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Agora Cyber Charter School

Board of Trustees Policy

SECTION 504 POLICY

The Board of Trustees recognizes that all qualified persons with disabilities in the Agora Cyber Charter School ("Charter School") are entitled to a free and appropriate public education under Section 504 of the Rehabilitation Act of 1973 ("Section 504"). Section 504 is a civil rights statute that prohibits discrimination against individuals with disabilities. Section 504 is applicable to charter schools that receive Federal financial assistance from the U.S. Department of Education for programs and activities.

The Charter School is under an affirmative duty to locate all students who are eligible for Section 504 accommodations pursuant to its Child Find duties. (34 C.F.R. §104.32(a)).

The Section 504 regulations define a person with a disability as any person who (i) has a physical or mental impairment that substantially limits one or more major life activities, (ii) has a record of such an impairment, or (iii) is regarded as having such an impairment.

A "physical or mental impairment" may include, but is not limited to:

(A) Any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: neurological; musculoskeletal; special sense organs; respiratory; including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hemic and lymphatic; skin; and endocrine; or

(B) any mental or psychological disorder, such as mental disability, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

An impairment in and of itself is not a disability. Per the U.S. Department of Education's Office for Civil Rights ("OCR") guidance regarding "Protecting Students with Disabilities," the regulations "do not set forth an exhaustive list of specific diseases and conditions that may constitute physical or mental impairments."

"Major life activity" may include: functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working. According to the OCR, this list is also not exhaustive.

A student is not "regarded as" an individual with a disability if the impairment is transitory and minor. A transitory impairment is an impairment with an actual or expected duration of 6 months or less. However, an impairment that is episodic or in remission is a disability if it would substantially limit a major life activity when active. A student with such an impairment is entitled to a free appropriate public education under Section 504.

A qualified person with a disability is a person with a disability who is of an age during which it is mandatory under state law to provide such services to persons with disabilities; of an age during which persons without disabilities are provided such services; or a person for whom a state is required to provide a free appropriate public education under IDEA 2004.

All school-age children who are individuals with disabilities as defined by Section 504 are entitled to a free and appropriate public education ("FAPE").

According to the OCR, an appropriate education includes: education services designed to meet the individual education needs of students with disabilities as adequately as the needs of nondisabled students are met; the education of each student with a disability with nondisabled students, to the maximum extent appropriate to the needs of the student with a disability; evaluation and placement procedures established to guard against misclassification or inappropriate placement of students, and a periodic reevaluation of students who have been provided special education or related services; and establishment of due process procedures that enable parents and guardians to receive required notices, review their child's records, and challenge identification, evaluation and placement decisions, and that provide for an impartial hearing with the opportunity for participation by parents and representation by counsel, and a review procedure.

To be appropriate, education programs for students with disabilities must be designed to meet their individual needs to the same extent that the needs of nondisabled students are met. An appropriate education may include regular or special education and related aids and services to accommodate the needs of individuals with disabilities.

The quality of education services provided to students with disabilities must equal the quality of services provided to nondisabled students. Teachers of students with disabilities must be trained in the instruction of individuals with disabilities. Facilities and classrooms must be comparable, and appropriate materials and equipment must be available.

Students with disabilities may not be excluded from participating in nonacademic services and extracurricular activities on the basis of disability. Persons with disabilities must be provided an opportunity to participate in nonacademic services that is equal to that provided to persons

without disabilities. These services may include physical education and recreational athletics, transportation, health services, recreational activities, special interest groups or clubs sponsored by the school, and referrals to agencies that provide assistance to persons with disabilities and employment of students.

Students with disabilities and students without disabilities must be placed in the same setting, to the maximum extent appropriate to the education needs of students with disabilities.

A person with a disability must be placed in the regular education environment, unless it is demonstrated that the student's needs cannot be met satisfactorily with the use of supplementary aids and services. Students with disabilities must participate with nondisabled students in both academic and nonacademic services to the maximum extent appropriate to their individual needs.

As necessary, specific related aids and services must be provided for students with disabilities to ensure an appropriate education setting. Supplementary aids may include interpreters for students who are deaf, readers for students who are blind, and equipment to make physical accommodations for students with mobility impairments to the extent required in a cyber setting.

Section 504 requires the use of evaluation and placement procedures. A physician's medical diagnosis may be considered among other sources in evaluating a student but should not be the sole criteria for determination that Section 504 accommodations are needed. A physician's diagnosis alone does not mean that a Student requires Section 504 accommodations.

An individual evaluation must be conducted before any action is taken with respect to the initial placement of a child who has a disability, or before any significant change in that placement.

The CEO shall appoint a Section 504 Coordinator (34 C.F.R. §300.104.7(a)), to establish standards and procedures for initial and continuing evaluations and placement decisions regarding persons who, because of a disability, need or are believed to need special education or related services. Procedures must ensure that tests and other evaluation materials: have been validated for the specific purpose for which they are used, and are administered by trained personnel in conformance with the instructions provided by their producer; are tailored to assess specific areas of education need and are not designed merely to provide a single general intelligence quotient; and are selected and administered so as best to ensure that, when a test is administered to a student with impaired sensory, manual, or speaking skills, the test results accurately reflect the student's aptitude or achievement level or whatever other factor the test purports to measure, rather than reflecting the student's impaired sensory, manual, or speaking skills (except where those skills are the factors that the test purports to measure).

The 504 Coordinator is directed to draw upon a variety of sources in the evaluation and placement process so that the possibility of error is minimized. All significant factors related to the learning process must be considered. These sources and factors include aptitude and achievement tests, teacher recommendations, physical condition, social and cultural background, and adaptive behavior.

Information from all sources must be documented and considered by a group of knowledgeable persons, and procedures must ensure that the student is placed with nondisabled students to the greatest extent appropriate.

Periodic EVALUATION IS REQUIRED

The 504 Coordinator must have in effect procedural safeguards regarding the identification, evaluation, or educational placement of persons who, because of disability, need or are believed to need special instruction or related services. Parents must be told about these procedures. In addition, parents or guardians must be notified of any evaluation or placement actions and must be allowed to examine the student's records. The due process procedures must allow the parents or guardians of students to challenge evaluation and placement procedures and decisions.

If parents or guardians disagree with the school's decisions, they must be afforded an impartial hearing. A review procedure also must be available to parents or guardians who disagree with the hearing decision. Section 504 neither prohibits nor requires the Charter School to initiate a due process hearing to override a parental refusal to consent with respect to the initial provision of special education and related services. Nonetheless, the Charter School should consider that IDEA no longer permits schools to initiate a due process hearing to override a parental refusal to consent to the initial provision of services.

It is the policy of the Board to provide a free and appropriate public education to each qualified disabled student within the Charter School, regardless of the nature or severity of the disability. Consequently, it is the intent of the Board to ensure that students who are disabled within the definition of Section 504 are identified, evaluated and provided with appropriate educational services.

PROCEDURES

Students who are in need or are believed to be in need of services under Section 504 may be referred for evaluation by a parent/guardian, teacher, or other certified school employee. Requests should be directed to the Charter School's 504 Coordinator.

The Charter School will consider the referral, and based upon a review of the student's records, including academic, social, testing, and behavioral records, determine whether an evaluation is appropriate. Any student, who, because of a disability, needs or is believed to need special services, will be referred for evaluation. If a request for evaluation is denied, the Charter School will inform the parents or guardian of this decision and of their procedural rights. Section 504 requires informed parental permission for initial evaluations. If a parent refuses consent for an initial evaluation and the Charter School suspects a student has a disability, the IDEA and Section 504 provide that the Charter School may use due process hearing procedures to seek to override the parents' denial of consent.

EVALUATION

The purpose of a student evaluation shall be to determine eligibility for accommodations as a disabled person under Section 504. School districts may use the same process to evaluate the

needs of students under Section 504 as they use to evaluate the needs of students under the IDEA.

The Charter School's multi-disciplinary committee should include persons knowledgeable about the student, the meaning of the evaluation data, and the placement options. The committee members must determine if they have enough information to make a knowledgeable decision as to whether or not the student has a disability. The Charter School's Section 504 evaluation procedures must ensure that:

- Evaluation materials have been validated for the specific purpose for which they are used and are interpreted and/or administered by trained personnel in conformance with the instructions provided by their producer.
- Tests and the evaluation materials include those tailored to assess specific areas of educational need and not merely those which are designed to provide a single general intelligence quotient.
- The information obtained from all such sources must be documented and all significant factors related to the student's learning process must be considered. These sources and factors may include student records, aptitude and achievement tests, teacher recommendations/input, nurse and/or counselor input, physical condition, social and cultural background, and adaptive behavior. In evaluating a student suspected of having a disability, it is unacceptable to rely on presumptions and stereotypes regarding persons with disabilities or classes of such persons.

Discussions as to eligibility and possible accommodations should:

- Determine if there are reasonable accommodations that can enable the student to participate in learning in the school environment.
- Do not provide different or separate aid unless it is necessary to make benefits or services as effective as those being provided to all other students in the class.
- Do not require the identical result or level of achievement as other students; rather, provide equal opportunity.
- If the education of a person, in a regular environment with the use of reasonable supplementary aids, cannot be achieved satisfactorily, then the implementation of an IEP may be considered.
- Other students' educational rights may not be significantly impaired by the accommodations.
- The accommodations must be reasonable, must not fundamentally alter the school program, or present undue burden to the school.
- The accommodations being considered are for the child's current placement only.

FINALIZING/IMPLEMENTING SERVICE AGREEMENTS

- No final determination of whether the student is a disabled individual within the meaning of Section 504 will be made without informing the Parent or Guardian of the student concerning the determination.
- The Charter School must provide each identified protected handicapped student enrolled in the Charter School, those related aids, services, or accommodations needed to afford the student the equal opportunity required to participate in and obtain the benefits of the school program and extracurricular activities without discrimination. This is accomplished without cost to the student or the family, through the creation of a Chapter 15 Service Agreement. It is advisable to discuss with Parent/Guardian, during the meeting to determine Section 504 eligibility, what will be in the Service Agreement and when and where the services, aids and/or accommodations are provided.
- Whether done at a meeting or not, it is advisable to have Parent/Guardian sign a written Service Agreement before implementing it; and, the Agreement must contain:
 - Brief description of disability and resulting needs of Student;
 - Specific related aids, services curriculum modifications or accommodations that are being proposed;
 - Date services to begin and end or specific commitment to continue services for an indefinite period;
 - If appropriate, procedures to follow in a medical emergency;
- It is advisable that the 504 Team, including Parent/Guardian, meet periodically, and no less than an annual basis, to review Student progress or to meet within the School year if Student not demonstrating progress per teacher observation/assessments;

Note: With regard to a student who is determined to be disabled under Section 504 of the Rehabilitation Act of 1973, but who is not determined to be disabled under IDEA, the Charter School shall periodically conduct a reevaluation of the student as required by law.

The CEO and/or Section 504 Coordinator is directed to develop procedures necessary to implement this policy in a school setting.

DISCIPLINE

As part of the protections of not being subjected to discrimination or denied benefits of Charter School programs, the Student is afforded protections applicable to eligible special education students pertaining to exclusionary discipline. Such protections include holding a Manifestation Determination to decide if the misconduct is related to the disability, and Informal and Formal Hearings, with the latter having all due process protections pursuant to 22 Pa. Code §12.6.

FOR Students Eligible Under Section 504 WHEN NO SERVICE AGREEMENT IS Necessary

Such students may not require a 504 Service Agreement because:

- No accommodations needed in classroom or by School Nurse; or
- As result of mitigation measures, do not require accommodations with such measures including, but not limited to:
 - Medication, medical equipment, hearing aids, low vision devices but NOT eyeglasses or contacts, Assistive Technology, auxiliary aids or services

(interpreters, taped texts, and other means of delivery of aural or visual material) or learned behavioral or adaptive neurological modifications.

Grievance Procedure

If a Parent/Guardian believes that the school or any of its staff or schools have inadequately applied the regulations of Section 504, the Parent/Guardian may initiate a grievance with the school's CEO, Section 504 Coordinator or person designated per School Complaint Policy or in Parent/Student Handbook. The grievance procedures must explicitly state and make clear to the individual(s) involved that a complaint can be made to the regional office of U. S. Department of Education's Office for Civil Rights ("OCR") without going through the school's grievance procedures. However, the 504 Coordinator should attempt to resolve the matter initially through the Charter School in accordance with the Charter School's Parent/Student Complaint process and it is advisable for Charter School to convene a conference with Parent/Guardian within ten (10) days of receipt of complaint.

PORTIONS OF THIS POLICY HAVE BEEN EXCERPTED FROM OCR'S WEB GUIDANCE ON SECTION 504 STUDENTS.

US Department of Education - Office of Civil Rights
<http://www2.ed.gov/about/offices/list/ocr/504faq.html>

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.