GENERAL ADMINISTRATION
EMPLOYEE

042 HSD COMPLAINT POLICY AND PROCEDURE

042.1 Purpose

To establish a process for Human Services Department (HSD) employees and managers to identify and resolve job-related complaints.

042.2 Definitions

A. "Complaint" means a statement, either oral or written, by an HSD employee to an HSD manager that alleges a violation, misinterpretation, or misapplication of the State Personnel Board rules, existing written department policies or procedures, terms or conditions of employment, or applicable state or federal civil rights and anti-discrimination laws.

B. "Employee" means a person employed by HSD in a permanent, probationary, term, temporary, or emergency position.

C. "HSD EEO Officer-ADA/504 Compliance Coordinator" means an independent Human Resources professional who provides information and oversight to prevent discrimination in the workplace based on race, color, national origin, religion, gender, age, or disability.

042.3 Policy

The Human Services Department (HSD) has in place a formal complaint policy and procedure. The complaint policy and procedure is to be used only in cases where a written rule, policy, procedure, terms or conditions of employment which are recognized throughout HSD, State Personnel Board Rules or Federal or State laws has been violated. HSD encourages an open dialogue about issues that may concern an employee. It is the expectation that the employee will attempt to initially discuss the matter informally with his/her immediate supervisor in an attempt to reach an understanding or resolution.

042.4 Filing a Complaint

A. The purpose of the HSD complaint procedure is to offer HSD employees a systematic method for receiving prompt consideration and early resolution of complaints.

B. A complaint is defined as a response to an alleged violation, misinterpretation, or misapplication of State Personnel Board Rules, existing written department policies and procedures, terms or conditions of employment, Section 503 and Section 504 of the Rehabilitation Act of 1973 as amended, Title VI and VII of the Civil Rights Act, the Age Discrimination Act, the Americans with Disabilities Act

and the New Mexico Human Rights Act or other applicable state or federal law. These documents are on file in each field office or at the HSD Office of Human Resources in Santa Fe.

C. All employees within HSD are afforded the right to utilize the agency's internal complaint procedure. This includes incumbents in permanent, probationary, term, temporary and emergency positions. An employee filing a complaint must be personally aggrieved and the alleged violation must be within the control of HSD to remedy. At any stage during the presentation of complaints, complainants shall be free from restraint, interference, coercion, discrimination, or reprisal.

D. The complaint at any time may be filed with the appropriate external governing body(ies) having jurisdiction over the complaint. If a bargaining unit employee elects to file, under the collective bargaining agreement for those issues covered by the agreement, this procedure is not available for the same complaint and/or issues.

042.5 Complaint Procedure and Resolution Process

Complaints must be current and the process must be initiated by the grieving party within seven (7) calendar days of the alleged wrongdoing.

A. **Step 1 - Mandatory Discussion with Supervisor**. The complainant must discuss the alleged violation with the supervisor who has the authority for resolving the issue within seven (7) calendar days of the incident giving rise to the complaint. The supervisor must respond orally within seven (7) calendar days. The supervisor is to consult with the local office manager or bureau chief in resolving the complaint. With the mutual consent of all parties, a telephonic discussion may be substituted for the face-to-face meeting.

B. **Step 2 - Formal Process**. If the issue is not resolved through discussion with the supervisor, the complainant must file a formal written complaint with the next level of supervisor who has authority to address the issue within seven (7) calendar days of the end of Step 1. A copy of the written complaint must be sent to the Employee Relations Section of the Office of Human Resources by the complaining party. The written complaint must include:

1. Complainant's name, title, office and division;

2. A thorough explanation of the matter, including the date(s) of the alleged violation, misinterpretation or misapplication;

3. Evidence to support the allegations including citing the specific rule, regulation, policy, procedure or law which has been violated;

4. The relief requested; and

5. Date and content of oral response.

This supervisor shall respond in writing within fourteen (14) calendar days of receipt of the written complaint. The supervisor shall consult with the Office of Human Resources in preparation of the Step 2 response. This decision shall represent the determination of the Secretary with respect to the complaint and will be final.

042.6 The Role of the EEO Officer-ADA/504 Compliance Coordinator

A. The HSD EEO Officer-ADA 504 Compliance Coordinator shall provide technical assistance to an employee upon request on civil rights issues and the complaint procedure.

B. The EEO Officer—ADA/504 Compliance Coordinator is an independent Human Resources professional whose responsibility it is to objectively provide information or offer advice upon request to both management and the employee. The EEO Officer-ADA/504 Compliance Coordinator is not a representative of either management or the complaining employee, but rather provides information to facilitate the procedure.

042.7 Miscellaneous

A. The parties may extend the time limits at any step by mutual written agreement.

B. In the event either party is out of the office for a full working day, the time limits are extended for that period.

C. Any questions on this procedure may be directed to the Employee Relations Section of the HSD Office of Human Resources.

042.8 References

1.7.6.13 NMAC
HSD Whistleblower Policy
HSD Non-Discrimination in Employment Practices Policy
HSD Sexual Harassment Policy
HSD ADA: Reasonable Accommodation Policy

APPROVED: DATE:

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