

**SETTLEMENT AGREEMENT UNDER THE AMERICANS WITH DISABILITIES ACT  
BETWEEN THE UNITED STATES OF AMERICA AND  
ALBUQUERQUE PUBLIC SCHOOLS, ALBUQUERQUE, NEW MEXICO**

**A.  
BACKGROUND**

1. The parties to this Settlement Agreement ("Agreement") are the United States of America and Albuquerque Public Schools ("APS").

2. This case stems from a referral to the United States Department of Justice ("the Department") from the Equal Employment Opportunity Commission in accordance with Section 107 of title I of the Americans with Disabilities Act, 42 U.S.C. § 12117, upon a finding of reasonable cause and an unsuccessful effort to conciliate.

3. The Complainant, \_\_\_\_\_, is deaf. The Department asserts that \_\_\_\_\_, at times, requires the use of sign language interpreters as a reasonable accommodation. \_\_\_\_\_ was hired as \_\_\_\_\_ alleges that APS discriminated against him on the basis of disability by failing to accommodate him by providing sign language interpreters for mandatory in-service and staff meetings in violation of title I of the Americans with Disabilities Act of 1990 ("ADA"), 42 U.S.C. § 12111 et seq., and its implementing regulations, 29 C.F.R. Part 1630.

4. The position of the Department is that APS failed and refused to reasonably accommodate \_\_\_\_\_ in violation of the ADA, Sections 102(a) and 102(b)(5)(A), 42 U.S.C. §§ 12112(a) and 12112(b)(5)(A).

5. The position of the Department is that APS failed to provide \_\_\_\_\_ with the reasonable accommodation of a qualified sign language interpreter for mandatory staff and in-service meetings.

6. APS's position is that it did not violate any provision of the ADA or the rights of \_\_\_\_\_, and that their willingness to resolve this case is not to be construed as an admission of wrong-doing or liability, which they expressly deny.

7. The parties enter into this settlement agreement in order to avoid unnecessary and costly litigation and hereby agree as follows:

**B.**  
**THE PARTIES**

8. APS is a person within the meaning of Section 101(7) of the ADA, 42 U.S.C. § 12111(7), and Section 701 of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e(a).

9. APS is an employer within the meaning of Section 101(5), 42 U.S.C. § 12111(5), and a covered entity within the meaning of Section 101(2) of the ADA, 42 U.S.C. § 12111(2).

10. \_\_\_\_\_ is a person with a disability within the meaning of Section 102(2) of the ADA, 42 U.S.C. § 12102 (2)(A), and its implementing regulation, 29 C.F.R. § 1630.2(g).

11. The Department asserts that \_\_\_\_\_ is a qualified individual with a disability as defined by Sections 101(8) of the ADA, 42 U.S.C. § 12111(8), and its implementing regulation, 29 C.F.R. § 1630.2(m).

**C.**  
**THE AGREEMENT TERMS**

12. APS, by and through its officials, agents, and employees and all persons in active concert or participation with it, shall not engage in any act or practice that has the purpose or effect of unlawfully discriminating against any employee or applicant for employment on the basis of disability in violation of the ADA.

13. APS, by and through its officials, agents, and employees and all persons in active concert or participation with it, shall not retaliate against any person who opposes or has opposed policies or practices he or she believes to discriminate on the basis of disability; who has filed a Charge of Discrimination against APS, or who has participated in or cooperated with the initiation, investigation, litigation, or resolution of this or any other claim brought against APS alleging discrimination on the basis of disability.

14. Within forty-five (45) days of the effective date of this Agreement, APS shall post their ADA Notice to Employees attached to this Settlement as Exhibit "A," in a conspicuous place on the premises.

15. Within sixty (60) days of the effective date of this Agreement, APS shall modify their attached 504/ADA Employment Practices Procedural Directive. APS's new procedural directive shall include a subsection D in the "Reasonable Accommodation" section which shall read:

If an employee with a disability has been determined to have a recurring need for an accommodation, the employee may provide a single request for an accommodation. (Example: A deaf or hearing impaired employee who must

attend regular school staff meetings held monthly throughout the year).

16. Within one hundred and twenty (120) days of the effective date of this Agreement, APS shall conduct at least one (1) hour of training on the ADA and on issues related to the policy developed under paragraph 15. Specifically, this training shall include at least twenty minutes devoted to the procedures for employee's requests for accommodations and APS's procedures for responding to those requests. Thereafter, APS shall provide one hour of employee training, annually, on the ADA and designate at least twenty minutes of this training to APS's Reasonable Accommodation Policy.

17. APS shall provide all incoming employees with an ADA brochure, which summarizes an employee's rights under the ADA, identifies APS's ADA coordinator, and delineates the services provided by APS relating to their obligations under the ADA.

18. APS shall continue to post its procedural directive relating to their ADA requirements on their web site, which shall be accessible to all employees.

19. Within ten days of the effective date of this Agreement, APS shall send to the charging party by certified mail, return receipt requested, a check payable to him in the amount of Fifteen Hundred Dollars (\$1,500.00), less applicable taxes, as damages. APS shall mail a photocopy of the check along with accompanying correspondence to counsel for the Department of Justice.

#### **D.** **ENFORCEMENT**

20. The Attorney General is authorized to bring a civil action enforcing Title I of the ADA in any situation where a pattern or practice of discrimination is believed to exist or a matter of general public importance is raised. In consideration of the terms of this Agreement, the Attorney General agrees to refrain from taking more formal enforcement action in this matter.

21. All terms of this Agreement shall become enforceable in federal district court. Failure by the Department of Justice to enforce this entire Agreement with regard to any deadline herein shall not be construed as a waiver of its right to do so with regard to future deadlines and provisions of this Agreement. The Department of Justice may review compliance with this Agreement for three (3) years from the date of the last signature below. If the Department believes that this Agreement or any requirement thereof has been violated, it may institute a civil action for relief in federal district court.

**E.**  
**PUBLIC AGREEMENT**

22. This document is a public agreement. A copy of this Agreement or any information contained herein may be made available to any person. APS or the Department of Justice shall provide a copy of this Agreement to any person upon request.

23. This Agreement shall become effective as of the date of the last signature below and shall remain in effect for three years from that date. This agreement shall be binding on any successor in interest to APS, and APS has a duty to so notify all such successors in interest.

24. A signor of this document in a representative capacity for APS as a partnership, corporation, or other legal entity, represents that he or she is authorized to bind the partnership, corporation, or other legal entity to this agreement.

**F.**  
**SCOPE OF AGREEMENT**

25. This Agreement constitutes the entire agreement between the parties on the matters raised herein, and no other statement, promise or agreement, either written or oral, made by either party or agents of either party, that is not contained in this written Agreement shall be enforceable. This Agreement is limited to the matters raised in the EEOC charge number 390-A0-0603 and does not address any other issues of ADA compliance by APS. This agreement does not affect APS's continuing responsibility to comply with all aspects of the Americans with Disabilities Act.

FOR THE ALBUQUERQUE PUBLIC SCHOOLS:

FOR THE UNITED STATES OF AMERICA:

By:

*Suzanne Parker*

Suzanne Parker  
ADA Compliance Officer  
Albuquerque Public Schools  
725 University Blvd. SE  
Albuquerque, New Mexico 87106

By:

**RALPH F. BOYD, JR.**  
Assistant Attorney General  
for Civil Rights Division

*Felicia L. Sadler*

**JOHN L. WODATCH**  
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**HAROLD L. JACKSON**  
Disability Rights Section  
Civil Rights Division  
United States Department of Justice  
Post Office Box 66738  
Washington, D.C.  
20035-6738  
TEL: (202) 353-2289

Dated:

*July 18, 2002*

Dated:

*July 19, 2002*

APPROVED AS TO FORM:

By:

*[Signature]*

**MICHAEL L. CARRICO, ESQ.**  
Modrall, Sperling, Roehl, Harris & Sisk, P.A.  
500 Fourth Street NW  
Bank of America Centre, Suite 1000  
Post Office Box 2168  
Albuquerque, New Mexico 87103-2168  
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EXHIBIT A

# NOTICE TO EMPLOYEES

Title I of the Americans with Disabilities Act, as amended (ADA), prohibits employment discrimination on the basis of disability. The ADA makes it unlawful to discriminate against, including harass, a qualified individual with a disability because of the disability of such individual in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions and privileges of employment.

The Albuquerque Public School District will not engage in any of the above unlawful acts or practices, and it will maintain and conduct all hiring and termination and other personnel decisions, in a manner which does not discriminate against, including harass, an individual on the basis of disability.

The Albuquerque Public School District will not discriminate, including harass, or retaliate in any manner against any person because of opposition to any practice declared unlawful under the ADA or because of the filing of a charge, the giving of testimony or assistance, or the participation in any investigation, proceeding, or hearing.

The Equal Employment Opportunity Commission ("EEOC") is the federal agency primarily responsible for investigating individual charges of discrimination under Title I of the ADA. Any individual who believes that he or she has been discriminated against in violation of the ADA, or who desires more information on the ADA or other employment discrimination statutes can contact the EEOC at the following address and phone number:

Equal Employment Opportunity Commission  
Albuquerque District Office  
505 Marquette NW, Suite 900  
Albuquerque, New Mexico 87102  
Phone No. (505) 248-5201  
FAX No. (505) 248-5233  
TTY No. (505) 248-5240

The Albuquerque Public School District supports and will comply with the ADA in all respects.

7/18/02  
Date

Suzanne Parker  
Signature  
Director of Quality Ass  
Title

**EXHIBIT B**

**RELEASE OF ALL CLAIMS**

For and in consideration of the acceptance of the relief offered to me by the Albuquerque Public Schools, pursuant to a Settlement Agreement between the United States of America and the Albuquerque Public Schools:

I, \_\_\_\_\_, release and discharge the Albuquerque Public Schools from all legal and equitable claims related to EEOC Charge No. \_\_\_\_\_ which I filed with the Equal Employment Opportunity Commission on or about \_\_\_\_\_. I further agree that I will not exercise my right to institute, against the above entity, any civil action alleging employment discrimination on the basis of EEOC charge No. \_\_\_\_\_, or any of the facts alleged therein.

I acknowledge that a copy of the Settlement Agreement between the Albuquerque Public Schools and the United States of America resolving the matter between them has been made available to me.

**I HAVE READ THE RELEASE AND UNDERSTAND THE CONTENTS THEREOF AND I EXECUTE THIS RELEASE OF MY OWN FREE ACT AND DEED.**

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2002.

\_\_\_\_\_