

**GENERAL ADMINISTRATION  
EMPLOYEE**

**046 WORK SCHEDULES AND COMPENSATION****046.1 Overtime****046.1.1 Purpose**

To establish uniform policies and procedures for compensation of Human Services Department (HSD) employees who have overtime.

**046.1.2 Definitions**

- A. "Division" for purposes of this policy means those categories defined by the Legislature in allocating personnel and budgets (for example, Behavioral Health Services Division, Medical Assistance Division, Income Support Division, Child Support Enforcement Division, and Program Support).
- B. "Employee" means a person employed by HSD in a permanent, probationary, term, temporary, or emergency position.
- C. "Overtime status" refers to whether an employee is covered or not covered (exempt) by the Fair Labor Standards Act (FLSA).
- D. "Workweek" means Saturday through Friday.

**046.1.3 Policy**

HSD adheres to uniform policies and procedures for compensation of employees who have worked overtime. These policies and procedures are governed by the New Mexico State Personnel Board's (SPB) Rules and Regulations and the New Mexico Department of Workforce Solutions' (DWS) Rules and Regulations under FLSA. All provisions of this policy shall be modified/amended or superseded by any SPB Rules or DWS regulation changes.

**046.1.4 Status Determination**

The Office of Human Resources (OHR) will evaluate all employees' duties to determine if they are covered by FLSA. All employees shall be informed in writing by the OHR Manager of their overtime status. New employees shall be informed of their status within ten (10) work days from the date of employment. Employees whose job tasks change will be advised of any resulting change in their status within ten (10) work days from the date of any OHR assessment. Any queries about an employee's status should be directed to their supervisor or OHR.

### **046.1.5 Appeal Process**

All employees, at any time, have the right to appeal the determination of their overtime status by filing a written document with the OHR Manager explaining the reasons for their appeal. The OHR Manager shall investigate the facts and shall advise the employee within thirty (30) calendar days of the decision. Thereafter, the employee has the right to continue the appeal process through State Personnel Office (SPO) pursuant to SPB rules and procedures. (See 1.7.4.14 NMAC 1978)

### **046.1.6 Provisions Applicable Only to Employees Covered by the Fair Labor Standards Act**

#### **A. Requirements**

1. An employee must have worked in excess of forty (40) hours during a workweek to be eligible for overtime compensation.
2. Advance permission from the employee's supervisor or manager must be secured by an employee in order for the employee to work in excess of the scheduled hours. Working beyond scheduled hours in non-emergency situations without securing permission is prohibited. Unauthorized overtime, however, must be compensated if such overtime constitutes work over the 40-hour per week threshold.
3. Supervisors have an obligation to stop an employee from working overtime hours that have not been authorized. Planned overtime must be officially authorized, in advance, by management.
4. Any overtime worked due to an emergency situation must be approved by management as soon as possible after the emergency.

#### **B. Timesheets**

All hours worked beyond a regular 40-hour workweek for employees covered under FLSA shall be recorded on the employee's weekly timesheet. Overtime hours should be marked using the appropriate Transaction Reporting Code (TRC) with an explanation in the Comments section.

#### **C. Compensatory Time for FLSA-covered Employees**

1. Compensatory time in lieu of cash compensation may be given only if there is an agreement entered into voluntarily between the FLSA-covered employee and the agency as per 1.7.4.14 NMAC 1978. The employee must have entered into this agreement before overtime work is performed.
2. Excepting those requirements by statute, regulation or Collective

Bargaining Agreements, supervisors shall only authorize compensatory time in lieu of cash compensation for overtime. In rare circumstances, when the FLSA-covered employee's work is indispensable to meet business needs and the employee does not agree to work for compensatory time, an exception must be approved by the Director or designee.

3. Compensatory time for FLSA-covered employees shall be at a rate equal to one and one-half (1.5) hours for each hour of employment for which overtime compensation is required.
4. The FLSA-covered employee who has accrued compensatory time, and who has requested the use of the compensatory time, shall be permitted to use the time within a reasonable period after making the request. Use of the compensatory time must not unreasonably disrupt the operations of the agency as determined by the supervisor.
5. Employees must receive monetary compensation for any additional overtime worked after accrual of 240 hours of compensatory time.
6. Compensatory time may be accrued while traveling on HSD business. However, compensatory time while traveling on HSD business shall not be accrued outside the employee's normal work schedule unless the employee was required to work or travel during those hours.
7. All compensatory time for FLSA covered employees will be paid upon an employee's leaving the department or division, or upon the death of the employee to the employee's estate, at the employee's final regular rate of pay.
8. If compensation is paid to an employee for accrued compensatory time, such compensation shall be paid at the regular rate earned by the employee at the time the employee receives such payment.
9. At the time of separation of employment with HSD, all accrued types of compensatory time will be paid. However, if an employee is transferring to another State agency, and that agency agrees to accept the compensatory time balance, the time may be transferred if the employee elects to do so.

#### D. Mealtime

A meal period when an employee is completely relieved from duty is not work time. However, short periods, such as coffee breaks or snacks, are not meal periods. The following three conditions must be met to be considered a bona fide meal period:

1. The meal period must be at least 30 minutes in duration.

2. The employee must be completely relieved of all duties. If the employee must sit at a desk and incidentally answer the telephone, for example, this would be compensable work time. It is not considered work time if the employee chooses to remain at the desk during the meal time period, is completely relieved of all duties, and is not required by the supervisor to remain at the desk.
3. The employee must be free to leave the duty post.

**046.1.7 Provisions Applicable only to Employees Not Covered by (Exempt from) Fair Labor Standards Act Overtime Provisions**

**A. Requirements**

1. An employee must have worked in excess of eighty hours during a two-week pay period to be eligible for overtime compensation.
2. Advance permission from the employee's supervisor or manager must be secured by an employee to work in excess of the scheduled hours.
3. Excepting those requirements by statute, regulation or Collective Bargaining Agreements, supervisors shall only authorize compensatory time in lieu of cash compensation for overtime.

**B. Compensatory Time for FLSA Exempt Employees**

1. Employees exempt from FLSA shall be eligible for compensatory time on a straight-time basis. Accrual of compensatory time must be authorized by the employee's immediate supervisor.
2. Compensatory time may be accrued while traveling on HSD business. However, compensatory time while traveling on HSD business shall not be accrued outside the employee's normal work schedule unless the employee was required to work or travel during those hours.
3. Compensatory time may be accrued to a maximum of 200 hours. Only 200 hours may be carried over into the next fiscal year.
4. Upon separation or transfer from HSD, compensatory time will not be paid, and cannot be transferred.

**B. Timesheets**

All approved hours worked beyond a regular 80-hour pay period for employees not covered by FLSA shall be recorded on the employee's weekly timesheet. Overtime hours should be marked using the appropriate Transaction Reporting Code (TRC) with an

explanation in the Comments section.

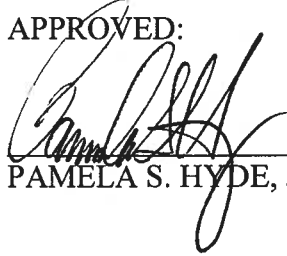
#### **046.1.8 Overtime Parameters**

County Directors or Bureau Chiefs will document, in writing, overtime decisions and inform affected employees of those decisions. For purposes of this policy, email communication shall constitute written notice.

- A. Division Directors will determine the managers and/or supervisors who have the authority to:
  - 1. Determine the need for overtime work;
  - 2. Determine employees who will work overtime in accordance with Collective Bargaining Agreements when applicable; and
  - 3. Prevent unauthorized overtime.
- B. Supervisors shall not change the workweek in order to avoid the payment of overtime or compensatory time.
- C. Divisions will count as overtime:
  - 1. All time spent driving a vehicle on official business outside an employee's normal work hours;
  - 2. All time spent as a passenger in a vehicle outside an employee's normal work hours if the travel itinerary and time schedules are approved by an authorized supervisor; and
  - 3. Paid holiday leave, annual leave, and administrative leave for voting shall also count as time worked in the consideration of overtime.
- D. Divisions will not count as overtime:
  - 1. Time normally required to travel from home or temporary residence to work and return;
  - 2. Meal periods and time after normal duty hours not spent in work activities or authorized travel; and
  - 3. Any leave except paid holiday leave, annual leave and administrative leave for voting.
- E. HSD will maintain for three years payroll records in compliance with 29 CFR 516.3 and 29 CFR 5.6.2 (U.S. Department of Labor, Wage and Hour Division,

Records to be Kept by Employers). HSD will also maintain for four years payroll records in compliance with 26 CFR 1.6001-1 (U.S. Internal Revenue Service, Records).

APPROVED:



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PAMELA S. HYDE, J.D., Secretary

DATE:



**GENERAL ADMINISTRATION  
EMPLOYEE**

**046 WORK SCHEDULES AND COMPENSATION**

**046.3 Job Sharing Policy**

**046.3.1 Purpose**

To define guidelines for job sharing at the Human Services Department (HSD).

**046.3.2 Definitions**

- A. "Employee" means full-time probationary, career or term status employee.
- B. "Job sharing" means one full-time authorized position shared by two employees who each work on a part-time basis.

**046.3.3 Policy**

HSD offers employees the opportunity to job share, working in a part-time capacity.

**046.3.4 Guidelines**

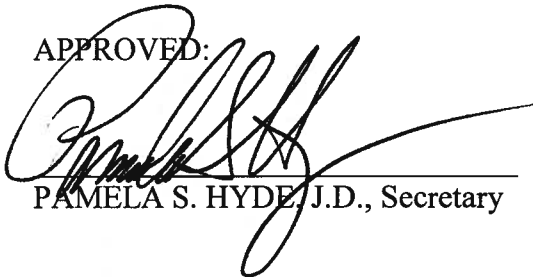
- A. A position proposed for job share must be appropriate for such an arrangement as determined by the supervisor and Division Director or designee. HSD's Office of Human Resources (OHR) must give final approval of positions for job sharing. Job duties and responsibilities must be amenable to an equitable and efficient division between both partners in the arrangement. Job sharing cannot negatively affect the efficiency of the work operation, the quality of service to customers, and cannot result in an over expenditure of the allowable budget for the position.
- B. Job share agreements continue in force if the duties and responsibilities of the position and the nature of the organizational structure remain appropriate for job share and the arrangement is working satisfactorily. The existence of a job share agreement may not interfere with HSD's authority to modify the content of the job in question, reassign the position in an organizational structure, make changes to the employees' work schedules or otherwise exercise its management right to maintain efficiency of operation.
- C. The position is divided into two equal slots of the same classification. The combined total hours worked by the job share employees may not exceed 80 hours per pay period. Both employees in a job share arrangement must qualify for the classification of the position.

- D. Job share employees working on a part-time basis accrue annual and sick leave on a prorated basis and are eligible to enroll in all insurance offered by the state. Annualized salary is based on a 40-hour workweek, which is used to determine insurance premiums for those hired as hourly even if they are scheduled to work less than 40 hours per week. Job share employees whose normal work schedule does not include the day a holiday is observed are not compensated for that holiday. Job share employees must work at least 40 hours a pay period to receive full service credit toward PERA retirement. All requirements for PERA participation are governed under PERA regulations.
- E. Employees in a job sharing arrangement may need to attend meetings or other required functions at times other than their usual work hours. Supervisors retain their rights to make temporary changes in such employees' work schedules. The supervisor provides as much advance notification of such changes as possible.
- F. Employees in a job share position waive their rights to full-time employment and are converted to part-time status. There are other factors that affect employment when entering a job share agreement (e.g., contingencies if one employee leaves or HSD terminates the agreement). Please contact OHR for any additional details.

**046.3.5 References**

State Personnel Board Rules  
Collective Bargaining Agreement

APPROVED:



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PAMELA S. HYDE, J.D., Secretary

DATE:



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7/16/09

**GENERAL ADMINISTRATION  
EMPLOYEE**

**046 WORK SCHEDULES AND COMPENSATION**

**046.4 Flex/Alternative Work Schedules Policy**

**046.4.1 Purpose**

The purpose is to define alternative work schedules and establish approval procedures for Human Services Department (HSD) employees considering a flex/alternative work schedule.

**046.4.2 Definitions**

- A. "Flex Work Schedule" or "Alternative Work Schedule" means an authorized schedule between the hours of 7:00 a.m. to 6:00 p.m. Monday through Friday with a minimum 30-minute lunch period between 11:00 a.m. and 2:00 p.m. each day. Saturdays or Sundays are not authorized to be part of a flex/alternative work schedule. A request for or an assignment resulting in an occasional variance in the workday and/or overtime is not considered an alternative work schedule.
- B. "Employee" means a person employed by HSD in a permanent, term, temporary, or emergency situation.
- C. "FLSA" means Fair Labor Standards Act.
- D. "Normal work day" means 8:00 a.m. to 5:00 p.m. with one hour for lunch (12:00 noon to 1:00 p.m.) Monday through Friday.

**046.4.3 Policy**

HSD is dedicated to providing timely and quality services to its clients and the public in an effective and efficient manner. HSD will consider flex/alternative work schedules for its employees only to the extent such schedules do not detract from that purpose.

**046.4.4 Employee Eligibility**

Approval of flex/alternative work schedules will be based upon the following employee eligibility requirements:

1. completed probationary period;
2. no job performance deficiencies associated with an alternative work schedule;
3. satisfactory attendance and timeliness;
4. received no written disciplinary actions in the past twelve months.

#### **046.4.5 Conditions**

- A. Access and full coverage for a normal work day will be assured for any organizational unit unless approved otherwise by HSD's Secretary, or Deputy Secretary if so designated by the Secretary.
- B. Requests for flex/alternative work schedules shall not be unreasonably denied or rescinded.
- C. Flex/Alternative work schedules will not require or result in more overtime than would be accrued under a normal work schedule in order to accomplish work assignments.
- D. FLSA-covered employees cannot have a flex/alternative work schedule of more than 40 hours per week.
- E. Management has the right to restrict start times of flex/alternative work schedules to specific times of the year based on organizational needs.
- F. The State of New Mexico Worker's Compensation Program will cover the employee only during their authorized work schedule.
- G. Participating in the Flex/Alternative Work Schedule Program is voluntary.
- H. Participation in the Flex/Alternative Work Schedule Program can be rescinded or denied at the sole discretion of management for valid reasons including but not limited to operational needs, workload, and employee performance.
- I. In the case of a state-declared emergency or under direction from the Office of the Governor or the State Personnel Office, the HSD Secretary can modify the terms and conditions of alternative work schedules.

#### **046.4.6 Alternative Work Schedules and Van or Car Pooling**

- A. The fact that an employee is participating in a car or van pool does not imply automatic approval of a requested flex/alternative work schedule.
- B. Job requirements take precedence over flex/alternative work scheduling. An employee may not refuse to perform assigned duties because of the departure of his/her car or van pool.

- C. A car or van pool driver has no authority to alter the authorized flex/alternative work schedules for employees riding in a car or van pool. Any change, whether temporary or permanent, to the car or van pool's existing schedule does not imply automatic approval of a requested alternative work schedule.
- D. If car or van pool riders desire to leave earlier than the end of the scheduled day, the employee must secure permission from his/her supervisor and take annual leave for that time. Flex/Alternative work schedules requested for purposes of commuting must adhere to the general standards set forth in this policy.

#### **046.4.7 Responsibilities of Managers and Supervisors**

- A. Managers and supervisors must make sure that their units are adequately staffed, including establishing a supervisory chain of command for all employees authorized for flex/alternative work schedules.
- B. Whenever it becomes necessary to cancel, suspend or adjust a flex/ alternative work schedule, two weeks notice will be provided unless compelling or emergency circumstances require a shorter notice period.
- C. The supervisor shall not change the workweek to avoid payment of overtime. A supervisor shall not change the length of an employee's work day to avoid the payment of overtime without the employee's consent.
- D. Collective Bargaining Agreements and FLSA will be adhered to in terms of timing, selection, overtime and process.

#### **046.4.8 Responsibility of Employees**

- A. Employees should make sure that their clients and others concerned are aware of their flex/alternative work schedules and of any changes in those schedules.
- B. Employees may be required to adjust their schedule to participate in relevant meetings or trainings during the department's standard business hours (Monday through Friday, 8 AM to 5 PM).
- C. Employees have the right to return to the standard work schedule by notifying their supervisor with reasonable advance notice.

#### **046.4.9 Exceptions to the Policy**

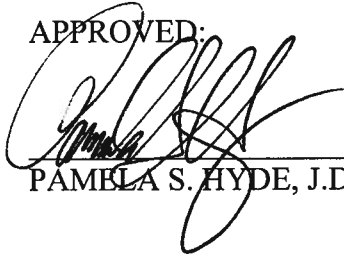
When an employee is unable to meet the eligibility requirements and in extenuating circumstances, the HSD Secretary, at his or her discretion, may grant an employee an exception to this policy if the supervisor recommends an exception, the Division Director agrees, the quality and quantity of the employee's work does not decline, and if the

exception will not cause a disruption to the productivity and work flow of the agency or division.

**046.4.10 References**

HSD Overtime Policy  
SPO Alternative Work Schedule Policy Guidelines (SPO-2008-028-006)  
Collective Bargaining Agreement  
Fair Labor Standards Act

APPROVED:



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PAMELA S. HYDE, J.D., Secretary

DATE:

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1/13/09

**GENERAL ADMINISTRATION  
EMPLOYEE**

**046 WORK SCHEDULES AND COMPENSATION**

**046.6 Compensation Policy**

**046.6.1 Purpose**

To provide a standardized system for employee compensation of the Human Services Department (HSD).

**046.6.2 Definitions**

- A. “Appropriate Placement” means those elements to be considered in determining pay upon hire, promotion, or transfer. These elements include the employee’s education, experience, training, certification, licensure, internal pay equity, budgetary availability and, when known and applicable, employee performance.
- B. “Classification” means a job that is occupationally and quantifiably distinct.
- C. “Compa-ratio” means pay expressed as a percentage of the midpoint of a Pay Band/Grade.
- D. “Demotion” means an involuntary downward change for disciplinary reasons with a reduction in pay.
- E. “Employee” means a person employed by HSD in a permanent, probationary, term, temporary, or emergency position.
- F. “In Pay Band/Grade Adjustment” means movement within a Pay Band/Grade for demonstrated performance, skill or competency development and/or internal alignment, which allows management the flexibility to provide salary growth within a Pay Band/Grade.
- G. “Manager” means an employee in a position that manages internal or external staff or a program, and who plans, organizes, integrates, coordinates, or controls the activities of staff or a program. A manager is also held accountable for the performance of people, services, systems, programs and resources and can change their direction, objectives and assignments to meet performance and business needs.
- H. “Pay Band/Grade” means the range of pay rates from minimum to maximum.

- I. “Promotion” means the change of an employee from a classified position in one Pay Band/Grade to a classified position in a higher Pay Band/Grade.
- J. “Reduction” means a voluntary change without prejudice, within an employee’s pay band, or from a classified position in one Pay Band/Grade to a classified position in a lower Pay Band/Grade, or voluntary removal of supervisory responsibilities and pay.
- K. “Supervisor” means an employee in a non-manager classification who devotes more than fifty percent (50%) of his/her work time to supervisory duties, customarily and regularly directs the work of two or more other employees, and who has the authority in the interest of the employer to hire, promote, evaluate the performance of, or discipline other employees or to recommend such actions effectively. “Supervisor” does not include an individual who performs merely routine, incidental or clerical duties, or who occasionally assumes supervisory or directory roles or whose duties are substantially similar to those whom the individual only occasionally supervises or directs. Further, “Supervisor” does not include lead employees or employees who participate in occasional employee evaluation programs.
- L. “Temporary Recruitment/Retention Differential” means a pay differential of up to fifteen percent (15%) of an employee’s base pay to an employee who fills a position which has been documented as critical to the effective operation of the agency and has been demonstrated and documented to be a severe recruitment problem for the agency.
- M. “Transfer” means the movement of an employee from one position to another in the same Pay Band/Grade without a break in employment.

### **046.6.3 Policy**

- A. It is HSD policy to provide for an equitable system of compensating employees commensurate with performance and job competency, within the constraints of HSD’s financial capabilities. This policy and its procedures are consistent with the compensation philosophy established in the Classified Service Pay Plan/Grade by the State Personnel Office (SPO) and with the rules set by the State Personnel Board (SPB).
- B. Salary decisions should reflect appropriate placement within the Pay Band/Grade, consideration of internal equity, budgetary limitations, market competitiveness, and department business need. Placement and progression of an employee’s salary should also reflect the established or anticipated value of an employee’s demonstrated skills, competency and performance.

#### **046.6.4 Entrance Salary**

- A. Upon entrance to a classification, a newly appointed or rehired employee's salary, subject to budget availability, should reflect the appropriate placement within the Pay Band/Grade. Proposed salaries which exceed a 115% compa-ratio must receive approval from the SPO Director prior to an offer being extended.
- B. Approval of an entrance salary above the minimum of the Pay Band/Grade must be obtained from OHR before an offer of employment is made to the candidate.

#### **046.6.5 Salary Upon Promotion**

- A. Subject to budget availability, upon promotion, an employee's base pay shall be increased within the range of five percent (5%) to fifteen percent (15%) above the employee's base pay, unless a lesser increase will result in reaching the maximum of the new Pay Band/Grade or a greater increase is necessary to bring the salary to the minimum of the new Pay Band/Grade.
- B. A salary increase that includes both a promotion and a supervisory pay allowance may not exceed twenty percent (20%) of the employee's base pay, unless a higher increase is required to bring the salary to the minimum of the Pay Band/Grade.
- C. If within 6 months following a voluntary reduction by the employee, the employee accepts a promotion to their previous classification, the promotion shall be five percent (5%) of the employee's base pay, unless a lesser increase will result in reaching the maximum of the new Pay Band/Grade or greater increase is necessary to bring the salary to the minimum of the new Pay Band/Grade.

#### **046.6.6 Temporary Salary Increase**

- A. Subject to budget availability and with the approval of the SPO Director, an employee may be granted a temporary salary increase (TSI) within the range of five percent (5%) to fifteen percent (15%) of the employee's base pay for a period not to exceed one year from the effective date of the salary increase, for temporarily accepting and consistently performing additional duties that are characteristic of a job requiring greater responsibility/accountability and/or assuming a position within a higher Pay Band/Grade. TSIs may be renewed with proper justification.
- B. Justification for a TSI must demonstrate that the employee temporarily accepts and consistently performs additional duties which are characteristic of a job requiring greater responsibility/accountability and/or a higher valued job.  
(NMAC 1.7.4.12.L)

#### **046.6.7 Temporary Recruitment/Retention Differential**

- A. A pay differential of up to fifteen percent (15%) of an employee's base pay may be authorized to an employee who fills a position which has been documented as critical to the effective operation of the agency and has been demonstrated and documented to be a severe recruitment problem for HSD. A differential authorized under this policy shall be tied to the position and may not transfer with the employee should the employee leave that position.
- B. Temporary recruitment/retention differentials (TRD) may be approved for up to two years at a time and must be re-justified biennially. The TRD may be renewed.
- C. Justification for the temporary recruitment/retention differential must address turnover history, vacancy history, reason the employee would be difficult to replace, and how employee's absence will have a significant adverse impact on HSD business mission and operations.

#### **046.6.8 Pay Allowance for Performing Supervisory Duties**

- A. Subject to budgetary limitations, internal equity and department business need, a pay allowance, for up to one year, renewable annually, may be granted to an employee in a non-manager classification who devotes more than fifty percent (50%) of work time in accepting and consistently performing additional duties which are characteristic of a supervisor. This includes work direction and performance evaluation of at least two (2) full-time equivalent positions (FTEs), excluding non-baseline temporary positions. Employees in management positions are not eligible for the pay allowance for performance of supervisory duties.
- B. The amount of the supervisory pay allowance without a promotion is between five percent (5%) and twenty percent (20%) of the employee's base pay. The pay allowance will not become a part of the employee's base pay rate and may exceed the maximum base pay assigned to the Pay Band. The allowance is based on the supervisory pay schedule as follows:
  - 1. 2 - 6 employees, 5 % to 10% of base pay;
  - 2. 7 - 11 employees, 8% to 15% of base pay;
  - 3. 12 or more employees, 10% to 20% of base pay;
- C. Additional consideration may be given to special circumstances related to the nature of the supervisory duties that either significantly increase or decrease the difficulty of the supervisory responsibilities. Such considerations include the complexity of the supervisory duties and the potential consequence of error if employees are not properly supervised.

- D. The manager will provide justification for the supervisory pay allowance that addresses the items listed above. Approval of a supervisory pay allowance is contingent upon final approval from the OHR Manager. Salary offers shall not be made until the OHR Manager has approved the proposed salary.
- E. Individuals accepting supervisory duties and pay through the supervisory pay allowance must agree to all terms and conditions by signing a *Pay Allowance for Performing Supervisory Duties Form* at the time of acceptance of a pay allowance. The pay allowance will be reviewed and may be renewed annually thereafter.
- F. When the supervisory duties are no longer being performed, the employee's salary shall revert to the hourly rate of pay held prior to granting the pay allowance, plus any authorized pay increases that accrued during the performance of the supervisory duties.

#### **046.6.9 Salary Upon Demotion**

The salary of an employee who is demoted shall be reduced by a maximum of fifteen percent (15%), unless a lesser decrease would result in placement at the minimum of the new Pay Band/Grade, or a greater decrease is required to bring the salary to the maximum of new Pay Band/Grade. The supervisory pay allowance of any demoted supervisor who is no longer supervising will be removed.

#### **046.6.10 Salary Upon Transfer**

The salary of an employee who is transferred laterally either intra-agency or inter-agency shall remain the same unless documented as critical to the effective operation of the agency and approved by the Office of the Secretary. A lateral transfer is the movement of an employee from one position to another in the same Pay Band/Grade without a break in employment.

#### **046.6.11 Salary Upon Reduction**

- A. The salary of an employee who takes a voluntary reduction in classification shall be reduced by up to fifteen percent (15%), based on appropriate placement, and removal of any supervisory pay allowance. However, the SPO Director may approve a salary reduction greater than fifteen percent (15%) due to special circumstances that are justified in writing.
- B. The following sets forth standards for implementing this rule within the Human Services Department.
  - 1. An employee requesting a reduction shall have his/her salary reduced by five percent (5%). However, no reduction can result in a salary lower than

the minimum, or higher than the maximum, for the new salary Pay Band/Grade or Pay Opportunity.

2. An employee requesting a reduction within one year of a promotion shall have his/her salary reduced to the pay before the promotion plus any general pay increases that accrued during the performance of the supervisory duties.
3. It is considered to be in HSD's best interests to allow reductions without a decrease in salary when an employee's position is reclassified to a lower level because of reorganization, other changes effected by management, or a classification decision reversing a previous decision in the absence of any apparent changes in job functions.
4. When a filled position is assigned a classification with a lower Pay Band/Grade, the employee may elect to take a reduction or overfill the position in their current classification.

#### **046.6.12 Salary Upon Temporary Promotion**

An employee may be temporarily promoted for a period not to exceed 12 months to a temporarily or effectively vacant position for which HSD can certify that the employee possesses qualifications and abilities necessary for successful job performance. Subject to budget availability, upon a temporary promotion, an employee's base pay shall be increased within the range of five percent (5%) to fifteen percent (15%) of the employee's base pay, unless a lesser increase will result in reaching the maximum of the new Pay Band/Grade or a greater increase is necessary to bring the salary to the minimum of the new Pay Band/Grade. At the end of the temporary promotion, the employee's salary shall be returned to the hourly pay rate held prior to the temporary promotion, plus any authorized salary increases that accrued during the period of the temporary retention. At the end of the temporary promotion period, employees shall return to their former position without right of appeal.

#### **046.6.13 Salary Upon In Pay Band/Grade Adjustment**

- A. Subject to SPO approval, budget availability, and reflective of appropriate placement, an employee's salary may be increased up to ten percent (10%) during a fiscal year. An employee may receive more than one adjustment within a fiscal year, provided the salary increases do not exceed more than ten percent (10%) of the employee's base pay and the employee's base pay does not exceed the maximum of the assigned Pay Band/Grade. (NMAC 1.7.4.12.C) An employee's salary should be reflective of his/her demonstrated skill, competency and performance in their classification as tied to HSD's mission and established performance-based measures.

- B. The following provisions set forth standards for implementing this policy within HSD.
1. Requests for In-Pay Band/Grade adjustments must be accompanied by a fiscal impact analysis of the request on the current and future fiscal years of the Division. The request must include cost projections and budgetary information documenting the Division's ability to absorb the impact of the proposed adjustments. The request must be reviewed by HSD's Administrative Services Division (ASD).
  2. Requests for all In-Pay Band/Grade adjustments must be approved by the Office of the Secretary.

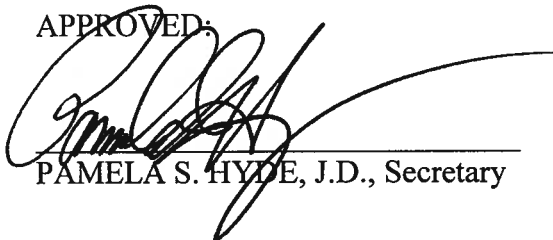
**046.6.14 Holiday Pay**

- A. When an authorized holiday falls on an employee's regularly scheduled work day and the employee is not required to work, the employee shall be paid at their hourly rate of pay for the number of hours they would have normally worked.
- B. Full-time employees, whose normal work schedule does not include the day observed as a holiday, shall be entitled to time off equal to the employee's normal workday, once the holiday leave has accrued.
- C. Employees required to work on the day a holiday is observed shall be compensated at straight time for all hours actually worked and additional compensatory time at one and one-half times their usual hourly rate of pay.
- D. Part-time employees whose normal work schedule does not include the day a holiday is observed shall not be compensated for the holiday.
- E. Employees who have been charged absence without leave (AWOL) on the workday prior to or directly following a holiday shall not be paid for the holiday.

**046.6.15 References**

1.7.4 NMAC 1978, Pay

APPROVED:



PAMELA S. HYDE, J.D., Secretary

DATE:



9/21/09

**GENERAL ADMINISTRATION  
EMPLOYEE**

**046 WORK SCHEDULES AND COMPENSATION****046.7 Unrestricted Call-Back Policy****046.7.1 Purpose**

To define terms and conditions for the Human Services Department (HSD) to compensate employees on unrestricted call-back status after leaving the premises following the normal work day.

**046.7.2 Definitions**

- A. "Employee" means, for purposes of this policy, a person in a non-supervisory or non-management position.
- B. "Report to work" means accomplishing the necessary task working on-site or remotely.
- C. "Unrestricted call-back status" means non-duty hours when an employee is provided with a pager, cell phone, or other electronic device and required to report to work as soon as practical from the time contact is made.

**046.7.3 Policy**

An HSD employee can be placed on "unrestricted call-back status" to be able to report to work whether in person or remotely. An employee on unrestricted call-back status is not required to remain in any specific geographical area or required to report to work within a specific time period. Employees on such status may decline to return to work when contacted if they acknowledge they are not fit to report to duty, without penalty, discipline or other reprisal.

**046.7.4 Call-Back Compensation**

Employees who are called by management to report to work shall be guaranteed a minimum of two (2) hours of pay for actual hours worked at the applicable straight time or overtime rate. Call-back that results in overtime is paid in compensatory time. Employees shall (1) be compensated in accordance with the provisions of overtime if the time worked results in overtime; or (2) be paid their hourly rates, if the time worked does not result in overtime. Call-back time for employees who return to work shall commence at the time the employee begins travel and ends at the completion of the call-back assignment.


**046.7.5 References**

1.7.4.14 NMAC

1.7.4.15 NMAC

HSD ITD Unrestricted Call-Back Procedures


APPROVED:



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PAMELA S. HYDE, J.D., Secretary

DATE:



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**GENERAL ADMINISTRATION  
EMPLOYEE**

**046 WORK SCHEDULES AND COMPENSATION**

**046.8 Teleworking Policy**

**046.8.1 Purpose**

The purpose of the policy is to define the terms and conditions for an employee of the Human Services Department (HSD) to telework.

**046.8.2 Definitions**

“Employee” means a permanent, term, temporary, or emergency HSD employee.

“IT” means information technology.

“Telework” means to work from an office significantly nearer to the employee’s home than the employee’s principle place of employment, resulting in a reduced commute by the employee. The office may not include the employee’s home or other residential living spaces.

“Teleworker” is an employee who, for at least one or more days in a particular pay period, works at an alternate workplace to produce an agreed upon work product.

**046.8.3 Policy**

Given the nature of work at the Human Services Department (HSD), its positions are generally not conducive to alternate work sites. Teleworking is allowed where there are tangible benefits to HSD and transparent service delivery to its customers.

**046.8.4 Eligible Position**

An eligible position has measurable quantitative or qualitative results-oriented standards of performance that is structured to be performed independently of others and with minimal need for support and can be scheduled at least one day a pay period to participate in teleworking without impacting service quality or organizational operations. The eligibility of a position may change depending on circumstances.

**046.8.5 Employee Eligibility**

Approval of teleworking will be based upon the following employee eligibility requirements:

1. satisfactorily meeting performance standards, terms and conditions of employment of their position;
2. completed their probationary period;
3. satisfactory attendance and timeliness;
4. received no written disciplinary actions in the past twelve months.

#### **046.8.6 Conditions**

- A. The teleworkers' conditions of employment with the state remain the same as for non-teleworking HSD employees. The employee shall adhere to all HSD, state and federal policies, rules and regulations while teleworking. If remote access is required, HSD's Chief Information Officer or designee must give formal approval in accordance with HSD and state IT policies.
- B. Participating in the Teleworking Program is voluntary.
- C. The employee must verify that the alternate work facilities used for telework purposes are safe and suitable for purposes of the employee's work
- D. The employee is covered under the New Mexico Workers' Compensation law if injured in the course of actually performing official duties at the designated telework workspace during the agreed-upon telework work hours.
- E. The supervision of the teleworker is the responsibility of their immediate supervisor. Measurable performance standards must be established and monitored. The employee must maintain contact with the office as specified in the work schedule, agency policy or procedures, and telework agreement.
- F. Management reserves the right to make on-site visits to the alternate work location for the purposes of determining if the site is conducive to product work, if agency equipment is properly secured and is being used for the purpose it is intended.
- G. Participation can be rescinded or denied at the sole discretion of management for valid reasons including but not limited to operational needs, workload, and employee performance. Two weeks notice of rescission will be provided unless compelling or emergency circumstances require a shorter notice period.
- H. In the case of a state-declared emergency or under direction from the Office of the Governor or the State Personnel Office, the Secretary or designee can modify the terms and conditions including granting blanket authorization to telework for those positions that the Division Director has authorized.

#### **046.8.7 Exception to the Policy.**

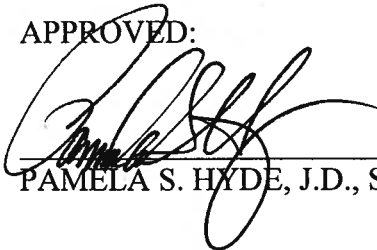
When an employee is unable to meet the eligibility requirements and in extenuating

circumstances, the HSD Secretary, at his or her discretion, may grant an employee an exception to this policy if the supervisor recommends an exception, the Division Director agrees, the quality and quantity of the employee's work does not decline, and if the exception will not cause a disruption to the productivity and work flow of the agency or Division.

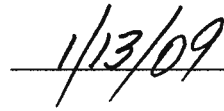
**046.8.8 References**

SPO Alternative Work Schedule Policy Guidelines (SPO-2008-028-005)  
Collective Bargaining Agreement

APPROVED:

  
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PAMELA S. HYDE, J.D., Secretary

DATE:

  
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1/13/09