

**SETTLEMENT AGREEMENT**  
**BETWEEN**  
**THE UNITED STATES OF AMERICA**  
**AND**  
**THE ARKANSAS DIVISION OF CORRECTION**  
**DJ NO. 204-10-41**

**I. BACKGROUND**

1. The parties to this Settlement Agreement are the United States of America (United States) and the Arkansas Division of Correction (ADC) (collectively “Parties”).
2. This Agreement resolves the United States’ investigation of ADC for alleged discrimination against individuals with disabilities in violation of Title II of the Americans with Disabilities Act of 1990 (ADA), 42 U.S.C. §§ 12131–12134, and its implementing regulation, 28 C.F.R. Part 35, at Ouachita River Unit prison.
3. ADC must comply with the ADA because it is a public entity as defined by Title II of the ADA. 42 U.S.C. § 12131(1). Title II prohibits discrimination against qualified individuals with disabilities on the basis of disability in the “services, programs, or activities of a public entity.” 42 U.S.C. § 12132. “Disability” as used in this Agreement has the meaning assigned in 28 C.F.R. § 35.108, with the understanding that “disability” under the ADA and 28 C.F.R. § 35.108(g) excludes gender dysphoria diagnosis or treatment.
4. ADC operates Ouachita River Unit, a maximum, medium, and minimum-security prison facility in Malvern, Arkansas, which opened in 2003. Ouachita River Unit also includes a Special Needs Unit, opened in 2012, which provides beds, hospital services, and sheltered living for inmates categorized as having special needs, including elderly, chronically ill, and acutely ill inmates.
5. Ouachita River Unit facility was constructed by, on behalf of, or for the use of Ouachita River Unit after January 26, 1992, and must be readily accessible to and usable individuals with disabilities. 28 C.F.R. § 35.151(a).
6. The term ADC refers to all offices and divisions overseen by Arkansas Division of Correction, and their officers, employees, agents, or contractors who are wholly or partially responsible for the custody, oversight, and care of inmates confined at Ouachita River Unit prison.
7. The term Ouachita River Unit refers to all officers, employees, agents, or contractors who are wholly or partially responsible for the custody, oversight, and care of inmates confined at Ouachita River Unit.

8. The United States Department of Justice is authorized to investigate complaints of discrimination under Title II and its implementing regulation. 28 C.F.R. § 35.172(a). Where appropriate, the United States Department of Justice may seek voluntary resolution. 28 C.F.R. §§ 35.172(c), 35.173(b).
9. The United States initiated this investigation based on complaints from inmates with mobility disabilities. The inmates alleged, among other things, that ADC failed to provide them with accessible features in the facility, including an accessible cell or shower, which caused them ongoing physical harm. The inmates with mobility disabilities also alleged that they were injured by scalding showers because the water temperature is not regulated; they were not given necessary support or supplies to physically transfer between their wheelchairs and beds, showers, and toilets; were not provided adequate medical care, including timely and safe catheter changing, pain management, medication management, sterile supplies, infection prevention and management, a bowel program, and wheelchair maintenance. As a result, inmates with disabilities allege that they have suffered physical harm.
10. The United States' investigation included an architectural accessibility survey in July 2021, which substantiated claims that Ouachita River Unit contains architectural and programmatic barriers to access for persons with mobility disabilities. 42 U.S.C. § 12132; 28 C.F.R. §§ 35.149–152. The United States' investigation also substantiated complaints that ADC excludes qualified individuals with mobility disabilities, by reason of their disabilities, from safely accessing or participating in its programs, services, activities, and facilities, including but not limited to its showers, toilet facilities, and cells, in violation of the architectural and program access requirements of Title II of the ADA. 42 U.S.C. § 12132; 28 C.F.R. §§ 35.104, 35.130, 35.149–152.
11. Based on the United States' investigation of ADC's programs, services, activities, and facilities, the United States has concluded that ADC excluded qualified individuals with disabilities from the benefits of receiving adequate medical care. 42 U.S.C. § 12132; 28 C.F.R. §§ 35.130, 35.152.
12. The United States and ADC agree that it is in the parties' best interests, and the United States believes that it is in the public interest, to fully and finally resolve this matter on mutually agreeable terms without resorting to protracted litigation.

## **II. GENERAL EQUITABLE RELIEF**

13. General Nondiscrimination Obligations: ADC and its officers, employees, agents, successors, and assigns, and all other persons in active concert or participation with them, will not discriminate on the basis of disability in Ouachita River Unit's services, programs, or activities, and will comply with all requirements of Title II of the ADA, 42 U.S.C. §§ 12131–12134, and its implementing regulation, 28 C.F.R. Part 35. ADC's Title II obligations include, but are not limited to, the following:
  - a. ADC shall not discriminate against or exclude inmates with disabilities, on the basis of disability, from participation in, or deny such inmates the benefits of, Ouachita River Unit's services, programs, or activities, including, but not limited

to, medical care, activities of daily living, education, vocational, recreation, and religious services, programs, and activities. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(a).

- b. ADC shall not, on the basis of disability, provide aids, benefits, or services to inmates with disabilities that are unequal to, or different or separate from, those afforded to inmates who do not have disabilities, unless different or separate services are necessary to provide such inmates benefits, aids, or services that are as effective as those provided to others. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(1)(ii), (iv).
- c. ADC shall ensure that its facilities at Ouachita River Unit are accessible to and usable by inmates with disabilities and shall not exclude such inmates from participation in, or deny them the benefits of, its services, programs, or activities because its facilities are inaccessible or unusable by inmates with disabilities, 42 U.S.C. § 12132; 28 C.F.R. §§ 35.149, 35.150, 35.152(b)(1). ADC shall ensure that all Ouachita River Unit facilities or portions of the facilities constructed or altered after January 26, 1992 comply with 1) the Department of Justice's Title II regulation and 2) the 1991 ADA Standards or UFAS, or the 2010 ADA Standards, as applicable. 28 C.F.R. §§ 35.151, 35.104.
- d. ADC shall reasonably modify its policies, practices, and procedures where necessary to avoid discrimination on the basis of disabilities unless ADC demonstrates that such modifications would fundamentally alter the nature of its services, programs, or activities, or would result in undue financial or administrative burdens. 42 U.S.C. § 12132; 28 C.F.R. § 35.130(b)(7).
- e. Inmates with disabilities must be housed in the most integrated setting appropriate to the needs of the individual. 28 C.F.R. §§ 35.130, 35.152(b)(2). ADC will ensure that Ouachita River Unit does not house inmates with disabilities in inaccessible cells or housing areas. 28 C.F.R. § 35.152(b)(1).

### **III. SPECIFIC RELIEF**

#### **A. Architectural and Programmatic Barriers**

##### **14. Remediating Inaccessible Elements Identified by the United States' Architectural Accessibility Survey:**

- a. ADC will modify Ouachita River Unit as specified in Appendix A, using the 2010 ADA Standards for Accessible Design (2010 Standards), 28 C.F.R. § 35.104, as set forth in appendices B and D to 36 C.F.R. Part 1191 and the requirements contained in 28 C.F.R. § 35.151. Such modifications will be completed by the deadlines set forth in Appendix A.
- b. ADC will provide a minimum of 3% of the total number of cells in the facility to be accessible, and shall provide cells with accessible mobility features for each classification level and special housing area. 28 C.F.R. § 35.151(a)(1), (k).

15. ADC shall maintain its operable features at Ouachita River Unit. 28 C.F.R. § 35.133(a).

#### **B. Independent Licensed Architect**

16. Within thirty (30) days after the Effective Date of this Agreement, ADC will retain an Independent Licensed Architect (ILA) as set forth below to assess compliance with the 2010 Standards for any alteration, addition, or modification made by ADC at Ouachita River Unit during the term of this Agreement.

- a. ADC will retain an ILA, who must be pre-approved by the United States and continuously approved throughout the term of the Agreement, who is knowledgeable about the architectural accessibility requirements of the ADA. The ILA must act independently to certify whether remediation of the violations identified in Appendix A and any other alterations, additions, or modifications made by ADC to Ouachita River Unit during the term of this Agreement comply with the applicable accessibility standards under 28 C.F.R. § 35.151(c) and the Appendix to 28 C.F.R. § 35.151(c). These requirements shall be included in the ILA's scope of work.
- b. The United States may also, in its discretion, provide technical assistance to the ILA throughout the term of this Agreement. Upon request by the United States, ADC will provide prior notice to the United States of inspections by the ILA to allow representatives of the United States to be present.
- c. ADC will submit ILA certifications (Appendix B) along with its reporting requirements as set forth in this Agreement.

#### **C. Services, Programs, and Activities**

17. ADC will establish, implement, and review policies, procedures, and practices to ensure that all inmates with a disability can fully and equally benefit from all programs, services, and activities offered at Ouachita River Unit. 28 C.F.R. § 35.152(b)(1).

18. To ensure the overall accessibility of the housing program to inmates with disabilities, ADC will establish within three (3) months of the Effective Date of this Agreement, and fully implement within six (6) months of the Effective Date of this Agreement, comprehensive housing policies for ADC, so as to ensure that each inmate with a disability is housed in a cell or dormitory with the accessible elements necessary to afford such inmate access to safe, appropriate housing, in the most integrated setting appropriate to the individual inmate's needs, and at the appropriate classification level. 28 C.F.R. §§ 35.151(k), 35.152(b); 2010 Standards §§ 807.2, 404.

19. Within thirty (30) days after the Effective Date of this Agreement, ADC will, consistent with its custodial role, provide inmates with disabilities at Ouachita River Unit with equal access to programs, services, and activities, by taking the following steps:

- a. Provide staff or inmate aides to inmates with disabilities who require assistance to facilitate access to programs, services, and activities, including assistance with daily living activities, such as dining hall service, toileting and bowel care, showering, feeding, and cleaning of cells. 28 C.F.R. § 35.130. ADC will also, within sixty (60) days of the Effective Date of this Agreement, enact and implement policies and rules relating to the supervision, training, qualification, and responsibilities for such aide positions.
- b. Provide durable medical equipment (DME) and/or other equipment such as a transfer board, trapeze, or patient lift, to facilitate independent and assisted transfers between a wheelchair or other mobility device and toilets, showers, beds, chairs, and any other needed transfer. 28 C.F.R. § 35.130.
- c. Provide appropriate receptacles for disposal of waste, diapers, catheters, and other hazardous materials to maintain a safe and appropriate environment for inmates with disabilities. 28 C.F.R. § 35.130.
- d. Provide at least two shower chairs (in addition to the requirements for accessible showers detailed in Appendix A) in each of the housing units where inmates with mobility disabilities are housed to provide safe and equal access to showering for inmates with disabilities. 28 C.F.R. § 35.130.
- e. Ensure that wheelchairs and other adaptive equipment provided to inmates with disabilities are routinely cleaned, repaired, maintained, and generally kept in safe, operable condition. In addition, ADC must timely provide prostheses, orthopedic shoes, braces, air or hospital mattresses, bedding pads, and other medically necessary equipment, as required to meet the needs of inmates with disabilities. 28 C.F.R. § 35.130.
- f. ADC may impose legitimate safety requirements necessary for the safe operation of its services, programs, or activities. However, ADC must ensure that its safety requirements are based on actual risks, not on mere speculation, stereotypes, or generalizations about individuals with disabilities. 28 C.F.R. § 35.130(h).

#### **D. Care and Treatment for Inmates with Disabilities**

20. ADC will, consistent with its custodial role, provide adequate care and treatment for inmates with disabilities at Ouachita River Unit.

21. Within three (3) months of the Effective Date of this Agreement, ADC will:

- a. Ensure that inmates with disabilities are assessed upon intake and at least annually, or more frequently upon the request of an inmate or based upon an inmate's needs, to determine the appropriate level of care needed, including any specialty care, DME, assistance with daily living activities, wound care, and other medical needs.

- b. Ensure that inmates with disabilities get timely access to specialty care. To document this requirement, ADC will ensure that inmates with disabilities' medical records include the following: date specialty care requested; determination about specialty care request; if denied, date and reason for denial; date specialty care ordered; date appointment made; date inmate saw specialist; if appointment canceled, reason for cancelation; date appointment rescheduled; follow-up dates; whether specialist's recommendations implemented, and if not, the reason the specialist's recommendations were not followed.
  - c. Ensure that all relevant and appropriate medical and mental health information, including information obtained from medical "kites," for each inmate is contained in the inmate's medical record, which will be accessible to all clinicians who need such information.
  - d. Monitor and ensure conformance with nationally accepted clinical guidelines for the treatment of chronic diseases that cause disability. If the guidelines are not followed, the inmate's medical record must contain the reason for not following the guidelines.
  - e. Ensure and document the process for determining and providing DME, including but not limited to wheelchairs, canes, catheters, absorbent underwear, and transfer equipment. Ensure that there is documentation in the patient's chart that states what DME was given with the date and time, similar to the documentation that is in place for medications.
  - f. Develop a policy and procedure to review an inmate's medical condition before moving the inmate to disciplinary housing to ensure the inmate's medical conditions and disabilities can be accommodated in the disciplinary housing area.
  - g. Develop a policy and procedure that requires daily documentation of any wound care provided with vital signs, the size of the wound, and whether a discharge is present. All wound orders should direct the nursing staff on how the wound should be managed. The procedure should have oversight by a supervising nurse. The procedure should define when a nurse should call a provider if a change is noted, for example, if an inmate has a temperature greater than 100 degrees Fahrenheit.
  - h. Develop a procedure to provide for routine monitoring of the temperature of hot water used by any inmate with a disability. The CDC recommends water temperature be set at 120 degrees Fahrenheit or lower for the hot water heater.
22. ADC will, within three (3) months of the Effective Date of this Agreement, establish performance measures to monitor deficiencies and implement remedies for identified problems in care and treatment, including medical care. ADC will track and trend performance measurements until there has been sustained compliance with program

objectives. ADC will track and trend performance measures, which will be provided to the United States in the reports required under Paragraph 33.

**E. Notice, ADA Coordinator, Grievance Procedure**

23. Notice: Within thirty (30) days after the Effective Date of this Agreement, ADC shall post the “Notice of Rights for Inmates with Disabilities under the Americans with Disabilities Act” (Notice), attached as Appendix C, in inmate common areas at Ouachita River Unit, and shall provide a copy of such notice to all inmates known to have a disability. ADC shall maintain these postings in a legible format and shall also provide appropriate translations of this Notice to inmates who require such translations, and shall orally advise inmates with visual impairments or limited reading capabilities of the contents of the Notice during such inmates’ intake.
24. ADA Coordinator: Within thirty (30) days after the Effective Date of this Agreement, ADC will hire or appoint an ADA Coordinator. The ADA Coordinator will coordinate Ouachita River Unit’s efforts to comply with and carry out ADC’s responsibilities under Title II of the ADA and this Agreement. Within three (3) months after the Effective Date of this Agreement, ADC shall ensure that the ADA Coordinator has the training necessary to ensure that the ADA Coordinator is fully knowledgeable about the requirements of the ADA and the statute’s implementing regulations, including the legal rights of inmates with disabilities. This training shall include, but is not limited to, the ADA’s program access requirements, removing barriers to access, implementing an ADA grievance procedure, and making reasonable modifications to policies, practices, and procedures for individuals with disabilities. The training will also include an overview of the spectrum of various disabilities and the spectrum of appropriate accommodations or reasonable modifications that may be required for such individuals in a custodial setting, recognizing that an individual assessment is required to determine the specific modification to be provided for a particular individual. Further, ADC shall ensure that the ADA Coordinator attends at least eight (8) hours of training per year on ADA requirements and new developments. ADC will provide the ADA Coordinator with sufficient authority and resources to perform the tasks required by this Agreement, including coordinating requests for accommodations from inmates with disabilities. The ADA Coordinator will maintain records of requests for auxiliary aids and services and the auxiliary aids and services provided with or without a specific inmate request.
25. If ADC changes the ADA Coordinator at Ouachita River Unit during the term of this Agreement, it will notify the United States in writing, ensure that the new coordinator promptly receives the training set forth in Paragraph 24, and update the name and contact information anywhere it appears, within one day of making such a change.
26. Establishment of ADA Grievance Procedure: Within ninety (90) days after the Effective Date of this Agreement, ADC shall submit to the United States, for review and comment, a detailed grievance procedure that complies with the requirements of Title II of the ADA. This ADA grievance procedure, which shall include the minimum terms contained in the draft policy attached in Appendix D, shall be subject to approval by the United States. ADC will review and respond to all grievances within a reasonable time, and shall have an

effective, impartial appeal procedure. ADC may not deny an inmate's request for a grievance form or an inmate's attempt to file a grievance related to the ADA. ADC must keep a record of all grievances filed as well as the response given to the inmate until the expiration of this Agreement.

27. Employee Conduct Standards and Discipline Manual Revision: The Employee Conduct Standards and Discipline Manual shall be revised within sixty (60) days after the Effective Date of this Agreement to explain that failing to provide an inmate with a grievance form when requested, failing to respond appropriately to a grievance, destroying or concealing grievances, attempting to intimidate an inmate from filing a grievance, and retaliating against an inmate who has filed a grievance, will each be a cause for disciplinary action.
28. Retaliation: As established by current policy, including Arkansas Department of Corrections Code of Ethics paragraph 8 Abuse of Process and Retaliation, ADC will not retaliate with disciplinary action or any other action against any inmate who files or has filed a complaint or expressed concern about any accessibility issues or any issues covered by this Agreement. 28 C.F.R. § 35.134.

## **F. Quality Assurance and Monitoring**

29. Within six (6) months of the Effective Date of this Agreement, ADC will establish and implement an effective quality assurance program. The program will analyze the timeliness of access to medical care and specialty care, the conformance to nationally accepted clinical guidelines for the treatment of chronic disease that causes disability, medication management, the adequacy of medical and mental health records, and medical grievances. ADC will implement this program in an effort to identify patterns of problems that need to be addressed. The analysis will occur on a quarterly basis and result in a quarterly written report which explains the materials reviewed, the patterns identified, and the plan of correction. The quarterly written report will be provided to the United States as part of the reporting requirements outlined in Paragraph 33.
30. Unless a different timeframe is specified otherwise in this agreement, ADC will, within three (3) months of the Effective Date of this Agreement, establish and implement policies, procedures, protocols, training curricula, and practices, and ensure that they are consistent with, incorporate, and implement all provisions of this agreement. ADC will revise and/or develop as necessary other written documents such as screening tools, logs, handbooks, manuals, and forms, to effectuate the provisions of this agreement.

## **G. Training and Reporting**

31. ADA Training: Within three (3) months of the Effective Date of this Agreement, ADC will train all employees and contractors at Ouachita River Unit on the nondiscrimination requirements of Title II of the ADA, and the terms of this Agreement.
- a. Within thirty (30) days after the Effective Date of this Agreement, ADC will submit to the United States the proposed curriculum for the ADA Training(s), as well as the name(s), qualifications (including resume(s)), and contact information



of the individual(s) who will conduct the Training(s). ADC's choice of individual(s) who will conduct the Training(s) and the proposed curriculum will be subject to approval by the United States, not to be unreasonably withheld.

- b. ADC will maintain attendance logs for the duration of this Agreement reflecting the names and titles of attendees and dates of each session of the Training(s) conducted under this Agreement.
  - c. For persons who do not attend the ADA Training(s) on a designated training date as required under this Agreement (for instance, because the employee or contractor was on leave or began employment with ADC after the designated training date), ADC will provide the same Training(s) in-person or by other means to such persons within thirty (30) days after the individual's commencement of employment by ADC or within thirty (30) days after the individual's return to employment (for example, because of leave).
  - d. All trainings conducted after the initial training may either be provided live or via web-based tutorial, or any other mode capable of conveying the ADA topics listed above. If these subsequent trainings are not provided live, the trainer(s) shall be available to directly answer any questions a participant may have after each training.
32. Recordkeeping: For the term of this Agreement, ADC will preserve all records related to the Agreement, which will be maintained by the ADC ADA Coordinator. Such documents include, but are not limited to, relevant policies, practices, and procedures; classification and housing records for inmates with mobility disabilities; requests for accommodations or modifications by inmates with mobility disabilities; complaints or grievances submitted pursuant to the ADA Grievance Procedure established by Paragraph 26; and training materials and attendance logs created pursuant to Paragraph 31. ADC will promptly provide copies of these records to the United States upon the United States' request.
33. Reporting Requirements: Within six (6) months after the Effective Date of this Agreement and every six (6) months thereafter during the term of this Agreement as defined in Paragraph 46, ADC will submit a report to the United States detailing ADC's compliance efforts under this Agreement. The report will include:
- a. Written confirmation that ADC has met the requirements of Paragraphs 13–32 of this Agreement;
  - b. A copy of all policies, procedures, and practices revised pursuant to this Agreement;
  - c. Dates and attendance logs of ADA Training(s);
  - d. Information about inmates with mobility disabilities who were housed at Ouachita River Unit during the period being reported, including for each, the inmate's name, classification, the type of mobility disability, the housing location(s), accommodation(s) requested, and accommodation(s) received;

- e. A report of any formal or informal grievances, complaints, or requests for accommodations or modifications ADC has received from or regarding individuals with mobility disabilities or through the ADA Grievance Procedure described in Paragraph 26. The report will identify each complainant's name, the affected individual's name (if different from the name of the complainant), the subject matter of the grievance, and any responses or actions taken by ADC in response to the grievance. ADC will also preserve all such written complaints or grievances received in any format, written reports of oral complaints, and copies of ADC's responses to such complaints or grievances; and
- f. A report of all efforts undertaken during the reporting period to comply with Paragraphs 14–22 of this Agreement, including all modifications completed pursuant to Appendix A and all reports of the Independent Licensed Architect prepared pursuant to Paragraph 16.

#### **IV. IMPLEMENTATION AND ENFORCEMENT**

- 34. Delivery of Reporting Materials: All materials sent to the United States pursuant to this Agreement shall be sent by email to David.Knight@usdoj.gov. The email shall include a subject line referencing ADC, DJ No. 204-10-41.
- 35. Enforcement: The United States may review compliance with this Agreement at any time. ADC will cooperate with the United States' efforts to monitor compliance with this Agreement, including but not limited to, providing the United States with access to the Ouachita River Unit facility, facility records, inmate records, inmate medical records, staff, and inmates. Further, the United States will have the right to conduct confidential interviews with inmates. After receipt of each report referenced in Paragraphs 16 and 33, the parties will confer to assess ADC's compliance with this Agreement. If the United States believes ADC has failed to comply adequately or in a timely manner with any requirement of this Agreement or any requirement has been violated, the United States will notify ADC in writing and the Parties will attempt to resolve the issue in good faith. If the United States is unable to reach a satisfactory resolution of the issue within thirty (30) days after the date it notifies ADC, the United States may institute a civil action in federal court to enforce the terms of this Agreement or to enforce Title II of the ADA based on the allegations described in this Agreement.
- 36. Entire Agreement: This Agreement, including Appendixes A – D, constitutes the entire agreement between the Parties on the matters raised herein and no other statement or promise, written or oral, made by any party or agents of any party, that is not contained in this written Agreement shall be enforceable.
- 37. Consideration: In consideration of the terms of this Agreement, the United States agrees to refrain from undertaking further investigation or from filing a civil suit under Title II of the ADA related to the allegations in Paragraphs 9 – 11, except as provided in Paragraphs 35 and 42. The Parties agree and acknowledge that this consideration is adequate and sufficient. Nothing contained in this Agreement is intended or shall be construed as a waiver by the United States of any right to institute proceedings against ADC for violations of any statutes,

regulations, or rules administered by the United States or to prevent or limit the right of the United States to obtain relief under the ADA.

38. Severability: If any term of this Agreement is determined by any court to be unenforceable, the other terms of this Agreement shall nonetheless remain in full force and effect.
39. Non-Waiver: Failure by the United States to enforce any provision or deadline in this Agreement shall not be construed as a waiver of the right of the United States to enforce any deadline or provision of this Agreement.
40. Effective Date: The Effective Date of this Agreement is the date of the last signature below. Unless otherwise specified, all time periods designated for an action, including all Completion Dates in Appendix A, run from the Effective Date.
41. Limitation: This Agreement is limited to resolving claims under Title II of the ADA related to the facts specifically set forth in Paragraphs 9 – 11, above. Nothing in this Agreement relates to other provisions of the ADA or affects ADC's obligations to comply with any other federal, state, or local statutory, administrative, regulatory, or common law obligation, including those relating to nondiscrimination against individuals with disabilities. In addition, this Agreement does not affect any other civil or criminal investigations that the United States is currently conducting or may conduct of ADC under the ADA or any other federal laws.
42. Extensions: Any time limits for performance imposed by this Agreement may be extended only by the mutual written consent of the Parties.
43. Successor Liability: This Agreement is final and binding on ADC, its officers, employees, successors, and assigns, including its officers, employees, agents, and any other person under the authority or control of ADC.
44. Counterparts: This Agreement may be executed in counterparts, each of which shall be deemed an original, and the counterparts shall together constitute one and the same Agreement, notwithstanding that each Party is not a signatory to the original or the same counterpart.
45. Authority: The individuals signing this Agreement represent that they are authorized to do so on behalf of the respective entity for which they have signed.
46. Term: This Agreement shall remain in effect for a term of two (2) years from its Effective Date. The term of this Agreement may be extended by mutual written consent of the Parties.
47. Modifications: If at any time ADC seeks to modify any portion of this Agreement because of changed conditions making performance impossible or impractical, or for any other reason, it will promptly notify the United States in a writing setting forth the facts and circumstances thought to justify modification and the substance of the proposed modification. Until there is written agreement by the United States to the proposed modification, the proposed modification will not take effect.

48. Publicly Available: This Agreement and any amendment hereto shall be public documents.

**[Signatures on next page]**

**For Arkansas Division of Correction**

/s/ Lindsay Wallace  
Lindsay Wallace  
Secretary of Corrections  
Arkansas Division of Correction 1302  
Pike Avenue  
North Little Rock, AR 72114  
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September 5, 2025  
Date

**For the United States of America**

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September 5, 2025  
Date

**APPENDIX A**  
**ARCHITECTURAL AND PROGRAMMATIC BARRIERS AT OUACHITA RIVER**  
**UNIT**

**[See attached spreadsheets]**

**APPENDIX B**  
**CERTIFICATION OF ADA COMPLIANCE**

I, [NAME], in my capacity as an Independent Licensed Architect, retained by Arkansas Division of Correction (ADC) and approved by the United States pursuant to Paragraph 16 of the Settlement Agreement executed between the United States and ADC on [DATE], hereby certify, to the best of my knowledge, information, and belief, that the following element identified below is in compliance with the physical accessibility requirements of the 2010 ADA Standards for Accessible Design, 28 C.F.R. § 35.104.

**Element Identified in Appendix A of the Settlement Agreement:**

**Description of Element:**

**Location of Element:**

\_\_\_\_\_  
Printed Name of Independent Licensed Architect

\_\_\_\_\_  
Signature of Independent Licensed Architect

\_\_\_\_\_  
Date

**APPENDIX C**  
**NOTICE OF RIGHTS FOR INMATES WITH DISABILITIES UNDER THE**  
**AMERICANS WITH DISABILITIES ACT**

**The Right to a Reasonable Accommodation or Modification**

Arkansas Division of Correction is committed to providing individuals with disabilities equal opportunity to access its services, programs, and activities, in accordance with its obligations under the Americans with Disabilities Act (ADA). If you have a disability, you have a right to request a reasonable modification or accommodation in order to have equal access to Ouachita River Unit's programs, services, and activities. To comply with the ADA, Arkansas Division of Correction may, among other things:

1. Make reasonable modifications to policies, practices, and/or procedures,
2. Remove barriers to access to Ouachita River Unit's programs, services, and activities, and/or
3. Provide auxiliary aids and services.

**How to Ask for a Reasonable Modification or Accommodation**

If you need a reasonable modification or accommodation, ask your case manager, Ouachita River Unit's ADA Coordinator, or any staff member for an ADA Request for Accommodation form. If you need help filling out the form, you may ask a staff member to assist you.

**How to File an ADA Grievance**

You have the right to file a grievance related to disability discrimination, including if you are denied a request for reasonable modification or accommodation, in accordance with Ouachita River Unit's ADA Grievance Procedure. Your ADA Coordinator will review your grievance and respond accordingly.

**YOUR FACILITY ADA COORDINATOR IS:**

**[INSERT NAME]**



## **APPENDIX D**

### **Disability Grievance Procedure under the Americans with Disabilities Act**

#### **Purpose and Scope**

This grievance procedure is established to meet the requirements of the Americans with Disabilities Act of 1990 (ADA). Arkansas Department of Correction (ADC) will afford access to this procedure to any inmate who wishes to file a complaint alleging discrimination on the basis of disability by ADC.

ADC will provide all inmates with information about the existence and provisions of its grievance procedure, among other ways, by publishing a copy of it—and any related forms designed to implement its procedures—in the Inmate Handbook, and by posting information about it in conspicuous locations at Ouachita River Unit. Information regarding the grievance procedure will be provided to inmates in a language and format accessible to the inmate.

#### **Inmate ADA Grievance Procedures**

ADC will ensure that ADA grievance forms are available on all units, and in the location where kites are stored. ADC will assist inmates who are blind, deaf or hard of hearing, limited or non-English speakers, inmates with low literacy, and inmates who have physical or cognitive disabilities in accessing the grievance system. ADC must ensure equal access to the grievance system for all inmates, including those who are blind, deaf or hard of hearing, have physical or cognitive disabilities, are illiterate, or have limited English proficiency, so that these prisoners have meaningful access to the grievance system. Examples of reasonable modifications to provide equal access include providing assistance in writing a grievance, explaining the grievance form for inmates with cognitive disabilities, interpreting or reading aloud responses, and procuring, completing, and submitting appeal paperwork as may be needed. ADC will also make available in English and Spanish written instructions on how to complete and file the grievances.

An inmate may provide a completed grievance form to any ADC employee or contractor as soon as possible, but must submit the form no later than 60 calendar days after the inmate becomes aware of the issue grieved. ADC will provide a lock box on every housing unit that may be used by inmates to place a completed grievance. That lock box must be accessible to people with disabilities, including mobility disabilities. ADC shall collect grievances from these lock boxes at least once per day, and shall record the time of collection and the person doing the collection.

Employees or contractors receiving an ADA grievance shall acknowledge receipt of the grievance by signing the form and giving a copy back to the inmate. The employee receiving the form shall immediately forward the grievance to the ADA Coordinator, or to the Chief Medical Officer if the ADA Coordinator is the subject of the complaint. Grievances shall not be forwarded to any individual who is the subject of the complaint.

Employees or contractors may not deny an inmate's request to file a grievance related to the ADA. Nor may employees unreasonably delay in providing a copy of the grievance form or

receiving a copy of a grievance. Inmates are not required to attempt to resolve grievances informally. Retaliation for use of the grievance system is prohibited. Failing to provide an inmate with a grievance form when requested, failing to respond appropriately to a grievance, destroying or concealing grievances, attempting to intimidate an inmate from filing a grievance, and retaliating against an inmate who has filed a grievance, may each be a cause for disciplinary action.

### **Timely Resolution of ADA Grievances**

Within five calendar days after receipt of the ADA grievance form, the ADA Coordinator or his or her designee will meet with the inmate to discuss the grievance and the possible resolutions. Within five calendar days after the meeting, the ADA Coordinator or the designee will respond in writing, and where appropriate, in a language and format accessible to the inmate, such as large print, Braille, or verbal. The response will explain the position of ADC and offer options for substantive resolution of the grievance. A substantive resolution of a grievance is one that addresses the inmate's underlying request or allegation. For example, if an inmate requests a double mattress due to a disability, the substantive resolution must approve or deny that request; scheduling an appointment with a medical provider is insufficient. The response should also have check boxes indicating whether the grievance was upheld or denied with a statement next to the denied box that the inmate has the right to appeal and how long the inmate has to appeal. For any grievance that is denied, the inmate shall be given a copy of ADC's grievance appeal form. All resolutions of grievances shall be documented in the grievance log described below under "Recording ADA Grievances."

### **Appeals to ADA Grievance Findings**

If the response by the ADA Coordinator or his or her designee does not resolve the issue to the inmate's satisfaction, the inmate may appeal the decision to the Deputy Director over Medical Services, within 15 calendar days after receipt of the response.

Within seven calendar days after receipt of the appeal by any ADC employee, the Deputy Director over Medical Services will meet with the inmate to discuss the grievance and possible resolutions. Within seven calendar days after the meeting, the Deputy Director over Medical Services will respond in writing, and, where appropriate, in a language and format accessible to the inmate, with a final resolution of the grievance.

The individual who reviews an appeal cannot be the same individual who reviewed the initial grievance.

### **Recording ADA Grievances**

All written ADA grievances received by the ADA Coordinator or her designee, appeals to the Chief Medical Officer, and any responses from ADC will be retained by ADC for at least the duration of this Agreement. The ADA Coordinator should maintain a log with a record of informal resolutions of grievances before grievance forms were completed, the grievances, the nature of the grievances, any responses to the grievances, whether the grievances were denied or

upheld, any appeals, and the results of any appeal. The log will also include the dates that grievances were submitted, responded to, appealed, and responded to on appeal. All such information regarding the handling of an inmate's ADA grievance shall also be recorded in the inmate's file.

### **ADA Grievance Audits**

At least once every six months, a Deputy Warden shall perform an audit of all inmate grievances filed. The Deputy Warden with responsibility for the grievance audits shall not be the same person who has the responsibility of handling grievance appeals. The audit should analyze grievances to ensure the timely resolution of grievances and identify any problematic trends, such as no responses to multiple kites, delays in specialty care, failure to provide accommodations, or delays in responding to grievances. The person who conducts the audits should forward a memorandum to the Warden detailing the findings, including recommendations regarding any changes to policy or procedures, or any additional training that might be warranted to reduce future complaints.

The Warden shall evaluate the recommendations and ensure appropriate action is taken.

Any training issues identified as a result of the audit should be forwarded to the Training Coordinator, who will be responsible for ensuring all necessary and required training is scheduled and completed.