

<b>PATHWAYS, INC.</b> <b>DD SERVICES</b>	<b>DATE ISSUED</b> 6/87	<b>DATE REVISED</b> 10/2014	<b>PAGE</b> 1 of 3	<b>TOPIC NO.</b> 2.120
<b>POLICIES AND PROCEDURES MANUAL</b>	<b><u>FUNCTION:</u></b> INCIDENT REPORTING/REVIEW PROCESS			
<b>SOURCE/REFERENCE:</b> NYCRR – 624.8 33.16 of the Mental Hygiene Law 33.25 of the Mental Hygiene Law	<b><u>SUBJECT:</u></b> Release of Records			
	<b><u>TOPIC:</u></b> Release of Records			

**Section 624.8. Release of records.**

Pathways Inc. shall have policies and procedures concerning the process for requesting the release of records, including but not limited to identifying appropriate staff who are authorized to receive requests and those who are authorized to release records.

**Eligible Requestors.**

Persons receiving services or who formerly received services, and guardians, parents, spouses, and adult children of such persons, pursuant to paragraph (a)(6) of section 33.16 of the Mental Hygiene Law, are eligible to request the release of records as established by this section, subject to the following restrictions:

- In the event that an otherwise eligible requestor is an alleged abuser, such requestor is not eligible to receive any records or documents pertaining to the specific allegation or investigation of the event or situation in which he or she was the targeted alleged abuser, regardless of the conclusion.
- If the person receiving services or who formerly received services is a capable adult and objects to the provision of records and/or documents to an otherwise eligible requestor, such requestor is not eligible to receive those records or documents.

**Records subject to release concerning reports of abuse that occurred prior to June 30, 2013.**

Pathways Inc. is required to release all records and documents pertaining to allegations and investigations into abuse as defined in applicable OPWDD regulations in effect at the time the allegation occurred under the auspices (see section 624.20 of this Part) of the agency or sponsoring agency to eligible requestors who make a request in accordance with the provisions of this section.

Pathways Inc. is required to release records and documents pertaining to allegations of abuse which occurred or were discovered on or after May 5, 2007, regardless of the date of the submission of the written request.

**Records subject to release concerning reportable incidents that occurred on or after June 30, 2013.**

Pathways Inc. is required to release all records and documents pertaining to reportable incidents to eligible requestors who make a request in accordance with the provisions of this section.

<b>PATHWAYS, INC.</b> <b>DD SERVICES</b>	<b>DATE ISSUED</b> 6/87	<b>DATE REVISED</b> 10/2014	<b>PAGE</b> 2 of 3	<b>TOPIC NO.</b> 2.120
<b>POLICIES AND PROCEDURES MANUAL</b>	<b><u>FUNCTION:</u></b> INCIDENT REPORTING/REVIEW PROCESS			
<b>SOURCE/REFERENCE:</b> NYCRR – 624.8 33.16 of the Mental Hygiene Law 33.25 of the Mental Hygiene Law	<b><u>SUBJECT:</u></b> Release of Records			
	<b><u>TOPIC:</u></b> Release of Records			

**Procedures. Use Joe’s Form**

Eligible requestors shall submit a written request to staff designated by agency policy/procedures. If the request is made prior to the closure of the incident, the parties specified by agency policy/procedures shall provide the requested records no later than 21 days after the closure of the incident. If the request is made at or subsequent to the closure of the incident, the agency shall provide the requested records no later than 21 days after the request is made. The written request shall specify the records that are requested.

**Redaction of Records.**

Prior to the release of records, Pathways Inc. shall redact the names of employees who are involved in the incident or the investigation or who are interviewed as a part of the investigation, persons receiving services (or who formerly received services), and any information tending to identify such employees or persons. For the purpose of this section, “employee” has the same meaning as in section 624.6(f)(10) of this Part.

Redaction shall be waived if the employee or person authorizes disclosure, unless redaction of the specific information is necessary because it tends to identify another employee or person who has not authorized disclosure or for another reason specified in this subdivision.

In addition, if any records which are subject to release identify a particular party as having made a child abuse or maltreatment report to the Statewide Central Register of Child Abuse and Maltreatment (SCR), contacted the SCR, or otherwise cooperated in a child abuse/maltreatment investigation, that name as well as any information tending to identify the party shall be redacted.

**Cover Letter and Dissemination Restrictions. (attachment 1)**

The release of records to recipients shall be in accordance with the following:

**The release of records shall be accompanied by a cover letter to the recipient which includes the following statement: "pursuant to section 33.25 of the Mental Hygiene Law, the enclosed records and reports shall not be further disseminated, EXCEPT that you may share the report with:**

- A health care provider
- A behavioral health care provider;
- Law Enforcement, if you believe a crime has been committed; or
- Your attorney.”

<b>PATHWAYS, INC.</b> <b>DD SERVICES</b>	<b>DATE ISSUED</b> 6/87	<b>DATE REVISED</b> 10/2014	<b>PAGE</b> 3 of 3	<b>TOPIC NO.</b> 2.120
<b>POLICIES AND PROCEDURES MANUAL</b>	<b><u>FUNCTION:</u></b> INCIDENT REPORTING/REVIEW PROCESS			
<b>SOURCE/REFERENCE:</b> NYCRR – 624.8 33.16 of the Mental Hygiene Law 33.25 of the Mental Hygiene Law	<b><u>SUBJECT:</u></b> Release of Records			
	<b><u>TOPIC:</u></b> Release of Records			

Pursuant to New York State law, the recipient, parties with whom the recipient shared records, or the individual receiving services may use records and documents released in accordance with this section in any legal action or proceeding brought by or on behalf of the individual receiving services.

**Documentation.**

- (1) The written request for the release of records shall be maintained and the time the request was received shall be documented.
- (2) A copy of the redacted records that were released shall be maintained and the time the records were provided shall be documented.

**Administrative Appeal Process – (denial of requested records/documents)**

- (1) A requestor denied access to the records and documents requested pursuant to this section may appeal, in writing, such denial to the incident records appeals officer designated by OPWDD.
- (2) Upon receipt of the appeal, Pathways will be notified of the appeal and given an opportunity to submit relevant information to the incident records appeals officer, including the reasons for denial, within 10 business days of the receipt of such appeal. The incident records appeals officer may also request additional information from the requestor as may be necessary to resolve the appeal.
- (3) Within 10 business days of the receipt of complete information, the incident records appeals officer will make a determination about whether the requested records and/or documents should be released. The incident records appeals officer will issue his or her determination with an explanation of the reasons for the determination to the requestor and the agency. If so directed by the incident records appeals officer, the agency shall provide the requested records and/or documents to the requestor.
- (j) Note that records maintained by Pathways may also be available under section 496 of the social services law to “other persons named in the report” as defined in section 488 of the social services law.