

**SETTLEMENT AGREEMENT**

**BETWEEN**

**THE UNITED STATES OF AMERICA**

**AND**

**THE LAW SCHOOL ADMISSION COUNCIL, INC.**

**U.S. Department of Justice Complaint No. 202-39-97**

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This Agreement is entered into by and between the United States of America, acting through the United States Department of Justice and the United States Attorney's Office for the District of Minnesota (the "United States"), and the Law School Admission Council, Inc. ("LSAC").

**BACKGROUND AND APPLICABLE LAW**

1. LSAC is a Delaware non-profit corporation. All law schools approved by the American Bar Association (ABA) are LSAC members. LSAC offers the Law School Admission Test (LSAT), an examination related to applications for post-secondary educational purposes within the meaning of Section 309 of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12189, and the Department of Justice's implementing regulation, 28 C.F.R. § 36.309.
2. Pursuant to Section 309 of the ADA and the Department's implementing regulation, entities that offer examinations relating to applications for postsecondary education must offer examinations in a place and manner accessible to persons with disabilities. 42 U.S.C. § 12189; 28 C.F.R. § 36.309(a).
3. Pursuant to the Department's implementing regulation, 28 C.F.R. § 36.309, private entities like LSAC that offer examinations are required to provide modifications to the examination and appropriate auxiliary aids or services (commonly referred to as "testing accommodations") for

persons with disabilities to assure that the examination is selected and administered to best ensure that the “examination results accurately reflect the individual’s aptitude or achievement level or whatever other factor the examination purports to measure, rather than reflecting the individual’s impaired sensory, manual or speaking skills (except where those skills are the factors that the examination purports to measure).” 28 C.F.R. § 36.309(b)(1)(i). To assure accessibility, “[r]equired modifications to an examination may include changes in the length of time permitted for completion of the examination.” 28 C.F.R. § 36.309(b)(2).

4. The Department’s implementing regulation provides that entities like LSAC that offer examinations may request appropriate documentation related to requests for testing accommodations, modifications or auxiliary aids. Requests for documentation must, however, be reasonable and limited to the need for the modification, accommodation, or auxiliary aid or service requested. Moreover, “[w]hen considering requests for modifications, accommodations, or auxiliary aids or services, the entity gives considerable weight to documentation of past modifications, accommodations, or auxiliary aids or services, received in similar testing situations, as well as modifications, accommodations, or related aids and services provided in response to an Individualized Education Program (IEP) provided under the Individuals with Disabilities Education Act or a plan describing services provided pursuant to section 504 of the Rehabilitation Act of 1973, as amended (often referred to as a Section 504 Plan).” 28 C.F.R. § 36.309(b)(1)(v).
5. The United States Department of Justice through the U.S. Attorney’s Office for the District of Minnesota is responsible for enforcing Section 309 of the ADA, 42 U.S.C. § 12189.
6. Complainant, a 22-year old resident of Minnetonka, Minnesota, has Congenital Hypotonia, Attention Deficit Disorder (“ADD”), and a Learning Disability. Complainant is a person with disabilities under the ADA because he has impairments that substantially limit one or more major life activities. Complainant has received services and accommodations for these disabilities since elementary school, including an IEP and testing accommodations in other standardized testing settings. He sought testing accommodations for the October 2008 and 2009 LSAT examinations from LSAC, but LSAC denied his request. Pursuant to that denial, Complainant filed a complaint under the ADA

with the U.S. Attorney's Office for the District of Minnesota.

7. Pursuant to the Attorney General's authority under 42 U.S.C. § 12188(b)(1)(A)(i), the United States Attorney's Office for the District of Minnesota investigated the complaint.
8. As a result of this investigation, the United States concluded that Complainant had submitted appropriate documentation to demonstrate that he is a person with disabilities within the meaning of the ADA, and that he was entitled to testing modifications or accommodations to take the LSAT to best ensure that the examination results accurately reflect his aptitude and achievement, rather than his disabilities. Accordingly, the United States determined that LSAC failed to offer the examination to Complainant in a place and manner accessible to persons with disabilities in violation of 42 U.S.C. §12189 and 28 C.F.R. § 36.309.
9. LSAC disputes the United States' conclusions and denies that it has violated the ADA in its handling of Complainant's request for accommodations on the LSAT.
10. LSAC and the United States (collectively the "Parties") have reached agreement that it is in the Parties' best interests, and the United States believes it is in the public interest, to fully and finally resolve this matter on mutually agreeable terms without further litigation and have, therefore, agreed to enter into this Agreement.

WHEREFORE, the Parties hereby agree and stipulate as follows:

### **AGREEMENT TERMS**

#### **Testing Accommodations for Complainant**

11. LSAC agrees that it will grant Complainant the following testing accommodations when he takes the LSAT on October 1, 2011 and/or December 3, 2011:
  - Double time on all sections of the LSAT examinations, including the multiple-choice sections and the writing sample section;

- Permission to bring and use scratch paper during the LSAT, with the understanding that the test proctor will examine the scratch paper prior to administering the examination; that Complainant will surrender the scratch paper at the end of the examination; and that such scratch paper will be destroyed;
  - An alternative non-scantron answer sheet for taking the LSAT;
  - Permission to bring and use his own computer and printer for the writing sample section of the LSAT;
  - A break of 10 minutes between each section of the examination; and
  - A separate and quiet room in which to take the LSAT.
12. Complainant will be subject to all standard requirements for registering to take the LSAT examination and scheduling his examination.
13. Except for the accommodations provided herein, the LSAT will be administered to Complainant under the same conditions as those afforded examinees who do not receive accommodations. Complainant's scores on the LSAT will be reported in the same manner as are scores of other examinees who receive accommodations on the LSAT. However, the LSAC will annotate the bottom of Complainant's score report with the following language: "Accommodations provided pursuant to a settlement agreement between the LSAC and the United States of America." No other additional references regarding the accommodations granted to Complainant will be referenced on the score report.
14. Nothing in this Agreement constitutes a ratification or acceptance by the United States of the practice of the LSAC sending notification to law schools indicating that testing accommodations were provided/granted.
15. Upon the execution of this agreement and once LSAC receives a release of claims from the Complainant, LSAC will post a letter onto Complainant's LSAC account that lists the testing

accommodations that he will receive on the LSAT.

### **Miscellaneous**

16. **Termination of Complaints.** The United States will terminate its investigation of, and close, Department of Justice Complaint No. 202-39-97.
17. **No Admission.** The Parties agree that this Agreement is neither an admission by the LSAC of any violation of the ADA, nor an admission by the United States of the merits of any of LSAC's defenses.
18. **Notice.** All notices and other correspondence sent by the Parties to one another relating to this Agreement shall be sent to the Parties at the following addresses or at such other address as the Parties may designate in writing in the future:

#### **For correspondence to the United States:**

Greg G. Brooker  
Civil Chief  
U.S. Attorney's Office  
600 U.S. Courthouse  
300 South Fourth Street  
Minneapolis, MN 55415

#### **For correspondence to the LSAC:**

Joan E. Van Tol, Corporate Counsel  
Law School Admission Council, Inc.  
P. O. Box 40  
Newtown, Pennsylvania 18940-0040

19. **Public Document.** This Agreement is a public document. A copy of this document, or any

information contained herein, may be made available to any person. The Parties shall provide a copy of this Agreement to any person or entity upon request.

20. Parties and Successors in Interest. This Agreement shall be binding on the Parties, and their successors in interest, and the LSAC shall have a duty to so notify all such successors in interest of the existence and terms of this Agreement.
21. Releases. The United States will obtain a signed Release from Complainant in the form attached to this Agreement.
22. No Retaliation. The LSAC agrees that it will not discriminate or retaliate against Complainant because of his participation as a complainant in this matter.
23. Authorization of Signatories. The individuals signing this Agreement represent that they are authorized to bind the Parties to this Agreement.
24. Entire Agreement. 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 the Parties or agents of the Parties, that is not contained in this written Agreement and its Attachments/Exhibits, shall be enforceable regarding the matters raised herein.
25. 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.
26. Effective Date. This Agreement shall be effective upon the later of the receipt of a signed release from Complainant or the date it is signed by the last signatory, and shall terminate on December 31, 2011.

### **SEPARATE SIGNATURE PAGES TO FOLLOW**

Signature Page

Settlement Agreement Between the United States and LSAC

Dated: 9/27/11

UNITED STATES OF AMERICA

By: \_\_\_\_\_

B. TODD JONES

UNITED STATES ATTORNEY

Gregory G. Brooker

Bahram Samie

Assistant U.S. Attorneys

United States Attorney's Office

District of Minnesota

600 U.S. Courthouse

300 South Fourth Street

Minneapolis MN 55415

Signature Page

Settlement Agreement Between the United States and LSAC

Dated: 9/27/2011

LAW SCHOOL ADMISSION COUNCIL,  
INC.

By: \_

Joan E. Van Tol

General Counsel

Law School Admission Council, Inc.

P.O. Box 40

Newtown, PA 18940-0040

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[Cases & Matters by ADA Title Coverage](#) | [Legal Documents by Type & Date](#) | [ADA Home Page](#)

September 30, 2011

