

**SETTLEMENT AGREEMENT  
BETWEEN  
THE UNITED STATES OF AMERICA,  
THE NATIONAL FEDERATION OF THE BLIND,  
AND THE SACRAMENTO (CALIFORNIA) PUBLIC LIBRARY AUTHORITY  
UNDER THE AMERICANS WITH DISABILITIES ACT**

[Press Release](#)

**BACKGROUND**

1. The parties to this Settlement Agreement (“Agreement”) are the United States of America, the National Federation of the Blind (“NFB”), and the Sacramento (California) Public Library Authority (“Library”).
2. This matter is based upon a complaint brought to the attention of the United States Department of Justice (“Department”) by the NFB, regarding the Library’s acquisition and deployment of Barnes & Noble NOOK e-book readers (“NOOKs”) in a patron lending program. The complaint states that the NOOKs are inaccessible to individuals who are blind and are also inaccessible to many individuals with other vision disabilities. The inaccessibility of the NOOK devices as alleged in the complaint includes the inability to access the devices’ menus and controls through means other than a touch screen interface (that at present lacks audio and tactile feedback) and the devices’ lack of a text-to-speech engine that renders e-content aurally. The complaint alleges that the Library’s use of the NOOKs violates title II of the Americans with Disabilities Act (“ADA”), 42 U.S.C. §§ 12131 *et seq.* The Library denies any violation of the ADA, and states its commitment to ensuring equal access to its services, programs, and activities for patrons with disabilities.
3. The goal of the parties is to provide a Library e-reader circulation program where Library patrons, with and without vision disabilities, are able to access and use the same technology to

the maximum extent possible.

4. The Attorney General is responsible for administering and enforcing title II of the ADA, 42 U.S.C. §§ 12131 *et seq.* (“title II”), and the relevant regulations implementing title II, 28 C.F.R. Part 35.
  
5. Under title II of the ADA, no qualified individual with a disability, shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity. 42 U.S.C. § 12132. Among other things, a public entity, in providing any aid, benefit, or service, may not, on the basis of disability, deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit or service; afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded others; provide a qualified individual with a disability with an aid, benefit, or service that is not as effective in affording equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement as provided to others; provide different or separate aids, benefits, or services to individuals with disabilities or to any class of individuals with disabilities than are provided to others unless such action is necessary to provide qualified individuals with disabilities with aids, benefits, or services that are as effective as those provided to others; or otherwise limit a qualified individual with a disability in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving the aid, benefit, or service. 28 C.F.R. § 35.130(b)(1)(i)-(iv), (vii). A public entity shall make reasonable modifications in policies, practices, or procedures when the modifications are necessary to avoid discrimination on the basis of disability, unless the public entity can demonstrate that making the modifications would fundamentally alter the nature of the service, program, or activity. 28 C.F.R. § 35.130(b)(7).
  
6. The Library is a public entity under the meaning of title II, with its principal location at 828 I Street, Sacramento, California 95814, and with twenty-seven (27) additional branch locations

throughout the City and County of Sacramento, California.

7. The United States has determined that the Library's deployment of NOOK e-book readers that are inaccessible to persons who are blind or others who need the accessibility features referenced in Paragraph 2 violates title II of the ADA by excluding current and potential patrons with disabilities from participating in or by denying them the benefits of its services, programs, or activities.
8. The parties agree that it is in the parties' best interests, and the United States believes that it is in the public interest, to resolve this dispute amicably and without litigation. The parties have therefore voluntarily entered into this Agreement, agreeing as follows:

### **ACTIONS TO BE TAKEN BY THE LIBRARY**

9. The Library shall not acquire any additional e-reader devices for patron use that exclude persons who are blind or others who need the accessibility features referenced in Paragraph 2 ("inaccessible e-reader devices"). The prohibition on the acquisition of inaccessible e-reader devices for patron use, such as the versions of the NOOK that are the subject of the complaint originating this matter, shall also apply whenever the Library replaces the inaccessible e-reader devices currently in circulation.
10. Within sixty (60) days of the effective date of this Agreement, the Library shall acquire at least eighteen (18) e-reader devices accessible both to persons without disabilities and to persons who are blind or others who need the accessibility features referenced in Paragraph 2 ("accessible e-reader devices").
11. Within sixty (60) days of the effective date of this Agreement, the Library shall deploy all eighteen (18) accessible e-reader devices through a pilot project ("Pilot Project"). As of the effective date of this Agreement, and through its consultation with the California State Library Braille and Talking Book Library, the Library shall have identified volunteer participants for

this Pilot Project. The goal of the Pilot Project is to prepare for the rollout of the accessible e-reader devices to Library patrons who are blind or others who need the accessibility features referenced in Paragraph 2 by ensuring that proper instructions and guidance for use of the accessible e-reader devices are provided. The Pilot Project shall last for no longer than ninety (90) days from the date of deployment of the accessible e-reader devices.

12. Within one hundred eighty (180) days of the effective date of this Agreement, the Library shall deploy the accessible e-reader devices, which shall be loaded with content substantially equivalent to that on the inaccessible e-reader devices already in circulation, to Library patrons who are blind or others who need the accessibility features referenced in Paragraph 2. Until all titles loaded on the accessible e-reader devices are the same titles as those on the inaccessible e-reader devices already in circulation, no additional content shall be loaded onto any of the inaccessible e-reader devices. However, where titles on the inaccessible e-reader devices have not been downloaded to the accessible e-reader devices due solely to their commercial unavailability (but the commercially available content on the inaccessible and accessible e-reader devices is otherwise identical), the requirements of the prior sentence shall not prevent the Library from loading new content to the inaccessible e-reader devices, provided that the Library ensures that such new content is equally available for loading on the accessible e-reader devices and provided that the Library simultaneously loads that content to the accessible e-reader devices. All eighteen (18) accessible e-reader devices acquired by the Library pursuant to this Agreement shall be reserved for use by patrons with a valid borrower's card to the Library system who are blind or others who need the accessibility features referenced in Paragraph 2 ("eligible patrons"). During the term of this Agreement, the Library shall maintain no fewer than eighteen (18) accessible e-reader devices in reserve for eligible patrons.
13. The Library may not require proof of disability, including, for example, a doctor's note, before loaning the accessible e-reader devices to eligible patrons. However, the Library may require individuals who borrow the accessible e-reader devices to attest in writing that the accessible e-

reader device is being borrowed by or for an eligible patron.

14. Within forty-five (45) days of the effective date of this Agreement, the Library shall describe and publicize the upcoming availability of the accessible e-reader devices through
  - newsletter communication;
  - outreach via emails addressed to local organizations that serve individuals with vision disabilities; and
  - a prominent, accessible posting on its homepage (at <http://www.saclibrary.org/>) as well as through an accessible posting on the webpage where its e-reader program is currently publicized (<http://www.saclibrary.org/?pageId=1465>).
15. The Library shall provide training on title II of the ADA to 1) all individuals acting on behalf of the Library (whether employees or volunteers) who interface with the public in any capacity and 2) individuals who have been, or may in the future be involved in, discussions or decisions regarding acquisition of technology for use by Library patrons. Such training shall occur within ninety (90) days of the effective date of this Agreement and every year thereafter for the duration of this Agreement. The Library shall send via electronic mail the proposed curriculum for the training, as well as the name(s) and contact information of the individual(s) who will conduct the training, to the Department no later than thirty (30) days before the training date. The Library shall adopt any changes to the curriculum made by the Department of Justice, and the Department of Justice shall have the authority to approve the trainers that Library has selected, which approval shall not be unreasonably denied.
16. When acquiring digital technology for use by the Library or its patrons, the Library shall henceforth (from the effective date of this Agreement) acquire only technology that does not exclude persons who are blind or others who need the accessibility features referenced in Paragraph 2, with the goal that the technologies offered by the Library in connection with its services, programs, or activities offer equal access to the Library's patrons with disabilities.
17. The Library shall notify the Department in writing when it has completed the actions described

in paragraphs 10, 11, 12, 14, and 15.

## **OTHER PROVISIONS**

18. In consideration for this Agreement, the NFB will not institute any civil action or take any other action against the Sacramento Public Library alleging discrimination based on the facts alleged in the complaint it filed with the Department as described in paragraph 2, above.
19. In consideration for this Agreement, the United States will close its investigation and will not institute any civil action alleging discrimination based on the allegations underlying DJ #204-11E-387, except as provided in the immediately following paragraph.
20. The United States may review the Library's compliance with this Agreement or title II of the ADA at any time. If the United States or the NFB believes that this Agreement or any portion of it has been violated, such concerns shall be brought to the attention of the other parties to this Agreement, and the parties shall attempt to resolve the concerns in good faith. The United States and/or the NFB shall provide the Library thirty (30) days from the date it notifies the Library of any breach of this Agreement to cure that breach before instituting a civil action in the appropriate United States District Court to enforce this Agreement or (in the case of the United States) to enforce title II of the ADA.
21. Failure by the United States to enforce any of the provisions of this Agreement shall not be construed as a waiver of the right to do so with regard to other provisions of this Agreement.
22. A signatory to this document in a representative capacity for any party represents that he or she is authorized to bind that party to this Agreement.
23. 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 any party or agents of any party, that is not contained in this written agreement, including any attachments, shall be enforceable.

24. This Agreement does not constitute a finding by the Department that the Library is in full compliance with the ADA, nor an admission by the Library of noncompliance with the ADA. This Agreement is not intended to remedy any other potential violations of the ADA or any other law that is not specifically addressed in this Agreement. Nothing in this Agreement changes the Library's obligation to otherwise comply with the requirements of the ADA.

### **EFFECTIVE DATE/TERMINATION DATE**

25. The effective date of this Agreement is the date of the last signature below.
26. The duration of this Agreement shall be three years from the effective date.

AGREED AND CONSENTED TO:

THOMAS E. PEREZ

Assistant Attorney General

Civil Rights Division

/s/ Anne E. Langford

/s/ Rivkah K. Sass

GREGORY B. FRIEL, Acting Chief

Rivkah K. Sass

KATHLEEN P. WOLFE, Special Litigation

Library Director, Sacramento Public

Counsel

Library

ALBERTO RUISANCHEZ, Deputy Chief

Secretary, Sacramento Public Library

ANNE E. LANGFORD, Trial Attorney

Authority Board

Disability Rights Section

828 I Street

Civil Rights Division

Sacramento, California 95814

U.S. Department of Justice

950 Pennsylvania Avenue, N.W.

8/28/2012

Washington, D.C. 20530

Date

8/29/2012

Date

/s/ Marc Maurer

Marc Maurer

President

National Federation of the Blind

200 East Wells Street

Baltimore, Maryland 21230

8/28/2012

Date

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updated August 29, 2012