GENERAL ADMINISTRATION
EMPLOYEE

044 EMPLOYMENT AND SEPARATION

044.1 Recruitment Policy

044.1.1 Purpose

It is the policy of the Human Services Department (HSD) to fill vacancies by utilizing a recruitment process that is open, honest, and fair to all candidates. This policy describes HSD's standards in the recruitment of employees for vacant, classified positions and describes exceptions to the open recruitment process.

044.1.2 Definitions

A. "Employee" means a person employed by HSD in a position in the classified service.

B. "Open recruitment" refers to the process of recruitment for a department vacancy from both internal HSD employees and external applicants.

C. "Internal recruitment" means an exception to open recruitment when resumes are accepted only from current HSD employees.

D. "Waiver of recruitment" means the filling of a vacancy without utilizing the recruitment process.

E. "Exceptions to Open Recruitment" means filling of a vacancy without utilizing the open recruitment process.

044.1.3 Recruitment

The direct supervisor of the vacant position to be filled is responsible for initiating and documenting the recruitment process, subject to the concurrence of the next higher level supervisor. The recruitment process shall be documented utilizing procedures authorized by the HSD Office of Human Resources (OHR), available from OHR and on the HSD website. Supervisors initiating the recruitment process are responsible for timely submission of the specific forms to OHR and the completion of their portion of all other requisite steps in the recruitment process, pursuant to and in compliance with State Personnel Board Rules and HSD policies and procedures.

044.1.4 Open Recruitment

Unless an exception is approved by OHR, the process of recruitment is open to all

applicants, pursuant to and in compliance with State Personnel Board Rules and HSD policies and procedures.

044.1.5 Exceptions to Open Recruitment

A. Internal Recruitment

1. The direct supervisor of the position to be filled initially determines whether an internal recruitment is the best approach to fill the vacancy. This determination may be based on, but not limited to, the number of internal candidates as well as the agency's business needs.

2. The direct supervisor provides written justification through the established chain of command to request an internal recruitment to the HSD Office of Human Resources. The written justification may include the recruitment/retention history of the classification, the reason that the classification is difficult to fill, or the uniqueness of the established requirements which typically results in an unqualified open applicant pool. If the HSD Office of Human Resources approves the request, the position is posted for internal recruitment.

B. Waiver of Recruitment

1. The direct supervisor of the position to be filled may request in writing a waiver of recruitment for a specific vacancy. Written justification for the waiver must identify any special circumstances and/or considerations and the rationale in support of not using the recruitment process. The justification must include but is not limited to the nature of the position to be filled, any operational impact to HSD regarding the length of time the position would remain vacant during the external or internal recruitment process if those processes were to be followed, and explain why the decision to waive recruitment is in the agency's best interest.

2. The waiver of recruitment is subject to the approval of the HSD Office of Human Resources, the HSD Cabinet Secretary, and the State Personnel Office.

044.1.6 References

1.7.5 NMAC

APPROVED: DATE:

PAMELA S. HYDE, J.D., Secretary 1/13/09

GENERAL ADMINISTRATION
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044.2 Applicant Lists, Interviewing, and Selection Policy

044.2.1 Purpose

To provide direction on the Human Services Department's (HSD) interviewing and selection process.

044.2.2 Definitions

A. "Applicant List" means an official list of applicants obtained from the HSD Office of Human Resources (OHR).

B. "Diversity" means representative of the composition of the community.

044.2.3 Policy

HSD's interviewing and selection process requires a standard set of procedures of panel selection, applicant lists, interview protocol, final selection and approval.

044.2.4 Panel Interviews

Interviews will be done by a panel. Each panel will consist of at least 3 members. The supervisor initiating the recruitment process recommends panel members for approval in accordance with the Division's practice. Panel members may include representatives from all levels of the organization. It is the responsibility of the hiring supervisor to ensure that the interview panel is diverse and may include representatives from all levels of the organization. A two-tiered interview process may be used when deemed appropriate. The supervisor's principal task is to ensure that the panel's actions are consistent with State Personnel Board Rules and HSD policies and procedures as well as federal and state laws. The same panel members must interview all candidates. All panel members must keep the interview process confidential.

044.2.5 Applicant Lists

OHR sends the entire applicant list of candidates to the hiring supervisor. The hiring supervisor, their designee, and/or the panel members review the applicant list and resumes to select candidates who meet the *Job Related Qualification Standards* and then select the most suitable candidates for an interview. The panel shall be sensitive to creating diversity in the workplace. The panel cannot discriminate against people with disabilities in regard to any employment practices or terms, conditions and privileges of employment.

044.2.6 Interview Protocol

A. Applications/Resumes

1. The most qualified candidates including HSD employees determined to meet or exceed the posted *Job Related Qualification Standards* are to be considered for an interview.

2. Interviewers should ask that a resume, certifications, and transcripts from an accredited college or university be submitted to them within five workdays from the request. Such requests do not automatically entitle the applicant to an interview. Applicants who fail to supply any of the items requested within the specified time period may be disqualified.

3. Incomplete resumes, inability to check references, or inability to obtain information about the applicant's current and previous work experience, performance and conduct may disqualify the applicant from further consideration. Disqualification from consideration may also result if the applicant fails to be available, fails to appear for a scheduled interview or refuses to sign the *Authority to Release Information* (obtained from OHR).

4. Any resume received from a convicted felon must be immediately discussed with the OHR Manager before further consideration (including an interview).

B. Interview Questionnaire

Interview questions must be job related, non-discriminatory, and in compliance with Title VII of the Civil Rights Act and the Americans with Disabilities Act (ADA). The questionnaire should also include behavioral interview questions such as those relating to leadership skills, ability to work independently, and working cooperatively. Samples of questions and questionnaire formats are available from OHR.

C. Interview Process

1. Interviews will be administered the same way every time they are conducted. Interviewers must remain consistent for all candidates interviewing for the same vacancy. The same interview questions must be administered consistently to all the candidates for a vacancy.

2. Interviewers, administrators, and or human resource personnel must remove themselves from the process if the candidate is a member of their family, a relative within the third degree, or some other relation that causes an internal conflict.

044.2.7 Selection and/or Hiring Criteria

A. Justification

All selections must be justified in writing. The justification includes the candidate's education and experience relevant to the position. The resume, required certifications and required transcripts from an accredited college or university should be attached to the justification. Additional factors of consideration may include but are not limited to team work, leadership skills, performance in the interviews, and positive reference checks.

B. Role of OHR

OHR must be informed of the final proposed selection decision prior to an offer being made to an applicant. The OHR Manager shall approve the selection of all candidates.

C. Document Maintenance

All documentation should be sufficient to support a selection choice. The hiring supervisor is responsible for maintaining selection records for three years. These records include, but are not limited to, a copy of the applicant list; applicants contacted for interview; documentation justifying the number of applicants interviewed; applicants interviewed with their application/resume and any certifications and transcripts from an accredited college or university; a copy of the interview questions; interviewers' response sheets; and written justification for the selection made.

D. Role of Managers

Managers are responsible for the selection decisions of their supervisors. Complaints regarding selection should be directed to OHR and the appropriate manager who shall respond to such complaints in writing.

044.2.8 Approval for Proposed Hiring Action

OHR reviews all proposed selections and salary determinations for compliance with State Personnel Board Rules, Human Services Department policies and procedures and, if applicable, the collective bargaining agreement. Any proposed salaries require OHR approval. Any proposed salaries 15% or more above midpoint require OHR, the Cabinet Secretary or designee, and SPO approval.

044.2.9 References

1.7.5 NMAC

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PAMELA S. HYDE, J.D., Secretary

GENERAL ADMINISTRATION
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044.3 Conducting Reference Checks Policy

044.3.1 Purpose

The purpose of this policy is to provide direction on conducting reference checks on applicants for employment by the Human Services Department (HSD).

044.3.2 Definitions

A. "Applicant" means any person who has applied to a position in the classified service.

B. "Reference check" means contacting current and previous supervisors/employers to obtain and verify information pertinent to the selection of an applicant.

044.3.3 Policy

A. Pursuant to HSD's Code of Conduct and this policy, a supervisor filling a vacant position is responsible for checking the employment references of candidates proposed for selection. Failure to check references in hiring or promoting an employee may be cause for disciplinary action against the supervisor.

B. Each applicant who is interviewed must sign the *Authorization to Release Information* form or its successor (obtained from the HSD Office of Human Resources (OHR) and available on the HSD website) which releases all former employers from any liability for furnishing information about a former employee. The supervisor must notify the applicant that failure to provide this signed release form when requested may adversely affect their consideration due to insufficient information.

C. Supervisors must contact at least three former supervisors/employers to obtain and verify information pertinent to the selection. A copy of the applicant's signed release form may be provided to the former employer. If unable to contact three former supervisors, contact OHR. Supervisors may contact other references provided to them in addition to the three former supervisors/employers.

D. Supervisors must inquire about and/or investigate gaps in employment history.

E. Supervisors must check with the former employer to see if the applicant has a history of violence. If the former employer chooses not to give out such

information, the attempt to elicit such information must be documented.

F. Whenever a former employer refuses to provide any information regarding the applicant, the supervisor will document their name, date, time and the fact that they were unable to get the requested information about the applicant.

G. If the selected candidate is already in State Government, in addition to contacting former supervisors/employers, the supervisor should contact the respective Human Resources/Personnel Office regarding a candidate's employment history and inquire about performance evaluation ratings and if disciplinary actions have been taken. A copy of the applicant's signed *Authorization to Release Information* should be provided to the other Department's Human Resources/Personnel Office.

H. Questions regarding the appropriate use and storage of information obtained through reference checks should be directed to OHR's Employee Relations Section.

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PAMELA S. HYDE, J.D., Secretary 1/13/09

GENERAL ADMINISTRATION
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044.5 Manager and Employee Evaluation Policy

044.5.1 Purpose

The purpose of this policy is to define a process by which Human Services Department (HSD) employees are assessed on their performance and ensures compliance with 1.7.9 NMAC, Performance Appraisals, effective July 7, 2001 (as amended).

044.5.2 Definitions

A. "EE" means Employee Evaluation.

B. "ME" means Manager Evaluation.

C. "Performance Appraisal Forms" means the State Personnel Office (SPO) Employee Evaluation and Manager Evaluation forms.

D. "Rater" means immediate supervisor.

E. "Reviewer" means supervisor's supervisor.

044.5.3 Policy

A. Classified HSD employees who are in probationary, career or term status will be evaluated on a form approved by the State Personnel Office (SPO) and according to the rules set by the State Personnel Board (SPB) and this policy. All provisions of this policy shall be modified/amended or superseded by any SPB Rules changes.

B. HSD will use the rating system set forth by SPO.

C. This policy requires that an employee performance evaluation document be initiated by the supervisor upon appointment, reassignment, promotion, demotion, reduction, transfer and/or the employee's anniversary date.

044.5.4 Manager Performance Evaluation Training

Managers and supervisors must successfully complete an HSD Office of Human Resources (OHR) course of study on employee performance management. Only those supervisors and managers who have completed the approved course of study may

conduct the department's evaluation of subordinates. Newly appointed supervisors and managers must have successfully completed an HSD OHR course of study on employee performance management within 30 days of appointment as a supervisor or manager or as soon as available.

044.5.5 Frequency of Evaluations and Interim Reviews

A. The performance and development of a career employee must be evaluated at least semi-annually and annually by the immediate supervisor. The final annual performance evaluation must be received by OHR by the employee's anniversary date. The reviewer should preview and agree to the rater's comments and ratings prior to a formal performance evaluation conference between the rater and employee where ratings are presented.

B. The performance and development of a probationary employee shall be reviewed through at least two interim reviews and a final annual evaluation prior to the completion of the employee's probationary period.

C. The performance and development of promoted employees shall be reviewed through at least two interim reviews and a final annual evaluation prior to the completion of a one-year period.

D. The performance and development of newly appointed managers and supervisors shall be reviewed through at least two interim reviews and a final annual evaluation prior to the completion of a one-year period.

E. An interim evaluation may be performed whenever a supervisor wishes to make an employee's performance a matter of record or whenever deemed appropriate. Upon change of immediate supervisor, the former supervisor is required to complete an interim review on the existing ME/EE (not a close-out) and the existing ME/EE continues to stay in effect for the entire review period. The new supervisor continues to appraise the employee on the existing ME/EE. The new supervisor must always contact OHR/Employees Relations Section as soon as possible upon change of supervisor when there are personnel actions that were initiated by the first supervisor.

044.5.6 Employee Rebuttal

Employees may submit a rebuttal to performance evaluations, which shall become a part of the performance record. The rebuttal is a matter of record only and does not initiate action to change the evaluation rating. Employees may use the HSD complaint process to challenge the supervisor's rating when the employee believes that policy and/or proper procedures have not been followed, resulting in an inaccurate rating. The employee should be prepared to provide documentation to substantiate any rating change.

044.5.7 Monitoring and Compliance

A. It is the responsibility of the reviewer to ensure that all supervisors and managers successfully complete training on employee performance management within 30 days of appointment as a supervisor or as soon as available.

B. Reviewers shall review each evaluation form prior to opening, interim review, and close-out to monitor for quality, equity, and compliance with this policy and SPB Rules. The reviewer's signature on the performance evaluation signifies compliance.

C. Managers and supervisors who fail to comply with the provisions of this policy and the State Personnel Board Rules may be subject to disciplinary action up to and including dismissal.

044.5.8 References

State Personnel Board Rule 1.7.9.8

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PAMELA S. HYDE, J.D., Secretary

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GENERAL ADMINISTRATION
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044.6 Nepotism Policy

044.6.1 Purpose

The purpose of the policy is to ensure against any perceived favoritism in the hiring or supervising process.

044.6.2 Definitions

A. Cohabitation: A relationship which includes a common living place and which exists without legal or religious sanction.

B. Domestic Partner: 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.

C. "Relation by blood or marriage within the third degree" includes spouse, domestic partner, parent, mother-in-law, father-in-law, step-parent, children, domestic partner children, son-in-law, daughter-in-law, step-child, brother, step-brother, brother-in-law, sister, step-sister, sister-in-law, grandparent, grandchild, uncle, aunt, nephew, niece, great-grandchild, and great-grandparent.

044.6.3 Policy

A. An employee may not hire, promote or be the immediate supervisor of another employee related to him/her by blood or marriage within the third degree of relationship, or with whom the supervisor is engaged in a physical relationship or cohabitation.

B. For the purpose of this policy, "hiring" shall include direct hiring into the unit

under the supervisor's immediate control or within three-levels of supervisor separation. For example, a case worker cannot be related to the line manager, county director, or regional operations manager. However, the case worker can be related to the deputy director or above.

C. Any supervisor or manager is required to automatically recuse themselves from any personnel action regarding relationships to the third degree and refer it to the next level.

044.6.4 Special Conditions

If cohabitation, a physical relationship, or a relationship within the third degree as described above develops between a supervisor and a subordinate, the supervisor is responsible for notifying management. One of these employees will transfer or be transferred laterally, as soon as possible, without prejudice, change in salary, or geographic relocation, to a department position under another supervisor. This requirement in no way prohibits either party from voluntarily following normal procedures for transfer to another position.

044.6.5 References

11-3-90...5-15-96; Rn, 1 NMAC 7.8.12, 7-1-97; 1.7.6.9 NMAC – Rn, 1 NMAC 7.6.9, 11/30/00, 1 NMAC 7.1.7, 3-31-06

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PAMELA S. HYDE, J.D., Secretary 1/13/09

GENERAL ADMINISTRATION
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044.7 Disciplinary Action Policy

044.7.1 Purpose

To provide direction to carry out disciplinary actions in a consistent, equitable and timely manner.

044.7.2 Definitions

A. "Bargaining Unit" means HSD employees that are covered under a labor contract between HSD and a Collective Bargaining representative.

B. "Demotion" means an involuntary downward change in position for disciplinary reasons with a reduction of pay.

C. "Dismissal" means the involuntary separation from employment for disciplinary reasons.

D. "Notice of Contemplated Action" describes among other things the conduct, actions or omissions which form the basis of the disciplinary action, provides a general explanation of the evidence, and specifies the contemplated disciplinary action.

E. "Notice of Final Action" specifies among other things the final action to be taken; describes the conduct, actions or omissions which form the basis for the disciplinary action; and specifies when the disciplinary action will be effective.

F. "Official Personnel File" means the personnel file kept in HSD's Office of Human Resources (OHR).

G. "Performance Development Plan" means a development plan which assists the employee to achieve successful job performance.

H. "Progressive discipline" means a range including a verbal warning, a written warning, a written reprimand, suspension, or demotion.

I. "Suspension" means the involuntary leave of absence without pay for disciplinary reasons for a period not to exceed 30 calendar days.

J. "Written Reprimand" means a documented communication from a supervisor to an employee regarding conduct that violates job expectations, commonly accepted professional conduct, or other performance standards that is placed in the

employee's official personnel file.

K. "Written Warning or Letter of Concern" means an informal documented communication from a supervisor to an employee regarding conduct that violates job expectations, commonly accepted professional conduct, or other performance standards.

044.7.3 Policy

To carry out disciplinary actions in a consistent, equitable and timely manner.

044.7.4 Progressive Discipline

A. Progressive discipline shall be used whenever appropriate. There are instances when a disciplinary action, including dismissal, is appropriate without first having imposed a less severe form of discipline.

B. Prior to meeting with an employee in the bargaining unit to obtain information that may lead to disciplinary action, the supervisor shall contact OHR's Employee Relations Section.

C. Verbal Warnings. In cases where an employee has committed acts that violate job expectations, commonly accepted professional conduct, or other performance standards, the supervisor may discuss the issue directly with the employee. The incident should be documented by the supervisor and shared with the employee to ensure a mutual understanding of the conversation. It may include information such as a description of the incident, why the conduct or performance is unacceptable, how the employee can remediate the conduct or performance, and consequences for failure to remediate. This will not be part of the employee's official personnel file.

D. Written Warnings or Concern. If the conduct or performance continues or when appropriate based on the severity of the incident, the appropriate supervisor shall contact HSD's Office of Human Resource's (OHR) Employee Relations Section. This may proceed to a written warning or letter of concern. A written warning or letter of concern to the employee may include information such as a description of the incident, why the conduct or performance is unacceptable, how the employee can remediate the conduct or performance and consequences for failure to remediate. The employee may issue a rebuttal to the appropriate supervisor or OHR. The written warning or letter of concern will not be part of the employee's official personnel file.

E. Written Reprimands. If the conduct or performance continues or when appropriate based on the severity of the incident, a written reprimand may be issued as the next step of the progressive discipline. Copies of all written reprimands are forwarded to OHR for review before issuing to the employee. A copy of the reprimand is forwarded to OHR after issuance for inclusion in the employee's official personnel file.

1. Employees may review a written reprimand with a second level supervisor.

2. Employees may issue a rebuttal which will be attached and placed in the employee's official personnel file.

3. Employees may request that a written reprimand, other than a reprimand related to sexual harassment, discrimination, retaliation, or other action which could subject the agency to third party liability, be removed from the employee's personnel file after one year. The OHR Manager, in consultation with the Division Director, decides whether to remove the written reprimand based on: the seriousness of the infraction, the employee's record, and the circumstances surrounding the matter. OHR informs the employee of the decision and if approved, takes action to insure the written reprimand is removed.

F. Performance Evaluation Documentation. Supervisors must record disciplinary action given to an employee in the comments section of the employee's performance appraisal. Disciplinary action is considered in determining the employee's evaluation rating.

044.7.5 Suspensions, Demotions and Dismissals

A. The appropriate Division Director or designee and the OHR Manager determine the level of disciplinary action for suspensions, demotions and dismissals. When determining a decision for proper action, the seriousness of the infraction, the employee's record, HSD's historical practice, and the circumstances surrounding the matter are considered.

B. Career Status and Non-probationary Term Employees. OHR prepares Notices of Contemplated Action and Notices of Final Action for career and non-probationary term employees. The OHR Manager and Division Director or designee approves and signs the Notices of Contemplated Action and Notices of Final Action.

1. Formal Discipline – Notice of Contemplated Action: The Notice of Contemplated Action describes the conduct, actions or omissions which form the basis of the disciplinary action, gives a general explanation of the evidence, advises the employee of his or her right to inspect and obtain copies of any documentary evidence relied upon, specifies what the contemplated disciplinary action will be and states that the employee has a specified time from service of the Notice to respond in writing or to request an opportunity for an oral response in accordance with SPO rules.

a) Employee Response: Employees may request an oral response meeting by contacting OHR Employee Relations Section and/or provide written responses to OHR within the prescribed time lines, as advised in the Notice of Contemplated Action.

b) Time requirements for an Oral Response: If the employee requests an oral response to the Notice of Contemplated Action, the Division Director and OHR will meet with the employee and/or employee's representative within the specified time unless both parties agree to an extension of time.

2. Formal Discipline – Notice of Final Action: If the employee does not respond to the Notice of Contemplated Action within the time limits stated in accordance with SPO rules, the Division Director and OHR Manager may then issue a Notice of Final Action. All deadlines must be in accordance with SPO rules.

a) Contents of the Notice of Final Action: The Notice of Final Action shall specify the final action to be taken. It will describe the conduct, actions or omissions which form the basis for the disciplinary action. It may not include allegations that were not included in the Notice of Contemplated Action. It will give a general explanation of the evidence the agency has; specify when the disciplinary action will be effective; and inform the employee that the disciplinary action may be appealed to the State Personnel Board.

C. Probationary, Emergency, and Temporary Employees. Probationary, Emergency, and Temporary employees may be suspended, demoted or dismissed effective immediately with written notice and without right of appeal to the State Personnel Board. The written notice should specify the reasons for the disciplinary action taken. The appropriate Division Director or designee and OHR review the final disciplinary action letters for suspensions, demotions and dismissals of these employees. The appropriate Division Director or designee and OHR Manager approves and signs the letters.

044.7.6 Administrative Leave Pending Disciplinary Action

An employee may be placed on administrative leave while OHR investigates and/or prepares a possible disciplinary action.

044.7.7 References

State Personnel Rules 1.7.11 NMAC, 1.7.12 NMAC
HSD 045.5 Administrative Leave Policy

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