

Yale University Antitrust Compliance Guidelines

Federal and state antitrust laws prohibit any agreement among colleges and universities that would “fix” or stabilize tuition, room and board, other mandatory fees, financial aid, or faculty or staff salaries. Case law extends this prohibition to certain tacit agreements and information exchanges. In order to ensure that the University and its employees remain in compliance with the antitrust laws, we provide these guidelines as a prudential measure. Yale staff and faculty (“Yale officials”) must scrupulously observe the constraints of these guidelines in any communications with representatives of other institutions.

I. Guidelines on Exchanges of Certain University Information

A. Plans and Projections

1. Plans and projections concerning anticipated tuition, room and board charges (or other fees) or anticipated salaries (or other costs) may not be shared with other institutions.
2. Similarly, projected “self-help” levels, general levels of financial aid for students or offers to particular students may not be shared with other institutions.
3. Decisions by the University, and memoranda and other papers prepared by Yale officials in connection with University decisions setting tuitions (or other fees), salary levels, required “self-help” levels and general levels of financial aid should not be based upon projections of tuitions (or other fees), salary levels, required “self-help” levels or aid levels provided by other institutions. Assumed inflation rates and other budget assumptions are to be treated as “projections” for purposes of these rules.

For these purposes, tuition (or other fees) charged, salaries paid, “self-help” levels required and financial aid given by the University or another institution are considered “projections” until they are approved by the highest level of appropriate authority at the University or the respective other institution.

B. Historical Data

1. Historical data (but not including the amount of financial aid awarded to an individual) may be shared with other institutions unless disclosure is proscribed (for other reasons) by University or school regulations.
2. Historical data about tuition (or other fees), salary levels, required “self-help” levels for financial aid applicants or general financial aid levels may not be shared, however, in any context in which a representative of the University expressly or implicitly commits the University to pursue a

future course of action based on an extrapolation or other projection of the historical data or exhorts another institution to do so.

C. Current Data

1. Nonpublic data concerning individual salaries or average salary levels for particular categories of faculty or staff for the current fiscal year may not be shared directly with other institutions during that year; nor may such information be supplied to any outside agency which intends to provide the information to other educational institutions in a disaggregated format during the fiscal year. (For this purpose, reports showing data for individual institutions will be deemed to be in a disaggregated format even if institutions are not identified by name.) Any exception to this rule - for example, survey data collected by a third party - must be approved in advance by the Office of the General Counsel.
2. Data concerning tuition, room and board charges and other fees for the current fiscal year is assumed to be public. Such information concerning the coming fiscal year is assumed not to be public unless and until published by the University in a press release, on its web site, in its Bulletin, or in other documents available to the public, such as admissions and financial aid applications.
3. Disclosure of nonpublic data concerning individual salaries, whether historical, current or projected, is subject to additional legal restrictions. Except where it is responsive to an individual's verified written request for disclosure of his or her own salary to a third party, no disclosure of an individual's historical, current or projected salary should be made without contacting the Office of the General Counsel and obtaining any required consents specified by the Office of the General Counsel.

II. Application of Guidelines

A. Tuition (and Other Fee) Information

1. Yale officials may not participate in one-on-one or roundtable discussions with representatives of other institutions about projected tuitions or other fees (i.e., term bill elements not yet officially approved) or about projected “self-help” levels. If such discussions occur, Yale officials should excuse themselves. Yale officials should not solicit information concerning other institutions' projected tuitions, other fees, or “self-help” levels from colleagues at other institutions.
2. Yale officials may participate in discussions with representatives of other institutions about current or past tuitions, fees or other charges or about current or past summer savings or “self-help” levels that have been

officially approved and released for publication. However, Yale officials may neither commit Yale to maintain current tuitions, fees or other charges or current “self-help” levels, nor solicit such commitments from those affiliated with other institutions.

3. Yale officials may not release projected tuitions, fees or other charges or projected summer savings or “self-help” levels that have not been officially approved and released for publication to the press or commercial or professional publications, regardless of whether the data is to be publicly reported on a disaggregated basis, without prior review by the Office of the General Counsel.
4. Yale officials may release current or past tuitions, fees or other charges and current or past summer savings and “self-help” levels to the press or commercial or professional publications. In any such case, University and/or departmental policy about the referral of press or other outside inquiries to the appropriate office of the University, school or department should be observed.

B. Financial Aid

1. Yale officials may not participate in bilateral or multilateral “overlap” discussions with representatives of other institutions about the family or parental contribution calculated for particular financial aid applicants (including the manner in which such contribution was calculated) or the financial aid awarded or proposed to be awarded to particular financial aid applicants.
2. Yale officials may not release the family or parental contribution calculated for particular individuals (including the manner in which such contribution was calculated), or the financial aid awarded or proposed to be awarded to particular financial aid applicants, to the press or commercial or professional publications. Such information generally is restricted by the Family Educational Rights and Privacy Act (the “Buckley Amendment”) as well as by these Antitrust Compliance Guidelines.
3. Yale officials may participate in educational workshops where problems in assessing need or calculating financial aid are discussed and may describe the manner in which they generally deal with issues of common concern, as long as there is no discussion of the need of or the aid to be awarded to any individual.
4. Except as permitted in Paragraph II.B.5 below, Yale officials may not enter into any agreement with a representative of any other institution: (1) as to all or any part of the scholarship, grant, loan or compensation for

term-time employment to be awarded to any particular student; (2) to offer financial aid on a basis other than need, either as a matter of general application or to any particular student; or (3) to apply a similar or common formula for calculating or ascertaining a student's need or the amount the student and the student's family pay from their income and assets towards tuition, room, board and mandatory fees.

5. Yale officials may agree with representatives of institutions of higher education that practice need-blind admissions with respect to all U.S. nationals admitted as full-time students to their undergraduate programs (“Section 568 Schools”): (a) to award financial aid to such students solely on the basis of demonstrated financial need; (b) to use common principles of analysis for determining the need of such students for financial aid; (c) to use a common aid application form for need-based financial aid; and (d) to exchange through an independent third party, before awarding aid to commonly admitted students, data submitted by the student, his or her family or a financial institution regarding the student and the student's family relating to assets, liabilities, income, expenses, the number of family members and the number of siblings in college, as long as data for a particular student is retrieved only once by each institution. All such agreements should be discussed beforehand with the Office of the General Counsel.
6. Yale officials may publish for the benefit of prospective applicants and the public material describing the way need is assessed or financial aid calculated at Yale.

C. Salary Levels

1. Yale officials may not participate in one-on-one or roundtable discussions with representatives of other institutions about projected salary levels (i.e., salary levels not yet officially approved). If such discussions occur, Yale officials should excuse themselves. Yale officials may not solicit information concerning projected salary levels at other institutions from colleagues elsewhere.
2. Yale officials may not release projected salary levels to the press or commercial or professional publications, regardless of whether the data is to be publicly reported on a disaggregated basis.
3. Yale officials normally should not disclose to other universities the salary included in an open job offer.
4. Under circumstances where necessary, e.g., in connection with arrangements for visiting faculty or the preparation of funding proposals

involving subgrants or subcontracts, Yale officials may ask about projected individual salaries.

5. Yale officials may participate in discussions with representatives of other institutions about salary levels for a prior fiscal year; however, Yale officials may not commit Yale to maintain current salary levels or modify salary levels in any particular way, and may not solicit such commitments from other institutions or discuss such commitments with others.
6. Yale officials may release past salary levels to the press or commercial or professional publications. (Yale officials generally may not disclose the salary of any identified individual without his or her consent.) In any such case, University and/or departmental policy about the referral of press or other outside inquiries to the appropriate office of the University, school or department should be observed.

Questions about these guidelines should be directed to the Office of the General Counsel, 432-4940.