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Agora Cyber Charter School

Board of Trustees Policy

SERVICE ANIMALS IN SCHOOL POLICY

The Board of Trustees ("Board") of the Agora Cyber Charter School ("Charter School") adopts this Policy regarding Service Animals in School in accordance with applicable provisions of: Title II of the Americans with Disabilities Act (ADA), 42 U.S.C. § 12101, and its implementing regulations at Section 28 C.F.R. Part 35. Additionally, this Policy addresses requirements and considerations regarding service animals under applicable provisions and implementing regulations of Section 504 of the Rehabilitation Act (Section 504), 29 U.S.C. § 794; and applicable provisions and implementing regulations of the Individuals with Disabilities Education Improvement Act of 2004 (IDEA), 20 U.S.C. § 1400.

The Board adopts this policy to ensure that individuals with disabilities are permitted to participate in and benefit from Charter School programs, activities and services, and to ensure that the Charter School does not discriminate on the basis of disability.

Service Animals Defined under the ADA:

Pursuant to Section 28 C.F.R. § 35.104, a Service Animal is defined as: any dog that is individually trained to do work or perform tasks for the benefit of an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. Other species of animals, whether wild or domestic, trained or untrained, are not service animals for the purposes of this definition. The work or tasks performed by a service animal must be directly related to the handler's disability. Examples of work or tasks include, but are not limited to:

- assisting individuals who are blind or have low vision with navigation and other tasks,

- alerting individuals who are deaf or hard of hearing to the presence of people or sounds,
- providing non-violent protection or rescue work,
- pulling a wheelchair,
- assisting an individual during a seizure,
- alerting individuals to the presence of allergens,
- retrieving items such as medicine or the telephone,
- providing physical support and assistance with balance and stability to individuals with mobility disabilities, and
- helping persons with psychiatric and neurological disabilities by preventing or interrupting impulsive or destructive behaviors.

The crime deterrent effects of an animal's presence and the provision of emotional support, well-being, comfort, or companionship do not constitute work or tasks for the purposes of this definition.

Emotional Support/Therapy/Comfort Animals:

Emotional support, therapy, comfort, or companion animals are NOT considered service animals under the ADA. Rather these terms are used to describe animals that provide comfort just by being with a person. Because they have not been trained to perform a specific job or task, they do not qualify as service animals under the ADA.

However, the use of an emotional support animal, sometimes referred to as a comfort animal, may be considered a request for a reasonable accommodation under the ADA. Such a request for the use of an emotional support animal must be supported by recent, reliable, objective, medical documentation. Documentation regarding an emotional support animal may be required to address legitimate safety requirements necessary for the safe operation of Charter school programs, services, or activities.

The ADA requires that a service animal be individually trained to do work or perform tasks for the benefit of an individual with a disability “, which means that the animal must be trained to take a specific action when needed to assist the person with a disability. For example, a person with diabetes may have a dog that is trained to alert when the person’s blood sugar reaches high or low levels. A person with depression may have a dog that is trained to remind the person to take medication. Alternatively, a person who has epilepsy may have a dog that is trained to detect the onset of a seizure and then help the person remain safe during the seizure.

The provision of emotional support, well-being, comfort, or companionship does not constitute work or tasks for the purpose of this definition.

The ADA makes a distinction between psychiatric service animals and emotional support animals. If the animal has been trained to sense that an anxiety attack is about to happen and take a specific action to help avoid the attack or lessen its impact, that would qualify as a service animal. However, if the animal's mere presence provides comfort, that would not be considered a service animal under the ADA. More specifically, while emotional support animals provide comfort or companionship, psychiatric service animals may perform tasks such as reminding an individual with a disability to take medication, performing safety checks or room searches for individuals with PTSD, interrupting self-mutilation, and removing disoriented individuals from dangerous situations.

The Department of Justice has stated that other federal or state laws may permit an emotional support animal to qualify as a reasonable accommodation if necessary for a student's receipt of FAPE, even though it would not meet the definition of a service animal under Title II. Such requests by students or their parents will be reviewed on a case-by-case basis consistent with applicable federal and state laws and regulations. Only domesticated animals will be considered as a support animal. If a student or parent of a student requests that a student be permitted to use an emotional support animal, comfort animal or therapy dog, the school shall request the following documentation:

- 1) Signed medical release allowing the school to review any and all records pertaining to reasons for which the student requests the support animal.
- 2) Any training/certifications that the animal has received in respect to the functions it will carry out for the student.
- 3) Proof of current vaccinations and immunizations of the service animal.

All sections of this policy governing the use/duties/safety requirements of service animals and vaccinations/immunizations/licensing apply to support animals on school grounds, transport or school sponsored activities or testing sites.

If, at time of request to have a support animal at school, a student already has a Section 504 Plan or IEP, a meeting of the requisite Team, including Parent(s) and Student, will be convened to consider information and documentation supplied to the School by Parent(s) and Student to determine if the support animal is necessary to provide FAPE to the Student.

At the Meeting, the School shall request the following documentation:

- 1) Signed medical release allowing the school to review any and all records pertaining to reasons for which the student requests the support animal.
- 2) Any training/certifications that the animal has received in respect to the functions it will carry out for the student.
- 3) Any information regarding the type of animal/breed.
- 4) Proof of current vaccinations and immunizations of the animal.

Service Animals in School:

Parents/Guardians of students with disabilities who believe the student needs to bring a service animal to school in order to receive a free and appropriate public education shall notify the CEO or designee. In accordance with the Charter School's Childfind duties under the Individuals with Disabilities in Education Act (IDEA), the appropriate School Team shall evaluate the request to use the service animal in school, gather necessary information and determine when the student requires the service animal, during the school day and/or at school activities. This may include a request for parental permission to formally evaluate the student's education-based needs to determine if an Individualized Educational Plan (IEP) is necessary. Any service animal accompanying a student with a disability to school or school activities shall be handled and cared for in a manner detailed in the student's IEP or Section 504 Service Agreement.

Pursuant to Section 28 C.F.R. § 35.106: a public entity shall make information regarding services, programs or activities applicable to applicants, participants, beneficiaries and other interested persons, in such a manner as to apprise such persons of the protections against discrimination assured them.

Generally, the Charter School will modify its policies, practices, or procedures to permit the use of a service animal by an individual with a disability. The term “disability” is defined under Section 28 C.F.R. § 35.104.

If the Charter School properly excludes a service animal under § 35.136(b), the CEO shall give the individual with a disability the opportunity to obtain services and accommodations without having the service animal on the premises. 28 C.F.R. § 35.136(c).

A service animal **must** be under the control of its handler. A service animal shall have a harness, leash, or other tether, unless either the handler is unable because of a disability to use a harness, leash, or other tether, or the use of a harness, leash, or other tether would interfere with the service animal's safe, effective performance of work or tasks, in which case the service animal **must be otherwise under the handler's control** (e.g., voice control, signals, or other effective means). 28 C.F.R. § 35.136(d).

The Charter School is not responsible for the care or supervision of a service animal. 28 C.F.R. § 35.136(e).

The Charter School shall not ask about the nature or extent of a person's disability, but may require the following information in order to determine whether an animal qualifies as a service animal and before a service animal shall be allowed in a Charter School building, or on Charter School property or vehicles. The owner or handler of the animal shall submit to the CEO or designee a written request and the following documentation from a certified professional:

- (1) Verification of the need for a service animal.
- (2) What work or task the animal has been trained to perform in relation to the individual's disability.
- (3) Proof of current vaccinations and immunizations of the service animal.

Generally, the Charter School may not make these inquiries about a service animal when it is readily apparent that an animal is trained to do work or perform tasks for an individual with a disability (e.g., the dog is observed guiding an individual who is blind or has low vision, pulling a person's wheelchair, or providing assistance with stability or balance to an individual with an observable mobility disability). 28 C.F.R. § 35.136(f).

Direct and Immediate Threats:

The Charter School reserves the right to exclude an individual if that individual presents a direct and immediate threat to others in the building or school. 28 C.F.R. § 35.139(a). To make this determination, the Charter School will make an individualized assessment, based on reasonable judgment that relies on current medical knowledge or on the best available objective evidence, to

ascertain: the nature, duration, and severity of the risk; the probability that the potential injury will actually occur; and whether reasonable modifications of policies, practices, or procedures or the provision of auxiliary aids or services will mitigate the risk. 28 C.F.R. § 35.139(b). The Charter School will not rely solely on speculation, stereotypes or generalizations about individuals with disabilities. 28 C.F.R. § 35.130(h).

The Charter School may exclude a service animal from District buildings, property and vehicles under the following circumstances:

- Presence of the animal poses a direct threat to the health and safety of others.
- Owner or handler is unable to control the animal.
- Presence of the animal would require a fundamental alteration to the program.
- Animal is not housebroken. 28 C.F.R. § 35.136(b).

Access to Charter School areas/ Admission Of Service Animals To Public Events:

Individuals with disabilities shall be permitted to be accompanied by their service animals in all areas of a place of public accommodation where members of the public, program participants, clients, customers, patrons, or invitees, as relevant, are allowed to go. 28 C.F.R. § 35.136(g). This right of access does not extend to the schools generally or to other activities that are not open to the general public.

The Charter School shall not ask or require an individual with a disability to pay a surcharge, even if people accompanied by pets are required to pay fees, or to comply with other requirements generally not applicable to people without pets. If the Charter School normally charges individuals for the damage they cause, an individual with a disability may be charged for damage caused by the service animal. 28 C.F.R. § 35.136(h).

Delegation of Responsibility

The owner or handler of a service animal shall be solely responsible for:

1. Supervision and care of the animal, including any feeding, exercising, clean up and stain removal.
2. Control of the animal at all times through the use of a harness, leash, tether or by other effective means.
3. Damages to Charter School buildings, property and vehicles caused by the animal.
4. Injuries to students, employees, volunteers and visitors caused by the animal.
5. Annual submission of documentation of vaccinations and immunizations.

Miniature horses:

The Charter School shall make reasonable modifications in policies, practices, or procedures to permit the use of a miniature horse by an individual with a disability only if the miniature horse has been individually trained to do work or perform tasks for the benefit of the individual with a disability.

In determining whether reasonable modifications in policies, practices, or procedures can be made to allow a miniature horse into a specific facility, the Charter School shall consider--

- (A) The type, size, and weight of the miniature horse and whether the facility can accommodate these features;
- (B) Whether the handler has sufficient control of the miniature horse;
- (C) Whether the miniature horse is housebroken; and
- (D) Whether the miniature horse's presence in a specific facility compromises legitimate safety and/or health requirements that are necessary for safe operation.

Other requirements which apply to service animals pursuant to this policy and applicable federal regulations shall also apply to miniature horses. 28 C.F.R. § 35.136(i).

The CEO or designee is directed to inform the Board of any new requirements regarding service animals and to develop and implement any procedures that may be necessary to effectuate this policy.

The CEO will seek and obtain any necessary or required trainings relative to effectuating this policy and that address issues with regard to service animals and safety including any training regarding the proper way to interact with service animal in the school setting.

Students with Disabilities:

In addition to the requirements and parameters regarding service animals above, the decision as to whether to allow an animal in school for a student with a disability under Section 504 or IDEA, even if that animal does not meet the definition of a "service animal" shall be made on a case by case basis in accordance with applicable state and/or federal laws and regulations, including applicable sections of Section 504 and/or IDEA and ADA.

The parent or guardian of a student with a disability, who believes that an animal is necessary to ensure a free and appropriate public education to the student, is directed to notify the CEO or the Student's IEP team or Section 504 team in accordance with applicable state and federal laws and regulations and in accordance with this policy.

Such a request for an animal in school shall be evaluated and made in accordance with applicable state and federal laws and regulations, including: ADA, Section 504, IDEA and/or Chapter 711 of Title 22 of the Pennsylvania Code.

In an effort to fully understand the scope of the request and need, the Charter School reserves all rights applicable under Section 504 and/or IDEA to request documentation and/or relevant information regarding such requests, to the extent those rights are not specifically precluded by other applicable regulations.

Notice and Appeal

The designated Administrator shall ensure that all individuals involved in a situation where a service animal will regularly accompany an owner or handler in Charter School buildings or vehicles or at School-sponsored events or test sites are informed of the Board Policy and any procedures governing this issue. Involved individuals can include administrators, appropriate employees, student and parent/guardian.

Any individual with a service animal who is aggrieved by a decision to exclude, limit or remove a service animal may appeal the decision in accordance with applicable Student Complaint Policy.

TO THE EXTENT THAT ANYTHING IN THIS POLICY COULD BE CONSTRUED TO CONFLICT WITH THE SCHOOL'S CHARTER OR APPLICABLE STATE AND/OR FEDERAL LAWS, THE APPLICABLE STATE AND/OR FEDERAL LAWS AND/OR CHARTER CONTROL.