

541P MALICIOUS AND SADISTIC CONDUCT PROHIBITION

I. PURPOSE

New Discoveries Montessori Academy strives to provide safe, secure and respectful learning environments for all students, staff and visitors in the school building, on school grounds, school buses and at school-sponsored activities. Malicious and sadistic conduct, like other disruptive or violent behavior, is conduct that interferes with a student's ability to learn and a teacher's ability to educate.

This policy protects students, staff and independent contractors against sadistic or malicious conduct and sexual exploitation on the basis of actual or perceived race, ethnicity, color, creed, national origin, immigration status, sex, marital status, familial status, socioeconomic status, physical appearance, sexual orientation, including gender identity and expression, academic status related to student performance, disability, status with regard to public assistance, age, military status, unfavorable discharge from military service, association with a person or group with one or more of the aforementioned actual or perceived characteristics, or any other distinguishing characteristic defined in current Minnesota Statutes Chapter 363A. This policy also protects any student or adult who voluntarily participates in any district function or activity, whether the student is enrolled or the adult is employed in the district or not.

II. DEFINITIONS

Malicious and sadistic conduct" means creating a hostile learning environment by acting with the intent to cause harm by intentionally injuring another without just cause or reason or engaging in extreme or excessive cruelty or delighting in cruelty.

- A. "Remedial response" means a measure to stop and correct prohibited conduct, prevent prohibited conduct from recurring, and protect, support, and intervene on behalf of the student or adult who is the target of the prohibited conduct. Remedial response also means a measure to stop and correct retaliation for asserting, alleging, reporting or providing information about prohibited conduct (retaliation) or knowingly making a false report about prohibited conduct (false report), prevent retaliation or false reports from recurring and protect, support and intervene on behalf of the student or adult who is the target of the prohibited conduct.
- B. "Immediately" means as soon as possible but in no event longer than 24 hours.
- C. "District employee" includes board members, administrators, educators, teaching partners, school counselors, social workers, psychologists, other school mental health professionals, nurses and other school-based/linked medical providers/health professionals, cafeteria workers, custodians, bus drivers, athletic coaches, extracurricular activities advisors, paraprofessionals, school employees, agents, volunteers, contractors, or persons subject to the

supervision and control of the New Discoveries Montessori Academy and its students.

III. PROHIBITIONS

Malicious and sadistic conduct is prohibited:

- A. During any school-sponsored or school-sanctioned programs, activities, events or trips.
- B. In the school building, school property, on school buses or other school-provided transportation, and at designated locations for students to wait for buses and other school-provided transportation.

Apparent permission or consent by a student or adult incurring malicious and sadistic treatment does not lessen the prohibitions contained in this policy. Retaliation against a victim, good faith reporter, or a witness of malicious and sadistic treatment is prohibited. False accusations or reports of malicious and sadistic treatment against another person are also prohibited.

IV. RESPONSE

- A. Board appointed administrator or designee (hereinafter administrator/designee) is the person responsible for receiving reports of malicious and sadistic treatment at the building level. They will ensure this policy and its procedures are fairly and fully implemented and serve as the primary contact on policy and procedural matters implicating both the district or school and department. If the complaint involves the administrator/designee, the complaint shall be made or filed directly with the board chair.
- B. When investigating a complaint, administrator/designee may take into account the following factors:
 - 1. The developmental ages and maturity levels of the parties involved.
 - 2. The levels of harm, surrounding circumstances, and nature of the behavior.
 - 3. Past incidences or past or continuing patterns of behavior.
 - 4. The relationship between the parties involved.
 - 5. The context in which the alleged incidents occurred.
- C. Investigation of a malicious and sadistic treatment incident shall be initiated within three school days of receipt of a report and be completed within 10 school days, unless the administrator/designee grants in writing an additional five-day extension due to extenuating circumstances. *See Attachment A for a template investigation process.*
- D. **Consequences** - Many conflicts can be resolved immediately and do not require reporting or creation of an incident report. Schools must respond to malicious and sadistic conduct in a manner tailored to the individual incident, considering the nature of the behavior, the developmental age of the person, and the person's history of problem behaviors and performance. Appropriate responses and consequences are outlined in the Student and Staff Handbooks and/or in *Attachment B*.
- E. **Appeal** - Any party who is not satisfied with the outcome of the investigation may appeal to the district's human rights officer within 10 school days of notification of the administrator/designee's decision. The human rights officer will conduct a review of the

appeal and, within 10 school days of receipt of the appeal, will affirm, reverse or modify the findings of the report. The human rights officer shall notify the party requesting the appeal and the principal that its decision is final and shall document that notification in the incident report.

- F. **District Employees** - When it is determined that a district employee was aware prohibited conduct was taking place but failed to report it, the employee will be considered to have violated this policy. The board appointed administrator shall consider employee discipline for such violations, making reference to any applicable contract agreement. Remedies for offending contractors should be imposed according to their district contracts.
- G. **Reprisal** - The school district will take appropriate action against any student or district employee who retaliates against any person who reports alleged malicious and sadistic conduct or against any person who testifies, assists or participates in an investigation, or against any person who testifies, assists or participates in a proceeding or hearing relating to such malicious and sadistic conduct. Retaliation includes, but is not limited to, any form of intimidation, reprisal, harassment or intentional disparate treatment.

V. NOTICE AND DISSEMINATION OF REQUIREMENTS

The school district will give annual notice of this policy to students, parents or guardians, and district employees, and this policy shall appear in the student handbook and posted in an electronic format in the languages appearing on its district/school website. This policy should also be:

- A. Posted in the district and school building administrative offices and throughout each school building in areas accessible to students and district employees.
- B. Included in each school's student handbook on school policies.
- C. Be given to each school district employee and independent contractor at the time of entering into the person's employment contract.

VI. PROFESSIONAL DEVELOPMENT AND EDUCATION

- A. **Staff** - Professional development will be offered annually to build the skills of all district employees to implement this policy. The content of such professional development shall include, but not be limited to:
 - 1. Developmentally appropriate strategies to prevent incidents of malicious and sadistic conduct and to intervene immediately and effectively to stop them in a manner that does not stigmatize the victim.
 - 2. Information about the complex interaction and power differential that can take place between and among an actor, target and witness to the malicious and sadistic conduct.
 - 3. Research findings on malicious and sadistic conduct, including information about specific categories of students who have been shown to be particularly at risk, and any specific interventions that may be particularly effective for addressing bias-based malicious and sadistic conduct.
 - 4. Recognizing, responding to and reporting malicious and sadistic conduct.

- B. ***Student Education*** - The school shall incorporate into the school curriculum developmentally appropriate programmatic instruction to help students identify, prevent and reduce malicious and sadistic conduct and create a safe learning environment. The administrator/designee shall determine the scope and duration of the units of instruction and topics covered but should include evidence-based social-emotional learning to prevent and reduce discrimination and other improper conduct to engage all students in creating a safe and supportive school environment. ***See Attachment C for more information on student instruction.***

Legal References: MN Statutes Chapter 121A.0312 (Malicious and Sadistic Conduct)
MN Statutes, Chapter 121A.41-56 (Pupil Fair Dismissal Act)
MN Statutes, Chapter 363A (Minnesota Human Rights Act)

Cross References: NDMA Policy 514P (Student Bullying Prohibition)
NDMA Policy 506P (Student Discipline)
NDMA Policy 413P (Harassment & Violence)

Attachment A – Template for investigation process

SCHOOL DISTRICT ACTION

The administrator/designee shall perform the investigation.

1. Investigation of a malicious and sadistic conduct incident shall be initiated within three school days of receipt of a report and be completed within 10 school days, unless the administrator/designee grants in writing an additional five-day extension due to extenuating circumstances. The administrator/designee shall document the extension in the investigation report and shall notify the parties involved. The administrator/designee will make every effort to protect the confidentiality of those who report malicious and sadistic conduct incidents and is responsible for keeping and protecting access to any written records of the investigation.
2. Prior to the investigation of an incident, the administrator/designee will take immediate steps, at its discretion, to protect the alleged actor(s), target(s), bystander(s) or reporter pending completion of an investigation. Once an investigation is concluded, further steps will be taken as needed to assure the continued safety of the complainant from additional incidents of malicious and sadistic conduct or retaliation.
3. The purpose of the investigation is to make a determination as to whether a reported incident constitutes a case of malicious and sadistic conduct. These determinations will be made in consideration of the totality of the facts and the circumstances surrounding the incident, such as the nature of the behavior, past incidents or continuing patterns of behavior, the relationship between the parties involved and the context in which the alleged incident occurred.
 - a. Identifying the alleged actor(s), target(s) and bystander(s), as well as any adult who witnessed the incident or may have reliable information about it.
 - b. Conducting an individual interview in a private setting with the alleged actor and target. The alleged actor and target should never be interviewed together or in public. Individual interviews shall also be conducted in private with student and adult bystanders. The investigation may also consist of any other methods and documents deemed pertinent by the administrator/designee.
 - c. Determining how often the conduct occurred, any past incident or continuing pattern of behavior, and whether the target's education, including but not limited to, a negative impact on academic performance, educational opportunities and participation in school activities was affected.
 - d. Assessing the individual and school-wide effects of the incident relating to safety, and assigning school staff to create and implement a safety plan to prevent the recurrence of an incidence that will restore a sense of safety for the target and others who have been impacted.
 - e. If the administrator/designee determines the reported incident may involve criminal activity or the basis for criminal charges, information about the incident must be conveyed to the appropriate law enforcement authorities. As part of making this determination, the administrator/designee may wish to consult with either a law enforcement officer or legal counsel. Law enforcement shall only be contacted if all other available remedies have been exhausted.
 - f. When appropriate, preparing a report identifying his/her recommendation for individual consequences.
 - g. Comprehensively documenting the details of the investigation.
 - h. When the investigation is complete, the administrator/designee shall ensure the investigation report is attached to the incident report.

Attachment B – Additional information on disciplinary actions

Remedial actions may include:

For the person harmed: protect, support and intervene on behalf of the person who is the target of the prohibited conduct.

Support may include: referral to support staff for one-to-one support or social skills training; daily check-in and check-out with a trusted adult in the school; choice to participate in a restorative process, facilitated by a trained facilitator.

For the person who violated the prohibited conduct policy: schools may use multi-tiered levels of response that are individualized, consistent, reasonable, fair, age-appropriate and should match the severity of the person's behavior and their developmental age. The consequences must be a natural and logical match to the prohibited behavior; consequences must be paired with meaningful instruction and guidance; and must be carefully planned with well-defined outcomes.

Consequences may include: A referral to appropriate staff for teaching and re-enforcing appropriate school behavior: mini-courses or skill modules to guide restitution; a referral to participate in a restorative process facilitated by a trained facilitator if the person admits to having caused harm; a meeting between the administrator and the family of the student who did the harm; a coordinated behavior plan that may include behavior contracts with a plan to prevent the prohibited conduct from recurring; individual counseling and one-to-one support to change behavior.

Consequences may also include warning, suspension, exclusion, expulsion or transfer for a student or warning, correction plan, suspension, exclusion or termination for a district employee. The school should avoid using punitive discipline (detention, suspensions, and expulsions) if any other method or consequence can be used with fidelity. The school may review school-wide behavior data as well as the data related to the person who did the harm and the person harmed. If the investigator determines that a violation of this policy may be the result of school climate needs, the school may conduct classroom or school-wide training.

When an investigation determines that malicious and sadistic conduct occurred, the administrator/designee shall explain the consequences in a non-hostile manner, and shall impose any consequence immediately and consistently. The administrator/designee shall keep communicating and working with all parties involved until the situation is resolved. Some key indicators of resolution include:

- The actor is no longer engaging in malicious and sadistic conduct and is interacting civilly with the target.
- The target reports feeling safe and is interacting civilly with the actor.
- School staff observe an increase in positive behavior and social-emotional competency in the actor and/or the target.
- School staff observe a more positive climate in the physical location where malicious and sadistic conduct incidents were high.

REMEDIAL RESPONSE AND REFERRALS

The administrator/designee shall design and implement remedial measures to correct the problem behavior, prevent another occurrence of the problem, protect and provide support for the target of the malicious and sadistic conduct, and take corrective action for documented systemic problems related to malicious and sadistic conduct. The administrator/designee shall refer students who engage in

malicious and sadistic conduct to positive-behavior small-group interventions (for anger management, trauma or social skills) within the school, if possible, to reinforce the behavioral expectation they violated and increase their social-emotional competency. The administrator/designee shall ask a school mental health professional to refer targets of malicious and sadistic conduct to individual or group therapy where they can openly express their feelings about their malicious and sadistic conduct experience, or social-skills training and/or groups where they can practice assertiveness and coping mechanisms.

Attachment C – Student Instruction

Administration is encouraged to take such actions as deemed appropriate to accomplish the following goals:

- Engage students in creating a safe and supportive school environment.
- Partner with parents and other community members to develop and implement prevention and intervention programs.
- Engage all students and adults in integrating education, intervention and other remedial responses into the school environment.
- Train student bystanders to intervene in and report incidents of malicious and sadistic conduct and other prohibited conduct.
- Teach students to advocate for themselves and others.
- Prevent inappropriate referrals to special education of students who may engage in malicious and sadistic conduct or other prohibited conduct.
- Foster student collaborations to create a more conducive environment for a supportive school climate.

Possible units of instruction could include:

- Social emotional learning.
- Appropriate behavior online/on social media and cyberbullying awareness and response.
- Valuing diversity in school and society.
- Advocacy skills for themselves and others.
- Skills for solving problems, managing conflict, engaging in civil discourse, and recognizing, responding to, and reporting malicious and sadistic conduct.

The age-appropriate unit of instruction may be incorporated into the current courses of study regularly taught. Schools shall satisfy the documentation requirements established by the board appointed administrator or designee to ensure compliance with this curricular requirement.