

# South Dakota Compilation of School Discipline Laws and Regulations

Prepared: March 31, 2023

#### Introduction

This compilation presents school discipline-related laws and regulations for U.S. states, U.S. territories, and the District of Columbia, and, where available, links to education agency websites or resources related to school discipline and student conduct. The discipline laws and regulations presented in this compilation have been categorized by type of specific discipline issue covered, according to an organizational framework developed by the National Center for Safe and Supportive Learning Environments (NCSSLE). For example, one major category encompasses all laws or regulations governing states or territories that mandate specific disciplinary sanctions (such as suspension) for specific offenses (such as drug possession on school grounds). The school discipline laws and regulations were compiled through exhaustive searches of legislative websites that identified all laws and regulations relevant to each specific category. Compiled materials were subsequently reviewed by state education agency (SEA) representatives in the 50 states, Washington D.C., and the U.S. territories.

Discipline categories were not mutually exclusive. Laws and regulations often appeared across multiple categories. For jurisdictions with more extensive laws covering a breadth of topical areas, relevant sections were excerpted from the larger legislative text for inclusion in the appropriate discipline category. Laws, ordered by chapter and section number, appear first within each category followed by regulations. All laws and regulations listed within categories in the compilation also appear in the sources cited section of the document, which lists laws by chapter and section number and title, and where available, includes active hyperlinks to source websites supported or maintained by state legislatures. Additional links to government websites or resources are provided at the end of this document.

#### Notes & Disclaimers

To the best of the preparer's knowledge, this Compilation of School Discipline Laws and Regulations is complete and current as of March 2023. Readers should also note that the information in this document was compiled from individual sources that are created by each jurisdiction and which are maintained and updated with varying frequencies. Readers should consult the source information provided directly in order to check for updates to laws and regulations reported in this document or to conduct further research.

For further information, including definitions of the different policy categories, please refer to the <u>Discipline Laws and Regulations Compendium</u> posted on the Center's website.

#### Prepared by:



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## South Dakota State Codes Cited

## **South Dakota Codified Laws**

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<u>13-32-4.</u>	School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings
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<u>13-32-4.7.</u>	Due process procedures-Promulgation of early reinstatement rules
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<u>13-32-7.</u>	Possession of firearms or dangerous weapon on public elementary or secondary school premises or in vehicle or building as misdemeanor-Exceptions
<u>13-32-9.</u>	Suspension from extracurricular activities for controlled substances violation-Unified Judicial System to give certain notices
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<u>13-64-1.</u>	School board may implement school sentinel program
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#### Title 23. Law Enforcement

#### **Chapter 23-3 Law Enforcement agencies**

23-3-35. Powers of commission

#### Title 26. Minors

#### **Chapter 7A. Juvenile Court**

<u>26-7A-126.</u> Law enforcement treatment as juvenile cited violation-Procedure-Report to state's

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<u>26-7A-127.</u> Action by state's attorney for juvenile cited violation

## **South Dakota Regulations**

#### **South Dakota Administrative Rules**

#### **Education**

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24:05:26:03.	Written report required
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#### **Article 24:07. Student Due Process**

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 Right of appeal

 24:07:03:07.
 Attendance policies

#### Chapter 24:07:04. Expulsion procedure

24:07:04:01.	Written report required
24:07:04:02.	Notice of hearing
24:07:04:03.	Right of waiver
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education and related services

## **Article 24:55. Public School Accountability System**

#### Chapter 24:55:01. Definitions

24:55:01:01. Definitions

#### Codes of Conduct

## Authority to Develop and Establish Codes of Conduct

#### **LAWS**

#### § 13-32-1. Disciplinary authority over students on school premises.

Superintendents, principals, supervisors, and teachers have disciplinary authority over all students while the students are in school or participating in or attending school sponsored activities whether on or off school premises. Superintendents and principals may also discipline students for aggressive or violent behavior that disrupts school or that affects a health or safety factor of the school or its programs.

#### **REGULATIONS**

No relevant regulations found.

## Scope

#### **LAWS**

#### § 13-32-1. Disciplinary authority over students on school premises.

Superintendents, principals, supervisors, and teachers have disciplinary authority over all students while the students are in school or participating in or attending school sponsored activities whether on or off school premises. Superintendents and principals may also discipline students for aggressive or violent behavior that disrupts school or that affects a health or safety factor of the school or its programs.

# § 13-32-2. Physical force authorized when reasonable and necessary-Attendance at school functions away from premises-Authority of bus drivers.

Superintendents, principals, supervisors, and teachers and their aids and assistants, have the authority, to use the physical force that is reasonable and necessary for supervisory control over students. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premises and to school bus drivers while students are riding, boarding, or leaving the buses.

#### **REGULATIONS**

No relevant regulations found.

## **Communication of Policy**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

# In-School Discipline

## **Discipline Frameworks**

### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

## **Teacher Authority to Remove Students From Classrooms**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

## **Alternatives to Suspension**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

# Conditions on Use of Certain Forms of Discipline

## **Corporal Punishment**

#### **LAWS**

§ 13-32-2. Physical force authorized when reasonable and necessary-Attendance at school functions away from premises-Authority of bus drivers.

Superintendents, principals, supervisors, and teachers and their aids and assistants, have the authority, to use the physical force that is reasonable and necessary for supervisory control over students. Like authority over students is given any person delegated to supervise children who have been authorized to attend a school function away from their school premises and to school bus drivers while students are riding, boarding, or leaving the buses.

#### **REGULATIONS**

No relevant regulations found.

#### Search and Seizure

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

#### **Restraint and Seclusion**

#### **LAWS**

§ 13-32-20. Policy for school district employees on use of restraint and seclusion.

The school board of each school district shall adopt or revise a school district policy for school district employees on the use of restraint and seclusion. The policy shall contain the following provisions:

- (1) A procedure for notifying the parent or guardian of the student, unless the student is emancipated, of an incident requiring the use of restraint or seclusion;
- (2) A prohibition on the use of prone restraint, defined as physical pressure applied to any part of the student's body to keep the student in a face down position on the floor or other surface, except when the use is necessary and reasonable in manner and moderate in degree; and
- (3) A prohibition on the use of involuntary confinement of a student locked alone in a room, unless there is a clear and present danger.

#### **REGULATIONS**

# Exclusionary Discipline: Suspension, Expulsion, and Alternative Placement

## **Grounds for Suspension or Expulsion**

#### **LAWS**

# § 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

#### § 13-32-5. Injury to school property as ground for suspension or expulsion.

Any student, who cuts, defaces, or otherwise injures any schoolhouse, equipment, or outbuilding thereof, is liable to suspension or expulsion.

#### **REGULATIONS**

## **Limitations or Conditions on Exclusionary Discipline**

#### **LAWS**

# § 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

# § 13-32-9. Suspension from extracurricular activities for controlled substances violation-Unified Judicial System to give certain notices.

Any person adjudicated, convicted, the subject of an informal adjustment or court-approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22- 42-15, is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one calendar year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year suspension may be reduced to thirty calendar days if the person participates in an assessment with a certified or licensed addiction counselor. If the

assessment indicates the need for a higher level of care, the student is required to complete the prescribed program before becoming eligible to participate in extracurricular activities. Upon a second adjudication, conviction, diversion, or suspended imposition of a sentence for possession, use, or distribution of controlled drugs, substances, or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substance as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one year suspension may be reduced to sixty calendar days if the person completes an accredited intensive prevention or treatment program. Upon a third or subsequent adjudication, conviction, diversion, or suspended imposition of sentence for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education. Upon such a determination in any juvenile court proceeding the Unified Judicial System shall give notice of that determination to the South Dakota High School Activities Association and the chief administrator of the school in which the person is participating in any extracurricular activity. The Unified Judicial System shall give notice to the chief administrators of secondary schools accredited by the Department of Education for any such determination in a court proceeding for any person eighteen to twenty-one years of age without regard to current status in school or involvement in extracurricular activities. The notice shall include name, date of birth, city of residence, and offense. The chief administrator shall give notice to the South Dakota High School Activities Association if any such person is participating in extracurricular activities.

Upon placement of the person in an informal adjustment or court-approved diversion program, the state's attorney who placed the person in that program shall give notice of that placement to the South Dakota High School Activities Association and chief administrator of the school in which the person is participating in any extracurricular activity.

As used in this section, the term, extracurricular activity, means any activity sanctioned by the South Dakota High School Activities Association. Students are ineligible to participate in activity events, competitions, and performances, but a local school district may allow a student to participate in practices.

#### § 13-32-9.1. Consequences imposed by local school districts.

No local school board may impose a lesser consequence than those established in § 13-32-9, but a local school district may adopt a policy, by local school board action, with more strict consequences to meet the needs of the district.

#### § 13-32-9.2. Reduced suspensions-Minimum requirements -Commencement of suspension.

If a suspension is reduced pursuant to § 13-32-9, a suspension for a first offense shall make the student ineligible for a minimum of two South Dakota High School Activities Association sanctioned events. If two sanctioned events for which the student is ineligible do not take place within the reduced suspension period, the student's suspension remains in effect until two sanctioned events for which the student is ineligible have taken place. If a suspension is reduced pursuant to § 13-32-9, a suspension for a second offense shall make the student ineligible for a minimum of six South Dakota High School Activities Association sanctioned events. If six sanctioned events for which the student is ineligible do not take place within the reduced suspension period, the student's suspension remains in effect until six sanctioned events for which the student is ineligible have taken place. To count toward the minimum number of events, the student must participate in the entire activity season and may not drop out or quit the activity to avoid suspension and the failure of a student to complete the entire activity season shall result in the student being ineligible for one year from the date of adjudication, conviction, the subject of

an internal adjustment or court approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency. A suspension that is not completed by the student during one activity season shall carry over to the next activity season in which the student participates. In addition, a suspension that is reduced pursuant to § 13-32-9 is only in effect during the South Dakota High School Activities Association's activity year, which begins on the first day of its first sanctioned event and concludes on the last day of its last sanctioned event. A reduced suspension that is not completed by the end of one activity year shall carry over to the next activity year.

#### A suspension begins on:

- (1) The day following the notification to a school administrator by the Unified Judicial System that a student has been adjudicated, convicted, the subject of an informal adjustment or court approved diversion program, or the subject of a suspended imposition of a sentence or a suspended adjudication of delinquency for possession, use, or distribution of controlled drugs, substances, or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substance prohibited by § 22-42-15 and the school administrator gives notice to the South Dakota High School Activities Association and the students; or
- (2) The day following the student's admission to a school administrator that the student committed an offense enumerated in subdivision (1), which shall be made with the student's parent or guardian present if the student is an unemancipated minor, and the school administrator gives notice to the South Dakota High School Activities Association.

#### **REGULATIONS**

#### 24:05:26.01:07. Attendance policies.

The attendance policy of a school district may not exclude a student from one or more classes or from a school for more than ten consecutive school days without providing the due process procedures in this chapter or chapter 24:07:03.

#### 24:05:26:08. Attendance policies.

The attendance policy of a school district may not exclude a pupil from a class or from a school for more than ten days without providing due process pursuant to this chapter.

#### 24:07:03:07. Attendance policies.

The attendance policy of a school district may not exclude a pupil from a class or from school for more than ten days without providing due process procedures pursuant to this chapter.

#### 24:07:04:06. Attendance policies.

The attendance policy of a school district may not exclude a student from one more classes or from a school for more than ten consecutive school days without providing the due process procedures in chapter or chapter 24:07:03.

# 24:07:04:07. Referral to placement committee of students in need of special education or special education and related services.

If a student identified as in need of special education or special education and related services pursuant to SDCI 13-37-1 is a subject of proposed expulsion, the procedure in § 24:06:26.01:08 applies.

#### **Due Process**

#### **LAWS**

# § 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities: and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

#### § 13-32-4.2. Procedure for suspension-Appeal-Hearing.

The school board in any district may authorize the summary suspension of pupils by principals of schools for not more than ten school days and by the superintendent of schools for not more than ninety school days. In case of a suspension by the superintendent for more than ten school days, the pupil or his parents or others having his custodial care may appeal the decision of the superintendent to the board of education. Any suspension by a principal shall be immediately reported to the superintendent who may revoke the suspension at any time. In event of an appeal to the board, the superintendent shall promptly transmit to the board a full report in writing of the facts relating to the suspension, the action taken by him and the reasons for such action; and the board, upon request, shall grant a hearing to the appealing party. No pupil may be suspended unless:

- (1) The pupil is given oral or written notice of the charges against him;
- (2) The pupil is given an oral or written explanation of the facts that form the basis of the proposed suspension; and
- (3) The pupil is given an opportunity to present his version of the incident.

In the event of a suspension for more than ten school days, if the pupil gives notice that he wishes to appeal the suspension to the board, the suspension shall be stayed until the board renders its decision, unless in the judgment of the superintendent of schools, the pupil's presence poses a continuing danger to persons or property or an ongoing threat of disrupting the academic process, in which case the pupil may be immediately removed from school, and the notice and hearing shall follow as soon as practicable.

#### § 13-32-4.7. Due process procedures-Promulgation of early reinstatement rules.

The administrative due process procedures established in ARSD 24:07:04 for the protection of students' rights in an expulsion procedure apply to the early reinstatement process established in §§ 13-32-4.4 to 13-32-4.7, and the South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to establish additional procedures for the early reinstatement process, including the development of early reinstatement conditions by school boards.

#### § 13-32-9.1. Consequences imposed by local school districts.

No local school board may impose a lesser consequence than those established in § 13-32-9, but a local school district may adopt a policy, by local school board action, with more strict consequences to meet the needs of the district.

#### **REGULATIONS**

#### 24:05:26.01:03. Request and notice of hearing.

If the superintendent finds grounds for expulsion from school, the procedure in § 24:07:04:02 applies.

#### 24:05:26.01:04. Right of waiver.

A competent student, if of the age of majority or emancipated, or the student's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date and at the time and place set in the hearing notice unless a different date, time, and place are agreed to by the parties. If the hearing is waived in writing, the school board may consider the matter at a regular or special meeting without further notice to the student or student's parents.

#### 24:05:26.01:05. Hearing procedure.

The school board is the hearing board and shall conduct the hearing in the following manner:

- (1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;
- (2) Each party may make an opening statement;
- (3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;
- (4) Each party may be represented by an attorney;
- (5) The school administration shall present its case first;
- (6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;

- (7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president, hearing officer, or other person authorized by law to take oaths or affirmations;
- (8) Each party may raise any legal objections to evidence;
- (9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;
- (10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;
- (11) Each party may make a closing statement;
- (12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during hearing. Consultation with any other person during deliberation may occur only if a representative of the student is present; and
- (13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion shall omit the name of the student and shall state the reason for the board's action. The school board shall notify the student's parent or parents or a student who is 18 years of age or older or who is an emancipated minor in writing of the decision. The notice shall state the length of the expulsion.

#### 24:05:26.01:06. Right of appeal.

The student may appeal an adverse decision by the school board to the circuit court.

#### 24:05:26:01. Suspension from school.

The suspension of pupils in need of special education or special education and related services includes the general due process procedures used for all pupils and the additional steps in the process specified in this chapter that a district must take when the action, behavior, or activity which resulted in the long-term suspension is the result of a pupil's disability.

#### 24:05:26:01.02. Written report required.

If an expulsion is anticipated because of a student's violation of rules or policies or for insubordination or misconduct, the procedure in § 24:07:04:01 applies.

#### 24:05:26:03. Written report required.

If a long-term suspension is anticipated because of a pupil's violation of a policy, the procedure in § 24:07:03:01 applies.

#### 24:05:26:04. Right to request hearing-Notice of hearing.

If the superintendent finds grounds for a long-term suspension from a class or classes, the procedure in § 24:07:03:02 applies.

#### 24:05:26:05. Right of waiver.

The pupil, if of the age of majority or emancipated, or the pupil's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date, time, and place set in the notice unless a different date, time, and place are agreed to by the parties.

#### 24:05:26:06. Hearing procedure.

The school board is the hearing board and shall conduct the hearing in the following manner:

- (1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;
- (2) Each party may make an opening statement;
- (3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;
- (4) Each party may be represented by an attorney;
- (5) The school administration shall present its case first;
- (6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device;
- (7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president or business manager;
- (8) Each party may raise objections; however, objections are limited to relevancy and scope of the question;
- (9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;
- (10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;
- (11) Each party may make a closing statement;
- (12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of the pupil is present; and
- (13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion shall omit the name of the pupil and shall state the reason for the board's action. The school board shall notify the pupil's parents or a pupil who is 18 years of age or older or an emancipated minor in writing of the decision. The notice shall state the length of the suspension.

#### 24:05:26:07. Right of appeal.

The pupil may appeal an adverse decision by the school board to the circuit court.

#### 24:05:26:08.02. Authority of hearing officer.

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

- (1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or
- (2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

The procedures under this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

#### 24:07:02:01. Short-term suspension procedure.

If a short-term suspension from a class, classes, or school is anticipated because of a pupil's violation of a policy, the principal or superintendent shall give oral or written notice to the pupil as soon as possible after discovery of the alleged violation, stating the facts that form the basis for the suspension. The pupil must be given the opportunity to answer the charges. If a pupil is suspended, the principal or superintendent shall give the parent oral notice, if possible, and shall send the parent or a pupil who is 18 years of age or older or an emancipated minor a written notice which provides information regarding the pupil's due process rights. A pupil who is an unemancipated minor may not be removed from the school premises before the end of the school day without contacting a parent unless the pupil's presence poses a continuing threat or danger, in which case the pupil may be immediately removed from the school and transferred into the custody of a parent or law enforcement.

#### 24:07:03:01. Written report required.

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

#### 24:07:03:02. Right to request hearing-Notice of hearing.

If the superintendent finds grounds for a long-term suspension from a class or classes, the superintendent may exclude the pupil from a class or classes by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor and may schedule a hearing. The notice shall contain the following minimum information:

- (1) The policy allegedly violated;
- (2) The reason for the disciplinary proceedings;
- (3) Notice of the right to request a hearing or waive the right to a hearing.
- (4) A description of the hearing procedure;
- (5) A statement that the pupil's records are available at the school for examination by the pupil's parent or authorized representative; and
- (6) A statement that the pupil may present witnesses.

If a hearing is requested, the superintendent shall give notice to each school board member of an appeal to the board for a hearing. The superintendent shall set the date, time, and place for the hearing and send notice by first class mail to each school board member and by certified mail, return receipt requested, to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor. If no hearing is requested or the hearing is waived, the action of the superintendent is final.

#### 24:07:03:03. Right of waiver.

The pupil, if of the age of majority or emancipated, or the pupil's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date, time, and place set in the notice unless a different date, time, and place are agreed to by the parties.

#### 24:07:03:04. Hearing procedure.

The school board is the hearing board and shall conduct the hearing in the following manner:

- (1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;
- (2) Each party may make an opening statement;
- (3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;
- (4) Each party may be represented by an attorney;
- (5) The school administration shall present its case first;
- (6) The hearing is closed to the public. A verbatim record of the hearing will be made and will be sealed pending court order;
- (7) Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president or business manager;
- (8) Each party may raise objections; however, objections are limited to relevancy and scope of the question;
- (9) All relevant evidence must be admitted; however, unproductive or repetitious evidence may be limited by the hearing officer;
- (10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;
- (11) Each party may make a closing statement;
- (12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney. Consultation with any other person during deliberation may occur only if a representative of the pupil is present; and
- (13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion must omit the name of the pupil and must state the reason for the board's action. The school board shall notify the pupil or the pupil's parents in writing of the decision. The notice must state the length of the suspension or expulsion.

#### 24:07:03:06. Right of appeal.

The student may appeal an adverse decision by the school board to the circuit court.

#### 24:07:04:01. Written report required.

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the student's removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

#### 24:07:04:02. Notice of hearing.

If the Superintendent finds grounds for expulsion from one or more classes or from school, the superintendent may exclude the student immediately by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to one or both of student's parents or to a student who is 18 years of age or older or an emancipated minor. The notice must contain the following information at a minimum:

- (1) The rule, regulation, or policy allegedly violated;
- (2) The reason for the disciplinary proceedings;
- (3) Notice of the right to request a hearing;
- (4) A description of the hearing procedure;
- (5) A statement that the student's records are available at the school for examination by the student's parent or parents or another authorized representative;
- (6) A statement that the student may present witnesses; and
- (7) A statement that the student may be represented by an attorney.

The superintendent shall set the date, time, and place for the school board hearing. The superintendent shall send notice of the hearing to each school board member by first class mail and to the student's parent or to a student who is 18 years of age or older or an emancipated minor by certified mail, return receipt requested. If the superintendent recommend expulsion, the school board must act on the recommendation before it is implemented.

#### 24:07:04:03. Right of waiver.

The student, if of the age of majority or emancipated, or the student's parent may waive the right to a hearing in writing to the superintendent. If the hearing is not waived, the hearing shall be held on the date and at the time and place set in the hearing notice unless a different date, time, and place are agreed to by the parties. If the hearing is waived in writing, the school board may consider the matter at a regular or special meeting without further notice to the student or the student's parents.

#### 24:07:04:04. Hearing procedure.

The school board is the hearing board and shall conduct the hearing in the following manner:

- (1) The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;
- (2) Each party may make an opening statement;
- (3) Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;
- (4) Each party may be represented by an attorney;
- (5) The school administration shall present its case first;
- (6) The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;
- (7) Witnesses may present only when testifying. All witnesses must take an oath or affirmation administered by the school board president, hearing officer or other person authorized by law to take oaths and affirmations;
- (8) Each party may rise any legal objection to evidence;
- (9) The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;

- (10) The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;
- (11) Each party may take a statement;
- (12) After the hearing, the school board shall continue to meet in executive session for deliberation. No one other that the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney who has not represented any if the parties to the hearing. Consultation with any other person during deliberation may occur only of a representative of the student is present; and
- (13) The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open reason for the board's action. The school board shall notify the student's parent or parents or a student who is 18 years of age or older or who is an emancipated minor in writing of the decision. The notice shall state the length of the expulsion.

#### 24:07:04:05. Right of appeal.

The student may appeal an adverse decision by the school board to the circuit Court.

## **Return to School Following Removal**

#### **LAWS**

#### § 13-32-4.3. Effect of student's suspension or expulsion on enrollment.

If any student is under suspension or expulsion in a school district, the student may not enroll in any school district until the suspension or expulsion has expired. The superintendent or school administrator of any school district may prohibit a student from enrolling in that school district if the student is under suspension or expulsion in a school in another state or in a nonpublic school in this state. Upon receiving a request for a student's permanent school records from the receiving district, the sending school shall provide the receiving district with written notice of any suspension or expulsion.

#### § 13-32-4.4. Early reinstatement of expelled student.

If a student is expelled from school as provided in § 13-32-4, the school board may grant the student an early reinstatement allowing the student to return to school before the end of the period of expulsion. § 13-32-4.5. Conditions for early reinstatement.

Any early reinstatement granted by a school board pursuant to § 13-31-4.4 may include one or more specific conditions established by the school board that the expelled student must meet, either prior to the granting of the early reinstatement or after the early reinstatement is granted and before the end of the period of expulsion. Any early reinstatement conditions established by the school board for an expelled student shall pertain to the reasons why the student was expelled, and the board shall provide notice of any early reinstatement conditions to the student's parent or guardian or to the student, if the student is at least eighteen years of age or is an emancipated minor, at the time the student is expelled.

#### § 13-32-4.6. Return to school upon fulfillment of conditions-Revocation of early reinstatement.

If the superintendent of a school district determines that an expelled student has met the early reinstatement conditions established pursuant to § 13-32-4.5 that the student is required to meet before the student may be granted early reinstatement, the superintendent may grant the student early reinstatement and allow the student to return to school.

If a student violates an early reinstatement condition that the student was required to meet after the student's early reinstatement, but before the end of the expulsion period, the superintendent of the school

district may revoke the student's early reinstatement. Within five days after revoking an early reinstatement, the superintendent shall provide written notice of the revocation including any early reinstatement condition that was violated by the student to the student's parent or guardian or to the student, if the student is at least eighteen years of age or an emancipated minor.

If a student's early reinstatement is revoked, the student's expulsion shall continue until the end of the original period of expulsion unless the student's expulsion is firearm-related and the original period of expulsion is modified by the superintendent pursuant to § 13-32-4.

#### § 13-32-4.7. Due process procedures-Promulgation of early reinstatement rules.

The administrative due process procedures established in ARSD 24:07:04 for the protection of students' rights in an expulsion procedure apply to the early reinstatement process established in §§ 13-32-4.4 to 13-32-4.7, and the South Dakota Board of Education may promulgate rules pursuant to chapter 1-26 to establish additional procedures for the early reinstatement process, including the development of early reinstatement conditions by school boards.

#### **REGULATIONS**

#### 24:05:26.01:08. Referral to IEP team for expulsion of students.

If a student identified in need of special education or special education and related services pursuant to SDCL 13-37-1 is the subject of proposed expulsion, the superintendent shall refer the matter to the placement committee. The placement committee shall determine whether the action, behavior, or activity which resulted in the expulsion is the result of the student's disability. If the placement committee determines that the expulsion is in an action, behavior, or activity by the student arising from the student's disability, the placement committee shall immediately prepare a revised individual educational plan to provide educational services to the student. The student's expulsion terminates upon implementation of the pupil's revised individual educational plan, the student shall continue to receive services under the original individual behavior, or activity was not the result of the student's disability, expulsion procedures may be instituted following notice to one or both parents. The student shall continue to receive special education and related services during the expulsion as directed by the placement committee as part of a revised individual education plan. If the parent does not agree with an alternative placement and pursues a due process hearing, the student's placement may not change until the completion of the proceedings and the child shall continue to receive services under the original individual educational plan.

#### 24:05:26:08.02. Authority of hearing officer.

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

- (1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or
- (2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

The procedures under this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

#### **Alternative Placements**

#### **LAWS**

# § 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

#### **REGULATIONS**

#### 24:05:26:08.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

(1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency;

- (2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency; or
- (3) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state education agency or a school district.

#### 24:05:26:08.02. Authority of hearing officer.

A hearing officer under this article hears and makes a determination regarding an appeal under this chapter. In making the determination under this section, the hearing officer may:

- (1) Return the student with a disability to the placement from which the student was removed if the hearing officer determines that the removal was a violation of this chapter or that the student's behavior was a manifestation of the student's disability; or
- (2) Order a change of placement of the student with a disability to an appropriate interim alternative educational setting for not more than 45 school days if the hearing officer determines that maintaining the current placement of the student is substantially likely to result in injury to the student or to others.

The procedures under this section may be repeated if the school district believes that returning the student to the original placement is substantially likely to result in injury to the student or to others.

#### 24:55:01:01. Definitions.

Terms used in this article mean:

(3) "Alternative school," programs outside of the traditional setting whereby students receive instruction as an extension of the regular or traditional school environment.

# Discipline Addressing Specific Code of Conduct Violations

## **Firearms and Other Weapons Violations**

#### **LAWS**

# § 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities:
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

# § 13-32-7. Possession of firearms or dangerous weapon on public elementary or secondary school premises or in vehicle or building as misdemeanor-Exceptions.

Any person, other than a law enforcement officer or school sentinel under § 13-64-1, who intentionally carries, possesses, stores, keeps, leaves, places, or puts into the possession of another person, any dangerous weapon, firearm, or air gun, whether or not the firearm or air gun is designed, adapted, used, or intended to be used primarily for imitative or noisemaking purposes, on or in any public elementary or secondary school premises, vehicle, or building, or on or in any premises, vehicle, or building used or

leased for public elementary or secondary school functions, whether or not any person is endangered by any action under this section, is guilty of a Class 1 misdemeanor. The provisions of this section do not apply to;

- (1) Use of a starting gun at an athletic event:
- (2) Any firearm or air gun at a:
  - (a) Firing range;
  - (b) Gun show;
  - (c) Supervised school or session for training in the use of firearms; or
  - (d) Ceremonial presence of unloaded weapons at color guard ceremonies;
- (3) Any nonpublic school;
- (4) Any church or other house of worship; or
- (5) Any nonpublic school located on the premises of a church or other house of worship.

#### **REGULATIONS**

#### 24:05:26.01:07.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

Weapons, drugs, and serious bodily injury. School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

#### 24:05:26:08.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

- (1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency;
- (2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency; or
- (3) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state education agency or a school district.

## **Students with Chronic Disciplinary Issues**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

## **Chronic Absenteeism and Truancy**

#### **LAWS**

#### § 13-27-11. Failure to send child to school as misdemeanor.

Any person having control of a child of compulsory school age who fails to have the child attend school, as required by the provisions of this title, or provide alternative instruction pursuant to § 13-27-3, is guilty of a Class 2 misdemeanor for the first offense. For each subsequent offense, a violator of this section is guilty of a Class 1 misdemeanor.

# § 13-27-15. Attendance records maintained by superintendent or president of board-Reports required.

Each superintendent, or the president of the school board in districts without a superintendent, is responsible for maintaining an accurate record of the attendance of all persons of compulsory school age. He shall, at regular intervals, report the names of all compulsory school age persons, not excused from school, who do not or who irregularly attend an accredited school to the truancy officer on blanks provided for that purpose. He shall include reasons for the absences in the report.

# § 13-27-20. Complaints against persons responsible for truancy-Contents of complaint-Verification.

Each truancy officer shall make and file truancy complaints, and any teacher, school officer, or any citizen may make and file a truancy complaint, before a circuit court judge, against any person having control of a child of compulsory school age who is not attending school or whose attendance is irregular. The complaint shall state the name of the parent, guardian or person responsible for the control of the child.

The complaint shall be verified by oath upon belief of the complainant.

# § 13-32-4.1. Attendance policy-Adoption by school board-Suspension and expulsion power unaffected.

The school board of every school district may adopt an attendance policy in accordance with procedural due process rules established by the South Dakota board of education pursuant to § 13-32-4. Any attendance policy adopted pursuant to this section is not to be construed as limiting the powers of the school board of a school district to suspend or expel students pursuant to § 13-32-4.

# § 26-7A-126. Law enforcement treatment as juvenile cited violation-Procedure-Report to state's attorney.

The following allegations of delinquency and children in need of supervision shall be treated as juvenile cited violations by law enforcement:

- (1) Petty theft in the second degree pursuant to § 22-30A-17.3;
- (2) Intentional damage to property, four hundred dollars or less, pursuant to § 22-34-1;
- (3) Purchase, possession, or consumption of alcoholic beverage by person under twenty-one years pursuant to § 35-9-2 in accordance with subdivision 26-8B-2(5); and
- (4) Truancy pursuant to subdivision 26-8B-2(1).

The issuing officer shall notify the child and the child's parent, guardian, or custodian that a hearing on the citation for a cited violation shall be held before a judicial circuit court judge within ten days of issuance of the citation or on the next available court date and be treated as a confidential juvenile matter. The hearing shall be held pursuant to § 26-7A-36 and the case records shall be treated as confidential consistent with the provisions of §§ 26-7A-114, 26-7A-115, 26-7A-116, 26-7A-120, and 26-7A-27. A cited

violation is not an adjudication or a child in need of supervision or delinquency proceeding. In lieu of a citation, pursuant to subdivision 26-7A-126(4), a school official may file a report with the state's attorney. A report may also be filed with the state's attorney in lieu of a citation if the conduct occurs in conjunction with another offense that is not subject to the juvenile cited violation process.

#### § 26-7A-127. Action by state's attorney for juvenile cited violation.

If a state's attorney is informed that a citation or report has been issued for a juvenile cited violation, the state's attorney may take any action permitted pursuant to § 26-7A-10, except that a state's attorney may only file a petition pursuant to subdivision 26-7A-10(5) if:

- (1) The child is cited or a report is filed pursuant to subdivision 26-7A-126(1), (2), or (4); or
- (2) The child is cited pursuant to subdivision 26-7A-126(3), and has two or more prior judgments for the same violation.

If the state's attorney intends to proceed on a petition for a violation of the provisions in § 26-7A-126 pursuant to subdivision (1) or (2) in this section, the provisions of § 26-7A-11.1 apply.

#### **REGULATIONS**

#### 24:05:26.01:07. Attendance policies.

The attendance policy of a school district may not exclude a student from one or more classes or from a school for more than ten consecutive school days without providing the due process procedures in this chapter or chapter 24:07:03.

#### 24:05:26:08. Attendance policies.

The attendance policy of a school district may not exclude a pupil from a class or from a school for more than ten days without providing due process pursuant to this chapter.

#### 24:07:03:07. Attendance policies.

The attendance policy of a school district may not exclude a pupil from a class or from school for more than ten days without providing due process procedures pursuant to this chapter.

#### 24:07:04:06. Attendance policies.

The attendance policy of a school district may not exclude a student from one more classes or from a school for more than ten consecutive school days without providing the due process procedures in chapter or chapter 24:07:03.

#### Substance Use

#### **LAWS**

# § 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

(1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;

- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

# § 13-32-9. Suspension from extracurricular activities for controlled substances violation-Unified Judicial System to give certain notices.

Any person adjudicated, convicted, the subject of an informal adjustment or court-approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22- 42-15, is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one calendar year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year suspension may be reduced to thirty calendar days if the person participates in an assessment with a certified or licensed addiction counselor. If the assessment indicates the need for a higher level of care, the student is required to complete the prescribed program before becoming eligible to participate in extracurricular activities. Upon a second adjudication, conviction, diversion, or suspended imposition of a sentence for possession, use, or distribution of controlled drugs, substances, or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substance as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one year suspension may be reduced to sixty calendar days if the person completes an accredited intensive prevention or treatment program.

Upon a third or subsequent adjudication, conviction, diversion, or suspended imposition of sentence for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity

at any secondary school accredited by the Department of Education. Upon such a determination in any juvenile court proceeding the Unified Judicial System shall give notice of that determination to the South Dakota High School Activities Association and the chief administrator of the school in which the person is participating in any extracurricular activity. The Unified Judicial System shall give notice to the chief administrators of secondary schools accredited by the Department of Education for any such determination in a court proceeding for any person eighteen to twenty-one years of age without regard to current status in school or involvement in extracurricular activities. The notice shall include name, date of birth, city of residence, and offense. The chief administrator shall give notice to the South Dakota High School Activities Association if any such person is participating in extracurricular activities.

Upon placement of the person in an informal adjustment or court-approved diversion program, the state's attorney who placed the person in that program shall give notice of that placement to the South Dakota High School Activities Association and chief administrator of the school in which the person is participating in any extracurricular activity.

As used in this section, the term, extracurricular activity, means any activity sanctioned by the South Dakota High School Activities Association. Students are ineligible to participate in activity events, competitions, and performances, but a local school district may allow a student to participate in practices.

#### § 13-32-12. Disciplinary action regarding self-administration of medication.

If any student uses the medication in a manner other than prescribed, the student may be subject to disciplinary action by the school. However, the disciplinary action may not limit or restrict the student's immediate access to the medication.

#### **REGULATIONS**

#### 24:05:26.01:07.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

Weapons, drugs, and serious bodily injury. School district personnel shall follow the procedures under § 24:05:26:08.01 if an expulsion is anticipated because of a student's violation of rules or policies pertaining to weapons and drugs.

#### 24:05:26:08.01. Authority of school personnel-Weapons, drugs, and serious bodily injury.

School personnel may remove a student to an appropriate interim alternative setting for not more than 45 school days, without regard to whether the behavior is determined to be a manifestation of the student's disability, if:

- (1) The student carries a weapon to or possesses a weapon at school, on school premises, or at school or to a school function under the jurisdiction of a state or local education agency;
- (2) The student knowingly possesses or uses illegal drugs or sells or solicits the sale of a controlled substance while at school, on school premises, or at a school function under the jurisdiction of a state or local educational agency; or
- (3) The student has inflicted serious bodily injury upon another person while at school, on school premises, or at a school function under the jurisdiction of the state education agency or a school district.

# **Gang-related Activity**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

## **Bullying, Harassment, or Hazing**

#### **LAWS**

#### § 13-32-14. Adoption of bullying policy.

If a school district does not have a bullying policy, the school district shall follow the model bullying policy in § 13-32-19 until such time as the school district adopts its own bullying policy. Nothing in §§ 13-32-14 to 13-32-19, inclusive, supplants or preempts an existing school district policy, except that no school district policy prohibiting bullying, whether it is existing or adopted pursuant to §§ 13-32-14 to 13-32-19, inclusive, may contain any protected classes of students.

#### § 13-32-15. Bullying defined.

Bullying is a pattern of repeated conduct that causes physical hurt or psychological distress on one or more students that may include threats, intimidation, stalking as defined in chapter 22-19A, physical violence, theft, destruction of property, any threatening use of data or computer software, written or verbal communication, or conduct directed against a student that:

- (1) Places a student in reasonable fear of harm to his or her person or damage to his or her property; and either
- (2) Substantially interferes with a student's educational performance; or
- (3) Substantially disrupts the orderly operation of a school.

For the purposes of §§ 13-32-14 to 13-32-19, inclusive, bullying also includes retaliation against a student for asserting or alleging an act of bullying.

#### § 13-32-16. Bullying policy requirements.

Each school district policy developed pursuant to §§ 13-32-14 to 13-32-19, inclusive, shall contain the following provisions:

- (1) A statement prohibiting bullying and a definition of bullying that includes the definition listed in § 13-32-15:
- (2) A description of the type of behavior expected from each student of the school district, and the consequences for a student of the school district who commits an act of bullying;
- (3) A procedure for reporting an act of bullying, including provisions that permit a person to anonymously report such an act, although formal disciplinary action may not be based solely on an anonymous report; and
- (4) A procedure for the prompt investigation and response to any report of bullying, including a requirement that an investigation be conducted on any alleged incident of bullying committed against a child while the child is aboard a school bus, at a school bus stop, or at a school-sponsored event.

#### § 13-32-17. Action for damages from bullying-Immunity for reporting.

Any school district employee, school volunteer, student, or parent who promptly reports in good faith an act of bullying to the appropriate school district official as designated in the school district's policy, and who makes the report in compliance with the provisions of the school district's policy is immune from any cause of action for damages arising from failure to remedy the reported incident. Moreover, the provisions of §§ 13-32-14 to 13-32-19, inclusive, do not create a cause of action against any school district, school

district employee, school volunteer, student, or parent unless there has been substantial noncomplaince with the school district's policy resulting in injury to a protected person.

#### § 13-32-18. Incidents involving electronic devices.

Neither the physical location nor the time of day of any incident involving the use of computers or other electronic devices is a defense to any disciplinary action taken by a school district for conduct determined to meet the definition of bullying in § 13-32-15.

#### § 13-32-19. Model bullying policy.

The model bullying policy pursuant to §§ 13-32-14 to 13-32-19 is as follows:

Prohibition of Harassment, Intimidation, AND Bullying

The School District is committed to maintaining a constructive, safe school climate that is conducive to student learning and fostering an environment in which all students are treated with respect and dignity.

Persistent bullying can severely inhibit a student's ability to learn and may have lasting negative effects on a student's life. The bullying of students by students, staff, or third parties is strictly prohibited and will not be tolerated.

Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct directed toward a student that is so pervasive, severe, and objectively offensive that it:

- (1) Has the purpose of creating or resulting in an intimidating, hostile, or offensive academic environment; or
- (2) Has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.

Any staff member observing or suspecting bullying toward another individual is required to report the issue to his or her building supervisor.

This policy is in effect while students are on property within the jurisdiction of the School Board; while students are in school-owned or school-operated vehicles; and while students are attending or engaged in school-sponsored activities.

The District will act to investigate all complaints (formal or informal, verbal or written) of bullying. A formal complaint may be submitted to the building principal. Any student engaging in an act of bullying is subject to discipline pursuant to the District's student discipline procedure.

This policy may not be interpreted to prohibit civil exchange of opinions or debate protected under the state or federal constitutions if the opinion expressed does not otherwise materially or substantially disrupt the education process or intrude upon the rights of others.

#### **REGULATIONS**

No relevant regulations found.

## **Dating and Relationship Violence**

#### **LAWS**

No relevant laws found.

#### REGULATIONS

# Prevention, Behavioral Intervention, and Supports

# **State Model Policies and Implementation Support**

#### **LAWS**

#### § 13-32-14. Adoption of bullying policy.

If a school district does not have a bullying policy, the school district shall follow the model bullying policy in § 13-32-19 until such time as the school district adopts its own bullying policy. Nothing in §§ 13-32-14 to 13-32-19, inclusive, supplants or preempts an existing school district policy, except that no school district policy prohibiting bullying, whether it is existing or adopted pursuant to §§ 13-32-14 to 13-32-19, inclusive, may contain any protected classes of students.

#### § 13-32-16. Bullying policy requirements.

Each school district policy developed pursuant to §§ 13-32-14 to 13-32-19, inclusive, shall contain the following provisions:

- (1) A statement prohibiting bullying and a definition of bullying that includes the definition listed in § 13-32-15:
- (2) A description of the type of behavior expected from each student of the school district, and the consequences for a student of the school district who commits an act of bullying;
- (3) A procedure for reporting an act of bullying, including provisions that permit a person to anonymously report such an act, although formal disciplinary action may not be based solely on an anonymous report; and
- (4) A procedure for the prompt investigation and response to any report of bullying, including a requirement that an investigation be conducted on any alleged incident of bullying committed against a child while the child is aboard a school bus, at a school bus stop, or at a school-sponsored event.

#### § 13-32-19. Model bullying policy.

The model bullying policy pursuant to §§ 13-32-14 to 13-32-19 is as follows:

Prohibition of harassment, intimidation, and bullying

The School District is committed to maintaining a constructive, safe school climate that is conducive to student learning and fostering an environment in which all students are treated with respect and dignity.

Persistent bullying can severely inhibit a student's ability to learn and may have lasting negative effects on a student's life. The bullying of students by students, staff, or third parties is strictly prohibited and will not be tolerated.

Bullying consists of repeated physical, verbal, non-verbal, written, electronic, or any conduct directed toward a student that is so pervasive, severe, and objectively offensive that it:

- (1) Has the purpose of creating or resulting in an intimidating, hostile, or offensive academic environment; or
- (2) Has the purpose or effect of substantially or unreasonably interfering with a student's academic performance which deprives the student access to educational opportunities.

Any staff member observing or suspecting bullying toward another individual is required to report the issue to his or her building supervisor.

This policy is in effect while students are on property within the jurisdiction of the School Board; while students are in school-owned or school-operated vehicles; and while students are attending or engaged in school-sponsored activities.

The District will act to investigate all complaints (formal or informal, verbal or written) of bullying. A formal complaint may be submitted to the building principal. Any student engaging in an act of bullying is subject to discipline pursuant to the District's student discipline procedure.

This policy may not be interpreted to prohibit civil exchange of opinions or debate protected under the state or federal constitutions if the opinion expressed does not otherwise materially or substantially disrupt the education process or intrude upon the rights of others.

#### **REGULATIONS**

No relevant regulations found.

## **Multi-tiered Frameworks and Systems of Support**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

#### **Prevention**

#### <u>LAWS</u>

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

# Social-emotional Learning (SEL)

#### **LAWS**

#### § 13-33-6.1. Character development instruction.

Unless the governing body elects, by resolution, effective for not less than one or more than four school terms, to do otherwise, character development instruction shall be given in all public and nonpublic elementary and secondary schools in the state to impress upon the minds of the students the importance of citizenship, patriotism, honesty, self discipline, self respect, sexual abstinence, respect for the contributions of minority and ethnic groups to the heritage of South Dakota, regard for the elderly, and respect for authority.

No relevant laws found.

#### **REGULATIONS**

## **Trauma-informed Practices**

## **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

# **Mental Health Literacy Training**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

No relevant regulations found.

# **School-based Behavioral Health Programs**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

# Monitoring and Accountability

## **Formal Incident Reporting of Conduct Violations**

#### **LAWS**

# § 13-27-15. Attendance records maintained by superintendent or president of board-Reports required.

Each superintendent, or the president of the school board in districts without a superintendent, is responsible for maintaining an accurate record of the attendance of all persons of compulsory school age. He shall, at regular intervals, report the names of all compulsory school age persons, not excused from school, who do not or who irregularly attend an accredited school to the truancy officer on blanks provided for that purpose. He shall include reasons for the absences in the report.

#### **REGULATIONS**

#### 24:05:26:03. Written report required.

If a long-term suspension is anticipated because of a pupil's violation of a policy, the procedure in § 24:07:03:01 applies.

#### 24:07:03:01. Written report required.

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

#### 24:07:04:01. Written report required.

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the student's removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

#### **Parental Notification**

#### **LAWS**

#### § 13-27-16. Warnings by school boards to send children to school-Report to truancy officer.

Each school board shall warn parents or persons in control of children of compulsory school age that the children must enter school and attend regularly, and shall report the parents or persons in control of the children to the truancy officer for the district if the warning is not heeded. All school board members, superintendents, and teachers shall cooperate in the enforcement of the school attendance laws.

# § 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities:
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

#### **REGULATIONS**

#### 24:05:26.01:07.03. Parental notification.

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the school district must notify the parents of that decision and provide the parents the procedural safeguards notice described in chapter 24:05:30.

#### 24:05:26:08.03. Parental notification.

On the date on which the decision is made to make a removal that constitutes a change of placement of a student with a disability because of a violation of a code of student conduct, the school district shall notify the parents of that decision and provide the parents the procedural safeguards notice described in chapter 24:05:30.

#### 24:07:02:01. Short-term suspension procedure.

If a short-term suspension from a class, classes, or school is anticipated because of a pupil's violation of a policy, the principal or superintendent shall give oral or written notice to the pupil as soon as possible after discovery of the alleged violation, stating the facts that form the basis for the suspension. The pupil must be given the opportunity to answer the charges. If a pupil is suspended, the principal or superintendent shall give the parent oral notice, if possible, and shall send the parent or a pupil who is 18 years of age or older or an emancipated minor a written notice which provides information regarding the pupil's due process rights. A pupil who is an unemancipated minor may not be removed from the school premises before the end of the school day without contacting a parent unless the pupil's presence poses a continuing threat or danger, in which case the pupil may be immediately removed from the school and transferred into the custody of a parent or law enforcement.

#### 24:07:03:01. Written report required.

The superintendent must file a sealed, written report with the school board by the end of the fifth school day following the first day of the long-term suspension and may request that a hearing be held before the school board. The report must include the facts of the situation, the action taken, the reasons for the action, and the superintendent's decision or recommendation. The report must remain in the possession of the school board secretary or business manager, sealed and unavailable for review by individual school board members, until the time set for a hearing. The superintendent must send a copy of the report to the pupil's parent or to the pupil if the pupil is 18 years of age or older or an emancipated minor at the same time the report is filed with the school board's secretary or business manager.

#### 24:07:03:02. Right to request hearing-Notice of hearing.

If the superintendent finds grounds for a long-term suspension from a class or classes, the superintendent may exclude the pupil from a class or classes by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor and may schedule a hearing. The notice shall contain the following minimum information:

- (1) The policy allegedly violated;
- (2) The reason for the disciplinary proceedings;
- (3) Notice of the right to request a hearing or waive the right to a hearing.
- (4) A description of the hearing procedure;
- (5) A statement that the pupil's records are available at the school for examination by the pupil's parent or authorized representative; and

(6) A statement that the pupil may present witnesses.

If a hearing is requested, the superintendent shall give notice to each school board member of an appeal to the board for a hearing. The superintendent shall set the date, time, and place for the hearing and send notice by first class mail to each school board member and by certified mail, return receipt requested, to the pupil's parent or to a pupil who is 18 years of age or older or an emancipated minor. If no hearing is requested or the hearing is waived, the action of the superintendent is final.

#### 24:07:04:01. Written report required.

If expulsion is anticipated because of a student's violation of a rule or policy or for insubordination or misconduct, the superintendent must file a sealed written report with the school board no later than the end of the fifth school day following the first day of the student's removal; from one or more classes or from school and schedule a hearing before the school board. The report must include the facts of the situation, the action, the reasons for the action and the superintendent's recommendation. The report must remain in the possession of the school board secretary sealed and unavailable for review by individual school board members, until the time set for a hearing.

At the same time that the report is filed with the school board's secretary, the superintendent must send a copy of the report to the student's parent or to the student if the student is 18 years of age or older or is an emancipated minor.

#### 24:07:04:02. Notice of hearing.

If the Superintendent finds grounds for expulsion from one or more classes or from school, the superintendent may exclude the student immediately by using the short-term suspension procedure in § 24:07:02:01. The superintendent shall give a written notice to one or both of student's parents or to a student who is 18 years of age or older or an emancipated minor. The notice must contain the following information at a minimum:

- (1) The rule, regulation, or policy allegedly violated;
- (2) The reason for the disciplinary proceedings;
- (3) Notice of the right to request a hearing;
- (4) A description of the hearing procedure;
- (5) A statement that the student's records are available at the school for examination by the student's parent or parents or another authorized representative;
- (6) A statement that the student may present witnesses; and
- (7) A statement that the student may be represented by an attorney.

The superintendent shall set the date, time, and place for the school board hearing. The superintendent shall send notice of the hearing to each school board member by first class mail and to the student's parent or to a student who is 18 years of age or older or an emancipated minor by certified mail, return receipt requested. If the superintendent recommend expulsion, the school board must act on the recommendation before it is implemented.

# Data Collection, Review, and Reporting of Discipline Policies and Actions

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

## Partnerships between Schools and Law Enforcement

#### Referrals to Law Enforcement

#### **LAWS**

# § 13-32-4. School board to assist in discipline-Suspension and expulsion of pupils-Report to local authorities-Hearings-Alternative settings.

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities:
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

The period of expulsion may extend beyond the semester in which the violation, insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education shall promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

# § 13-32-9. Suspension from extracurricular activities for controlled substances violation-Unified Judicial System to give certain notices.

Any person adjudicated, convicted, the subject of an informal adjustment or court-approved diversion program, or the subject of a suspended imposition of sentence or suspended adjudication of delinquency for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22- 42-15, is ineligible to participate in any extracurricular activity at any secondary school accredited by the

Department of Education for one calendar year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one-year suspension may be reduced to thirty calendar days if the person participates in an assessment with a certified or licensed addiction counselor. If the assessment indicates the need for a higher level of care, the student is required to complete the prescribed program before becoming eligible to participate in extracurricular activities. Upon a second adjudication, conviction, diversion, or suspended imposition of a sentence for possession, use, or distribution of controlled drugs, substances, or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substance as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education for one year from the date of adjudication, conviction, diversion, or suspended imposition of sentence. The one year suspension may be reduced to sixty calendar days if the person completes an accredited intensive prevention or treatment program. Upon a third or subsequent adjudication, conviction, diversion, or suspended imposition of sentence for possession, use, or distribution of controlled drugs or substances or marijuana as defined in chapter 22-42, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by § 22-42-15, by a court of competent jurisdiction, that person is ineligible to participate in any extracurricular activity at any secondary school accredited by the Department of Education. Upon such a determination in any juvenile court proceeding the Unified Judicial System shall give notice of that determination to the South Dakota High School Activities Association and the chief administrator of the school in which the person is participating in any extracurricular activity. The Unified Judicial System shall give notice to the chief administrators of secondary schools accredited by the Department of Education for any such determination in a court proceeding for any person eighteen to twenty-one years of age without regard to current status in school or involvement in extracurricular activities. The notice shall include name, date of birth, city of residence, and offense. The chief administrator shall give notice to the South Dakota High School Activities Association if any such person is participating in extracurricular activities.

Upon placement of the person in an informal adjustment or court-approved diversion program, the state's attorney who placed the person in that program shall give notice of that placement to the South Dakota High School Activities Association and chief administrator of the school in which the person is participating in any extracurricular activity.

As used in this section, the term, extracurricular activity, means any activity sanctioned by the South Dakota High School Activities Association. Students are ineligible to participate in activity events, competitions, and performances, but a local school district may allow a student to participate in practices.

# § 26-7A-126. Law enforcement treatment as juvenile cited violation-Procedure-Report to state's attorney.

The following allegations of delinquency and children in need of supervision shall be treated as juvenile cited violations by law enforcement:

- (1) Petty theft in the second degree pursuant to § 22-30A-17.3;
- (2) Intentional damage to property, four hundred dollars or less, pursuant to § 22-34-1;
- (3) Purchase, possession, or consumption of alcoholic beverage by person under twenty-one years pursuant to § 35-9-2 in accordance with subdivision 26-8B-2(5); and
- (4) Truancy pursuant to subdivision 26-8B-2(1).

The issuing officer shall notify the child and the child's parent, guardian, or custodian that a hearing on the citation for a cited violation shall be held before a judicial circuit court judge within ten days of issuance of the citation or on the next available court date and be treated as a confidential juvenile matter. The hearing shall be held pursuant to § 26-7A-36 and the case records shall be treated as confidential consistent with the provisions of §§ 26-7A-114, 26-7A-115, 26-7A-116, 26-7A-120, and 26-7A-27. A cited

violation is not an adjudication or a child in need of supervision or delinquency proceeding. In lieu of a citation, pursuant to subdivision 26-7A-126(4), a school official may file a report with the state's attorney. A report may also be filed with the state's attorney in lieu of a citation if the conduct occurs in conjunction with another offense that is not subject to the juvenile cited violation process.

#### § 26-7A-127. Action by state's attorney for juvenile cited violation.

If a state's attorney is informed that a citation or report has been issued for a juvenile cited violation, the state's attorney may take any action permitted pursuant to § 26-7A-10, except that a state's attorney may only file a petition pursuant to subdivision 26-7A-10(5) if:

- (1) The child is cited or a report is filed pursuant to subdivision 26-7A-126(1), (2), or (4); or
- (2) The child is cited pursuant to subdivision 26-7A-126(3), and has two or more prior judgments for the same violation.

If the state's attorney intends to proceed on a petition for a violation of the provisions in § 26-7A-126 pursuant to subdivision (1) or (2) in this section, the provisions of § 26-7A-11.1 apply.

#### **REGULATIONS**

No relevant regulations found.

# School Resource Officer (SRO) or School Security Officer (SSO) Training or Certification

#### **LAWS**

#### § 13-64-3. School sentinel training course.

Any person who acts as a school sentinel, pursuant to § 13-64-1, shall first successfully complete a school sentinel training course as defined by the Law Enforcement Officers Standards Commission pursuant to subdivision 23-3-35(16).

#### § 23-3-35. Powers of commission.

In addition to powers conferred upon the Law Enforcement Officers Standards Commission elsewhere in this chapter, the commission may:

(16) Establish minimum educational and training standards for school sentinels authorized in Section 13-64-1.

#### **REGULATIONS**

No relevant regulations found.

# Authorizations, Memoranda of Understanding (MOUs), and/or Funding LAWS

#### § 13-64-1. School board may implement school sentinel program.

Any school board may create, establish, and supervise the arming of school employees, hired security personnel, or volunteers in such manner and according to such protocols as the board may believe to be most likely to secure or enhance the deterrence of physical threat and defense of the school, its students, its staff, and members of the public on the school premises against violent attack. Those so authorized shall be referred to as school sentinels.

#### § 13-64-2. Approval of law enforcement official required.

Before any school board may implement any school sentinel program pursuant to § 13-64-1, or effect any material changes in the personnel or protocols of the school sentinel program, the school board shall obtain the approval of the law enforcement official who has jurisdiction over the school premises. Any material changes in the school sentinel program's personnel or protocols shall be reported to all law enforcement agencies with jurisdiction over the school premises forthwith.

#### **REGULATIONS**

No relevant regulations found.

#### **Threat Assessment Protocols**

#### **LAWS**

No relevant laws found.

#### **REGULATIONS**

# State-Sponsored, Publicly Available Websites or Other Resources on School Discipline

Safe, supportive learning environments use disciplinary policies and practices that help students stay out of the justice system, while ensuring academic engagement and success for all students. The following resources provided by South Dakota provide additional context to state policy and regulations and, in some cases, may support the readers' efforts to provide a positive disciplinary school climate.

Title	Description	Website address (if applicable)	
	Description	website address (ii applicable)	
Website			
Multi-tiered System of Supports (MTSS), South Dakota Department of Education	Explains the history of MTSS in South Dakota, provide links to MTSS applications, MTSS and Behavior resources, external sources regarding PBIS and RTI, and presentations on MTSS, behavior support plans, and de-escalation.	https://doe.sd.gov/sped/mtss.as	
Positive Behavior Interventions and Supports, South Dakota Department of Education	Provides information and resources on implementing PBIS for achieving important social and learning outcomes while preventing problem behavior with all students.	https://doe.sd.gov/sped/pbis.asp x	
Safe and Drug, and Gun Free Schools, South Dakota Department of Education	Provides an overview of Safe Schools in South Dakota and contains links to Safe and Drug/Gun Free School data collection criteria, required actions, and definitions.	http://doe.sd.gov/ofm/sdgf.aspx	
School Safety, South Dakota Department of Education	Offers school safety resources for South Dakota schools including no- cost active threat training for schools and lists contact information of SD Department of Education and SD Department of Public Safety.	https://doe.sd.gov/schoolsafety/	
Student Due Process; Suspension and Expulsion, South Dakota Department of Education	Addresses due process for suspension, expulsion, and possession of tobacco, alcohol, drugs and firearms.	http://doe.sd.gov/oatq/dueproce s_s.aspx	
Documents			
Discipline in Detail, South Dakota Department of Education (February 2021)	Provides guidance for school administrators, parents, and advocates in South Dakota to use as a resource for discipline procedures for students with disabilities who violate a school district's code of student conduct.	https://doe.sd.gov/sped/docume nts/DISCIPLINE-1221.pdf	

Title	Description	Website address (if applicable)
Model Bullying Policy, South Dakota Legislature	Model policy addressing bullying in South Dakota schools.	http://sdlegislature.gov/statutes/ DisplayStatute.aspx?Type=Statu te&Statute=13-32-19
MTSS Manual, South Dakota Department of Education	Manual providing guidance to school districts and administrators to assist in the adaptation and implementation of MTSS.	https://doe.sd.gov/sped/documen ts/19-SDMTSS.docx
Other Resources		
South Dakota Youth Risk Behavior Survey (YRBS), South Dakota Department of Health	Youth Risk Behavior Survey (YRBS) used to monitor six priority health risk behaviors in youth.	https://doh.sd.gov/statistics/YRB S.aspx