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**FAMILY CARE AND MEDICAL LEAVE POLICY**

Pathways Academy Adult Education (“PAAE” or the “School”) complies with the federal Family and Medical Leave Act (“FMLA”) and the California Family Rights Act (“CFRA”), both of which require the School to permit each eligible employee to take up to twelve (12) workweeks, or twenty-six (26) workweeks where indicated, of FMLA leave in any twelve (12) month period for the purposes enumerated below. For purposes of this policy, all leave taken under FMLA or CFRA will be referred to as “FMLA leave.”

**EMPLOYEE ELIGIBILITY CRITERIA**

To be eligible for FMLA leave, the employee must have been employed by the School for at least twelve (12) months, worked at least 1,250 hours during the twelve (12) month period immediately preceding the commencement of FMLA leave, and work at a location where the School has at least fifty (50) employees within a seventy-five (75) mile radius, except for purposes of baby-bonding where the threshold is twenty (20) employees.

**EVENTS THAT MAY ENTITLE AN EMPLOYEE TO FMLA LEAVE**

Any leave taken (with or without pay) by the employee for any of the following reasons:

1. To bond with the employee’s newborn child or a child placed with the employee for adoption or foster care within one (1) year of the birth, adoption, or placement of a child under age eighteen (18) with the employee. If both parents are employed by the School, the leave is shared between the parents and will be granted in the order requested.
2. Due to the employee’s own serious health condition causing the employee to be unable to perform one or more of the essential functions of their job. This excludes a disability caused by pregnancy, childbirth, or related medical conditions, as they are covered by the School’s pregnancy disability policy.
  - a. A “serious health condition” is an illness, injury (including those occurring in the workplace), impairment, or physical or mental condition of the employee or a child, parent, or spouse of the employee that involves either inpatient care or continuing treatment, including, but not limited to, treatment for substance abuse.
  - b. “Inpatient care” means a stay in a hospital, hospice, or residential health care facility, any subsequent treatment in connection with such inpatient care, or any period of incapacity. A person is considered “inpatient” when a health care facility formally admits them to the facility with the expectation that they will remain at least overnight and occupy a bed, even if it later develops that

such person can be discharged or transferred to another facility and does not actually remain overnight.

- c. “Incapacity” means the inability to work, attend school, or perform other regular daily activities due to a serious health condition, its treatment, or the recovery that it requires.
  - d. “Continuing treatment” means ongoing medical treatment or supervision by a health care provider.
3. To care for a qualifying family member, including a spouse, domestic partner, child, or parent with a serious health condition or military service-related injury. When an employee is providing care for an injured spouse, child, parent, or next of kin who is a covered Armed Forces service member, the employee may take a maximum of twenty-six (26) weeks of FMLA leave in a single twelve (12) month period.
  4. For any “qualifying exigency” because the employee is the spouse, child, or parent of an individual on active military duty, or an individual notified of an impending call or order to active duty in the Armed Forces.

#### **AMOUNT OF FMLA LEAVE WHICH MAY BE TAKEN**

1. FMLA leave can be taken in one (1) or more periods, but may not exceed twelve (12) workweeks total for any purpose in any twelve (12) month period, as described below, for any one, or combination of, the above-described situations. “Twelve workweeks” means the equivalent of twelve (12) of the employee’s normally scheduled workweeks. For a full-time employee who works five (5) eight-hour days per week, “twelve workweeks” means sixty (60) working, and/or paid, eight (8) hour days.
2. In addition to the twelve (12) workweeks of FMLA leave that may be taken, an employee who is the spouse, child, parent, or next of kin of a covered Armed Forces service member shall also be entitled to a total of twenty-six (26) workweeks of FMLA leave during a twelve (12) month period to care for the service member.
3. The “twelve month period” in which twelve (12) weeks of FMLA leave may be taken is the twelve (12) month period immediately preceding the commencement of any FMLA leave.
4. If a holiday falls within a week taken as FMLA leave, the week is nevertheless counted as a week of FMLA leave. If, however, the School’s business activity has temporarily ceased for some reason and employees are generally not expected to report to work for one or more weeks, such as the Winter Break, Spring Break, or

Summer Vacation, the days the School's activities have ceased do not count against the employee's FMLA leave entitlement. Similarly, if an employee uses FMLA leave in increments of less than one (1) week, the fact that a holiday may occur within a week in which an employee partially takes leave does not count against the employee's leave entitlement unless the employee was otherwise scheduled and expected to work during the holiday.

## **PAY DURING FMLA LEAVE**

1. An employee on FMLA leave because of their own serious health condition must use all accrued paid sick leave at the beginning of any otherwise unpaid FMLA leave period. If an employee is receiving a partial wage replacement benefit during the FMLA leave, the School and the employee may agree to have School-provided paid leave, such as vacation or sick time, supplement the partial wage replacement benefit unless otherwise prohibited by law.
2. An employee on FMLA leave for child care, or to care for a spouse, domestic partner, parent, or child with a serious health condition, may use any or all accrued sick leave at the beginning of any otherwise unpaid FMLA leave.
3. If an employee has exhausted their sick leave, leave taken under FMLA shall be unpaid leave.
4. The receipt of sick leave pay or State Disability Insurance benefits will not extend the length of the FMLA leave. Sick pay will accrue during any period of unpaid FMLA leave only until the end of the month in which unpaid leave began.

## **HEALTH BENEFITS**

The provisions of the School's various employee benefit plans govern continuing eligibility during FMLA leave and these provisions may change from time to time. The health benefits of employees on FMLA leave will be paid by the School during the leave at the same level and under the same conditions as coverage would have been provided if the employee had been continuously employed during the leave period. When a request for FMLA leave is granted, the School will give the employee written confirmation of the arrangements made for the payment of insurance premiums during the leave period.

If an employee is required to pay premiums for any part of their group health coverage, the School will provide the employee with advance written notice of the terms and conditions under which premium payments must be made.

The School may recover the health benefit costs paid on behalf of an employee during their FMLA leave if:

1. The employee fails to return from leave after the period of leave to which the employee is entitled has expired. An employee is deemed to have "failed to

return from leave” if they work less than thirty (30) days after returning from FMLA leave; and

2. The employee’s failure to return from leave is for a reason other than the continuation, recurrence, or onset of a serious health condition that entitles the employee to FMLA leave, or other circumstances beyond the control of the employee.

## **SENIORITY**

An employee on FMLA leave remains an employee and the leave will not constitute a break in service. An employee who returns from FMLA leave will return with the same seniority he/she had when the leave commenced.

## **MEDICAL CERTIFICATIONS**

1. An employee requesting FMLA leave because of their own, or a relative’s, serious health condition must provide medical certification from the appropriate health care provider on a form supplied by the School. Absent extenuating circumstances, failure to provide the required certification in a timely manner (within fifteen [15] days of the School’s request for certification) may result in denial of the leave request until such certification is provided.
2. The School will notify the employee in writing if the certification is incomplete or insufficient and will advise the employee what additional information is necessary in order to make the certification complete and sufficient. The School may contact the employee’s health care provider to authenticate a certification, as needed.
3. If the School has reason to doubt the medical certification supporting a leave because of the employee’s own serious health condition, the School may request a second opinion by a health care provider of its choice (paid for by the School). If the second opinion differs from the first one, the School will pay for a third, mutually agreeable health care provider to provide a final and binding opinion.
4. Recertifications are required if leave is sought after expiration of the time estimated by the health care provider. Failure to submit required recertifications can result in termination of the leave.

## **PROCEDURES FOR REQUESTING AND SCHEDULING FMLA LEAVE**

1. An employee should request FMLA leave by completing a Request for Leave form and submitting it to Human Resources. An employee asking for a Request for Leave form will be given a copy of the School’s then-current FMLA leave policy.

2. Employees should provide not less than thirty (30) days' notice for foreseeable childbirth, placement, or any planned medical treatment for the employee or their spouse, domestic partner, child, or parent. Failure to provide such notice is grounds for denial of a leave request, except if the need for FMLA leave was an emergency or was otherwise unforeseeable.
3. Where possible, employees must make a reasonable effort to schedule foreseeable planned medical treatments so as not to unduly disrupt the School's operations.
4. If FMLA leave is taken because of the employee's own serious health condition or the serious health condition of the employee's spouse, domestic partner, parent or child, the leave may be taken intermittently or on a reduced leave schedule when medically necessary, as determined by the health care provider of the person with the serious health condition.
5. If FMLA leave is taken because of the birth of the employee's child or the placement of a child with the employee for adoption or foster care, the minimum duration of leave is two (2) weeks, except that the School will grant a request for FMLA leave for this purpose of at least one day but less than two (2) weeks' duration on any two (2) occasions.
6. If an employee needs intermittent leave or leave on a reduced leave schedule that is foreseeable based on planned medical treatment for the employee or a family member, the employee may be transferred temporarily to an available alternative position, for which he or she is qualified, that has equivalent pay and benefits and better accommodates recurring periods of leave than the employee's regular position.
7. The School will respond to an FMLA leave request no later than five (5) business days of receiving the request. If an FMLA leave request is granted, the School will notify the employee in writing that the leave will be counted against the employee's FMLA leave entitlement. This notice will explain the employee's obligations and the consequences of failing to satisfy them.

## **RETURN TO WORK**

1. Upon timely return at the expiration of the FMLA leave period, an employee (other than a "key" employee whose reinstatement would cause serious and grievous injury to the School's operations) is entitled to the same or a comparable position with the same or similar duties and virtually identical pay, benefits, and other terms and conditions of employment, unless the same position and any comparable position(s) have ceased to exist because of legitimate business reasons unrelated to the employee's FMLA leave.

2. When a request for FMLA leave is granted to an employee (other than a “key” employee), the School will give the employee a written guarantee of reinstatement at the termination of the leave (with the limitations explained above).
3. Before an employee will be permitted to return from FMLA leave taken because of their own serious health condition, the employee must obtain a certification from their health care provider that they are able to resume work.
4. If an employee can return to work with limitations, the School will evaluate those limitations and, if possible, will accommodate the employee as required by law. If accommodation cannot be made, the employee will be medically separated from the School.

### **LIMITATIONS ON REINSTATEMENT**

1. The School may refuse to reinstate a “key” employee if the refusal is necessary to prevent substantial and grievous injury to the School’s operations. A “key” employee is an exempt salaried employee who is among the highest paid 10% of the School’s employees within seventy-five (75) miles of the employee’s worksite.
2. A “key” employee will be advised in writing at the time of a request for or, if earlier, at the time of commencement of, FMLA leave, that they qualify as a “key” employee and the potential consequences, with respect to reinstatement and maintenance of health benefits, if the School determines that substantial and grievous injury to the School’s operations will result if the employee is reinstated from FMLA leave. At the time it determines that refusal is necessary, the School will notify the “key” employee in writing (by certified mail) of its intent to refuse reinstatement and will explain the basis for finding that the employee’s reinstatement would cause the School to suffer substantial and grievous injury. If the School realizes after the leave has commenced that refusal of reinstatement is necessary, it will give the employee at least ten (10) days to return to work following the notice of its intent to refuse reinstatement.

### **EMPLOYMENT DURING LEAVE**

No employee, including employees on FMLA leave, may accept employment with any other employer without the School’s written permission. An employee who accepts such employment without the School’s written permission will be deemed to have resigned from employment at the School.