PATHWAYS ABILITIES SOCIETY

POLICY: LEGAL ACTION
Applies to: All Personnel, Volunteers and Persons Served

Original Approval Date: June 27, 2005
Date Board Approved: April 6, 2020
Replaces Policy Dated: January 28, 2013

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Board Member's Signature

PREAMBLE

A "Court" is a judicial body such as the BC Supreme Court. For the purpose of this policy, the word "Court" also includes administrative tribunals or an arbitrator whose position is governed by law. It also refers to any proceeding or activity in a court, including proceedings or activities other than trials.

An employee or volunteer may be "compelled" (legally required under law, regardless of their own wishes), to appear and testify in court, comply with court orders including search warrants and assist with legal investigations. The documents requiring such appearance and testimony are called "Summons" or "Subpoena".

Alternatively, an employee or a volunteer may volunteer to appear and testify in Court. One example of voluntary testimony is of an expert witness who is hired to assist the Court by providing special knowledge or judgement. Another is of a person who has information about an accident, a crime, or business dealing and feels obliged to "do the right thing".

An employee or a volunteer may be compelled to act as a witness or an expert witness to provide information considered to belong to the society or to be confidential under the terms of the employee's employment.

An invitation or summons to testify in Court raises special questions, places an employee or volunteer in unusual circumstances, and imposes very serious legal obligations to the Court, as well as to the society.

When employees or volunteers are compelled under the law, to testify in court, they do not have a choice about attendance or on how much they will say. They must testify according to their legal obligations and they must tell the truth. The evidence that they give may or may not be in the best interests of Pathways Abilities Society or of a person with a diverse-abilities. However, depending on the circumstances, individuals and the society have a right, within the law, to ask to not testify or ask to not answer some questions or parts of some questions. These rights are part of the Law of Evidence under our system of law.

When employees are asked to voluntarily act as witnesses or expert witnesses in a Court, their testimony may or may not be in the best interest of the society or a person with a diverse-abilities. The society may decide to require the employee to not testify under those circumstances. Providing it is legal to do so, the society may decide to not permit the employee to provide such information under those circumstances.

POLICY

Employees and volunteers of Pathways Abilities Society have a duty, both during and after work hours, to act in a manner consistent with the best interests of the society and people with diverse-abilities.

The executive director will notify the board of directors of any circumstance that could potentially lead to legal action being taken against the society. The executive director will contact designated council to apprise them of the matter and obtain direction on how to proceed.

In the case of subpoena:
An employee or volunteers who receives a summons or a subpoena has a public legal duty to the Court. Employees or volunteers who are requested to provide information, or are requested or required to testify in court, in any matter related to or arising out of their employment or to the business or purposes of the society, must notify the executive director. The executive director will inform the Board of Directors.

In the case of court order, including search warrants:
In the event of a court order or search warrant, being served to agency personnel they are to inform the executive director immediately. The executive director will inform the Board of Directors.

In the case of lawful investigation, including police, child welfare and licensing investigations:
Employees or volunteers involved in any lawful investigation at a society facility, involving society staff or participants and/or regarding society operations are to inform the executive director immediately. The executive director will inform the Board of Directors.

In all cases of legal action:
Employees or volunteers who become aware that information has been subpoenaed or otherwise compelled from the society, as evidence in court or by the police, must inform the executive director immediately. Only the executive director or a board director may provide such information or delegate the provision thereof. The executive director must notify the Board of Directors of all such requests before providing any information or delegating the provision thereof, where at all possible.

All employees and volunteers have responsibilities as citizens to testify when required and to tell the truth. Employees and volunteers must be aware that they:
- Have rights and can exercise their rights with respect to testifying in court.
- Have a duty to the society as their employer.
- Must disclose any request or summons to testify to Pathways Abilities Society, well before any scheduled court date.

- Emphasize that the purpose of Pathways Abilities Society is to act in the best interests of people with diverse-abilities.

Wherever legally possible, employees or volunteers of the society:
- Do not consent and are not required to testify in court regarding any question that might compromise the society's purpose and duty to act in the best interests of people with diverse-abilities.
- Ensure that any information that is the property of the society is not utilized in court without the society's permission,
- Ensure that any information is not used in a manner inconsistent with the best interests of people with diverse-abilities unless required by a court of law.