

## PATHWAYS CMH

<b>POLICY TITLE:</b> Compliance Review and Investigation Policy and Procedures	<b>CATEGORY:</b> Compliance	
<b>EFFECTIVE DATE:</b> 06/06/13	<b>BOARD APPROVAL DATE:</b> 11/05/14	
<b>REVIEWED DATE:</b> 11/06/18	<b>REVISION(S) TO POLICY STATEMENT:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>OTHER REVISION(S):</b> <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
<b>RESPONSIBLE PARTY:</b> Compliance Manager	<b>CEO APPROVAL:</b> Mary Swift, CEO	

### **APPLIES TO**

Pathways Personnel  
 Pathways Volunteers, Students, and Interns  
 Pathways Board  
 Contract Providers

### **POLICY**

Pathways' Compliance Manager is responsible for objectively, uniformly, and consistently coordinating and/or completing the investigation of all suspected fraud, waste and abuse or reported violations of applicable laws, regulations, guidelines and ethical violations. The extent of the investigation will vary depending upon the concern.

### **PURPOSE**

To articulate the policies and procedures that will be used by Pathways in all compliance investigations; and, to assure complete and proper fulfillment of Pathways Compliance Program.

### **DEFINITIONS**

1. **Compliance Investigation:** the observation or study of suspected fraud, abuse, waste, or reported violations of applicable laws, regulations, policies, procedures, or ethical violations by close examination and systematic inquiry.
2. **Abuse (CMS):** means provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program. (42 CFR § 455.2)
3. **Fraud (CMS):** means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/her or some other person. It includes any act that constitutes fraud under applicable Federal or State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act. (42 CFR § 455.2)

4. **Waste:** (CMS) means overutilization of services, or other practices that result in unnecessary costs. Generally not considered caused by criminally negligent actions but rather the misuse of resources.
5. **Preponderance of Evidence:** Preponderance of evidence means that it is more likely a policy/procedure/law was violated than it was not, based upon the greater weight of the evidence not as to quantity (number of witnesses) but as to quality (believability and greater weight of important facts provided).
6. **Professional Ethical Violation:** A violation of a health care professional rendering professional services outside the scope of his or her license or registration and in a manner that does not conform to applicable standards of care and to the ethics of his or her profession.
7. **Business Ethical Violations:** As referenced in Pathways Code of Conduct.

## **REFERENCES**

- Balanced Budget Act Section 438.608
- MDCH/CMHSP Managed Mental Health Supports and Services Contract Sections I.15, II.5
- CARF Standards: Section 1.A and 1.G
- Pathways Personnel Policies and Procedures
- Pathways Contract Provider Grievance and Appeal Policy
- Pathways Appeals Process for Compliance Decisions Policy and Procedure
- Pathways Compliance Plan and Policies
- Pathways Code of Ethics
- NorthCare Compliance Plan and Policies

## **HISTORY**

REVISION DATE: 08/26/14; 08/19/14 (legal Counsel); 10/29/14; 04/08/15; 02/10/16; 02/28/17; 01/17/18; 11/06/18

CEO APPROVAL DATE: 08/26/14; 10/30/14; 04/08/15; 02/11/16; 02/28/17

BOARD APPROVAL DATE: 06/05/13; 11/05/14

## **PROCEDURES**

Pathways Privacy and Security investigations will follow the “Security Incident Response Procedure”, which are found under separate Policy/Procedures.

### **I. Purpose of Investigation**

- A. The purpose of an investigation is to identify those situations in which laws, rules and/or standards of federal programs and/or Pathways Policies and Procedures may not have been followed and/or issues related to fraud, abuse, and waste. This includes, but is not limited to, the following:
  - 1. The identification of individuals or processes which may have knowingly or inadvertently caused services to be provided or coded and/or claims to be submitted or processed in a manner which violated Medicare/Medicaid laws, rules, or standards;
  - 2. The facilitation of correction to any practices not in compliance with Medicare/Medicaid laws, rules, or standards;
  - 3. To implement procedures necessary to ensure future compliance;
  - 4. To protect Pathways in the event of civil or criminal enforcement actions; and
  - 5. To preserve and protect Pathways’ assets.

### **II. Initial Review/Intake**

- A. The Compliance Manager will log suspected compliance issues/inquiries on the Compliance Issue Log.
- B. In instances where the concern was previously investigated, the Compliance Manager will review the details of the previous investigation and actions taken, if any.
- C. The goal of the Initial Review/Intake is to determine when the report merits an investigation. Intake will consist of asking the Reporter the 5Ws – who, what, when, where, and why. The Compliance Manager will ask these questions. (Attachment I: The 5Ws of Reporter Intake)
- D. The Compliance Manager will use the “Considerations for Determining When to Investigate” list to help determine whether, based on the reporter intake, an investigation is warranted (none of these are necessarily determinative, and it will be a case-by-case analysis). These considerations apply regardless of whether there has been a “live” report or an anonymous report or written report. (Attachment II: Considerations for Determining When to Investigate)
- E. If the Compliance Manager concludes, based on the Initial Review of the issues that no Formal Compliance Investigation is necessary, the Compliance Manager will:
  - 1. Respond to the inquiry or question;
  - 2. Document the results on the Compliance Inquiry/Investigation form;
  - 3. Close the compliance review on the Compliance Issue; and
  - 4. Inform Pathways and/or Provider’s CEO, or representative and Pathways Compliance/Risk Management Monitoring Team of the decision as applicable and appropriate, with detail available upon request.
- F. If the Compliance Manager concludes, based on the Initial Review, that the conduct reported likely or possibly constitutes noncompliance with applicable Federal or State regulations or Pathways Policies and Providers, the matter

shall be considered an open compliance investigation and a formal Compliance Investigation shall commence and Pathways Compliance/Risk Management Monitoring Team shall be so informed. The Compliance Manager will respond to the inquiry or question, letting the reporter know that an investigation into the matter will occur.

### **III. Identification of the Right Investigator (Pathways Personnel, VSI, Contract Provider Violations)**

- A. Unless the CEO or a Board Member is implicated in alleged wrong doing, Pathways Compliance Manager will notify and brief the CEO of suspected compliance issue(s) and of the commencement of a formal Compliance Investigation.
- B. Unless severely contraindicated or upon advice of Pathways' Legal Counsel, the Contract Provider CEO (or designee) will be similarly and timely informed and briefed.
- C. Unless the CEO or a Board Member is implicated in alleged wrong doing, the Compliance Manager, in consultation with the CEO, will determine who will conduct the investigation. Possibilities may include:
  - 1. Compliance Manager
  - 2. Human Resources Director
  - 3. Privacy Officer
  - 4. Security Officer
  - 5. Legal Counsel
  - 6. Appropriate Pathways Staff as assigned

The Compliance Manager and CEO will review the "Core Investigator Competencies" to determine whom to assign as the investigator. (Attachment III: Core Investigator Competencies)

- D. The Compliance Manager may solicit the voluntary assistance of contract provider staff in conducting any of the specific investigative tasks noted above. The Compliance Manager may seek information on background, context, prior history, and recommended approach from contract providers. All original products resulting from any tasks assigned by the Pathways Compliance Manager will be forwarded to Pathways Compliance Manager when completed.
- E. The Compliance Manager may also solicit the support of internal and external resources with knowledge of the applicable laws and regulations that relate to the specific concern in question. External resources may include legal counsel, consultants, and auditors. These internal and/or external persons may function under the direction of legal counsel and under attorney-client privilege (which may be jointly contracted, as appropriate and requested) and if so contracted shall be required to submit relevant evidence, notes, findings and conclusions to legal counsel.

### **IV. Identification of the Right Investigator (CEO/Board Member Violations)**

If the compliance issue/inquiry has been filed regarding the conduct of the Chief Executive Officer or any Board Member, the matter will be referred to Pathways Legal Counsel to determine whether or not a Formal Compliance Investigation is necessary.

If a formal investigation is necessary, the following will occur:

- A. Legal counsel shall send a Client/Attorney Privileged letter to the Pathways Board letting them know a compliance issue/inquiry has been received, who is referenced in the issue/inquiry, and that an investigation will be commenced. Legal counsel will request a Retainer Letter from the Board Chairperson (or Board Vice-Chairperson if the issue/inquiry is in regard to the Chairperson).
- B. Legal counsel shall conduct the investigation with the use of Pathways resources, including personnel, as he/she deems necessary.
- C. The accused CEO or Board Member will fully cooperate with the investigation and will refrain from any participation, interference, or any other role with respect to the investigation.

**V. Investigation Preparation and Strategy**

- A. The investigation will begin as soon as reasonably possible, but in no event no more than 10 business days following the receipt of the report/information/complaint regarding the potential issue of noncompliance.
- B. The Compliance Manager will develop a written plan of investigation in consultation with the identified investigative team and/or the Compliance/Risk Management Monitoring Team prior to the start of the formal Compliance Investigation. The plan may be revised as the investigation proceeds. The investigation may include, but is not limited to: and should undertake the following steps in preparation for the investigation:
  - 1. Determine the initial scope of the investigation.
  - 2. Assess potential challenges.
  - 3. Identify potential witnesses and determine desired order of interviews.
  - 4. Identify sources of potential evidence, i.e. documents to review and/or create documents requested.
  - 5. Prepare outline of questions.
  - 6. Review documents such as: EMR, billing/claims, training records, time sheets, expense vouchers, state and federal laws, rules, regulations, etc.
  - 7. Review appropriate policies and research procedures.
  - 8. Define sampling methodology, if applicable.
  - 9. Collaborate with internal oversight authority.
  - 10. Consult with counsel on privacy, scope, and other legal matters as necessary and document legal counsel recommendations, if appropriate.

**VI. Launching the Investigation: Gathering Evidence and Separating Fact from Fiction**

**A. Conducting Interviews:**

- 1. Interviews are the heart of most investigations. The facts and information that witnesses provide are often the critical source of information. It is important to understand, appreciate, and reflect the role and concerns of each different party in a case: the reporter; the general witnesses; and the accused. Each of them will have different information and motivation and each will have different questions about what the investigation can mean to or for them and their future with Pathways. Therefore, the investigator should consider using the attached outline of suggested questions for the

Reporter, General Witnesses, and the Accused. (Attachment IV: Interviewing Questions) However, each specific investigation may give rise to inquiries and issues other than those set forth on Attachment IV: Interviewing Questions.

2. After interviewing each witness, it is recommended that the investigator consider whether they need to go back to the reporter or any other witness for more information or to ask follow-up questions.
3. The investigator should also consider whether there are additional witnesses who might have relevant information (whether any other witness name them or not).

**B. Obtaining Other Records/Evidence:**

The investigator will review other potentially significant sources of information. Any source of information reviewed should be retained as part of the investigation file, regardless of whether it supports, refutes, or sheds no light on the allegations.

**1. Effectively Analyzing Data:**

- a. When analyzing data it is important to go back to the allegation(s) and be clear about the behavior alleged.
- b. Consider the evidence. Determine whether the behavior occurred as described, or in some modified form, or whether it is more likely than not that it occurred as alleged.
- c. Consider whether the behavior violates one or more company policies and/or laws.
- d. Consider what other issues you may have discovered and determine whether they are appropriately addressed in this investigation or in some other way.
- e. In the event of an overpayment, if possible, and with the assistance from the Chief Financial Officer (CFO), estimate the nature and extent of any resulting overpayment by the payer, if any.

**2. Making Credibility Determination/Outcome:**

- a. Sometimes, despite best efforts to obtain evidence that supports or refutes a claim, it comes down to a situation where the reporter has one version and the accused has another and there are no witnesses or documents to the event. In those cases, the investigator should do the following:
  - Confirm there is no one else who may have seen/heard or overheard the incident;
  - Examine whether either party discussed the event with anyone else immediately after it happened and consider interviewing the people it was discussed with. By doing this, you may be able to determine whether a person's story has changed over time or is consistent with their first reaction.
  - Reflect on whether there is anything in one version of the story versus the other which makes it more believable;
  - Consider that if the incident occurred as it was reported, whether it would be a policy violation;
  - Think about the demeanor and general responses of the witnesses – were they cooperative, were they forthcoming, did they volunteer

information, did they withhold information, do they have some motivation to lie, etc.; and

- Decide whether to go back to any witness and ask whether they can think of any reason someone would be dishonest about the incident.

Ultimately, the investigator has to make a decision based on the preponderance of evidence. The decision must be based on the sum of the information provided and the witness statements and demeanors. Essentially, the issue is whether it is more likely than not that certain behavior occurred. Such a finding is sufficient.

- b. If the formal Compliance Investigation results show that the act did not occur as alleged, or that no violation of applicable laws/regulations/policies occurred, the investigation shall be closed, subject to Pathways CEO and Compliance/Risk Management Monitoring Team concurrence, and a written report filed.
- c. If the formal Compliance Investigation results show that a compliance violation exists, all documentation related to the investigation is kept as an “open” case until remedial actions are complete and a corrective action plan has been successfully implemented and any related monitoring is completed and certified.

## **VII. Preparing the Report:**

A report should provide a third party with enough information to identify the claim, establish a timeline and course of investigation, and identify the findings and the evidence on which the findings were based. Pathways written “Complaint Investigation Report” will be complete and will include the following:

- A. Nature of the problem, i.e. allegation(s) – *who, what, when, where, why and evidence that supports the allegation; physical and witnesses*
- B. Compliance Issues – *what actual compliance issue is being investigated (scope of the investigation)*
- C. Citations – *actual policies/procedures being reviewed*
- D. Summary of Investigative Process – *interviews conducted and documents examined; identify any person(s) or process(es) which the investigator believes to have contributed deliberately or with reckless disregard or intentional indifference or otherwise toward the suspected violation*
- E. Conclusions – *preponderance standard, document findings, recommendations*
- F. Adverse Action Taken
- G. If possible, and with the assistance of the Chief Financial Officer (CFO), estimate the nature and extent of any resulting overpayment by the payer, if any.

## **VIII. Follow-Up/Remedial Action**

- A. The Compliance Manager shall review all investigative findings with the CEO, Compliance/Risk Management Monitoring Team, and contract provider CEOs (if applicable) unless severely contraindicated or upon contrary advice of legal counsel prior to developing remediation and recoupment plans and closing the case.

- B. Legal Counsel shall review investigative findings involving the CEO or a Board Member with the full board prior to developing remediation and recoupment plans and closing the case.
- C. If the formal Compliance Investigation results show that the act did not occur as alleged, or that no violation of applicable laws/regulations/policies occurred, the investigation shall be closed subject to Pathways CEO and Compliance/Risk Management Monitoring Team concurrence, a written report filed, and the contract provider CEO, or designee, briefed. Once complete, documentation is to be preserved for a minimum of six (6) years.
- D. If the formal Compliance Investigation results show that a compliance violation exists, all documentation related to the investigation is kept as an “open” case until remedial actions are complete and a corrective action plan has been successfully implemented and any related monitoring is completed and certified.
- E. Compliance Manager will provide general feedback to the source regarding the investigation, provided the issue was not anonymously reported. Sources who report anonymously may call to receive feedback. Response should be general in nature and not reveal information of a confidential nature such as the individual’s name or corrective action plan.
- F. The investigation may be reopened at the discretion of the Compliance Manager if there is new evidence that would change the outcome of the investigation.

**IX. Appeal**

The employee or Contract Provider CEO, or designee, may appeal the corrective actions taken per the investigative findings and/or determination consistent with Pathways Grievance Procedures (for employees), Pathways Appeal Process for Compliance Decisions Policy/Procedure, and the Contract Provider Grievance and Appeals Policy (for contract providers).

**X. No Retaliation/Reprisal**

Under no circumstances is retaliation for submitting a compliance issue or inquiry, or participating in a compliance investigation, acceptable. This includes, but is not limited to, questions and concerns an employee may discuss with an immediate supervisor, the contract provider’s compliance officer, Pathways CEO, or Compliance/Risk Management Monitoring Team Committee members.

**XI. Confidentiality**

Given the mandatory nature of the corporate compliance investigation, no person conducting an interview is authorized to guarantee confidentiality with respect to any information sought or received. To the extent that it does not compromise the investigation, any employee providing information will be kept confidential to the fullest extent reasonably possible.

**XII. Organizational Response**

1. **Possible Criminal Activity** - In the event the formal Compliance Review uncovers what appears to be criminal activity on the part of any employee, contracted or subcontracted provider, Pathways shall undertake the following steps:
  - a. In the event that violations are found related to Medicaid compliance, legal counsel for Pathways shall notify the Michigan Department of Health and

Human Services (MDHHS) or other more appropriate authority as deemed necessary and as authorized by Pathways CEO, or designee, and after consultation with the Pathways Board Chair (unless severely contraindicated or upon advice of Pathways Legal Counsel). Pathways, through legal counsel, shall attempt to negotiate a settlement of the matter with MDHHS or other authority.

- b. If findings relate to a Pathways staff, Pathways shall initiate appropriate disciplinary action against the person or persons whose conduct appears to have been intentional, willfully indifferent or undertaken with reckless disregard for the Medicaid laws and/or regulations. Appropriate disciplinary action is outlined in Pathways Personnel Manual, Policies, and Procedures.
  - c. If findings relate to a contract provider staff, the contract provider CEO, or designee, shall initiate appropriate disciplinary action against the person or persons whose conduct appears to have been intentional, willfully indifferent or undertaken with reckless disregard for the Medicaid laws and/or regulations. Appropriate disciplinary action shall be outlined in the contract provider's employee manual, policies, and procedures. Pathways may implement additional remedies as applicable.
  - d. Whenever legal counsel or an investigator concludes that it is more likely than not that criminal conduct occurred, those persons shall recommend to the Board that a report to the criminal authorities is warranted or may be required or beneficial.
2. **Other Non-Compliance** - In the event the formal Compliance Review reveals billing or other problems which do not appear to be the result of conduct which is intentional, willfully indifferent, or with reckless disregard for the Medicaid laws, Pathways shall nevertheless undertake the following:
- a. **Improper Payments/Encounter Reporting:** In the event the problem results in duplicate payments/encounters reported, or payments/encounters reported for service not rendered or provided other than as claimed, Pathways shall:
    - Define and summarize the defective practice or procedures as quickly as possible.
    - Calculate and make recommendations regarding repayment to the appropriate governmental entity, duplicate payments or improper payments resulting from the act or omission. Calculations must be reconciled between Pathways and NorthCare and between Pathways and the Contract Provider.
    - Void and resubmit the encounter to adjust the claim payment, as necessary.
    - Reallocate payment to the proper fund source, as necessary.
    - Initiate training and/or disciplinary action as appropriate given the facts and circumstances.
    - Promptly undertake a program of education at the appropriate business unit to prevent future problems.
    - Analyze and remedy business process, functional or information system deficits.
    - The CEO, or designee, shall submit a plan of action for Pathways Compliance/Risk Management Monitoring Team for approval intended

to remediate specific process, functional or information system deficits. Contract provider CEO, or designee, may appeal corrective action plan decisions consistent with Pathways Contract Provider Grievance and Appeal Process.

- b. **No improper Payment/Encounter Reporting:** In the event the problem does not result in overpayment/duplicate reporting, Pathways shall:
  - Define and summarize the defective practice or procedures as quickly as possible.
  - Initiate training and/or disciplinary action as appropriate given the facts and circumstances.
  - Promptly undertake a program of education at the appropriate business unit to prevent future problems.
  - Analyze and remedy business process, functional or information system deficits.
  - The Contract provider CEO, or designee, shall submit a plan of action for Pathways Compliance/Risk Management Monitoring Team for approval intended to remediate affiliate specific process, functional or information system deficits. Network provider CEO, or designee, may appeal corrective action plan decisions consistent with Pathways' Appeal Process for Compliance Decisions Policy.
  
3. **Ethical Issues:** In the event the formal Compliance Review uncovers what appears to be an ethical violation on the part of any employee, contracted or subcontracted provider, Pathways shall undertake the following steps:
  - a. If findings relate to a Pathways staff, Pathways shall initiate appropriate disciplinary action against the person or persons whose conduct appears to have been intentional, willfully indifferent or undertaken with reckless disregard. Appropriate disciplinary action is outlined in Pathways Personnel Manual, Policies, and Procedures.
  - b. If findings relate to the CEO or a Board Member, Legal Counsel shall review investigative findings involving the CEO or a Board Member with the full board prior to developing remediation and recoupment plans and closing the case.
  - c. If findings relate to a contract provider staff, the contract provider CEO, or designee, shall initiate appropriate disciplinary action against the person or persons whose conduct appears to have been intentional, willfully indifferent or undertaken with reckless disregard. Appropriate disciplinary action shall be outlined in the contract provider's employee manual, policies, and procedures. Pathways may implement additional remedies as applicable.

<b>Attachment I</b> <b>The 5Ws of Reporter Intake</b>	
Who	Who was involved? Who was present? Who have you talked to about the incident? Who else might have experienced something similar? Who else might have information about the incident?
What	What exactly occurred? What words were used? What was the physical action (if any)? What was the reaction of witnesses or others present? What did you do in response? What made you report this? What do you want to happen next? What else should an investigator know?
When	When did the incident(s) occur? (day/time) When did you talk to anyone else about it?
Where	Where did the incident(s) occur?
Why	Why do you think this is an issue? Why do you believe this treatment is occurring?

**Attachment II**  
**Considerations for Determining When to Investigate**

Considerations	Specifics
<b>The Nature of the Allegation</b>	<input type="checkbox"/> Is there a clear allegation of a policy violation? <input type="checkbox"/> When terms like “hostile work environment”, “discrimination,” “harassment”, “unfair”, “illegal”, “unethical”, or “fraud” are used it can be tempting to assume we must investigate. So we must understand what the nature of the conduct alleged is and reason such conduct is believed to be hostile, discriminatory, harassing, or fraudulent? <input type="checkbox"/> If what is alleged were true, would it violate the Code of Conduct or some other policy or be illegal or unethical. <input type="checkbox"/> Is this really an allegation of workplace conflict or possible wrongdoing, which requires an investigation? <input type="checkbox"/> Does the allegation trigger some legal obligation to conduct an investigation or would an effective investigation be a possible defense or mitigation of a future claim (e.g. federal discrimination claims and occupational safety and health claims)?
<b>The Request for Action</b>	<input type="checkbox"/> What did the person reporting say they wanted?
<b>The Possible Scope</b>	<input type="checkbox"/> Are witness interviews necessary to make a determination? <input type="checkbox"/> How many people are likely going to need to be questioned? <input type="checkbox"/> How disruptive would an investigation likely be? <input type="checkbox"/> What is the nature of the workgroup involved? Are they close knit? Are they in one location? Is it a cube area or offices? What is the work they do? <input type="checkbox"/> What other options besides witness statements are available to prove/disprove the claims? <input type="checkbox"/> Will an investigation likely result in other information about the workgroup that may help resolve issues?
<b>The Accused</b>	<input type="checkbox"/> Have there been other prior issues/claims/allegations involving the same individual? <input type="checkbox"/> Is the accused a supervisor and/or a Director or higher level? <input type="checkbox"/> Is the accused still a current employee? <input type="checkbox"/> Is the accused under the authority of the employer?

**Attachment III**  
**CORE INVESTIGATOR COMPETENCIES**

- Absence of any conflict of interests (organizational, relationship, and perception);
- Ability to understand the business purpose of the investigation and the potential issues that may arise (the big picture);
- Knowledge of the organization policies, procedures, and practices;
- Interviewing skills, both verbal and non-verbal, including the ability to ask the “tough” questions;
- Experience, training and credentials;
- Ability to be an impartial and neutral fact-finder;
- Ability to spot key issues and problem-solve;
- Flexibility and good judgment;
- Is well-respected;
- Is an ethics and compliance champion and has spotless record;
- Ability to establish boundaries and maintain rapport with witnesses;
- Ability to maintain confidentiality;
- Ability to appropriately document findings/write a good report;
- Ability to influence the decisions/outcome in the organization;
- Knowledge of specific area or subject matter at issue (i.e. discrimination, fraud, theft...)
- Availability to anticipated timeframe of investigation;
- Ability to perform as a witness if called to testify

**Attachment IV  
INTERVIEWING THE REPORTER/COMPLAINANT**

As an investigator you should take the following steps when interviewing a reporter/complainant:

<input type="checkbox"/>	Introduce yourself by name and (if appropriate) provide your business card
<input type="checkbox"/>	Make clear to the witness that you represent Pathways, that you do not represent the reporter/complainant, nor do you represent the alleged wrong doer.
<input type="checkbox"/>	Remind the witness that the nature of the investigation may require the disclosure of material information they have provided to the Pathways Board or others. Absolute confidentiality can never be guaranteed. However, to the extent confidential information not germane to the investigation is received, such information will be kept confidential.
<input type="checkbox"/>	Describe your role as a neutral fact finder conducting an investigation into a claim of wrongdoing
<input type="checkbox"/>	Identify yourself as an agent of the organization and acting on behalf of the organization in conducting the interview
<input type="checkbox"/>	Confirm that the individual believes that you can be impartial and neutral in the matter
<input type="checkbox"/>	Inform the person that there will be additional witnesses you will need to interview (do not name names)
<input type="checkbox"/>	Describe how other records or information might help you determine what happened and why (e.g. e-mails, voice mail messages, photos and other items)
<input type="checkbox"/>	Ask if they are aware of any documents or records that might assist you
<input type="checkbox"/>	Inform them that they can provide you a list of names of possible witnesses that they think might be helpful (and when they provide this list ask them what they think each witness can provide – you may need to explain you are looking for people who saw or heard things, not “character” witnesses to vouch for people)
<input type="checkbox"/>	Let them know that you will make the final decisions about who to interview
<input type="checkbox"/>	Set your expectations of them as a witness: that they will be truthful and not misleading, that they are expected to cooperate fully, that they will keep the matter confidential and not discuss it verbally or in writing with other witnesses or employees and that if they violate that there may be disciplinary action
<input type="checkbox"/>	Set expectations that you will not share witness names with other witnesses unless there is no way to avoid that and who you will share your investigation findings with (e.g. them, management, other)
<input type="checkbox"/>	Describe the policy against retaliation and what it means to them and what they should do if they have any concern that they are being subjected to any retaliation and the consequences if they retaliate against others
<input type="checkbox"/>	Ask questions (starting with the 5W's)
<input type="checkbox"/>	State your understanding of the claim/concern they provided
<input type="checkbox"/>	Ask what they would like to have happen next
<input type="checkbox"/>	Ask if there was anything you did not ask them that you should have
<input type="checkbox"/>	Ask if there is anything else they think you should know
<input type="checkbox"/>	Tell them generally what your next steps are
<input type="checkbox"/>	Make sure they have your contact information
<input type="checkbox"/>	Let them know that they can contact you anytime and that you will likely be back in touch within X days
<input type="checkbox"/>	Acknowledge their cooperation (if appropriate)
<input type="checkbox"/>	Ask whether they are any other witnesses they are aware of that would shed light on the matters being investigated.
<input type="checkbox"/>	Ask them if they have any documents, including emails, text message, etc. that are relevant under the issues in the investigation.

**Attachment IV**  
**INTERVIEWING GENERAL WITNESSES**

As an investigator you should take the following steps when interviewing a general witness:

<input type="checkbox"/>	Introduce yourself by name and (if appropriate) provide your business card
<input type="checkbox"/>	Make clear to the witness that you represent Pathways, that you do not represent the reporter/complainant, nor do you represent the alleged wrong doer.
<input type="checkbox"/>	Remind the witness that the nature of the investigation may require the disclosure of material information they have provided to the Pathways Board or others. Absolute confidentiality can never be guaranteed. However, to the extent confidential information not germane to the investigation is received, such information will be kept confidential.
<input type="checkbox"/>	Describe your role as a neutral fact finder conducting an investigation into a claim of wrongdoing
<input type="checkbox"/>	Reiterate that the Organization takes claims seriously and has a process to determine whether wrongdoing has occurred
<input type="checkbox"/>	Share that you are interviewing several people who you believe might have seen, heard or known something and they are one of them
<input type="checkbox"/>	Describe how other records of information might help you determine what happened and why (e.g. e-mails, voice mail messages, photos and other items)
<input type="checkbox"/>	Ask if they are aware of any documents or records that might assist you
<input type="checkbox"/>	Inform them that they can provide you a list of names of possible witnesses that they think might be helpful (and when they provide this list ask them what they think each witness can provide – you may need to explain you are looking for people who saw or heard things, not “character” witnesses to vouch for people)
<input type="checkbox"/>	Let them know that you will make the final decisions about who to interview
<input type="checkbox"/>	Set your expectations of them as a witness: that they will be truthful and not misleading, that they are expected to cooperate fully, that they will keep the matter confidential and not discuss it verbally or in writing with other witnesses or employees and that if they violate that there may be disciplinary action
<input type="checkbox"/>	Set expectations that you will not share witness names with other witnesses unless there is no way to avoid that and who you will share your investigation findings with (e.g. them, management, other)
<input type="checkbox"/>	Describe the policy against retaliation and what it means to them and what they should do if they have any concern that they are being subjected to any retaliation and the consequences if they retaliate against others
<input type="checkbox"/>	Ask questions (starting with the 5Ws)
<input type="checkbox"/>	State your understanding of the information they provide
<input type="checkbox"/>	Ask if there was anything you did not ask them that you should have
<input type="checkbox"/>	Ask if there is anything else they think you should know
<input type="checkbox"/>	Ask the witness if their account has been complete and accurate
<input type="checkbox"/>	Tell them generally what your next steps are
<input type="checkbox"/>	Make sure they have your contact information
<input type="checkbox"/>	Let them know whether or not you will likely be in contact with them again
<input type="checkbox"/>	Acknowledge their cooperation (if appropriate)
<input type="checkbox"/>	Ask whether they are any other witnesses they are aware of that would shed light on the matters being investigated.
<input type="checkbox"/>	Ask them if they have any documents, including emails, text message, etc. that are relevant under the issues in the investigation.

**Attachment IV  
INTERVIEWING THE ACCUSED**

As an investigator you should take the following steps when interviewing a person who has been accused of wrongdoing:

<input type="checkbox"/>	Introduce yourself by name and (if appropriate) provide your business card
<input type="checkbox"/>	Make clear to the witness that you represent Pathways, that you do not represent the reporter/complainant, nor do you represent the alleged wrong doer.
<input type="checkbox"/>	Remind the witness that the nature of the investigation may require the disclosure of material information they have provided to the Pathways Board or others. Absolute confidentiality can never be guaranteed. However, to the extent confidential information not germane to the investigation is received, such information will be kept confidential.
<input type="checkbox"/>	Describe your role as a neutral fact finder conducting an investigation into a claim of wrongdoing
<input type="checkbox"/>	Reiterate that the Organization takes claims seriously and has a process to determine whether wrongdoing has occurred
<input type="checkbox"/>	Share that you have interviewed several people who have seen, heard, or know something about the matter but that no decision has been made at this point
<input type="checkbox"/>	Identify that they have been accused of X and tell them that this is their chance to share their side of the story and provide any information they might have
<input type="checkbox"/>	Emphasize the importance of cooperation and truthfulness
<input type="checkbox"/>	Describe how other records or information might help you determine what happened and why (e.g. e-mails, voice mail messages, photos, and other items) Ask for copies of all records or information.
<input type="checkbox"/>	Ask if they are aware of any documents or records that might assist you
<input type="checkbox"/>	Inform them that they can provide you a list of names of possible witnesses that they think might be helpful (and when they provide this list ask them what they think each witness can provide – you may need to explain you are looking for people who saw or heard things, not “character” witnesses to vouch for people)
<input type="checkbox"/>	Let them know that you will make the final decisions about who to interview
<input type="checkbox"/>	Set your expectations of them as a witness: that they will be truthful and not misleading, that they are expected to cooperate fully, that they will keep the matter confidential and not discuss it verbally or in writing with other witnesses or employees and that if they violate that there may be disciplinary action
<input type="checkbox"/>	Set expectations that you will not share witness names with other witnesses unless there is no way to avoid that and who you will share your investigation findings with (e.g. them, management, other)
<input type="checkbox"/>	Describe the policy against retaliation and what it means to them and what they should do if they have any concern that they are being subjected to any retaliation and the consequences if they retaliate against others
<input type="checkbox"/>	Ask questions (starting with the 5Ws)
<input type="checkbox"/>	State your understanding of the information they provide
<input type="checkbox"/>	Ask if there was anything you did not ask them that you should have
<input type="checkbox"/>	Ask if there is anything else they think you should know
<input type="checkbox"/>	Ask the witness if their account has been complete and accurate
<input type="checkbox"/>	Ask whether they are any other witnesses they are aware of that would shed light on the matters being investigated.
<input type="checkbox"/>	Tell them generally what your next steps are
<input type="checkbox"/>	Make sure they have your contact information
<input type="checkbox"/>	Let them know whether or not you will likely be in contact with them again
<input type="checkbox"/>	Reiterate that no decision will be made until the investigation is complete
<input type="checkbox"/>	Acknowledge their cooperation (if appropriate)