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EFF:

GENERAL ADMINISTRATION
EMPLOYEE

043 GENERAL OFFICE POLICIES

043.19 COVID-19 Mitigation and Reporting Policy and Procedure

043.19.1 Purpose

A. To minimize the risk of employees contracting COVID-19 while working in state buildings, facilities, and indoor field work locations. This policy and procedure provides direction and guidance to employees accordingly.

B. To require employees to follow COVID-19 Safe Practices to reduce the possibility of COVID-19 transmission in its buildings, facilities, and indoor field work locations. COVID-19 Safe Practices are set out below.

C. To require employees to follow New Mexico Department of Health (NMDOH) and Centers for Disease Control and Prevention (CDC) COVID-19 recommendations on COVID-19 Isolation and Exposure precautions, before entering any state building, facility, or indoor field work location. (Isolation and Precautions for People with COVID-19 | CDC).

D. If any provision of this policy and procedure conflicts with an Executive Order or Public Health Order, the Executive Order or Public Health Order shall control.

E. If any provision of this policy and procedure conflicts with a provision of an applicable Collective Bargaining Agreement (CBA), the CBA shall control. Because this policy and procedure was negotiated and agreed to by and between the State of New Mexico and AFSCME New Mexico Council 18 for all AFSCME-covered state executive agencies, those individual covered agencies are not required to engage in further negotiations with AFSCME on this policy and procedure. Because this policy and procedure was negotiated and agreed to by and between the State of New Mexico and CWA, AFL-CIO, CLC State Employee Alliance for all CWA-covered state executive agencies, those individual covered agencies are not required to engage in further negotiations with CWA on this policy and procedure.

043.19.2 Definitions

A. “Close Contact” means within six (6) feet for a cumulative total of 15 minutes or more in a 24-hour period. Wearing a mask or cloth face-covering does not affect the definition for close contact.

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B. "COVID-19 Symptoms" means fever (temperature of 100.4 degrees Fahrenheit or more), chills, cough, shortness of breath or difficulty breathing, fatigue, muscle or body aches, headache, new loss of taste or smell, sore throat, congestion or runny nose, nausea or vomiting, diarrhea, or as otherwise identified by the CDC. (CDC Symptoms of COVID19).

C. "Exposure" or "Exposed" means close contact with a person with confirmed COVID-19 during their infectious period, without wearing Personal Protective Equipment (PPE).

D. "Isolation" means a public health strategy that refers to someone being physically separated from other people to prevent the spread of a communicable disease. For purposes of this policy and procedure, "isolation" separates people who are COVID-positive (with or without symptoms) from others who are not COVID-positive.

E. "New Diagnosis of COVID-19" means the first positive COVID-19 test result received during a single COVID-19 infection.

F. "Office of Human Resources or OHR" means the Human Services Department's (HSD) Office of Human Resources.

G. "Personal Protective Equipment" means at minimum, a mask, eye protection, gloves, and isolation gown. HSD has discretion to require employees providing direct care to COVID-19 positive persons to wear additional forms of personal protective equipment. HSD will provide training in the proper use of Personal Protective Equipment it requires its employees to use.

H. "Proof of Vaccination" means proof of COVID-19 vaccination in the form of a CDC vaccine card or a vaccine record from the New Mexico Statewide Immunization Information System (NMSIIS) which indicates the name of the vaccine recipient, the date(s) the vaccines were received, and which COVID-19 vaccines were received.

I. "Social Distancing" means maintaining a distance of at least six (6) feet between individuals to limit the spread of COVID-19. Wearing a mask or cloth face-covering does not affect the definition for social distancing.

043.19.3 Policy

A. HSD will take proactive steps to protect its employees and minimize the spread of COVID-19.

B. Following the COVID-19 Safe Practices as set forth below is mandatory for HSD employees before entering any state building. facility, or indoor field work location.

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C. Following NMDOH and CDC COVID-19 recommendations on isolation and exposure is mandatory for HSD employees before entering any state building, facility, or indoor field work location. If there is a conflict between a NMDOH COVID-19 recommendation and a CDC COVID-19 recommendation, the more restrictive recommendation shall control.

D. Any employee who fails to adhere to the COVID-19 Safe Practices set forth below, the NMDOH and CDC COVID-19 recommendations on isolation and exposure, or any other provision of the policy or procedure may be subject to disciplinary action, up to and including dismissal.

E. Any employee who harasses or discriminates against another employee due to the employee's mask-wearing or vaccination status in violation of HSD's *Code of Conduct*, *Non-Discrimination in Employment Practices* and *Harassment* policies may be subject to disciplinary action, up to and including dismissal.

F. HSD shall work toward adopting applicable COVID-19 safe building guidance and procedures as recommended by the New Mexico Environment Department, Occupational Health and Safety Bureau (NMED-OSHA) found at Guidance on Preparing Workplaces for COVID-19 (nm.gov). HSD shall publish measures that ensure air ventilation standards are maintained.

043.19.4 Procedures

043.19.4.1 COVID-19 Safe Practices

All employees shall take the following steps to reduce the transmission of COVID-19 in state buildings, facilities, and indoor field work locations:

A. *New diagnosis of COVID-19*. **DO NOT** report to any state building, facility, or indoor field work location if you have received a new diagnosis of COVID-19. Follow HSD's established call-in procedure and contact your supervisor immediately. Do not return to any state building, facility, or indoor field work location without first following the isolation instructions provided by the NMDOH (EPI-COVID19-Containment-Policies-8.19.2022.pdf (nmhealth.org)) and the CDC (Isolation and Precautions for People with COVID-19 | CDC).

B. *COVID-19 Symptoms*. **DO NOT** report to any state building, facility, or indoor field work location if you are experiencing COVID-19 symptoms. Follow HSD's established call-in procedure and contact your supervisor immediately. Do not return to any state building, facility, or indoor field work location without first following the isolation instructions, provided by the NMDOH (EPI-COVID19-Containment-Policies-8.19.2022.pdf

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(nmhealth.org)) and the CDC (How to Protect Yourself and Others | CDC).

C. *COVID-19 Exposure*. Follow the exposure instructions provided by the NMDOH (EPI-COVID19-Containment-Policies-8.19.2022.pdf (nmhealth.org)) and the CDC (What to Do If You Were Exposed to COVID-19 | CDC).

043.19.4.2 COVID-19 Best Practices

It is strongly recommended that all employees take the following additional steps to reduce the transmission of COVID-19 in state buildings, facilities, and indoor field work locations:

A. *Vaccinate and Boost*. Employees are strongly encouraged to be fully vaccinated against COVID-19, as defined by the CDC, and to receive all booster doses of the COVID-19 vaccine for which they are eligible. (Stay Up to Date with COVID-19 Vaccines Including Boosters | CDC).

B. *Mask and Social Distance When Community Level is High*. Employees should consider masking and social distancing when the CDC indicates the COVID-19 community level is high in the county where they work. (COVID-19 by County | CDC).

C. *Clean Hands*. Employees should wash their hands often with soap and water for at least 20 seconds, especially after they have been in a public place, or after blowing their nose, coughing, or sneezing. If soap and water are not readily available, employees should use a hand sanitizer that contains at least 60% alcohol to cover all surfaces of their hands and rub them together until they feel dry. HSD will supply hand sanitizer to employees as necessary.

D. *Cover Mouth and Nose*. Employees should cover their mouth and nose with a tissue when coughing or sneezing or use the inside of their elbow.

E. *Avoid Touching Face.* Employees should avoid touching their face, nose, mouth, and eyes.

043.19.4.3 Screening

A. It is within HSD's discretion to screen its employees for COVID-19 symptoms and exposure. If HSD screens its employees, it will screen all similarly situated employees and utilize the screening results consistently. If HSD collects employees' COVID-19 symptoms and exposure screening responses and results, the Americans with Disabilities Act (ADA) requires that HSD treat such responses and results as confidential medical

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information and maintain them separately from the employees' personnel files.

B. HSD is permitted to administer COVID-19 screening to clients, customers, and other members of the public who seek to enter HSD's buildings or facilities. If HSD collects screening responses and results from members of the public, it shall treat those responses and results as confidential medical information and maintain them for three (3) years. HSD shall not ask clients, customers, or other members of the public seeking to enter HSD's buildings if they are vaccinated.

043.19.5 Test Sites and Administrative Leave

043.19.5.1 Test Sites

Test sites can be found at (COVID-19 Screening & Testing | NMDOH - Coronavirus Updates (nmhealth.org)). You can find FDA-approved rapid antigen tests, at-home tests, and other testing options at findatestnm.org.

043.19.5.2 Administrative Leave

In order to support the isolation guidelines outlined in Section 043.19.4.1 (B), agencies may grant five (5) days of Administrative Leave with pay for employees who have tested positive for COVID-19, pursuant to 1.7.7.14(A) NMAC.

043.19.6 Proof of Vaccination

A. HSD may require an employee to provide proof of vaccination if the inquiry is job-related and consistent with business necessity. For example, HSD may require proof of vaccination to determine an employee's compliance with an Executive Order or Public Health Order.

B. HSD requests for proof of vaccination shall come from OHR and: (1) shall not elicit information about an employee's disability, (2) shall not ask why an employee did not receive a vaccination, and (3) shall warn the employee not to provide any medical information beyond the requested proof of COVID-19 vaccination.

C. HSD may utilize the COVID-19 Vaccination and Testing Tracking function in SHARE HCM to record employees' COVID-19 vaccination data. An employee's proof of vaccination and any other employee vaccination data shall be treated as confidential medical information and will be maintained by OHR separately from the employee's personnel file and/or maintained confidentially in SHARE. An employee's vaccination status (but not the actual proof of vaccination) can be shared with the employee's supervisors to determine compliance with an Executive Order or Public Health Order.

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D. Any employee who provides inaccurate information or is untruthful about their vaccination status may be subject to disciplinary action, up to and including dismissal.

043.19.7 COVID-19 Reporting Instructions

043.19.7.1

If an employee receives a new diagnosis of COVID-19, they must report the positive test to their supervisor as soon as possible.

043.19.7.2

Before the start of the next business day, the supervisor shall notify the Division Director or designee by email that an employee has a new diagnosis of COVID-19. This notification must be made even if the initial report is received by the supervisor after normal working hours or on a weekend.

043.19.7.3

A. The supervisor shall include the following information in the notification to the Division Director:

1. name of employee that tested positive;

2. the date the employee tested positive;

3. the last day the employee reported to the office, and what office or building area(s) the employee occupied or spent time in that day; and

4. the names of all employees that may have had close contact with the COVID-19 positive employee when they last reported to the office.

B. The information in the notice should be based on conversations with the COVID-19 positive employee.

C. An employee's COVID-19 positive status is confidential medical information, and the name of any COVID-19 positive employee shall be disclosed to the minimum extent necessary to maintain business operations.

043.19.7.4

The Division Director or designee will notify employees who may have been exposed. The notification will include the following:

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A. A report that the employees may have been exposed to a COVID-19 positive employee. The report shall not include the name of the COVID-19 positive employee.

B. A reminder that employees shall follow the Isolation and Exposure instructions provided by the NMDOH (EPI-COVID19-Containment-Policies-8.19.2022.pdf (nmhealth.org)) and the CDC (Isolation and Precautions for People with COVID-19 | CDC), (How to Protect Yourself and Others | CDC), (What to Do If You Were Exposed to COVID-19 | CDC) and shall not report to a state building, facility, or indoor field work location if they develop COVID-19 symptoms or test COVID-19 positive.

043.19.7.5

Within 48 hours of learning of a COVID-positive employee, the Division Director or designee shall provide notice of the positive case to HSD employees assigned to the same office or facility where the COVID-positive employee reported ***if*** the COVID-positive employee was in the office or facility within 48 hours prior to developing symptoms or, if asymptomatic, within 48 hours prior to the positive test. The notice shall not release the name of the employee, but will indicate that close contacts, if any, have been notified.

043.19.7.6

The Division Director or designee may coordinate a thorough cleaning of the exposed space as per CDC guidelines.

043.19.8 ADA Reasonable Accommodation Related to COVID-19

If an employee with a disability or medical condition needs a reasonable accommodation related to COVID-19, including, but not limited to, related to COVID-19 risk, or COVID-19 long-haul syndrome, the employee shall contact their supervisor or the OHR to initiate the reasonable accommodation process. An employee may request accommodation verbally or in writing and should indicate that a workplace barrier removal is needed related to a medical condition. A reasonable accommodation can be requested at any time; however, the employee should initiate the reasonable accommodation process as soon as possible so that barrier removal solutions can be explored in a timely manner. (See Attachment A, Disability Resources as well as HSD *ADA Reasonable Accommodation Policy*)

043.19.9 Family and Medical Leave Act Leave Related to COVID-19

Pursuant to the federal Family and Medical Leave Act (FMLA) of 1993, 29 U.S.C. Section 2601 *et seq.*, as amended, and State Personnel Board Rule 1.7.7.12 NMAC, eligible state employees are entitled to a total of 12 weeks of unpaid, job-protected leave

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for serious health conditions that make the employee unable to perform the essential functions of the employee's job, and to care for the employee's spouse, domestic partner, child, or parent who has a serious health condition. COVID-19-related health conditions may qualify as serious health conditions under the FMLA. Employees with COVID-19-related health conditions should contact the OHR to determine if FMLA leave may be available. (See HSD *Family Medical Leave Policy*.)

043.19.10 Updates

This policy and procedure may be updated and supplemented by additional guidance as circumstances require. The HSD Cabinet Secretary or designee will provide up-to-date information as it becomes available and encourage all supervisors to communicate regularly with their teams so that information is distributed, and questions are elevated and answered promptly.

043.19.11 Acknowledgements

All employees shall receive a copy of this policy and procedure in paper or electronic form and acknowledge its receipt.

043.19.12 References

NMDOH, *Public Health Emergency Order Clarifying All Orders, Directives Guidance and Advisories Remaining in Effect and Imposing Certain Ongoing Public Health Measures (December 19, 2022)*: 121922-PHO.pdf (nmhealth.org)

NMDOH, *Policies for the Prevention and Control of COVID-19 in New Mexico* (August 19, 2022): EPI-COVID19-Containment-Policies-8.19.2022.pdf (nmhealth.org)

Executive Order 2022-117 (August 12, 2022): Executive-Order-2022-117.pdf (state.nm.us)

New Mexico Environmental Improvement Board Rule 11.5.1.16 NMAC, *Recordkeeping and Reporting Occupational Injuries, Illnesses and Fatalities:* 11.5.1.16-Amendment.pdf (nm.gov)

CDC, *Isolation and Precautions for People with COVID-19* (updated May 11, 2023): Isolation and Precautions for People with COVID-19 | CDC

CDC, *What to Do If You Were Exposed to COVID-19* (updated August 24, 2022): What to Do If You Were Exposed to COVID-19 | CDC

CDC, *How to Protect Yourself & Others* (updated May 11, 2023): How to Protect Yourself & Others | CDC

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CDC, *Stay Up to Date with COVID-19 Vaccines Including Boosters* (updated June 7, 2023): Stay Up to Date with COVID-19 Vaccines Including Boosters | CDC

CDC, *COVID-19 by County* (updated May 11, 2023): COVID-19 by County | CDC

CDC, *When and How to Clean and Disinfect a Facility* (updated November 2, 2022): Cleaning and Disinfecting Your Facility | CDC

U.S. Equal Employment Opportunity Commission (EEOC), *What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws* (updated May 15, 2023): What You Should Know About COVID-19 and the ADA, the Rehabilitation Act, and Other EEO Laws | U.S. Equal Employment Opportunity Commission (eeoc.gov)

EEOC, *Pandemic Preparedness In the Workplace and the Americans With Disabilities Act* (revised March 2020 and thereafter): Pandemic Preparedness in the Workplace and the Americans with Disabilities Act | U.S. Equal Employment Opportunity Commission (eeoc.gov)

HSD Workers' Compensation Policy

HSD Family Medical Leave Policy

HSD ADA Reasonable Accommodation Policy

043.19.13 Attachments

Attachment A: Disability Resources

APPROVED:

DocuSigned by:
kari Armijo
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Acting Secretary

Date: 9/6/2023

NAME, TITLE

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043.19 COVID-19 Mitigation and Reporting Policy and Procedure

Attachment A: Disability Resources

COVID-19 and the pandemic has had a unique impact on people with disabilities. To help employers, employees with disabilities, and the Office of Human Resources managers understand their rights and obligations, the following State agencies and organizations are available to provide technical assistance, resources, assistive technology, and information.

In addition, the U.S. Equal Employment Opportunity Commission (EEOC) offers answers to frequently asked questions about the workplace, COVID-19, and the rights of people with disabilities. The EEOC's guidance can be found here - https://www.eeoc.gov/wysk/what-you-should-know-about-covid-19-and-ada-rehabilitation-act-and-other-eeo-laws.

Southwest ADA Center
Toll-Free: 1-800-949-4232
Fax: 713-520-5785
Email: swdbtac@ilru.org
Web Address: www.southwestada.org
*The Center is part of the ADA National Network funded by NIDILRR at the U.S. Department of Health & Human Services

NM Commission for the Blind
2200 Yale Blvd. SE
Albuquerque, NM 87106
Phone: 505-841-8844
Toll-Free: 888-513-7958
Web Address: https://www.cfb.state.nm.us/
*Serves NM with local offices in Alamogordo, Albuquerque, Farmington, Las Cruces, Las Vegas, Roswell, Santa Fe

NM Commission for the Deaf and Hard of Hearing
505 Marquette Ave. NW, Suite 1550
Albuquerque, NM 87102
Direct Phone: 505-228-7710
Video Phone: 505-435-9319
Toll-free: 800-489-8536
Fax: 505-383-6533
Web Address: https://www.cdhh.state.nm.us/
*Serves NM with local office in Albuquerque, Las Cruces

NM Governor's Commission on Disability
491 Old Santa Fe Trail
Santa Fe, NM 87501-2753
Phone: 505-476-0412
Toll-free (in State only): 877-696-1470
Fax: 505-827-6328
Email: gcd@state.nm.us
Web Address: http://gcd.state.nm.us/
*Serves NM with local offices in Albuquerque, Santa Fe

NM Human Rights Bureau
The Bureau investigates claims of discrimination, including those based on disability, and provides mediation and training.
Toll Free (in NM): 1-800-566-9471
Phone: 505-827-6838
Web Address: https://www.dws.state.nm.us/Human-Rights-Information

NM Developmental Disabilities Planning Council
625 Silver Avenue SW, Suite 100
Albuquerque, New Mexico 87102
Office: 505-841-4519
DDPC Fax: 505-841-4590
OOG Fax: 505-841-4455
Web Address: https://www.nmddpc.com/

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U.S. Equal Employment Opportunity Commission
Coronavirus and COVID-19 Information
https://www.eeoc.gov/coronavirus

Job Accommodation Network (JAN)
Toll-Free: 800-526-7234
TTY: 877-781-9403
Text: 304-216-8189
www.askjan.org