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**SPECIAL EDUCATION INDEPENDENT EDUCATIONAL EVALUATION POLICY**

Pathways Academy Adult Education (“Pathways”) adopts this Independent Educational Evaluation Policy to apply to students enrolled in Pathways.

The purpose of this policy is to outline the steps that will be taken by Pathways when the adult student and/or parent/guardian of a student with a disability requests an Independent Educational Evaluation (“IEE”) subject to the provisions of federal and state law at public expense if they disagree with an evaluation completed by the Local Education Agency (“LEA”) and the LEA does not pursue its option to file a request for a due process hearing with the California Office of Administrative Hearings to establish the appropriateness of its assessment. An IEE is an evaluation conducted by a qualified evaluator who is not employed by the LEA of residence. Public expense means that the LEA pays for the full cost of the evaluation (in accordance with cost recommendations described herein) or ensures that the evaluation is otherwise provided at no cost to the adult student and/or parent/guardian. This policy is adapted from the Sonoma County Special Education Local Plan Area (“SELPA”) Guidelines for Independent Educational Evaluation.

**Policy and Procedures**

Adult students and/or parent/guardian(s) of a student with a disability have the right to an IEE subject to the provisions of federal and state law at public expense if they disagree with an evaluation completed by the LEA and the LEA does not pursue its option to file a request for a due process hearing with the California Office of Administrative Hearings to establish the appropriateness of its assessment. If necessary, the LEA should request clarification regarding which evaluation(s) are in dispute. The term “evaluation” includes any individual assessment of a student that results in a report that is used by the IEP team to determine eligibility and services.

Adult students and/or parent/guardians must indicate in writing to Pathways or inform Pathways at an Individualized Education Plan (“IEP”) meeting that they:

1. Disagree with the LEA’s evaluation and
2. Are requesting an IEE at public expense.

Pathways may ask for the adult student and/or parent/guardian(s) reason(s) for disagreeing with Pathways’ evaluation, but the adult student and/or parent/guardian is not required to provide those reasons. Pathways may offer to conduct another evaluation of its own with the adult student’s and/or parent/guardian’s consent. If the adult student and/or parent/guardian agrees to another evaluation provided by Pathways, this would not be considered an IEE and Pathways would work with the adult student and/or parent/guardian to appropriately document the agreement of the adult student and/or parent/guardian to both the new evaluation completed by

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Pathways and to the withdrawal of the IEE request pending the completion of the new assessment completed by Pathways. Pathways should ask the adult student and/or parent/guardian to revoke their request for an IEE in writing or ask them to sign that they agreed to the withdrawal of the request and to a new assessment completed by Pathways.

If the adult student and/or parent/guardian does not agree to another evaluation completed by Pathways, Pathways must respond to the adult student's and/or parent/guardian's request by ensuring an IEE is provided at public expense in a timely manner or promptly initiating a request for a due process hearing in accordance with this policy. Pathways may not unnecessarily delay either providing the IEE at public expense or initiating a due process hearing to defend the appropriateness of its evaluation. In addition, a copy of the Procedural Safeguards and Parent Rights should be provided anytime an adult student and/or parent/guardian requests an IEE. Adult student and/or parent/guardian(s) may only request one publicly funded IEE for each evaluation completed by Pathways.

**Responding to an IEE Request**

If Pathways determines that it will initiate a due process hearing to establish the appropriateness of its evaluation, Pathways will notify the adult student and/or parent/guardian of such a decision in writing prior to filing a due process hearing complaint. This written notice shall include all of the elements of prior written notice as required by section 300.503(b) of Title 34 of the Code of Federal Regulations. In addition, Pathways will provide a copy of this IEE policy and the procedural safeguards.

If Pathways agrees to provide an IEE at public expense, Pathways will notify the adult student and/or parent/guardian of such decision in writing in accordance with the prior written notice requirements of section 300.503(b) of Title 34 of the Code of Federal Regulations. Pathways will also provide a copy of this IEE policy and the procedural safeguards.

Pathways will work collaboratively with the adult student and/or parent/guardian, at their request, to identify two or more potential IEE evaluator(s) and relevant contact information. Alternatively, the adult student and/or parent/guardian may provide, in writing, their preferred evaluator(s). Pathways and the adult student and/or parent/guardian may utilize the Agreement for IEE form and/or the parent/guardian will be required to sign a release and exchange of information authorizing Pathways to communicate directly with the adult student and/or parent/guardian(s)'s chosen independent evaluator.

Please note: A Pathways assessment plan is NOT completed because Pathways is not conducting the assessment and is not responsible for the timelines and/or results of the IEE assessments.

**Completion and Consideration of IEE**

Pathways may directly contract with the independent evaluator for the IEE. Pathways will issue payment to the independent evaluator for the costs of the IEE following its receipt of the items listed below:

1. Written IEE assessment report prepared by the evaluator containing all necessary assessment and eligibility sections. The evaluator shall provide Pathways and the adult

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- student and/or parent/guardian a copy of the report at least five days prior to the IEP meeting;
2. The original assessment protocols utilized to conduct the IEE; and
  3. Detailed invoice(s), including dates of assessment(s), observation(s), and hourly rates.

Alternatively, Pathways may reimburse the parent/guardian for the costs of a privately-obtained IEE in accordance with Pathways policies and procedures and in an amount no greater than the actual cost to the adult student and/or parent/guardian.

**Due Process Hearing Procedures (if applicable)**

If Pathways initiates a due process hearing and the hearing officer issues a final decision finding that the Pathways evaluation is appropriate, the adult student and/or parent/guardian will still have the right to obtain an IEE, but not at Pathways' expense. If a hearing officer orders an IEE as part of a due process hearing decision, the costs of the IEE must be at Pathways' expense.

If the adult student and/or parent/guardian obtains an IEE at private expense or through an agency other than Pathways and shares the IEE with Pathways, the results of the IEE:

1. Must be considered by Pathways if the evaluation meets the agency criteria set forth below, in any decision made with respect to the provision of a free appropriate public education ("FAPE") to the student; and
2. May be presented as evidence at a due process hearing or other proceeding regarding the student.

**IEE Criteria**

The criteria under which an IEE is obtained at public expense, including the location limitations for the evaluator, minimum qualifications of the evaluator, and cost containment criteria, and use of approved instruments must be consistent with the criteria set forth in this policy, and consistent with the criteria that Pathways uses when it initiates an evaluation.

**Geographical Limitations for Evaluators**

The IEE Evaluator must be located within a 50-mile radius of the student's residence or WIOA Partner site. Evaluators outside of this area will be approved only on an exceptional basis, providing adult student and/or parent/guardian(s) can demonstrate the necessity of using personnel outside the specified area in order to obtain an appropriate evaluation. Any expenses beyond that directly related to preparation of the evaluation (e.g., food, lodging, transportation, etc.) are not covered in the cost of the IEE.

**Minimum Qualifications for Evaluators**

All licenses and credentials must be issued by the appropriate agency or board with the State of California. Evaluators with credentials other than those listed below will not be approved unless

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the adult student and/or parent/guardian can demonstrate the appropriateness, under the specific facts of a given case, of using an evaluator meeting other qualifications. (Ed. Code 56320 (b)(3))

Type of Assessment	Qualifications
Academic Achievement	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist
Adaptive Behavior	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist
Adapted Physical Education	Credentialed Adapted PE Teacher
Assistive Technology	Credentialed or Licensed Speech/Language Pathologist Credentialed Assistive Technology Specialist Credentialed Education Specialist
Auditory Acuity	Licensed Educational Audiologist Licensed or Credentialed Speech/Language Pathologist
Perception/Auditory Processing	Licensed or Credentialed Speech/Language Pathologist Credentialed School Psychologist Licensed Educational Psychologist
Functional Behavior Assessment	Credentialed School Psychologist Board Certified Behavior Analyst Licensed Educational Psychologist

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Cognitive	Credentialed School Psychologist Licensed Educational Psychologist
Health (including neurological)	Licensed Physician Licensed Registered Nurse
Motor	Licensed Physical Therapist Licensed Occupational Therapist Credentialed Teacher of Student with Orthopedic Impairments Credentialed Adaptive Physical Education Teacher
Occupational Therapy	Licensed Occupational Therapist
Physical Therapy	Licensed Physical Therapist
Speech and Language	Credentialed or Licensed Speech/Language Pathologist
Social/Emotional	Credentialed School Psychologist Licensed Educational Psychologist Licensed Clinical Social Worker Licensed Marriage and Family Therapist
Visual Acuity/Developmental Vision	Licensed Ophthalmologist Licensed Optometrist Credentialed Education Specialist of the Students with Visual Impairments
Functional Vision	Credentialed Teacher of Students with Visual Impairments
Vision Perception, Visual Processing, Visual-Motor Integration	Credentialed Special Education Teacher Credentialed School Psychologist Licensed Educational Psychologist
Orientation and Mobility	Credentialed Education Specialist of Students with Visual Impairments

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Transition to Adult Life	Credentialed Special Education Teacher
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**Cost Containment Criteria for Evaluations**

The cost of an IEE shall be comparable to those costs that Pathways incurs when it uses its own employees or contractors to perform a similar assessment. Costs include: observations, administration and scoring of tests, report writing, and attendance in person or by phone at an IEP team meeting. Reimbursement will be in an amount no greater than the actual cost to the adult student and/or parent/guardian and will be subject to proof of payment.

Based on the cost limitations contained in the Sonoma County SELPA LEAs and region, the suggested cost of an IEE should be limited to the following table of maximum costs, absent extraordinary circumstances. The Executive Director or designee has the authority to update and revise the cost limitations set forth below from time to time to ensure that the cost caps are consistent with market rates.

Sonoma County SELPA Type of Assessment	Allowable Rate: up to
Academic Achievement	\$800.00
Adapted Physical Education	\$1,500.00
Adaptive Behavior	\$600.00
Assistive Technology	\$1,000.00
Autism/Behavior (ABA) with observation / data collection	\$1,500.00
Behavioral - functional behavior analysis (FBA) Conducted by Board Certified Behavior Analyst (BCBA)-all Costs Inclusive	\$2,000.00
Auditory Acuity or Perception	\$350.00
Auditory Verbal Therapy	\$1,500.00
CAPD (Central Auditory Processing)	\$1,500.00

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DHOH (Deaf and Hard of Hearing)	\$2,500.00
Occupational Therapy (fine/gross motor skills)	\$1,500.00
Physical Therapy	\$1,500.00
Full Psycho-Educational (rate allowed depends on components tested such as academic, adaptive behavior, cognition, social-emotional, etc.)	\$4,000.00
Speech & Language	\$1,500.00
Social-emotional	\$750.00
Visual Acuity & Perception	\$350.00
Visual Processing	\$350.00

Guidelines for all IEE costs are calculated by considering the time required for the assessment and the appropriate comparable Pathways employee hourly rate. Costs above these amounts will not be approved unless the adult student and/or parent/guardian can demonstrate that such costs reflect unique circumstances justifying the selection of an evaluator whose fees fall outside these criteria.

### **Other Considerations**

#### **Observations**

If Pathways observes the student in-class in conducting the evaluation with which the parent/guardian(s) disagree or if its assessment procedures allow in-class observations, the independent evaluator will be provided with an equivalent opportunity to observe the student in the current educational placement and setting and to observe the Pathways proposed setting, if any. This opportunity shall also be provided if the adult student and/or parent/guardian(s) obtain an evaluation at private expense.

Pathways shall define the nature and scope of an independent evaluator's in-class observations consistent with the right to an equivalent opportunity to observe, but also consistent with its obligations to prevent unnecessary disruption in the class and protect the privacy interests of other students. This may include, but is not limited to, identifying the time constraints of such observation, identifying Pathways personnel who will participate in the observation, and imposing restrictions on student/teacher/staff interactions.

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### Criteria for Accessing Private Insurance

When insurance will cover all or partial costs of the IEE, Pathways will request that the adult student and/or parent/guardian voluntarily have their insurance pay the IEE costs covered by their insurance. However, the adult student and/or parent/guardian(s) will not be asked to have insurance cover IEE costs if such action would result in a financial cost to the adult student and/or parent/guardian(s) including, but not limited to the following:

1. A decrease in available lifetime coverage or any other benefit under an insurance policy,
2. An increase in premiums or discontinuance of the policy or
3. An out-of-pocket expense, such as payment of a deductible amount incurred in filing a claim, unless the adult student and/or parent/guardian is willing to have Pathways reimburse them for the amount of the deductible.

Independent evaluators must agree to release their assessment information, provide prior to the IEP meeting a written IEE assessment report, submit copies of any and all assessment protocols utilized to conduct the IEE, and provide detailed invoices including dates of assessment, observations and hourly rates, if applicable, to Pathways prior to receipt of payment for services. All IEE evaluators must utilize testing and assessment materials and procedures, which are selected and administered so as not to be racially, culturally, or sexually discriminatory. Tests and other assessment materials must be provided and administered in the student's primary language or other modes of communication, unless there are stated reasons why this provision and administration are not clearly feasible. All assessment instruments utilized must have been validated for the specific purpose for which they are used and be administered by trained personnel in conformity with the instructions provided by the publisher and performed in accordance with the requirements of Education Code Section 56320. All written reports must meet the requirements of the Individuals with Disabilities Education Act ("IDEA") and Education Code Section 56327.

The results of the IEE will be considered in the determination of eligibility, program decisions, and placement of the student with disabilities as required by the Individuals with Disabilities Education Act. However, the results of an IEE will not control Pathways' determinations and may not be considered if not completed by a qualified professional, as determined by Pathways.

### Conflict of Interest

Pathways will strive to ensure there is no conflict of interest between the independent evaluator and service provider, or the independent evaluator and the student's family. To ensure the independence of the evaluation and any recommendations, Pathways may, in its discretion, not contract with an independent evaluator who is also providing services to the student and/or has a personal relationship with the student and/or the student's family. Likewise, if the independent evaluator recommends a particular service, and the IEP team agrees to that service, Pathways may, in its discretion, not fund the service through that independent evaluator.

### References

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POLICY***Legal Authority:*

*20 U.S.C. 1414(a) – (c) -Evaluations and reevaluations;*

*20 U.S.C. 1415(b)(1)-Right to independent educational evaluations; 34 CFR 300.301 – 300.306-Re-evaluations,;*

*34 CFR 300.502-Independent Educational Evaluations; Comments to 34 CFR 300.502 Independent education evaluations; Education Code section 56327;*

*34 CFR 300.300 Parent Consent - Evaluation;*

*34 CFR 300.304-306 Procedures for evaluations and Determination of eligibility; Education Code 56329-Independent educational assessments;*

*Education Code 56381 Reassessments.*

*Education Code 56329 Notice to parents or guardians; independent educational assessments; hearings; proposals for publicly financed nonpublic placements*

*Education Code 56506(c) Due process rights of pupil and parent*