

404P EMPLOYMENT BACKGROUND CHECKS

I. PURPOSE

The purpose of this policy is to maintain a safe and healthful environment at New Discoveries Montessori Academy in order to promote the physical, social, and psychological well-being of its students. To that end, NDMA will seek a criminal history background check for applicants who receive an offer of employment or such other background checks as provided by this policy. NDMA may also elect to do background checks of volunteers, independent contractors and student employees.

II. GENERAL STATEMENT OF POLICY

- A. New Discoveries Montessori Academy shall require that applicants for positions who receive an offer of employment submit to a criminal history background check. The offer of employment shall be conditioned upon a determination by NDMA that an applicant's criminal history does not preclude the applicant from employment.
- B. New Discoveries Montessori Academy specifically reserves any and all rights it may have to conduct background checks regarding current employees or applicants without the consent of such individuals.
- C. Adherence to this policy shall in no way limit New Discoveries Montessori Academy right to require additional information, or to use procedures currently in place or other procedures to gain additional background information concerning employees, applicants, volunteers, independent contractors and student employees.

III. PROCEDURES

- A. Normally an applicant will not commence employment until New Discoveries Montessori Academy receives the results of the criminal history background check. NDMA may conditionally hire, for no more than 30 days, an applicant pending completion of the background check, but shall notify the applicant that the applicant's employment may be terminated based on the result of the background check. Background checks will be performed by or through the Minnesota Bureau of Criminal Apprehension (hereinafter "the BCA"); NDMA reserves the right to also have criminal history background checks conducted by other organizations or agencies, providing NDMA complies with the basic requirement of the state law.
- B. An applicant who is offered employment must sign a criminal history consent form, which provides permission for New Discoveries Montessori Academy to conduct a criminal history background check. If the applicant fails to provide the District with a signed Background Investigation Authorization Form at the time the applicant

- receives a job offer, the applicant will be considered to have voluntarily withdrawn the application for employment.
- C. New Discoveries Montessori Academy may use the results of a criminal background check conducted at the request of another school hiring authority if:
 - 1. the results of the criminal background check are on file with the other school hiring authority or otherwise accessible;
 - 2. the other school hiring authority conducted a criminal background check within the previous 12 months;
 - 3. the applicant executes a written consent form giving the District access to the results of the check; and
 - 4. there is no reason to believe that the applicant has committed an act subsequent to the check that would disqualify the applicant for employment.
 - D. For all non Minnesota residents who are offered employment, or the opportunity to provide athletic coaching services or other extracurricular academic coaching services (paid or unpaid), New Discoveries Montessori Academy shall request a criminal history background check on such applicants from the Superintendent of the BCA and from the government agency performing the same function in the resident state, or if no government entity performs the same function in the resident state, from the Federal Bureau of Investigation. NDMA may contract with a private vendor or company to provide these services. Such applicants must provide an executed criminal history consent form.
 - E. When required, applicants must provide fingerprints to assist in a criminal history background check. If the fingerprints provided by the applicant are unusable, the applicant will be required to submit another set of prints.
 - F. Copies of this policy shall be available in the School's Office, and will be distributed to applicants for employment and individuals who are offered the opportunity to provide athletic coaching services or other extra curricular academic coaching services upon request. The need to submit to a criminal history background check may be included with the basic criteria for employment in the job posting and job advertisements.
 - G. The applicant will be informed of the results of the criminal background check(s) to the extent required by law.
 - H. If the criminal history background check precludes employment with the District, the applicant will be so advised.
 - I. New Discoveries Montessori Academy may apply these procedures to volunteers, independent contractors or student employees as though they were applicants for employment.

IV. INVESTIGATION OF DISCIPLINARY ACTIONS TAKEN AGAINST PROSPECTIVE TEACHERS

- A. At the time New Discoveries Montessori Academy conducts the criminal history background check required under subdivision 1 on an individual offered employment as a teacher, NDMA must contact the Minnesota Board of Teaching to determine whether the Board has taken disciplinary action against the teacher based on a Board determination that sexual misconduct or attempted sexual misconduct occurred

between the teacher and a student. If disciplinary action has been taken based on this type of misconduct, NDMA must obtain access to data that are public under section 13.41, subdivision 5, that relate to the substance of the disciplinary action. In addition, NDMA must require the individual to provide information in the employment application regarding all current and previous disciplinary actions in Minnesota and other states taken against the individual's teaching license as a result of sexual misconduct or attempted sexual misconduct with a student and indicate to the applicant that intentionally submitting false or incomplete information is a ground for dismissal.

- B. New Discoveries Montessori Academy may hire or otherwise allow an individual to provide a service to a school pending completion of a background check under subdivision 1 or obtaining notice of a Minnesota Board of Teaching action under subdivision 1a but shall notify the individual that the individual's employment or other service may be terminated based on the result of the background check or Minnesota Board of Teaching action. NDMA is not liable for failing to hire or for terminating an individual's employment or other service based on the result of a background check or Minnesota Board of Teaching action under this section.
- C. For purposes of this paragraph, New Discoveries Montessori Academy must inform an individual if the individual's application to be an employee or volunteer in the District has been denied as a result of a background check conducted under this section. NDMA must also inform an individual who is a current employee or volunteer if the individual's employment or volunteer status with NDMA is being terminated as a result of a background check conducted under subdivision 4.
- D. Definitions. For purposes of this section:
 - 1. "School or district" shall mean a school as defined by Minnesota law, except a home school, and shall include a service cooperative, a special education cooperative, a charter school, an intermediate school district and a joint powers district.
 - 2. "Security violation" means failing to prevent or failing to institute safeguards to prevent the access, use, retention, or dissemination of information in violation of the security and management control outsourcing standard established by the state compact officer under section 299C.58, article I, paragraph (2), clause (B).
 - 3. new information: "criminal history" shall mean all data maintained in criminal history records compiled by the Bureau of Criminal Apprehension, the Federal Bureau of Investigation or similar governmental agency of states other than Minnesota or countries other than the United States of America, including, but not limited to:
 - a. fingerprints;
 - b. photographs;
 - c. identification data;
 - d. arrest data;
 - e. prosecution data;
 - f. criminal court data;
 - g. custody and supervision data.
 - 4. "provider of children's services" shall mean a business or organization, whether public, private, for profit, nonprofit or

voluntary, that provides children's services, including a business or organization that licenses or certifies others to provide children's services.

5. "children's services" means the provision of care, treatment, education, training, instruction or recreation to children.

6. "child or children" means persons under the age of eighteen (18).

7. "conviction or conviction of a crime" means a criminal conviction or adjudication of delinquency for an offense that would be a crime if committed by an adult. This shall be limited to convictions for felonies, gross misdemeanors, and misdemeanors for which a jail sentence may be imposed.

V. CRIMINAL HISTORY CONSENT FORM

A form to obtain consent for a criminal history background check is included with this policy.

Legal References:

Minn. Stat. § 13.04, Subd. 4 (Inaccurate or Incomplete Data)

Minn. Stat. § 123B.03 (Background Checks)

Minn. Stat. § 123B.03, Subd. 1 (Background Checks Required)

Minn. Stat. § 123B.03, Subd. 1., Subd. 1a (Investigation of Disciplinary Actions Taken Against Prospective Teachers)

Minn. Stat. §§ 299C.60-299C.64 (Minnesota Child Protection Background Check Act)

Minn. Stat. § 364.09(b) (Exception for School Districts)