

## **STUDENT DUE PROCESS RIGHTS**

Discipline in the schools is critical to the provision and implementation of public education. The Board and school administrators have the legal authority to deal with disruptive students and student misconduct. The United States Constitution and The South Dakota Constitution entitle all students to due process when they are subjected to deprivation of a property right. The Board recognizes the importance of safeguarding a student's constitutional rights.

Due process is an established course for judicial proceedings or other governmental activities designed to safeguard the legal right of the individual.

A student whose conduct may warrant suspension or expulsion shall be provided with appropriate due process. Due process, in the context of the administrative proceedings carried out by school authorities, refers to the notification and hearing procedures established by the South Dakota Board of Education

Due process procedures shall be fair and apply equally to all. Fairly enforcing due process procedures involves:

- Adequate and timely notice and an opportunity to prepare a defense;
- An opportunity to be heard at a reasonable time and in a meaningful manner and;
- The right to a speedy and impartial hearing on the merits of the case.

### **SPECIAL EDUCATION STUDENTS**

Students who attend public school on an individualized educational program (IEP) are subject to due process procedures established by the South Dakota Board of Education under administrative rules for special education. The administration shall consult with a student's individualized education program (IEP) team to balance student disciplinary actions with the provision of a free and appropriate public education for students with disabilities.

### **Legal References:**

ARSD 24:05:26	<u>Suspension</u>
ARSD 24:05:26.01	<u>Expulsion</u>
ARSD 24:05:30	<u>Procedural safeguards</u>
ARSD 24:07	<u>Student due process</u>
SDCL 1-26-26	<u>Ex parte consultations by agency personnel</u>
SDCL 13-32-4	<u>School board to assist in discipline</u>
SDCL 13-32-4.2	<u>Procedure for suspension</u>
SDCL 13-32-4.7	<u>Early reinstatement – Due Process</u>
POLICY ACAA	<u>Sexual Harassment</u>
POLICY JFCD	<u>Bullying</u>
POLICY JGD	<u>Student suspension and expulsion</u>

1<sup>st</sup> Reading-6/21/2016

2<sup>nd</sup> Reading-7/19/2016

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