did not work compensable hours), the

University may reduce the number of hours to remove those which the employee could not have performed. Otherwise, the self-certified hours will be used for determining all Claim Payment Amounts. For all claims that require validation, the Administrator shall transmit such claims to the University for review upon receipt and the University shall have 15 days to provide any response, to the claim, to all Parties. The District shall retain the right to review any information used by the University in its validation process.

g. *Claim Payment Amounts.* Claim Payment Amounts will be determined according to the following steps, based on the Authorized Claimant's self-certified or validated hours, pursuant to subparagraph (f) above. First, the amount of Wages Owed will be determined by (i) multiplying any Straight Time hours claimed by the Authorized Claimant's regular hourly rate of pay, and (ii) multiplying any Overtime hours by 1.5 times of the Authorized Claimant's regular hourly rate of pay. Second, the total amount of Wages Owed (i.e., Straight Time plus Overtime) will be multiplied by 2 to account for Liquidated Damages. Wages Owed are not treated as compensation or an eligible contribution pursuant to any University retirement plan.

h. *Overages.* If the aggregate total of all Claim Payment Amounts exceeds \$400,000, the University will fund any overage up to a total of \$500,000. At no time will the total Claim Payment Amounts made by the University pursuant to this Agreement exceed \$500,000.00. If the aggregate total of all Claim Payment Amounts exceeds \$500,000, then the Administrator shall calculate and pay each Authorized Claimant a pro-rated share of the total funded \$500,000 settlement

fund to be calculated as follows: dividing \$500,000 by the total Claims Payment Amounts claimed to determine the percentage that each total claim should be reduced and applying the corresponding percentage to each payment owed to each Authorized Claimant so that the total payments equal \$500,000.

i. *Payment Timing.* The Administrator shall issue payments of all Claim Payment Amounts by check or electronic funds transfer within 14 days of the close of the Claims Period, unless this period requires extension due to the verification process described in paragraph 19(f). Claimants shall have at least 60 days to deposit any Claim Payment Amounts issued by check, and any payments by check shall state prominently any deadline to deposit the payment.

j. *Tax Characterization.* The Claims Payment Amounts allocated to Wages Owed as defined in paragraph 19(g) shall be subject to required withholdings and deductions and reported as wage income and an IRS Form W-2 for that amount will be issued, and the payments allocated to liquidated damages shall not be subject to withholdings or deductions and shall be reported as non-wage income and an IRS Form 1099 for that amount will be issued.

k. *Reversion.* If the aggregate total of all Claim Payment Amounts is below \$400,000, any remaining funds will revert to the District. Provided, the amount of any reversion to the District will be reduced by the amount of the additional payment to the District described in paragraph 21 up to a maximum reduction of \$50,000. The Administrator shall make the reversion payment to the District under this paragraph within 90 days of the close of the Claims Period.

1. *Administrator Reporting.* The Administrator shall provide to the Parties regular updates concerning its issuing of notice to Eligible Employees, any skip tracing efforts it has undertaken, and any claims that have been filed with it. Once eligibility determinations have been made and/or payments have been issued, the Administrator shall provide the Parties with a report concerning those determinations and payments, including the basis on which any claim was denied or reduced. The Administrator will have the duty to comply with reasonable information requests from either the District or the University.

20. **Additional Payments to Specific Employees.** In addition to the payments to Authorized Claimants described in paragraph 19, the University shall make payments to the two employees specified in Appendix B within thirty (30) days of when the District provides the University with the individual return of the waiver and release of claim form executed by these employees, which forms are set forth in Appendix B.

21. **Additional Payment to the District.** The University shall also pay **\$50,000.00** to the District, as agreed-upon compensation to the District for its costs of investigation, within forty-five (45) days of the Effective Date. However, as set forth in paragraph 19.k, should the aggregate total of all Claim Payment Amounts result in a reversion to the District, any payment owed by the University under this paragraph shall reduce the amount of reversion to the District under paragraph 19.k by an amount up to the entire amount of the \$50,000 payment made under this paragraph.

22. All payments to the District shall be made by cashier's check made payable to "D.C. Treasurer" and delivered to Conny Tello, Office of Attorney General for the District of

Columbia, 400 6th Street NW, 10th Floor, Washington, DC 20001, unless another method of payment is specified or agreed to by the District.

VI. RELEASE

23. The Parties have agreed to the terms of this Settlement Agreement to resolve the District's allegations against the University concerning the Covered Conduct as set forth in paragraph 3. In exchange for the performance of the University's obligations under this Settlement Agreement, and upon payment of all amounts due under this Agreement, the District hereby releases the University from any and all claims, actions, disputes and demands, without limitation and including any known or unknown claims that the Attorney General could have asserted under the MWRA or WPCL for claims arising out of the Covered Conduct.

24. Any Authorized Claimant who receives payment under this Agreement similarly releases the University from any and all claims, actions, disputes and demands, without limitation and including any known or unknown claims that could have asserted under the MWRA or WPCL for claims arising out of the Covered Conduct.

VII. ADDITIONAL TERMS

25. This Settlement Agreement shall be considered effective and fully executed on the Effective Date. This Settlement Agreement may be executed in counterparts, and a facsimile or .pdf signature shall be deemed to be, and shall have the same force and effect, as an original signature. Copies of signature pages transmitted electronically shall have the same effect as originals of those signature pages.

26. All funds paid to the District pursuant to this Agreement may be used for any lawful purpose, including, but not limited to: deposit to the District's litigation support fund; defrayal of the costs of the inquiry leading hereto; defrayal of the costs of administration or

distribution; or for other uses permitted by District law, at the sole discretion of the Attorney General for the District of Columbia.

27. The University shall not knowingly permit third parties authorized by the University to act on its behalf to engage in practices that would be violative of this Settlement Agreement.

28. This Settlement Agreement represents the full and complete terms of the settlement entered by the Parties. In any action undertaken by the Parties, neither prior versions of this Settlement Agreement nor prior versions of any of its terms may be introduced for any purpose whatsoever.

29. All notices sent pursuant to this Settlement Agreement shall be provided to the following address via first class and electronic mail, unless a different address is specified in writing by the party changing such address:

Graham Lake
Chief, Workers' Rights and Antifraud Section
Office of the Attorney General
400 6th St., NW, 10th Floor
Washington, D.C. 20001
Graham.Lake@dc.gov

Counsel for the District of Columbia

S. Libby Henninger
Littler Mendelson, P.C.
815 Connecticut Avenue NW, Suite 400
Washington, D.C. 20006
LHenninger@littler.com

Counsel for The University

30. Any failure by any party to this Settlement Agreement to insist upon the strict performance by any other party of any of the provisions of this Settlement Agreement shall not be deemed a waiver of any of the provisions of this Settlement Agreement, and such party,

notwithstanding such failure, shall have the right thereafter to insist upon the specific performance of any and all of the provisions of this Settlement Agreement.

31. If any clause, provision or section of this Settlement Agreement shall, for any reason, be held illegal, invalid, or unenforceable, such illegality, invalidity, or unenforceability shall not affect any other clause, provision, or section of this Settlement Agreement and this Settlement Agreement shall be construed and enforced as if such illegal, invalid, or unenforceable clause, section, or other provision had not been contained herein.

32. Nothing in this Settlement Agreement shall be construed as relieving the University of the obligation to comply with all state and federal laws, regulations or rules, nor shall any of the provisions of this Settlement Agreement be deemed to be permission to engage in any acts or practices prohibited by such laws, regulations, or rules.

33. The University shall provide a copy of this Settlement Agreement to individuals having decision-making authority with respect to the subject matter of the Settlement Agreement.

34. The University shall not form a separate entity or corporation for the purpose of engaging in acts or practices in whole or in part that are prohibited in this Settlement Agreement.

BRIAN L. SCHWALB
Attorney General for the District of Columbia

James Graham Lake
Graham Lake
Chief, Workers' Rights and Antifraud Section
Office of the Attorney General
400 6th St., NW, 10th Floor
Washington, D.C. 20001

Date: 6/13/2023

Counsel for the District of Columbia

David Green

Date: June 12, 2023

David B. Green
Senior Vice President and Chief Operating Officer
Georgetown University