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GENERAL ADMINISTRATION
EMPLOYEE

046 WORK SCHEDULES AND COMPENSATION

046.4 Alternative Work Schedules (AWS) Policy

046.4.1 Purpose

The purpose is to define AWS and establish approval procedures for Human Services Department (HSD) employees considering an AWS.

046.4.2 Definitions

A. "Alternative Work Schedule (AWS)" means an authorized schedule between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday with a minimum thirty (30) minute unpaid lunch period between 11:00 a.m. and 2:00 p.m. each day. AWS exclude flextime as defined below. Saturdays or Sundays are not authorized to be part of an AWS.

B. "Compressed workweek" is an AWS where the work week is compressed into less than ten (10) days in a two-week pay period. Workdays may not exceed ten (10) hours with a minimum thirty (30) minute unpaid lunch period. Unless otherwise restricted in this policy, examples of compressed workweeks include:

1. Five eight-hour workdays per week, ranging from 7:00 a.m. to 6:00 p.m., with a minimum of thirty (30) minutes for lunch each day;

2. Eight nine-hour working days in a two-week pay period, one eight-hour working day per pay period, ranging from 7:00 a.m. to 6:00 p.m., with a minimum of thirty (30) minutes for lunch each day and one day off during that two-week period; and,

3. Four ten-hour working days per week, ranging from 7:00 a.m. to 6:00 p.m., with a minimum of thirty (30) minutes for lunch each day and one day off during that one-week period.

C. "Employee" means a person employed by HSD in a permanent, term, temporary, or emergency situation.

D. "Fair Labor Standards Act (FLSA)" means the Federal act that establishes minimum wage, overtime pay, recordkeeping, and child labor standards affecting full-time and part-time workers in the private sector and in Federal, State, and Local governments.

DocuSign Envelope ID: C6020284-07D2-4931-9C91-CFF20289D5FC

E. "FLSA Exempt" means employees designated as exempt from the minimum wage and overtime provisions of the FLSA.

F. "FLSA Non-Exempt" means employees designated as covered by the minimum wage and overtime provisions of the FLSA.

G. "Flextime" means supervisor approval to make up missed work at another time during the workday. Reduced lunch periods may be considered flextime, so long as the employee's lunch period is at least thirty (30) minutes long. Requests for a work schedule of less or greater than eight (8) hours daily are requests for AWS and not requests for flextime.

H. "Normal work schedule (NWS)" means 8:00 a.m. to 5:00 p.m. with one hour, unpaid lunch period between (11:00 a.m. to 2:00 p.m.) Monday through Friday. The normal workweek for the bi-weekly payroll begins at 12:01 a.m. on Saturday and ends at 12:00 midnight the following Friday.

046.4.3 Policy

The purpose of this policy is to establish a process to request AWS, providing employees and HSD alternatives in employee work schedules, while adhering to Federal and State statutes and regulations. The added flexibility in creating AWS also provides new opportunities for efficiency and expanded hours of customer service.

HSD is dedicated to providing timely and quality services to its clients and the public in an effective and efficient manner. HSD will consider AWS for its employees only to the extent such schedules do not detract from that purpose.

046.4.4 Employee Eligibility

Approval of an AWS will be based upon the following employee eligibility requirements:

1. Completed the one (1) year probationary period;

2. A satisfactory or above job performance ratings on every category of their last annual performance appraisal and on their most recent interim performance appraisal;

3. A satisfactory attendance and timeliness record during the twelve (12) months preceding the request, meaning no instances of absence or tardiness without official leave; and,

4. Received no written disciplinary actions in the past twelve months.

Certain positions may not be eligible for an AWS due to specific operational needs or job

DocuSign Envelope ID: C6020284-07D2-4931-9C91-CFF20289D5FC

duties assigned to the position.

046.4.5 Conditions

A. Access and full coverage for a normal workday will be assured for any organizational unit unless approved otherwise by HSD's Secretary, or Deputy Secretary if so designated by the Secretary.

B. AWS is a privilege and not a right but may be a requirement for supervisors and managers.

C. AWS will not require or result in more overtime than would be accrued under a normal work schedule in order to accomplish work assignments.

D. FLSA Non-Exempt employees may not work a schedule that involves more than forty (40) hours per week unless the employee's immediate supervisor approves overtime.

E. Management has the right to restrict start and end times of AWS to specific times based on organizational or operational needs.

F. For certain units, onsite supervision is required. An AWS may not be approved if onsite supervision is not available.

G. The State of New Mexico Worker's Compensation Program will cover the employee only during their authorized work schedule.

H. Participation in the AWS Program is voluntary. Employees may change from the NWS to an AWS with prior written approval of the employee's immediate supervisor and Division Director or designee. Employees may not change their approved AWS to a different AWS without prior written approval of the employee's immediate supervisor and the Division Director or designee.

I. Participation in the AWS Program can be rescinded or denied at the sole discretion of management for valid reasons including but not limited to operational needs, workload, special projects, special assignments, training, in the best interest of the Division and employee performance.

J. In the case of a state-declared emergency or under direction from the Office of the Governor or the State Personnel Office, the HSD Secretary can modify the terms and conditions of AWS.

K. Employees on an approved AWS, whose NWS does not include the day observed as a holiday, shall be entitled to time off equal to the employee's normal workday as holiday time accrued in the form of holiday comp time.

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L. Requests for intermittent leave under the Family and Medical Leave Act (FMLA) or reasonable accommodations under the American with Disabilities Act (ADA) are not governed by this policy. Such requests are governed by HSD's FMLA policy and ADA policy, respectively.

M. Non-work related personal employee commitments cannot be considered as a reason to establish or maintain and existing AWS.

046.4.6 Alternative Work Schedules and Van or Car Pooling

A. The fact that an employee is participating in a car or van pool does not imply automatic approval of a requested AWS.

B. Job requirements take precedence over AWS. An employee may not refuse to perform assigned duties because of the departure of his/her car or van pool.

C. A car or van pool driver has no authority to alter the authorized AWS for employees riding in a car or van pool. Any change, whether temporary or permanent, to the car or van pool's existing schedule does not imply automatic approval of a requested alternative work schedule.

D. If car or van pool riders desire to leave earlier than the end of the scheduled day, the employee must secure permission from his/her supervisor and take annual leave for that time. AWS requested for purposes of commuting must adhere to the general standards set forth in this policy.

046.4.7 Responsibilities of Managers and Supervisors

A. Managers and supervisors must make sure that their units are adequately staffed, including establishing a supervisory chain of command that is on duty during times of a NWS for all employees authorized for flex/alternative work schedules. Division directors may require managers and supervisors to establish, due to operational needs, an AWS to ensure proper coverage and staff from 7:00 a.m. to 6:00 p.m., Monday through Friday.

B. Whenever it becomes necessary to cancel, suspend or adjust an AWS, as much advance notice should be provided.

C. The supervisor shall not change the workweek to avoid payment of overtime. A supervisor shall not change the length of an employee's workday to avoid the payment of overtime without the employee's consent.

D. Collective Bargaining Agreements and FLSA will be adhered to in terms of timing, selection, overtime and process.

046.4.8 Responsibility of Employees

DocuSign Envelope ID: C6020284-07D2-4931-9C91-CFF20289D5FC

A. Employees should make sure that their clients and others concerned are aware of their AWS and of any changes in those schedules.

B. Employees may be required to adjust their schedule to participate in relevant unexpected or unplanned work needs, meetings, operational activities (ex. high volume of casework during specific times of the month) or trainings during the department's standard business hours (8:00 a.m. to 5:00 p.m. Monday through Friday).

C. Employees have the right to return to the standard work schedule by notifying their supervisor with reasonable advance notice.

D. Managerial and supervisory employees may be required to establish an AWS based on operational needs.

046.8.9 Procedures

A. To request an AWS, employees shall utilize HSD's AWS Request / Agreement form.

B. The employee must present the request for an AWS on the approved form to their immediate supervisor for review and recommendation. If the employee requesting an AWS is a Division Director, their requests need to be submitted to the appropriate Deputy Secretary or the Secretary.

C. In addition to the eligibility criteria above, the immediate supervisor may deny an AWS based on one or more of the following considerations:

1. Whether it allows HSD to meet its statutory and other missions, including, but not limited to, the need to be available to internal and external users of HSD's services;

2. Whether it allows for adequate supervision of the employee throughout the workday;

3. Whether it allows the employee to discharge the employee's duties and responsibilities in a safe and secure manner; and

4. Whether it imposes an undue burden on other employees or causes adverse budgetary impact if additional staffing is needed to cover an employee's absence.

D. The immediate supervisor shall forward an employee's AWS Request /Agreement form to the respective Division Director, or their designee, with the supervisor's recommendation whether to approve or deny the AWS request.

DocuSign Envelope ID: C6020284-07D2-4931-9C91-CFF20289D5FC

E. The appropriate Division Director, or their designee, shall review the AWS Request / Agreement form and approve, amend, or deny the request. All denied requests shall state a reason for the denial on the AWS Request / Agreement form and be discussed with the employee within ten (10) business days of employer's receipt of employee's request to the employer.

F. Once approved, amended, or denied by the appropriate Division Director, or their designee, and discussed with the employee, the employee's supervisor shall forward the approved AWS Request / Agreement form to OHR for the employee's personnel file. Any additional changes to the schedule requiring approvals must be completed on the required forms and forwarded to OHR for the employee's personnel file.

G. OHR will enter the AWS into the SHARE system and provide the employee with a copy of the signed AWS Request /Agreement form.

H. OHR shall maintain the original request and agreement upon approval, amendment, or denial. OHR will provide copies of the AWS Request / Agreement form to managers and supervisors, who are responsible for employee compliance with these documents and ensuring that an eighty (80) hour pay period is completed.

I. All AWS requests will be reviewed by June 30th of each year. The employee's immediate supervisor may conduct more frequent reviews as necessary if there are potential changes affecting eligibility criteria or the factors identified above.

J. In the event that more than one eligible employee requests an AWS, and all such requests cannot be granted while meeting the eligibility criteria, the appropriate Division Director, or designee, may deny all requests, rotate AWS or take other appropriate action.

K. Managerial and supervisory employee who may be required to establish an AWS will follow the above procedure stated herein.

046.8.10 Revocation

A. An employee working an approved AWS who receives a less than satisfactory rating for any category of the employee evaluation, has a less than satisfactory attendance and timeliness record, or is subject to disciplinary action, may be returned to the NWS at the discretion of the employee's immediate supervisor or manager.

B. HSD's Secretary, may permanently or temporarily cancel, suspend, or adjust an AWS based on workload, special projects, special assignments, training, or in the best interest of the HSD. Employees shall be given as much advance notice as

DocuSign Envelope ID: C6020284-07D2-4931-9C91-CFF20289D5FC

possible when canceling, suspending, or adjusting an AWS.

046.8.11 Exceptions to the Policy

When an employee is unable to meet the eligibility requirements and in extenuating circumstances, the HSD Secretary, at his or her discretion, may grant an employee an exception to this policy if the immediate supervisor recommends an exception, the Division Director agrees, the quality and quantity of the employee's work does not decline, and if the exception will not cause a disruption to the productivity and work flow of the agency or division.

046.4.10 References

HSD Overtime Policy
The Fair Labor Standards Act, 29 U.S.C. § 201, *et seq*., as amended.
State Personnel Board Rule 1.7.7, Absence and Leave.
State Personnel Board Rule 1.7.4, Pay.
Executive Order 2019-032, dated September 27, 2019.

APPROVED: DATE:

DocuSigned by:
David Scrase
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4/10/2020

David R. Scrase M.D., Secretary