



South Dakota Compilation of School Discipline Laws and Regulations

Prepared: January 12, 2016

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 (NCSSE). 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 January 2016. 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.

Note: This compilation was reviewed by the South Dakota Department of Education but is not officially endorsed by the South Dakota Department of Education.

For further information, including definitions of the different policy categories, please refer to the [Discipline Laws and Regulations Compendium](#) posted on the Center's website.

Prepared by:

Child Trends

7315 Wisconsin Avenue

Suite 1200W

Bethesda, Maryland 20814

EMT Associates, Inc.

1631 Creekside Drive

Suite 100

Folsom, California 95630



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- [24:07:04:03.](#) Right of waiver
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Referral to placement committee of students in need of special education or special education and related services

General Provisions

Authority to develop and establish rules of conduct

LAWS

§ 13-32-1. Disciplinary authority of school personnel over students.

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 of school personnel over students.

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. Supervisory control—Use of physical force when reasonable and necessary—Delegated authority at student functions away from premises.

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

No relevant regulations found.

In-School Discipline

Use of multi-tiered discipline approaches

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

No relevant regulations found.

Use of corporal punishment

LAWS

§ 13-32-2. Supervisory control—Use of physical force when reasonable an necessary—Delegated authority at student functions away from premises.

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.

Use of student and locker searches

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Other in-school disciplinary approaches

LAWS

§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.

REGULATIONS

No relevant regulations found.

Out-of-School and Exclusionary Discipline: Suspension, Expulsion, Restraint and Seclusion, and Alternative Placements

Grounds for possible suspension or expulsion

LAWS

§ 13-32-4. School board cooperation in enforcement of discipline—Suspension and expulsion by the board—Grounds—Length of firearm-related suspension—Due process—Local authorities Alternative solutions.

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. School property defacement 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

No relevant regulations found.

Grounds for mandatory suspension or expulsion

LAWS

§ 13-32-4. School board cooperation in enforcement of discipline—Suspension and expulsion by the board—Grounds—Length of firearm-related suspension—Due process—Local authorities Alternative solutions.

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 [...].

REGULATIONS

No relevant regulations found.

Limitations, conditions, or exclusions for use of suspension and expulsion

LAWS

§ 13-32-4. School board cooperation in enforcement of discipline—Suspension and expulsion by the board—Grounds—Length of firearm-related suspension—Due process—Local authorities Alternative solutions.

[...] 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

24:05:26:08. 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.

24:05:26.01:07. 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.

24:07:03:07. 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 SDCL 13-37-1 is the subject of proposed expulsion, the procedure in § 24:06:26.01:08 applies.

Administrative procedures related to suspension and expulsion

LAWS

§ 13-32-4. School board cooperation in enforcement of discipline—Suspension and expulsion by the board—Grounds—Length of firearm-related suspension—Due process—Local authorities Alternative solutions.

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. Suspension by school authorities—Rights of student—Appeal to board—Treatment of student pending 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. Administrative due process—Rules—Procedures.

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.

§ 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

24:07:01:01. Definitions.

Terms used in this article mean:

- (1) "Expulsion," the action of the school board that terminates a pupil's membership in school for not more than 12 consecutive months;
- (2) "Long-term suspension," the exclusion of a pupil by the superintendent or school board from a class or classes or from school for more than 10 but not more than 90 school days;
- (3) "Parent," a parent, guardian, or person in charge of a pupil;
- (4) "Policy," a rule, regulation, or standard enacted by a school district board;
- (5) "Short-term suspension," the exclusion of a pupil by a principal or superintendent from a class or from school for not more than 10 school days.

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.

24:07:03:08. Referral to placement committee of pupils in need of special education.

If a pupil identified as in need of special education or special education and related services pursuant to SDCL 13-37-1 is expelled or subjected to long-term suspension, the procedure in § 24:05:26:09 applies.

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 raise 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 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 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 session 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.

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 SDCL 13-37-1 is a subject of proposed expulsion, the procedure in § 24:06:26.01:08 applies.

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 if the student is receiving special education or special education and related services under an individualized education program.

24:05:26:01.01. Suspension from school—Definitions.

Terms used in this chapter and chapter 24:05:26.01 mean:

- (1) "Controlled substance," a drug or other substance identified under SDCL 34-20B-11 to 34-20B-26, inclusive;
- (2) "Dangerous weapon," a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury. The term does not include a pocket knife with a blade of less than 2 1/2 inches in length;
- (3) "Illegal drug," a controlled substance, but does not include such a substance that is legally possessed or used under the supervision of a licensed health-care professional or that is legally possessed or used under any other authority under SDCL 34-20B-11 to 34-20B-26, inclusive, or under any provision of federal law; and
- (4) "Serious bodily injury," bodily injury that involves:
 - (a) A substantial risk of death;
 - (b) Extreme physical pain;
 - (c) Protracted and obvious disfigurement; or
 - (d) Protracted loss or impairment of the function of a bodily member, organ, or mental faculty.

24:05:26:01.02. Case-by-case determination.

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this chapter, is appropriate for a student with a disability who violates a code of student conduct.

24:05:26:02. 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 procedure in § 24:07:02:01 applies.

24:05:26:02.01. Change of placement for disciplinary removals.

For purposes of removal of a student with a disability from the student's current educational placement under this chapter, a change of placement occurs if:

- (1) The removal is for more than ten consecutive school days; or
- (2) The student is subjected to a series of removals that constitute a pattern because:
 - (a) They cumulate to more than ten school days in a school year;
 - (b) Of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another; and
 - (c) The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals.

The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

24:05:26:02.02. Removals—Ten school days or less.

To the extent removal would be applied to students without disabilities, including alternative settings, school personnel may order the removal of a student with a disability from the student's current placement to an appropriate interim alternative educational setting or another setting, or they may order suspension for not more than ten consecutive school days, for any violation of a code of student conduct. Additional removals of not more than ten consecutive school days in that same school year may be ordered for separate incidents of misconduct if those removals do not constitute a change of placement under § 24:05:26:02.01.

24:05:26:02.03. Required services—No change of placement.

A school district need not provide services during periods of removal under § 24:05:26:02.02 to a student with a disability who has been removed from his or her current placement for ten school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed. If a student with a disability has been removed from his or her current placement for more than ten school days in that school year, and the removal is not for more than ten consecutive school days and is not a change in placement, the district, for the remainder of the removals, shall provide services to the extent necessary to enable the student to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are necessary to enable the student to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP.

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.

24:05:26:09.03. Manifestation determination review requirement.

Within ten school days of any decision to change the placement of a student with a disability because of a violation of a code of student conduct, the school district, the parent, and relevant members of the student's IEP team, as determined by the parent and the district, shall review all relevant information in the student's file, including the student's IEP, any teacher observations, and any relevant information provided by the parents to determine:

- (1) Whether the conduct in question was caused by, or had a direct and substantial relationship to, the student's disability; or
- (2) Whether the conduct in question was the direct result of the school district's failure to implement the IEP.

The conduct must be determined to be a manifestation of the student's disability if the district, the parent, and relevant members of the student's IEP team determine that a condition in either subdivision (1) or (2) of this section was met.

If the district, the parent, and relevant members of the student's IEP team determine that the condition described in subdivision (2) of this section was met, the district shall take immediate steps to remedy those deficiencies.

24:05:26:09.04. Determination that behavior was a manifestation.

If the school district, the parent, and relevant members of the IEP team determine that the conduct was a manifestation of the student's disability, the IEP team shall either:

- (1) Conduct a functional behavioral assessment, unless the district had conducted a functional behavioral assessment before the behavior that resulted in the change of placement occurred, and implement a behavioral intervention plan for the student; or
- (2) If a behavioral intervention plan already has been developed, review the behavioral intervention plan and modify it, as necessary, to address the behavior.

In addition, and except as provided in § 24:05:26:08.01, the IEP team shall return the student to the placement from which the student was removed, unless the parent and the district agree to a change of placement as part of the modification of the behavioral intervention plan.

24:05:26:09.05. Determination that behavior was not manifestation of disability—Additional authority of school personnel.

For disciplinary changes in placement that would exceed ten consecutive school days, if the behavior that gave rise to the violation of the school code is determined not to be a manifestation of the student's disability pursuant to this chapter, school personnel may apply the relevant disciplinary procedures to students with disabilities in the same manner and for the same duration as the procedures would be applied to students without disabilities, except as provided in this section.

A student with a disability who is removed from the student's current placement pursuant to this section or § 24:05:26:08.01 must:

- (1) Continue to receive educational services, as provided in this article, so as to enable the student to continue to participate in the general education curriculum, although in another setting, and to progress toward meeting the goals set out in the student's IEP; and

(2) Receive, as appropriate, a functional behavioral assessment, and behavioral intervention services and modifications, that are designed to address the behavior violation so that it does not recur.

24:05:26:09.06. Appeal.

The parent of a student with a disability who disagrees with any decision regarding placement under this chapter or with the manifestation determination, or a school district that believes that maintaining the current placement of the student is substantially likely to result in injury to the student or others, may appeal the decision by requesting a hearing. The hearing is requested by filing a complaint pursuant to this article.

24:05:26:09.07. Placement during appeals.

If an appeal under this chapter has been made by either the parent or the school district, the student must remain in the interim alternative educational setting pending the decision of the hearing officer or until the expiration of the time period specified in § 24:05:26:08.01 or 24:05:26:09.05, whichever occurs first, unless the parent and the state education agency or school district agree otherwise.

24:05:26:09.08. Expedited hearing—Procedures.

If a hearing is requested under this chapter, the parents or the school district involved in the dispute must have an opportunity for an impartial due process hearing consistent with the requirements of this article, except as provided in this section.

The department shall arrange the expedited due process hearing, which must occur within 20 school days of the date of the complaint requesting the hearing is filed. The hearing officer shall make a determination within ten school days after the hearing.

Unless the parents and school district agree in writing to waive the resolution meeting described in this section, or agree to use the mediation process described in chapter 24:05:30:

- (1) A resolution meeting must occur within seven days of receiving notice of the due process complaint; and
- (2) The due process hearing may proceed unless the matter has been resolved to the satisfaction of both parties within 15 days of the receipt of the due process complaint.

The decisions on expedited due process hearings are appealable consistent with chapter 24:05:30.

24:05:26:14. Protections for students not yet eligible.

A student who has not been determined to be eligible for special education and related services under this article and who has engaged in behavior that violated any rule or code of conduct of the school district, including any behavior described in this chapter, may assert any of the protections provided for in this article if the school district had knowledge that the student was a student with a disability before the behavior that precipitated the disciplinary action occurred. A school district is deemed to have knowledge that a student is a student with a disability if:

- (1) The parent of the student has expressed concern in writing to supervisory or administrative personnel of the appropriate educational agency, or a teacher of the student, that the student is in need of special education and related services;
- (2) The parent of the student has requested an evaluation of the student pursuant to this article; or
- (3) The teacher of the student, or other personnel of the district or other public agency has expressed specific concerns about a pattern of behavior demonstrated by the student directly to the director of special education of the district or to other supervisory personnel of the district.

A district is not deemed to have knowledge that the student is a student with a disability under this section, if the parent of the student has not allowed an evaluation of the student pursuant to this article, or

has refused services under this article, or the district conducted an evaluation consistent with this article and determined that the student was not a student with a disability.

If the district does not have knowledge that a student is a student with a disability before taking disciplinary measures against the student, the student may be subjected to the same disciplinary measures as measures applied to students without disabilities who engaged in comparable behaviors consistent with this chapter.

If a request is made for an evaluation of a student during the time period in which the student is subjected to disciplinary measures under this chapter, the evaluation must be conducted in an expedited manner. Until the evaluation is completed, the student shall remain in the educational placement determined by school authorities, which can include suspension or expulsion without educational services. If the student is determined to be a student with a disability taking into consideration information from the evaluation conducted by the district and information provided by the parents, the district shall provide special education and related services in accordance with the provisions of this article including the discipline procedures and free appropriate public education requirements.

24:05:26.01:01. Expulsion from school.

The expulsion of students in need of special education or special education and related services includes the general due process procedures used for all students and the additional steps in the process specified in this chapter that a district must take when the student is receiving special education or related services under an individual education plan.

24:05:26.01:01.01. Case-by-case determination.

School personnel may consider any unique circumstances on a case-by-case basis when determining whether a change in placement, consistent with the other requirements of this chapter, is appropriate for a student with a disability who violates a code of student conduct.

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

24:05:26.01:03. 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 to 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.

24:05:26.01:07.01. Authority of school personnel.

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.

24:05:26.01:07.02. Authority of hearing officer.

The authority of a hearing officer, in an expedited due process hearing, described under § 24:05:26:08.02, applies if an expulsion is anticipated because a student's behavior is substantially likely to result in injury to the student or to others.

24:05:26.01:08.01. Applicability of suspension procedures.

The suspension procedures described in §§ 24:05:26:09.02 to 24:05:26:09.08, inclusive, apply if an expulsion is anticipated.

24:05:26.01:13. Protections for students not yet eligible.

The procedures under § 24:05:26:14 apply for students who have not been determined eligible for special education or special education and related services if an expulsion is anticipated.

In-school suspension

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Return to school following removal

LAWS

§ 13-32-4.3. Enrollment in other school after suspension or expulsion—Duties of sending and receiving schools.

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. Early reinstatement with conditions.

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. 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. Administrative due process—Rules—Procedures.

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

24:05:26:09. Referral to placement committee for long-term suspension of pupils.

If a pupil identified as in need of special education or special education and related services pursuant to SDCL 13-37-1 is the subject of long-term suspension, a referral shall be made by the superintendent or chief administering officer to the district's IEP team.

24:05:26:01:08. Referral to placement committee 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 IEP team.

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.

Use of restraint and seclusion

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Alternative placements

LAWS

§ 13-32-4. School board cooperation in enforcement of discipline—Suspension and expulsion by the board—Grounds—Length of firearm-related suspension—Due process—Local authorities Alternative solutions.

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

REGULATIONS

24:05:26:02.01. Change of placement for disciplinary removals.

For purposes of removal of a student with a disability from the student's current educational placement under this chapter, a change of placement occurs if:

- (1) The removal is for more than ten consecutive school days; or
- (2) The student is subjected to a series of removals that constitute a pattern because:
 - (a) They cumulate to more than ten school days in a school year;
 - (b) Of factors such as the length of each removal, the total amount of time the student is removed, and the proximity of the removals to one another; and
 - (c) The student's behavior is substantially similar to the student's behavior in previous incidents that resulted in the series of removals.

The public agency determines on a case-by-case basis whether a pattern of removals constitutes a change of placement. This determination is subject to review through due process and judicial proceedings.

24:05:26:02.02. Removals—Ten school days or less.

To the extent removal would be applied to students without disabilities, including alternative settings, school personnel may order the removal of a student with a disability from the student's current placement to an appropriate interim alternative educational setting or another setting, or they may order suspension for not more than ten consecutive school days, for any violation of a code of student conduct. Additional removals of not more than ten consecutive school days in that same school year may be ordered for separate incidents of misconduct if those removals do not constitute a change of placement under § 24:05:26:02.01.

24:05:26:02.03. Required services—No change of placement.

A school district need not provide services during periods of removal under § 24:05:26:02.02 to a student with a disability who has been removed from his or her current placement for ten school days or less in that school year, if services are not provided to a student without disabilities who has been similarly removed. If a student with a disability has been removed from his or her current placement for more than ten school days in that school year, and the removal is not for more than ten consecutive school days and is not a change in placement, the district, for the remainder of the removals, shall provide services to the extent necessary to enable the student to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP. School personnel, in consultation with at least one of the student's teachers, shall determine the extent to which services are necessary to enable the student to participate in the general curriculum and to progress toward meeting the goals set out in the student's IEP.

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.

24:05:26:09.02. Determination of interim alternative educational setting.

The student's IEP team shall determine the interim alternative educational setting in which a student is placed under §§ 24:05:26:08.01, 24:05:26:02.01, and 24:05:26:09.05.

Disciplinary Approaches Addressing Specific Infractions and Conditions

Firearms (as required by the Gun-Free Schools Act)

LAWS

§ 13-32-4. School board cooperation in enforcement of discipline—Suspension and expulsion by the board—Grounds—Length of firearm-related suspension—Due process—Local authorities Alternative solutions.

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:

- (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.

[...] 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 [...]

§ 13-32-7. Presence of firearms on school premises or vehicles prohibited Misdemeanor— Exception for ceremonial events.

Any person, other than a law enforcement officer or school sentinel acting pursuant to §13-64-1, who intentionally carries, has in his possession, stores, keeps, leaves, places, or puts into the possession of another person, any firearm, or air gun, whether or not the firearm or air gun is designed, adapted, used, or intended primarily for imitative or noisemaking purposes, or any dangerous weapon, 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, whether or not any person is endangered by such actions, is guilty of a Class 1 misdemeanor. This section does not apply to starting guns while in use at athletic events, firearms, or air guns at firing ranges, gun shows, and supervised schools or sessions for training in the use of firearms. This section does not apply to the ceremonial presence of unloaded weapons at color guard ceremonies.

REGULATIONS

24:05:26.01:07.01. Authority of school personnel.

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 [...]

Other weapons

LAWS

No relevant laws found.

REGULATIONS

24:05:26.01:07.01. Authority of school personnel.

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[...]

Students with chronic disciplinary issues

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Attendance 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, 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.

§13-27-21. Warrant for arrest of parent, guardian, or responsible person—Summons of witnesses.

Upon filing of a complaint, the judge of a circuit court shall issue a warrant of arrest to the sheriff of the county directing him to bring the defendant before the court and to summon witnesses required to ascertain the facts in the case.

§13-27-23. Penalties invoked on finding of guilty.

If the judge finds the defendant guilty, he shall invoke the penal provisions of § 13-27-11 upon the defendant.

§13-27-28. Disobedience of circuit court order as contempt.

Any parent, guardian, or person in charge of a child, who refuses or neglects to obey any order of a circuit judge made as provided in this chapter, is, in addition to the penal provisions of § 13-27-11, guilty of contempt of court.

§ 13-32-4.1. Adoption of attendance policy—No limitation of suspension an expulsion power.

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.

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

- (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 complaint for a cited violation shall be held before a judicial circuit court judge within ten days of issuance of the summons 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.

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

When a state's attorney is informed that a complaint 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:

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

REGULATIONS

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.

24:05:26:01:07. 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.

24:07:03:07. 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 cooperation in enforcement of discipline—Suspension and expulsion by the board—Grounds—Length of firearm-related suspension—Due process—Local authorities Alternative solutions.

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;[...]

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 [...]

§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.

REGULATIONS

24:05:26.01:07.01. Authority of school personnel.

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:

- (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[...]

Bullying, harassment, or hazing

LAWS

§ 13-32-14. School districts required to adopt policy prohibiting bullying.

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. "Definition of bullying".

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. Required contents of bullying policy.

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

A statement prohibiting bullying and a definition of bullying that includes the definition listed in § 13-32-15;

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

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. Immunity from liability for good faith report of bullying—No cause of action without substantial noncompliance resulting in injury.

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 noncompliance with the school district's policy resulting in injury to a protected person.

§ 13-32-18. Bullying via computers or electronic devices subject to disciplinary action regardless of time or place.

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 established.

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.

Other special infractions or conditions

LAWS

§ 13-32-5. School property defacement 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.

§ 13-32-6. Intentional disturbance of school by students or others Prohibited—Misdemeanor.

A person, whether pupil or not, who intentionally disturbs a public or nonpublic school when in session or who intentionally interferes with or interrupts the proper order or management of a public or nonpublic

school by acts of violence, boisterous conduct, or threatening language, so as to prevent the teacher or any pupil from performing his duty, is guilty of a Class 2 misdemeanor.

§ 13-32-10. Definition of terms regarding self-administration of medication.

Terms used in this section and §§13-32-11 to 13-32-13, inclusive, mean:

- (1) "Medication," inhaled bronchodilator or auto-injectable epinephrine, or both;
- (2) "Parent," any person standing in parental relation;
- (3) "School," any public or nonpublic school;
- (4) "Self-administration of prescription medication," a student's discretionary use of prescription asthma or anaphylaxis medication, or both.

§ 13-32-11. Student self-administration of prescription asthma and anaphylaxis medication.

Any student with asthma or anaphylaxis may possess and self-administer prescription medication while on school property or at a school-related event or activity if:

- (1) The prescription medication has been prescribed for that student as indicated by the prescription label on the medication;
- (2) The self-administration is done in compliance with the prescription or written instructions from the student's physician or other licensed health care provider; and
- (3) A parent of the student provides to the school:
 - (a) Written authorization, signed by the parent, for the student to self-administer prescription medication while on school property or at a school-related event or activity;
 - (b) A written statement, signed by the parent, in which the parent releases the school district and its employees and agents from liability for an injury arising from the student's self-administration of prescription medication while on school property or at a school-related event or activity unless in cases of wanton or willful misconduct;
 - (c) A written statement from the student's physician or other licensed health care provider, signed by the physician or provider, that states:
 - (i) The student has asthma or anaphylaxis or both, and is capable of self-administering the prescription medication;
 - (ii) The name and purpose of the medication;
 - (iii) The prescribed dosage for the medication;
 - (iv) The times at which or circumstances under which the medication may be administered; and
 - (v) The period for which the medication is prescribed.

The physician's or provider's statement must be kept on file in the office of the school nurse of the school the student attends or, if there is not a school nurse, in the office of the principal of the school the student attends.

§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.

§ 13-32-13. Applicability of provisions regarding self-administration of medication.

The provisions of §§ 13-32-10 to 13-32-12, inclusive, do not apply to any of the following group living environments:

- (1) A facility operated by the Department of Corrections;
- (2) A facility operated by the Department of Human Services or the Department of Social Services;
- (3) A group care or residential treatment facility licensed by the Department of Social Services;
- (4) A residential treatment facility accredited by the Department of Human Services or the Department of Social Services;
- (5) A community support provider as defined in § 27B-1-17;
- (6) An intermediate care facility for individuals with intellectual disabilities;
- (7) A juvenile detention center or holding facility operated by a county; or
- (8) A hospital or health care facility as defined in § 34-12-1.1.

REGULATIONS

No relevant regulations found.

Prevention and Behavioral Interventions (Non-Punitive)

Prevention

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Behavioral interventions and student support services

LAWS

§ 13-32-3. Psychiatric treatment of student requires parental consent.

No public school administrator or teacher shall refer a student for psychiatric treatment within or outside the school without the prior written consent of such student's parent or guardian.

REGULATIONS

No relevant regulations found.

Professional development

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

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 cooperation in enforcement of discipline—Suspension and expulsion by the board—Grounds—Length of firearm-related suspension—Due process—Local authorities Alternative solutions.

[...] 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 [...]

REGULATIONS

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.

24:05:26:01:07.03. 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.

24:07:02:01. 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 students' 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.

Reporting and referrals between schools and law enforcement

LAWS

§ 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.

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 complaint for a cited violation shall be held before a judicial circuit court judge within ten days of issuance of the summons 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.

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

When a state's attorney is informed that a complaint 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 pursuant to subdivisions 26-7A-126(1) and (2); or
- (2) The child is cited pursuant to subdivisions 26-7A-126(3) and (4), and has two or more prior judgments for the same violation.

REGULATIONS

24:05:26:15. Referral to and action by law enforcement and judicial authorities.

Nothing in Part B of the Individuals with Disabilities Education Act prohibits a school district or other public agency from reporting a crime committed by a student with a disability to appropriate authorities or to prevent state law enforcement and judicial authorities from exercising their responsibilities with regard to the application of federal and state law to crimes committed by a student with a disability.

A school district or other public agency reporting a crime committed by a student with a disability shall ensure that copies of the special education and disciplinary records of the student are transmitted for consideration by the appropriate authorities to whom it reports the crime. A school district reporting a crime under this chapter may transmit copies of the student's special education and disciplinary records only to the extent that the transmission is permitted by the Family Educational Rights and Privacy Act, as amended to January 8, 2009.

24:05:26.01:14. Referral to and action by law enforcement and judicial authorities.

Reporting a crime committed by a student with a disability and the transmission of student records shall be implemented consistent with § 24:05:26:15.

Disclosure of school records

LAWS

No relevant laws found.

REGULATIONS

24:05:29:01. District policies and procedures on confidentiality of information.

Each school district shall develop and implement policies and procedures on the confidentiality of information consistent with this chapter.

24:05:29:19. Disciplinary information.

A local educational agency shall include in the records of a child with a disability a statement of any current or previous disciplinary action that has been taken against the child and transmit the statement to the same extent that the disciplinary information is included in, and transmitted with, the student records of nondisabled children.

The statement may include a description of any behavior engaged in by the child that required disciplinary action, a description of the disciplinary action taken, and any other information that is relevant to the safety of the child and other individuals involved with the child.

Consistent with the above policy, if a child transfers from one school to another, the transmission of any of the child's records shall include both the child's current individualized education program and any statement of current or previous disciplinary action that has been taken against the child.

Data collection, review, and reporting of disciplinary policies and actions

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Student Resource and Safety Officers (SROs/SSOs) and Truant/Attendance Officers

Authority and power to implement school arrest

LAWS

§13-27-19. Power of truancy officers to apprehend truant children—Supervisory control by secretary.

Each truancy officer has the powers of a deputy sheriff in the exercise of his duties, and shall apprehend without warrant children of compulsory school age who absent themselves from the place where the children are required to attend without an excuse, and place the children in the custody of the person having charge of the place where the children are by law required to attend. In the administration of his duties, each truancy officer is subject to the general supervisory control of the secretary of the Department of Education.

REGULATIONS

No relevant regulations found.

Certification or training

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

MOUs, authorization, and/or funding

LAWS

§ 13-27-14. Truancy officer employed by district—Duties—President of board acting where no officer employed.

The school board of each school district shall annually appoint and provide for the remuneration of one or more truancy officers, to enforce, under the school board's direction, the compulsory attendance laws within the district. In a school district failing to provide a truancy officer, the president of the school board is the truancy officer and is responsible for the enforcement of the compulsory attendance laws within the school district.

§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.

§13-27-16. 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.

§13-27-17. Investigations and records of truancy officer.

Each truancy officer shall carefully check the attendance and nonattendance of all persons required by law to attend school in the district or districts within his jurisdiction and shall keep an accurate record of those persons not in attendance or whose attendance is irregular.

§13-27-18. Neglect of duty by superintendent, president of board, school board, or truancy officer—Harboring or employment of truant child—Hindering attendance by child—Misdemeanor.

Any superintendent or school board president who fails to make prompt reports on attendance as required by law; any person who harbors or employs a child of compulsory school age not legally excused during the school term; the members of any school board who neglect or refuse to provide school facilities for children of their school district for at least nine months during the school year, or neglect to perform any other duties enumerated under the compulsory school attendance laws of this state; any truancy officer who neglects to perform the duties of his office; or any person who hampers or hinders a child of compulsory school age from attending a school which meets all legal requirements, or who interferes or attempts to interfere with the child's attendance is guilty of a Class 2 misdemeanor.

§13-27-19. Power of truancy officers to apprehend truant children—Supervisory control by secretary.

Each truancy officer has the powers of a deputy sheriff in the exercise of his duties, and shall apprehend without warrant children of compulsory school age who absent themselves from the place where the children are required to attend without an excuse, and place the children in the custody of the person having charge of the place where the children are by law required to attend. In the administration of his duties, each truancy officer is subject to the general supervisory control of the secretary of the Department of Education.

§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.

REGULATIONS

No relevant regulations found.

State Education Agency Support

State model policies and implementation support

LAWS

§ 13-32-14. School districts required to adopt policy prohibiting bullying.

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. Required contents of bullying policy.

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

A statement prohibiting bullying and a definition of bullying that includes the definition listed in § 13-32-15;

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

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 established.

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.

Funding appropriations

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Other or Uncategorized

Professional immunity or liability

LAWS

§ 13-32-17. Immunity from liability for good faith report of bullying—No cause of action without substantial noncompliance resulting in injury.

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 noncompliance with the school district's policy resulting in injury to a protected person.

REGULATIONS

No relevant regulations found.

Community input or involvement

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

Other or Uncategorized

LAWS

No relevant laws found.

REGULATIONS

No relevant regulations found.

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)
<i>Website</i>		
No relevant resources found		
<i>Documents</i>		
Discipline in Detail	Guide for school administrators, parents and advocates in South Dakota looking at discipline procedures for students with disabilities	http://doe.sd.gov/oess/documents/StdDisLaw.pdf
<i>Other Resources</i>		
No relevant resources found		