GENERAL ADMINISTRATION
NON-DISCRIMINATION

050 NON-DISCRIMINATION

050.1 Non-Discrimination in Employment Practices Policy

050.1.1 Purpose

The Human Services Department (HSD) is fully committed to providing equal opportunity for all persons. HSD complies with all state and federal laws prohibiting discrimination through employment practices on the basis of race, age, religion, color, national origin, ancestry, sex, genetic information, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation, or gender identity.

050.1.2 Definitions

A. "Bona fide occupational qualification" means those instances where the attribute is reasonably necessary to the normal operation of that particular business.

B. "Discrimination" means an adverse employment practice taken against an otherwise qualified person because of race, age, religion, color, national origin, ancestry, sex, genetic information, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation, or gender identity.

C. "Employment practices" means actions that affect terms and conditions of employment including, but not limited to, recruitment, selection, promotion, transfer, salary changes, training and development, demotion, and separation.

050.1.3 Policy

Decisions in employment practice are made without regard to race, age, religion, color, national origin, ancestry, sex, genetic information, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation, or gender identity, except when one of these criteria is a bona fide occupational qualification.

050.1.4 Responsibility to Report Discrimination

A. Any supervisor who has knowledge of discrimination within HSD must report it as soon as practically possible. Under no circumstances may a supervisor withhold any information about reported or observed discrimination. Supervisors must report alleged discrimination even if the employee reporting such discrimination asks that the supervisor keep the reported information confidential or asks that no action be taken.

B. Every employee who perceives that they are a subject of discrimination or has knowledge of any instance of discrimination in the workplace should report it immediately.

050.1.5 How to Report Discrimination

A. Supervisors report incidents of discrimination to their supervisors and to the Office of Human Resources (OHR) Employee Relations Section.

B. An employee is encouraged to report discrimination to his/her immediate supervisor. If the immediate supervisor is the discriminator, the next-in-line supervisor should be notified. At the employee's option, the employee may directly contact OHR's Employee Relations Section without going through the chain-of-command.

050.1.6 Investigation of Complaints

A. OHR's Employee Relations Section either investigates or refers the investigation to the appropriate manager. The Employee Relations Section monitors and reviews the results of investigations. All cases are promptly investigated in as confidential a manner as is practical and appropriate under the circumstances.

B. A written report is prepared within 60 days of receipt of a complaint of discrimination, unless there are extenuating circumstances. A summary of the findings and recommendations is given to the Cabinet Secretary or designee. A summary of the findings and recommendations is also provided to the complainant and the accused. If an allegation is substantiated, steps are taken to remedy the situation.

050.1.7 Discipline

A. Discrimination may subject the employee to disciplinary action.

B. If an investigation finds that a complainant, knowingly or in a malicious manner, has falsely accused another of discrimination the complainant is subject to discipline.

C. Supervisors and managers who fail to report or take prompt and appropriate action in response to actual or alleged incidents of discrimination are also subject to discipline.

050.1.8 Confidentiality

A. Discrimination allegations are investigated in as confidential a manner as is practical and appropriate under the circumstances. Absolute guarantees of confidentiality or anonymity cannot be given because of investigative

requirements and the right of the accused to know his/her accusers.

B. During the investigation process, witnesses or potential witnesses who are interviewed have the responsibility to maintain confidentiality about their interviews. Breaches of confidentiality may subject an employee to disciplinary action.

050.1.9 Retaliation

Retaliation against an employee alleging discrimination or an employee participating in the investigative process is strictly prohibited and will subject the employee engaging in retaliation to disciplinary action. Retaliation may include disciplining, changing work assignments of, providing inaccurate work information to, denying benefits of employment, or refusing to cooperate or discuss work-related matters with any employee because that employee has complained about discrimination or retaliation. Employees who believe they are being retaliated against should report such retaliation to OHR's Employee Relations Section immediately.

050.1.10 References

HSD Recruitment, Interviewing, and Selection Policy
HSD Harassment Policy
HSD ADA Reasonable Accommodation Policy
Americans with Disabilities Act of 1990 (42 U.S.C.§§ 12101 et seq.)
Section 504 of the Rehabilitation Act of 1973, as amended (29 U.S.C. § 794)
Civil Rights Act of 1964) 42 U.S.C. Chapter 21
NM Human Rights Act (28-1-1, NMSA, 1978)

APPROVED: DATE:

PAMELA S. HYDE, J.D., Secretary 2/25/09