



File: JFA

## STUDENT DUE PROCESS LAWS

SDCL 13-32-4. School board to assist in discipline – Suspension and expulsion of pupils – Hearings – Alternative settings. The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of 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 SDCL 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 SDCL 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 SDCL 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.

SDCL 13-32-4.2. Procedure for suspension – Appeal – Hearing. The school board in any district may authorize the summary suspension of pupils by principals of schools for not more than ten school days and by the superintendent of schools for not more than ninety school days. In case of a suspension by the superintendent for more

than ten school days, the pupil or his parents or others having 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 related 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 when possible and 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;
- (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.

The Superintendent and Principals are hereby authorized to suspend District students as is set forth in SDCL 13-32-4, 13-32-4.2, and the related regulations.

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