

Conciliation Agreement
Between the U.S. Department of Labor
Office of Federal Contract Compliance Programs
and
DaVita Inc.
601 Hawaii Street
El Segundo, California 90245

PART I: General Provisions

1. This Agreement is between the Office of Federal Contract Compliance Programs (hereinafter OFCCP) and DaVita Inc. located at 601 Hawaii Street, El Segundo, California.
2. The violations identified in this Agreement were found during a corporate management compliance evaluation of DaVita Inc. which began on February 12, 2007 and they were specified in a Notice of Violation issued July 27, 2009. OFCCP alleges that DaVita Inc. has violated Executive Order 11246, as amended, and implementing regulations at 41 CFR Chapter 60 due to specific violations cited in Part II below.
3. This Agreement does not constitute an admission by DaVita Inc. of any violation of Executive Order 11246, as amended, Section 503 of the Rehabilitation Act of 1973, as amended, and the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212) and implementing regulations.
4. The provisions of this Agreement will become part of DaVita Inc.'s AAP. Subject to the performance by DaVita Inc. of all promises and representations contained herein and in its AAP, all named violations in regard to the compliance of DaVita Inc. with all OFCCP programs will be deemed resolved. However, DaVita Inc. is advised that the commitments contained in this Agreement do not preclude future determinations of noncompliance based on a finding that the commitments are not sufficient to achieve compliance.
5. DaVita Inc. agrees that OFCCP may review compliance with this Agreement. As part of such review, OFCCP may require written reports, inspect the premises, interview witnesses, and examine and copy documents, as may be relevant to the matter under investigation and pertinent to DaVita Inc.'s compliance. DaVita Inc. shall permit access to its premises during normal business hours for these purposes.
6. Nothing herein is intended to relieve DaVita Inc. from the obligation to comply with the requirements of Executive Order 11246, as amended, and/or Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212), and implementing regulations, or any other equal employment statute or executive order or its implementing regulations.
7. DaVita Inc. agrees that there will be no retaliation of any kind against any beneficiary of this Agreement or against any person who has provided information or assistance, or who files a complaint, or who participates in any manner in any proceedings under Executive Order

11246, as amended, and/or Section 503 of the Rehabilitation Act of 1973, as amended, and/or the Vietnam Era Veterans' Readjustment Assistance Act of 1974, as amended (38 U.S.C. 4212).

8. This Agreement will be deemed to have been accepted by the Government on the date of signature by the Regional Director for OFCCP, unless the Deputy Assistant Secretary for OFCCP indicate otherwise within 45 days of the Regional Director's signature on this Agreement.
9. If at any time in the future, OFCCP believes that DaVita Inc. has violated any portion of this Agreement during the term of this Agreement, DaVita Inc. will be promptly notified of that fact in writing. This notification will include a statement of the facts and circumstances relied upon in forming that belief. In addition, the notification will provide DaVita Inc. with 15 days from receipt of the notification to respond in writing, except where OFCCP alleges that such a delay would result in irreparable injury.

Enforcement proceedings for violation of this Agreement may be initiated at any time after the 15-day period has elapsed (or sooner, if irreparable injury is alleged) without issuing a Show Cause Notice.

Where OFCCP believes that DaVita Inc. has violated this Conciliation Agreement, OFCCP may seek enforcement of this Agreement itself and shall not be required to present proof of the underlying violations resolved by this Agreement.

10. Liability for violation of this Agreement may subject DaVita Inc. to sanctions set forth in Section 209 of the Executive Order and/or other appropriate relief.

PART II: Specific Provisions

1. **Violation:** DaVita Inc. failed to ensure that its employees were compensated without regard to their gender, as required by 41 CFR 60-1.4(a) and 41 CFR 60-20.5. Specifically, our review of compensation practices as of August 15, 2007 revealed that females in the (b) (7)(C) positions were compensated at a lesser rate than their male counterparts.

Our analysis of compensation practices which takes into account all factors DaVita Inc. identified and presented as influencing pay revealed that females, on average, earned less in annual salary than their male counterparts. The available records, including employee personnel files, job descriptions, pay information provided by DaVita Inc. and the results of interviews with managers and employees conducted during the investigation supports that females in the (b) (7)(C) positions received a lower annual salary than their male counterparts.

Remedy: DaVita Inc. agrees to revise its compensation practices and to take action to ensure that its compensation system ensures that equal opportunity is afforded to all of its employees, irrespective of gender. This applies to all aspects of compensation, including, but

not limited to, initial salary at time of hire and progression into higher paying categories. In order to resolve this violation, DaVita Inc. agrees to the following:

- a. Provide back pay in the amount of \$ 51,179 and interest in the amount of \$7,208 to the females listed in Attachment A. Additionally, current salaries do not need to be adjusted because DaVita Inc. has already adjusted the salaries of the females listed in Attachment A in the amount of \$41,500.
 - b. Conduct an audit and analysis of its compensation practices as it impacts all employees.
 - c. Develop and implement compensation policies and procedures that will not differentiate compensation on the basis of gender of employees.
 - d. Provide training to those managers who participate in the application of any component of the compensation system at DaVita Inc.'s (at an expense of no less than \$500). The purpose is to familiarize those managers with principles underlying the uniform application of criteria, which are used to establish compensation. The ramifications of Equal Employment Opportunity will be explained not only as a diversity tool but also as a potential liability and violation of the Equal Opportunity Laws.
2. **Violation:** DaVita Inc. failed to ensure that its employees were compensated without regard to their race, as required by 41 CFR 60-1.4(a). Specifically, our review of compensation practices for the (b) (7)(C), (b) (7)(C), (b) (7)(C), (b) (7)(C), (b) (7)(C), and (b) (7)(C) positions as of August 15, 2007 revealed that minorities in these positions were compensated at a lesser rate than their non-minority counterparts.

Our statistical analysis of compensation practices which takes into account all factors DaVita Inc. identified as influencing pay revealed that minorities, on average, earned less in annual salary than their non-minority counterparts. The available records, job descriptions, pay information provided by DaVita Inc. and the results of interviews with managers and employees conducted during the investigation supports that minorities in the (b) (7)(C), (b) (7)(C), (b) (7)(C), (b) (7)(C), (b) (7)(C), and (b) (7)(C) positions received a lower annual salary than their non-minority counterparts.

Remedy: DaVita Inc. agrees to revise its compensation practices and to take action to ensure that its compensation system ensures that equal opportunity is afforded to all of its employees, irrespective of race. This applies to all aspects of compensation, including, but not limited to, initial salary at the time of hire and progression into higher paying categories. In order to resolve this violation, DaVita Inc. agrees to the following:

- a. Provide back pay in the amount of \$82,784 and interest in the amount of \$11,659 to the minorities listed in Attachment A. Additionally, current salaries do not need to be adjusted because DaVita Inc. has already adjusted the total salaries of the minorities listed in Attachment A in the amount of \$126,303.
- b. Conduct an audit and analysis of its compensation practices as it impacts all employees.
- c. Develop and implement compensation policies and procedures that will not differentiate compensation on the basis of race of employees.

d. Provide training to those managers who participate in the application of any component of the compensation system at DaVita Inc.'s expense of no less than \$500. The purpose is to familiarize those managers with principles underlying the uniform application of criteria, which are used to establish compensation. The ramifications of Equal Employment Opportunity will be explained not only as a diversity tool but also as a potential liability and violation of the Equal Opportunity Laws.

3. **Violation:** DaVita Inc. failed to collect and maintain personnel and employment records in accordance with the requirements of 41 CFR 60-1.12(a) and 41 CFR Part 60-3 covering the period of January 1, 2006 to August 15, 2007. DaVita Inc. failed to collect and maintain race and gender data on all applicants and hires in the selection process. The personnel files did not include most of the performance appraisals, merit increases, applications or resumes.

Remedy: DaVita Inc. must agree to ensure that its records are collected and maintained in accordance with the requirements of 41 CFR Parts 60-1 and 60-3.

4. **Violation:** DaVita Inc. failed to develop and implement an internal audit and reporting system that periodically measures the effectiveness of its total affirmative action program. Specifically, DaVita Inc. failed to 1) monitor records of all personnel activity and compensation at all levels to ensure the nondiscriminatory policy is carried out; 2) require internal reporting on a scheduled basis; and 3) review report results with all levels of management and advise top management of the results and submit recommendations to improve unsatisfactory performance as required by 41 CFR 60-2.17 (d).

Remedy: DaVita Inc. must agree to develop and implement an auditing system that periodically measures the effectiveness of its total affirmative action program.

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PART III: Reporting

In order for the OFCCP to monitor compliance with this Conciliation Agreement, DaVita Inc. agrees to furnish the U.S. Department of Labor, Office of Federal Contract Compliance Programs, Los Angeles District Office, 11000 Wilshire Boulevard, Suite 8103, Los Angeles, California 90024, with the following reports for the corporate Casa location at 601 Hawaii Street, El Segundo, California 90245:

<u>Report Due Date</u>	<u>Period Covered</u>
Report 1: December 15, 2009	Effective date of Agreement through November 30, 2009
Report 2: January 15, 2011	January 1, 2010 through December 31, 2010

The first progress report shall contain the following:

Violations #1 and 2:

1. Evidence of back pay given to the females listed in Attachment A; and
2. Evidence of back pay given to the minorities listed in Attachment A.

The second progress report shall contain the following:

Violations # 3 and 4:

1. The total number of applicants and hires for each job opening in each job group during the reporting period;
2. For each job opening, the breakdown by applicable race, gender and ethnic group of applicants and hires in each job group;
3. For each job opening, the results of DaVita Inc.'s analysis as to whether its total selection process has an adverse impact on those members of groups identified as a result of subparagraph 2, above;
4. For each case where the total selection process has an adverse impact, the results of DaVita Inc.'s evaluation of the individual components of the selection process for adverse impact;
5. The actions taken by DaVita Inc., where action appropriate, after determining that any component of the selection process has an adverse impact on members of any job groups identified as a result of subparagraph 5, above; and
6. Evidence of training provided to the managers who participate in the application of any component of the compensation process including the actual costs incurred for training.

Termination Date:

This Agreement shall remain in effect until September 15, 2011 or until OFCCP's written acceptance of the final Progress Report, whichever date is later.

PART IV: SIGNATURES

This Conciliation Agreement is hereby executed by and between the Office of Federal Contract Compliance Programs and DaVita Inc., 601 Hawaii Street, El Segundo, California 90245.

9-30-09
Date (b) (7) (c)
[Redacted]
DENNIS KOGOD
Chief Operating Officer
DaVita Inc.
601 Hawaii Street
El Segundo, CA 90245

9/30/09
Date

Approved as to Form:
(b) (7) (c)
[Redacted]

Lisa A. Barr
Assistant General Counsel—
Labor & Employment
DaVita Inc.
601 Hawaii Street
El Segundo, CA 90245

10/2/09
Date
(b) (7) (e)
[Redacted]
Compliance Officer
Office of Federal Contract
Compliance Programs
Los Angeles District Office

11/5/09
Date (b) (7) (c)
[Redacted]

TRENT WILLIAMS
District Director
Office of Federal Contract
Compliance Programs
Los Angeles District Office

11/6/09
(b) (7) (c)
[Redacted]

WILLIAM D. SMITHERMAN
Regional Director
Office of Federal Contract
Compliance Programs
Pacific Region
San Francisco, CA

