GENERAL ADMINISTRATION
EMPLOYEE

043 GENERAL OFFICE POLICIES

043.13 Domestic Abuse Referral Policy

043.13.1 Purpose

To establish guidelines to assist Human Services Department (HSD) employees who are victims of domestic abuse.

043.13.2 Definitions

For purposes of this policy, the terms are defined as follows:

A. "Batterer, Perpetrator, or Abuser" means an individual who commits domestic abuse.

B. "Continuing personal relationship" means a dating or intimate relationship. (30-3-11 NMSA, 1978). Crimes Against Household Members Act

C. "Domestic abuse/violence" (Family Violence Protection Act)

i. means an incident of stalking or sexual assault whether committed by a household member or not;

ii. means an incident by a household member against another household member consisting of or resulting in:

1. physical harm;
2. severe emotional distress;
3. bodily injury or assault;
4. a threat causing imminent fear of bodily injury by any household member;
5. criminal trespass;
6. criminal damage to property;
7. repeatedly driving by a residence or work place;
8. telephone harassment;
9. harassment; or
10. harm or threatened harm to children as set forth in this paragraph;
11. a pattern of coercive behavior that is used by a person against a household member to gain power and control over the other household member in the relationship; and

iii. does not mean the use of force in self-defense or the defense of another.

D. "Domestic Partner" means a person related to an employee where the employee and the partner presently can affirm that:

1. the partners are in an exclusive and committed relationship for the benefit of each other, and the relationship is the same as, or similar to, a marriage relationship in the state of New Mexico;
2. the partners share a primary residence and have done so for twelve or more consecutive months;
3. the partners are jointly responsible for each other's common welfare and share financial obligations;
4. neither partner is married or a member of another domestic partnership;
5. both partners are at least 18 years of age;
6. the partners are not related by blood to a degree of closeness that would prevent them from being married to each other in the state of New Mexico.

E. "Family member" means a minor child of the employee or a person for whom the employee is a legal guardian.

F. "Household member" means a spouse, former spouse, domestic partner or family member, including a relative, parent, present or former step-parent, present or former in-law, a co-parent of a child or a person with whom a person has had a continuing personal relationship. Cohabitation is not necessary to be deemed a household member. (30-3-10 NMSA 1978) Crimes Against Household Members Act. (40-13-02 NMSA 1978) Family Violence Protection Act.

G. "OHR" means HSD's Office of Human Resources.

H. "Pattern of conduct" means two or more acts, on more than one occasion, in which the alleged stalker by any action, method, device or means, directly, indirectly or through third parties, follows, monitors, surveils, threatens or communicates to or about a person.

I. "Survivor or Victim" means an individual subjected to domestic abuse/ violence.

J. "Sexual assault" means an act of sexual violence whereby a party forces, coerces, or manipulates another to participate in sexual activity.

K. "Stalking" means purposely pursuing a pattern of conduct directed at a specific person when the individual knows or should know that the pattern of conduct would cause a reasonable person to fear for his or her safety or the safety of a household member.

043.13.3 Policy

HSD provides assistance and support to its employees who are victims of domestic abuse.

043.13.4 Resource Awareness

A. HSD will make available upon the hiring of new personnel and at least every two years thereafter training in Domestic Violence, Sexual Assault and Stalking in the Workplace Prevention Training.

B. HSD will post in locations of high visibility such as bulletin boards and online sources, a statewide list with contact information for counseling, advocacy and referral resources for victims of domestic abuse, as well as intervention program resources for perpetrators.

043.13.5 Threats or Commission

Threats or commission of domestic abuse/violence by any employee on HSD premises, during working hours or at an HSD-sponsored event, whether directed at an HSD employee or other person, are prohibited.

043.13.6 Non-discrimination

It is prohibited to discriminate against employees because they have been victimized by domestic abuse/violence.

043.13.7 Responsibility to Report Domestic Abuse/Violence

A. Any supervisor who has knowledge of domestic abuse/violence taking place in the workplace must report it as soon as possible to OHR's Employee Relations Section.

B. HSD employees who witness threats or incidents of domestic abuse/violence taking place in the workplace should call 911 when appropriate and are strongly encouraged to report the event immediately to OHR.

C. HSD will comply with any State Personnel Office (SPO) requirements for aggregate data reporting on domestic abuse/violence.

043.13.8 Leave

A. Employees who are victims of domestic abuse/violence or who have family members who are victims of domestic abuse/violence will upon request be assisted by OHR in determining leave options available to them to address their domestic abuse/violence including, for example, judicial relief, physical injuries, obtaining domestic violence shelter, relocation, or obtaining mental health counseling related to the experience of domestic abuse, sexual assault or stalking. Retaliation against an employee for using such leave is prohibited.

B. An employee requesting such leave may be required to provide verification, and if so, an employee shall provide one of the following forms of verification in a timely fashion:

1. a police report indicating that the employee or a family member was a victim of domestic abuse;

2. a copy of an order of protection or other court evidence produced in connection with an incident of domestic abuse, but the document does not constitute a waiver of confidentiality or privilege between the employee and the employee's advocate or attorney;

3. the written statement of an attorney representing the employee, a district attorney's victim advocate, a law enforcement official or a prosecuting attorney that the employee or employee's family member appeared or is scheduled to appear in court in connection with an incident of domestic abuse; or

4. the written statement of a licensed counselor or advocate from a domestic violence/abuse or sexual assault program verifying the need for leave for the employee or employee's family member to relocate, find shelter, counseling, or seek treatment related to the domestic abuse/violence.

C. The confidentiality and anonymity of victims will be protected to the fullest extent possible and in accordance with law.

043.13.9 Appeal

Employees who claim to be aggrieved in violation of this policy are encouraged to follow the HSD's complaint procedures. (See HSD *Complaint Policy.*) Employees who believe that HSD has not followed this policy may file a claim with the New Mexico's Workforce Solutions Department.

043.13.10 References

NMSA 30-3-11(A) , Criminal Offenses, Harassment and Stalking
Governor's Executive Order 2008-047 Establishing Preventative Domestic Violence, Sexual Assault, and Stalking Workplace Policies in All New Mexico State Agencies
State of New Mexico Model Domestic Violence and the Workplace Policy, New Mexico Domestic Violence Leadership Commission, October 2008.
HSD *Complaint Policy and Procedure*
HSD *Safety, Loss Prevention and Control Policy.*
SB 68 *Domestic Violence Victim Financial Independence Act* (2009)

APPROVED:

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DATE: 10/2/09