GENERAL ADMINISTRATION
NON-DISCRIMINATION

050 NON-DISCRIMINATION

050.4 Whistleblower Policy

050.4.1 Purpose

The purpose is to guarantee all Human Service Department (HSD) employees the right to present or make known their concerns about wrongdoing free from interference, restraint, discrimination, coercion, or reprisal.

050.4.2 Definitions

A. "Good Faith Effort" means in compliance with standards of decency and honesty, reasonable belief, and making a full declaration of all material facts.

B. "Complainant" means an HSD employee who reports internal wrongdoing (as defined in this policy) to HSD (i.e., whistleblower).

C. "Wrongdoing" means, for purposes of this policy, a violation of any state or federal law, HSD policy, NM Department of Finance and Administration rule, and any rule or regulation of state or federal authority; gross mismanagement or waste of funds; an abuse of authority; or a substantial and specific danger to public health or public safety.

050.4.3 Policy

When an allegation is not covered under other HSD policies or procedures (i.e., personnel, harassment, and discrimination), an HSD employee has the right to disclose truthful information evidencing wrongdoing by HSD employees and managers to HSD's Office of Human Resources (OHR). The primary point of contact is OHR's Employee Relations Section. If the wrongdoing involves an OHR employee, it should be reported to HSD's Office of the Inspector General (OIG).

050.4.4 Responsibility of Employee

A. Prior to making an allegation under the provisions of this policy, the employee must make a good faith effort to determine the accuracy or truthfulness of the information.

B. This policy does not protect any employee who makes or repeats reckless, spurious or defamatory allegations without a reasonable effort to determine the accuracy or truthfulness of the allegations. Employees making allegations under

the provisions of this policy who, either before or after their disclosures, violate provisions of state or federal laws, State Personnel Board Rules, or HSD policies and regulations or other governing agencies, are not afforded immunity from disciplinary action for such violations. Disciplinary action in such cases is not considered retaliation.

050.4.5 Responsibility of HSD

A. OHR's Employee Relations Section either investigates or refers the investigation to another appropriate unit (i.e., OIG). The Employee Relations Section monitors and reviews the results of investigations as appropriate. 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 90 days of receipt of a complaint of wrongdoing, unless there are extenuating circumstances. A summary of the findings and recommendations is given to the Cabinet Secretary or Designee. If an allegation is substantiated, steps are taken to remedy the situation.

050.4.6 Discipline

A. Wrongdoing may subject the employee to disciplinary action up to and including dismissal.

B. If an investigation finds that a complainant, knowingly or in a malicious manner, has falsely accused another of wrongdoing, 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 wrongdoing are also subject to discipline.

050.4.7 Retaliation

Retaliation against an employee alleging wrongdoing or an employee participating in the investigative process is strictly prohibited and will subject the employee engaging in retaliation to severe disciplinary action, up to and including dismissal. 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 wrongdoing or retaliation. Employees who believe they are being retaliated against should report such retaliation to OHR's Employee Relations Section immediately.

050.4.8 References

1.7.6.13 NMAC
HSD Collective Bargaining Agreement

APPROVED:

PAMELA S. HYDE, J.D., Secretary

DATE: 1/13/09