

Student Due Process Rights

Each student has the right to an education and he/she also has the responsibility not to interfere with or threaten the education of others by his/her actions. Each student has the responsibility to attend school regularly and to abide by the policies and regulations of the school. Students have the right to see changes in school policies and regulations in an orderly manner by utilizing those channels provided for this purpose.

Expression: The primary liberties in a student's life have to do with the inquiry and learning, acquiring, and imparting knowledge and exchanging ideas. These processes require that students have the right to express opinions, to take stands, and to support causes either publicly or privately. There should be no unlawful interference by the school with these liberties or with the student's access to or expression of controversial points of view.

Speech: Every student has the right to express his/her opinion either verbally or symbolically as long as he/she does not infringe upon the rights of others. As an intellectual being, every student has a right to search vigorously for truth by examining opposing ideas and to espouse and express in any orderly manner whatever view commands the assent of his/her mind. Where soundness of position can neither be proved nor disproved with documentation, he/she shall in no way be penalized academically for holding those views. A student's responsibility must include personal concerns for the affect of the spoken word or symbolic expression on the personal reputation of others and a student has the right to have his/her own personal reputation protected accordingly. Consequently, personal attacks and obscenities are prohibited.

Petition: Students have the right to present petitions; however, the collecting of signatures of petitions shall not disrupt classroom procedures nor interfere with the educational process. Students shall not be subjected to disciplinary measures for initiating or signing a petition providing that the petition is free from obscenities, libelous statements, or personal attacks.

Press: School Sponsored Publications--Journalism provides many learning experiences. In a school community, students involved in student publications shall convey information with accuracy and insight in such a manner that truth shall remain predominant. In order to achieve the full learning experience, only materials alleged to contain the following should be withheld from the press: 1) libelous materials by current legal definition; 2) obscenity ; 3) materials which incite others to damage property, physically harm others, or seriously disrupt school activities or the educational process. The responsibility and authority for decisions based on the standards mentioned above are vested with the principal or to whomever he/she delegates the authority.

Non-School Sponsored Publications--Students who edit, publish, and/or wish to distribute non-school sponsored handwritten, printed, or duplicated matter among their fellow students within the schools must assume responsibility for the content of such publication and may be restricted as to the time and place of distribution. They may also be prohibited from distributing the materials if the principal determines that the material is libelous or obscene according to legal definition or would threaten to disrupt the educational process.

School Board and school administrators have the legal authority to deal with disruptive students and student misconduct. The Board recognizes that U.S. and South Dakota Constitutions entitle all students to Due Process when they are subjected to disciplinary actions such as suspension or expulsion.

Due Process, in the context of the administrative proceedings carried out by school authorities, refers to the notification and hearing procedures established by the State Board of Education.

Due Process procedures will conform to the following basic practices:

1. They must be fair
2. They must apply equally to all
3. They must be enforced in a fair manner, which 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
- 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), in addition to the basic practices established in this policy, are subject to Due Process procedures established by the State Board of Education under administrative rules for Special Education.

Legal References: SDCL 13-32-4; ARSD 24:07:01 et seq., 24:05:26 - 26.01

Revised: May 12, 1997; July 12, 2010