

**GENERAL ADMINISTRATION
EMPLOYEE**

041 CODE OF CONDUCT**041.1 Purpose**

To provide standards for general working conditions conducive to a professional work environment.

Violation of any part of the *Code of Conduct Policy* may subject the employee to disciplinary action up to and including dismissal.

041.2 Definitions

- A. "Bullying" means any interpersonal hostility that is repeated and sufficiently severe as to harm the targeted person's health or economic status. The harm must be both subjective (the person is actually harmed) and objective (a reasonable person would be harmed under the same circumstances).
- B. "Client" means an individual applying for and/or receiving services from HSD. For the purpose of this policy, "client" is synonymous with "customer" and "recipient".
- C. "Cohabitation" means a relationship which includes a common living place and which exists without legal or religious sanction.
- D. "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.
- E. "Family" means an individual's spouse, domestic partner, parents, children or siblings, by consanguinity or affinity. (Governmental Code of Conduct, but added "domestic partner" 10.16.2. NMSA)
- F. "Fraudulent" means the intentional misappropriation or taking of anything of

value which belongs to another by means of deceitful conduct, practices or representations.

- G. “Good Faith Effort” means in compliance with standards of decency and honesty, reasonable belief, and making a full declaration of all material facts.
- H. “Harassment” means pursuing a pattern of conduct that disturbs, seriously alarms or terrorizes another person on the basis of race, age, religion, color, national origin, ancestry, sex, physical or mental disability or serious medical condition, spousal affiliation, sexual orientation, or gender identity.
- I. “Insubordination” means refusal to follow an authorized supervisor’s reasonable orders or a disregard of a supervisor’s legitimate authority.
- J. “Media inquiry” means telephone calls, unannounced visits, written contacts, request for interview, or other requests for information from newspaper, radio, TV, magazine or wire service representatives.
- K. “Negligence” means failing, through action or omission, to exercise reasonable care in particular circumstances or in making a decision in the course of their employment which negatively impacts operations or results in liability to HSD.
- L. “Official act” is defined as an official decision, recommendation, approval, disapproval, or other action involving the use of discretionary authority.
- M. “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.
- N. “Smoking” means inhaling, exhaling, burning, carrying or holding any lighted tobacco product, including all types of cigarettes, cigars and pipes and any other lighted tobacco product.
- O. “Violent behavior” includes: (a) physical acts against persons or their property, or against Department property; (b) veiled, direct, or indirect verbal threats of physical harm that have the effect of causing psychological or emotional harm or create a hostile or intimidating environment; (c) written threats, profanity, vicious cartoons or notes, or other written conduct that is meant to threaten or create a hostile environment; and (d) any other act that is threatening or intended to injure or convey hostility.

041.3 Policy

All Human Services Department (HSD) employees shall treat their government position as a public trust and conduct themselves to ensure that the workplace runs smoothly and safely. The following standards are established because one person's misconduct may impact the office, its employees and HSD clients. These standards shall constitute the Department Code of Conduct according to Section 10-16-11, NMSA 1978. Employees must become familiar with the following standards and rules, and to observe them without exception. Questions on any standard or rule should be directed to one's immediate supervisor or HSD's Office of Human Resources (OHR).

041.4 Standard of Service

HSD exists solely to serve the population of New Mexico pursuant to the requirements of state and federal law. This perspective should be reflected in the conduct of every employee. Employees must be responsive to the public, addressing requests for service courteously and expeditiously. Our clients are not interruptions to our work---they are our work.

041.4.1 Courtesy

- A. Employees shall interact with the public, clients and co-workers in a courteous, timely and dignified manner. Services must be provided without regard to race, color, gender, sexual orientation, gender identity, ancestry, religion, age, national origin, disability, or marital affiliation and in accordance with all federal and state non discrimination laws.
- B. It is never acceptable for any employee to convey an indifferent, hostile, or careless attitude toward clients, even if clients are abusive. If a client continues to be abusive or threatening after an employee has tried to address the clients concerns, the employee may courteously end the conversation and report the incident to his/her supervisor.
- C. Use of threatening, abusive or profane language or gestures to the public, a client, or any co-worker is prohibited.
- D. Bullying is prohibited.

041.4.2 Professionalism

- A. Employees must conduct themselves in a professional and respectful manner in all dealings with the public, clients and co-workers. Employees may not engage in any conduct that creates or conveys a hostile or indifferent attitude toward the public, clients or co-workers, including any remarks, behavior and humor that demonstrate lack of respect, ridicule, or intolerance.
- B. As public servants, all employees must maintain the highest standards of

personal conduct at all times. On the job, nothing but the highest standards of honesty and integrity are acceptable.

- C. Employees must give clients complete and thorough explanations of program requirements, make themselves available to answer questions, listen with interest, and refer clients to other sources of help when appropriate.

041.4.3 Public Funds

HSD is responsible for disbursing public funds. Employees must make sure that the benefits are accurately authorized and go only to those eligible to receive benefits.

Under state law, it is a crime to knowingly pay or receive public money for services not rendered. This includes the circumstance where a state employee has been overpaid for any reason.

041.4.4 Illegal or Fraudulent Activity

Employees must report to management any illegal or fraudulent behavior within HSD that comes to their attention. 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. 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. (See HSD's *Whistleblower Policy*.)

041.4.5 Policy and Procedure Adherence

Employees must become familiar with and adhere to the policies and procedures of the department, their division, and any state or federal statutes, rules or regulations that apply to their assignments. Violation of such policies, procedures, statutes, rules and regulations may subject the employee to disciplinary action up to and including dismissal.

041.5 Rules of Conduct

The listing below is not intended to be all-inclusive. Employees should have a thorough knowledge of State Personnel Board Rules and HSD policies.

041.5.1 Readiness for Work

- A. Employees must be on the job, on time, each scheduled workday. All employees must devote their full working day to the business of the state.
- B. Employees must call in no later than one half hour after the start of the work day each day they are late or absent in accordance with their office's

written procedures unless otherwise authorized by their supervisor. Supervisors must approve or disapprove all such absences. Calling in does not guarantee an approved absence.

- C. Unapproved absence or tardiness is considered absence without leave.
- D. Employees must report to work able to perform their jobs. Employees appearing for work but unfit for duty may be placed on absent without leave status and may be required to leave the worksite. Reporting to work in a condition that poses a risk to the safety and security of the public, clients or other co-workers, or prevents the employee from performing their assignments, is prohibited.
- E. Sleeping during work time is prohibited.
- F. Excessive absenteeism and/or tardiness will not be tolerated. A continuing record of unsatisfactory attendance or lack of punctuality is prohibited.
- G. OHR may require an employee to attend Employee Assistance Program sessions. Employees mandated to attend such sessions will be given administrative leave including travel time.

041.5.2 Sick Leave

- A. Sick leave may be used only for personal medical treatment or illness or for medical treatment or illness of a relation by blood or marriage within the third degree, or of a person residing in the employee's household. (See HSD's *Annual and Sick Leave Policy*.)
- B. Sick leave may not be used before it is accrued. When possible (e.g., medical appointments), prior approval should be obtained before leave is taken. (See HSD's *Annual and Sick Leave Policy*.)
- C. Employees shall contact their supervisor or supervisor's designee at their earliest opportunity and no later than 30 minutes after the scheduled beginning of their workday. In the event the employee is incapacitated, a family member may call in on behalf of the employee. (See HSD's *Annual and Sick Leave Policy*.)

041.5.3 Annual Leave

- A. Requests for annual leave must be presented in advance to the immediate supervisor for approval or denial. Leave taken without prior approval is considered absence without leave and cause for disciplinary action. (See HSD's *Annual and Sick Leave Policy*.)
- B. Annual leave shall not be used before it is accrued and must be authorized

before it is taken. Supervisors cannot approve leave before it is accrued.
(See HSD's *Annual and Sick Leave Policy*.)

041.5.4 Personal Leave Day

- A. Employees in career status are entitled to one personal leave day each calendar year. The personal leave day shall be the same number of hours as the employee's normal workday. Such leave must be requested and approved in advance.
- B. The personal leave day must be taken during consecutive hours.
- C. The personal leave day must be taken by December 31 or it will be lost.
- D. Employees who do not take the personal leave day shall not be paid for it upon separation from the classified service.

041.5.5 Leaving Office

An employee must have prior permission from his/her supervisor to leave the office building during regular work hours except for scheduled breaks and lunch periods.

041.5.6 Absence Without Leave

Employees absent without leave for five consecutive days are considered to have abandoned their jobs and are subject to dismissal.

041.5.7 Business Conduct

- A. Employees must cooperate with their supervisors and follow instructions and directions.
- B. Insubordination is prohibited.
- C. Poor work is not acceptable. Employees must perform their work properly and meet standards defined by supervisors, job description, evaluations, and HSD policy and procedures.
- D. An employee must be efficient and productive, completing assigned job tasks within established time frames. An employee must pay attention to work quality and complete the terms of a personal development plan if in place.
- E. Employee negligence will not be tolerated.
- F. Employees shall cooperate with investigators during investigative processes conducted by HSD or HSD's authorized agents.

- G. An employee may, with the approval of his/her office manager bring her/his child(ren) to the office only on a temporary or emergency basis (other than planned office functions such as open-houses or holiday parties to which children are specifically invited). Other care arrangements should be made as soon as possible. In most cases, the employee should avail himself/herself of the appropriate type of leave to cover the situation.
- H. An employee shall make every effort to direct any media inquiry to HSD's Communications Director.

041.5.8 Safety in the Workplace

- A. Safety and health rules must be observed. If injured on the job, no matter how slight the injury, an employee must notify his/her supervisor before leaving. (See HSD's *Workers' Compensation Policy*.)
- B. Employees shall not cause or create unsafe or hazardous conditions. This includes maintaining a safe and hazard-free office or workspace. Employees must report unsafe or hazardous workplace conditions to management.
- C. HSD will not tolerate verbal threats or threatening or violent behavior, implied or actual, by any person, including members of the public, directed towards HSD personnel or property and made during official HSD business. (See HSD's *Loss Prevention and Control Policy*.)
- D. Possession of firearms or other dangerous weapons on department premises is prohibited.
- E. Fighting or other acts of physical violence are prohibited.

041.5.9 Substance Abuse

The possession or use of alcohol or illicit drugs during work hours or in the workplace is prohibited. The misuse of prescription drugs during work hours or in the workplace is prohibited. Reporting for work and/or being on department premises under the influence of any of the above, is prohibited. (See HSD's *Substance Abuse Policy*.)

041.5.10 Smoking

Smoking is prohibited in HSD building areas or owned or leased vehicles. (See HSD's *Smoking Policy*.)

041.5.11 Falsification of Documents

- A. Falsification of administrative forms or intentionally entering or causing to enter false information into automated systems is prohibited. This includes but is not limited to employment forms, timesheets and leave request forms, and travel vouchers or other reimbursement vouchers.
- B. Falsification of work documents or products, or intentionally entering or causing to enter false information into automated systems is prohibited. This includes but is not limited to client records and documentation, information given during client conferences, and documents submitted to courts or other governmental agencies.
- C. Intentionally giving false or misleading information or omitting information significant to the department during the application and hiring process is prohibited. Falsification of an application includes omission of any employment history or other significant information within the ten years prior to employment with the department. (See HSD's *Recruitment Policy*.)

041.5.12 Harassment

- A. Employees have the right to work in an environment free from harassment on the basis of race, age, religion, color, national origin, ancestry, sex, physical or mental handicap or serious medical condition, spousal affiliation, sexual orientation, or gender identity whether engaged in by coworkers, supervisors, clients, or nonemployees who conduct business with HSD. HSD clients also have a right to apply for and receive services and benefits free from harassment of any kind.
- B. Harassment, as described in HSD's Harassment Policy, of employees or clients on or off the job is prohibited. Harassment can be reported directly to HSD's Office of Human Resources (OHR) as set forth in the *Harassment Policy*. (See HSD's *Harassment Policy*.)

041.5.13 State Property

- A. The unauthorized removal or willful destruction of state property (including all data files, whether electronic or paper copy) or property of other employees is prohibited.
- B. Unauthorized or fraudulent use of state property for personal or other purposes is prohibited.
- C. All employees will adhere to any NM-Department of Information Technology and HSD's Information Technology Division protocols on Information Technology (IT) system security. Any implied or expressed threat to damage or compromise the security of the IT systems and

network is prohibited.

- D. All furniture and equipment supplied to employees is state property. State property may not be removed from work premises without a supervisor's authorization. Employees do not have a privacy interest in any state-owned property. The department retains the right to search such property (such as offices, desks, file cabinets, and computer files) at any time. Employee personal property shall not be searched unless authorized by HSD's General Counsel.

041.5.14 Personal Telephone Calls and Text Messages

- A. Personal telephone or cell phone calls, including text messages, should be kept to a minimum, should be necessary, and must not interfere with workflow. Employees should not use state telephones to place long-distance personal calls or accept collect calls billed to the state without approval from their supervisors. An employee shall reimburse the department for the cost of such calls. (See HSD's *Personal Telephone Calls Policy*.)
- B. Secretly tape-recording meetings or telephone calls is prohibited.

041.5.15 Dress Code

Employees must maintain good personal hygiene and dress appropriately for the tasks of their position. (See HSD's *Dress Code Policy*.)

041.5.16 Contact Information

Every employee is responsible for maintaining his/her current contact information on file with OHR. Notices mailed to the last address on record or phoned to the last telephone number on record shall be considered properly delivered.

041.6 Outside Employment

An employee considering outside employment should first review the proposal with his/her immediate supervisor to avoid conflict with the provisions below.

041.6.1 Statement of Outside Employment

All employees engaged in any outside employment, including self-employed or paid professional consulting, must file a completed *Statement of Outside Employment* with their immediate supervisors and the Office of Human Resources on entering or changing such employment.

041.6.2 Outside Employment Prohibitions

- A. Employees are not permitted to engage in outside employment if such

employment interferes with the satisfactory performance of their jobs with the department.

- B. Employees are not permitted to engage in outside employment with private firms or contractors that receive money from the department.
- C. Employees are not permitted to engage in outside employment that conflicts or is perceived as conflicting with the mission of the department.
- D. Employees shall not use information gained through their employment with the department for purposes related to outside employment.
- E. Outside employment activities shall not be conducted during work hours or by utilizing any department resources.
- F. Employees seeking employment outside the department must do so on their own time.
- G. Outside employment is not considered an excuse for failure to report for work and/or stay for required overtime.
- H. Leave without pay is not granted for purposes related to outside employment, except for employment with the Legislature or as otherwise approved by the Secretary.

041.7 Use of Office

041.7.1 Abuse of Office

- A. At all times, every effort shall be made to avoid the undue influence and abuse of office in public service or the appearance thereof.
- B. An employee shall not use their position to coerce or unduly influence other HSD employees.
- C. Employees may not request or receive gifts or loans or anything of value from department clients, contractors, or other private firms or persons doing business or attempting to engage in business with the department. The only exception is if an event would have been held whether the employee attends or not, and the total value does not exceed \$50, then gifts or meals provided as part of a business related event that an employee has been invited to by a department client, contractor, or other private firm or person doing business may be accepted by the employee. Employees must use their employment relationship with HSD only to advance the public interest and not to obtain personal benefits or pursue private interests incompatible with the public interest.

041.7.2 Conflict of Interest

- A. Employees shall disqualify themselves from participating in any official act directly affecting a business in which they have an interest.
- B. An employee may not acquire a financial interest in a business at a time when that business will be directly affected by his/her official acts. For the purpose of this policy, “financial interest” is defined as an interest held by an individual or his/her family in a business or any employment or prospective employment with a business with whom contract negotiations have begun.
- C. Every employee who has a financial interest, as defined above, in a business which may be affected by actions of the Human Services Department shall disclose the precise nature and value of such interest in writing to the HSD Secretary and the Secretary of State. Such disclosure shall be provided upon employment and during the month of January every year thereafter.
- D. Employees shall disqualify themselves from participating in any official action affecting a client or any other person related to them by blood or marriage within the third degree. Employees shall also disqualify themselves from participating in any official action affecting clients or other persons with whom they enjoy a personal relationship that could compromise, or be reasonably perceived by department management or the public as compromising, the integrity of their official action. See HSD’s *Nepotism Policy* for rules regarding hiring actions.
- E. An employee shall disqualify him/herself from participating in any official action affecting a client or any other person with whom that employee is engaged in a sexual relationship and/or sharing living quarters. Employees shall notify their supervisors of any clients of their local office with whom they are engaged in such relationships. Supervisors shall make sure such cases are assigned to other employees or units.
- F. An employee shall not request or receive any financial benefits as a result of providing or promising to perform services to one of the department’s clients or contractors.
- G. A supervisor shall notify management if cohabitation, a physical relationship, or a relationship within the third degree develops between that supervisor and a subordinate. (See HSD’s *Nepotism Policy*.)

041.8 Disclosure or Misuse of Confidential or Official Information

041.8.1 Prohibited by Law

An employee may not disclose confidential or official information if the disclosure of such information is prohibited by law or regulation or would be contrary to the best interests of the department or its clients. This includes protected health information covered under HIPAA. This also includes confidential information from other governmental agencies.

041.8.2 Private Gain

An employee may not disclose or misuse confidential or official information not generally available to the public, or acquired by virtue of his/her employment with HSD, for his/her own or another's private gain. This includes any information regarding awarding contracts or grants by the department before the official release of such information.

041.9 Political Activities

Employees are subject to the provisions on political activities set forth in State Personnel Board Rules, NMAC 1.7.6.10 and 1.7.6.11, and the Hatch Act. An employee is covered by the Hatch Act if he or she has duties in connection with an activity financed in whole or in part by federal funds. Almost all HSD employees are covered.

041.9.1 Permitted Political Activities

- A. Employees are encouraged to register and vote.
- B. Employees have a right to express their opinions on all political subjects and candidates.
- C. Employees not covered by the Hatch Act may be candidates for a partisan political office if, upon filing or accepting the nomination and during the entire campaign, they are authorized full-time continuous leave without pay.
- D. Employees may be candidates for and hold a nonpartisan, county or municipal political office. A nonpartisan office is one in which party affiliation is neither indicated nor required.
- E. Employees may engage in the following activities so long as they are on approved leave or not on duty:
 - 1. Serve as convention delegates;
 - 2. Attend political rallies;

3. Sign nominating petitions and make voluntary contributions to political organizations;
4. Engage in political activity; and
5. Serve as election officials.

041.9.2 Prohibited Political Activities

Employees are prohibited from the following activities:

- A. Being a candidate for a partisan political office, if covered by the Hatch Act. An employee who intends to run for a partisan political office must resign;
- B. Using official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office or for any other political purpose;
- C. Directly or indirectly coercing, attempting to coerce, commanding, or advising a state or local officer or employee, client or contractor to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for a political purpose;
- D. Threatening to deny promotions to any employee who does not vote for certain candidates, requiring employees to contribute a percentage of their pay to a political fund, influencing subordinate employees to buy tickets to political fundraising dinners and similar events, advising employees to take part in political activity, and matters of a similar nature;
- E. Engaging in political activity during work time or using state equipment, facilities or property to conduct campaign or public office related business;
- F. Wearing campaign buttons or apparel with political logos or endorsements during work time;
- G. Being an officer of a political organization.

041.10 Governor's Code of Conduct

In addition to the HSD's *Code of Conduct*, all HSD employees shall comply with the existing Governor's *Code of Conduct*.

041.11 Medicaid Programs

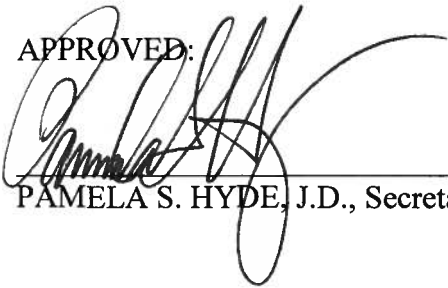
By statute, HSD employees involved in the administration of Medicaid funds are held to certain standards [Section 27-2-12-7, NMSA 1978]. The statute refers to an "employee

with responsibility” as an employee who is directly involved in or has a significant part in the Medicaid decision-making, regulatory, procurement or contracting process. For more specific information, see the statute.

041.12 References

1.7.7.17 NMAC - Rp, 1 NMAC 7.7.17, 07/07/01; A, 11/14/02 (Personal Leave)

APPROVED:



PAMELA S. HYDE, J.D., Secretary

DATE: