

**Policy
BULLYING****Descriptor Code: JFCD****SECTION 1 – Policy Statement**

The District is committed to maintaining a constructive, safe, and bullying-free school climate that is conducive to all students' educational opportunities and which fosters an environment in which all students are treated with respect and dignity. Bullying can inhibit a student's educational opportunities and may also have long-term negative effects on a student. Bullying of students shall not be tolerated and is strictly prohibited. Bullying of students from other schools who are at a District activity, parents, school employees, guests, visitors, volunteers and vendors of the District shall also not be tolerated and is strictly prohibited.

This policy shall not be interpreted or applied 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. However, conduct which substantially interferes with the work of the school, causes material and substantial interference with school work and discipline, and might reasonably have led school authorities to forecast substantial disruption of or material interference with school activities is not constitutionally protected speech and is therefore prohibited under this policy.

All students, parents, employees, guests, visitors, volunteers and vendors shall conduct themselves in a civil and responsible manner and in a manner consistent with school policies related to student, parent, employee and visitor conduct. This policy prohibiting bullying shall apply to all students, parents, employees, guests, visitors, volunteers and vendors while on school property, while attending or participating in school activities, on school-owned property or on non-school property, while in any school-owned or leased vehicle, while at a school bus stop, or when in a private vehicle located on school property during school or during school activities..

The District shall investigate all reported instances involving bullying. Unless a different person is designated by the Superintendent to conduct the investigation, the Principal of the school attendance center where the bullying is alleged to have occurred is responsible for investigating the alleged bullying. Allegations of bullying may also be reported by the administration to other authorities, including but not limited to law enforcement.

Students who violate this policy shall be subject to appropriate disciplinary action, up to and including expulsion. Employees who violate this policy shall be subject to appropriate disciplinary action, up to and including termination of employment. Parents, guests, visitors, volunteers, and vendors who violate this policy may be prohibited from being on school property.

Pursuant to state law:

- A. 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, and
- B. no cause of action is created against the school district, school district employee, school volunteer, student, or parent unless there has been substantial noncompliance with the

school district's policy which results in injury to a person.

The District will maintain confidentiality to the maximum extent possible under the circumstances. However, a person reporting bullying conduct must understand that should the administrator who is investigating the report determine there is reasonable cause to suspect that bullying did occur which could result in administrative discipline or a referral to the School Board, the person alleged to have abused the other person may have the right to know the identity of the person(s) making the report in order that he/ she may have an opportunity to defend himself/herself.

The District strictly prohibits retaliation against any person because he or she has made a report, testified, assisted, or participated in the investigation of a report of alleged bullying. Retaliation includes, but is not limited to, any form of verbal or physical reprisal or adverse pressure. The person(s) alleged to have bullied another person shall not directly or indirectly (such as through another person) harass, pressure, or retaliate against any other person because of the complaint being reported. A violation of this provision may lead to separate disciplinary action based on the retaliation. Any person who believes he or she is being subjected to retaliation because of his or her involvement with a bullying report should immediately contact a school administrator.

Complaints against school employees and complaints related to Sexual Harassment are addressed through other school district policies and not through this policy.

SECTION 2 – Bullying Defined

- A. Bullying is an intentional isolated act or pattern of repeated conduct toward another person that is sufficiently severe and offensive to a reasonable person, and
1. has the purpose or effect of creating an intimidating, hostile or offensive school environment for one or more students, parents, employees, guests, visitors, volunteers or vendors, and/or
 2. has the purpose or effect of substantially or unreasonably interfering with a student's educational opportunities (i.e., academic, co-curricular activities, extra-curricular activities, and social opportunities, etc. within the school environment), employee's and volunteer's work environment or performance, or access by parents, guests, visitors or vendors, and/or
 3. places a person in reasonable fear of harm to his or her person or damage to his or her property, and/or
 4. causes physical hurt or psychological distress to a person, and/or
 5. constitutes retaliation against any person for asserting or alleging an act of bullying, and/or
 6. disrupts the orderly operation of a school.
- B. Bullying conduct includes threats, intimidation, physical violence, theft, destruction of property, hazing, stalking (SDCL 22-19A-1), harassment (SDCL 22-19A-4), and threatening or harassing contact by telephone or other communication devices, commonly referred to as cyberbullying (SDCL 49-31-31). 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 the School District for conduct determined to meet the definition of bullying in SDCL 13-32-15.
1. Hazing defined: any verbal or physical act or acts done on school property or at a school activity which directed toward another person and done for the purpose of initiation into any group, regardless of whether the group is a school

sanctioned organization, when the act or acts causes or may create a reasonable risk of causing mental, emotional or physical harm to the person who is the recipient of the act or acts.

2. Stalking defined: willfully, maliciously, and repeatedly following or harassing another person; making a credible threat to another person with the intent to place that person in reasonable fear of death or great bodily injury; or willfully, maliciously, and repeatedly harassing another person by means of any verbal, electronic, digital media, mechanical, telegraphic, or written communication.
3. Harass defined: a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys, or harasses the person, and which serves no legitimate purpose.
4. Threatening or harassing contacts by telephone or other electronic communication device defined: using or knowingly permitting a telephone or other electronic communication device under his or her control for any of the following purposes:
 - (1) to contact another person with intent to terrorize, intimidate, threaten, harass or annoy such person by using obscene or lewd language or by suggesting a lewd or lascivious act,
 - (2) to contact another person with intent to threaten to inflict physical harm or injury to any person or property,
 - (3) to contact another person with intent to extort money or other things of value,
 - (4) to contact another person with intent to disturb that person by repeated anonymous telephone calls or intentionally failing to replace the receiver or disengage the telephone connection.

SECTION 3 – Reporting Procedure

Any individual who believes that he or she has been or is being subjected to bullying or has reason to suspect another person has been or is being subjected to bullying should immediately report it to a teacher or school administrator. The report may be made verbally or in writing. A report may be made anonymously, although disciplinary action may not be based solely on an anonymous report. If disciplinary action is being requested, the individual reporting the bullying will be asked to either submit a signed written complaint or sign a completed Bullying Report Form, Exhibit JFCD-E(1), verifying the accuracy of its content. The written complaint or Bullying Report Form must include the following:

- the date the written complaint was filed or the Bullying Report Form was completed,
- the school employee receiving the complaint (if applicable),
- the name of the person reporting the bullying,
- the address/phone # of the person reporting the bullying,
- the specific conduct or nature of the bullying complaint including the person(s) alleged to have bullied the complaining party or another person, the date(s) and location where the conduct occurred, witnesses, etc.,
- the date the school employee completed the form (if applicable),
- the date and signature of the person reporting the bullying.

If the signed written complaint was given to a teacher, or if the Bullying Report Form was completed by a teacher, the teacher shall forward the complaint or Bullying Report Form to the teacher's building principal.

SECTION 4 – Procedure for Addressing Bullying Complaints

STEP 1: Principal.

Should there be a report which alleges a District student, parent, employee, guest, visitor, volunteer or vendor has been subjected to bullying, an investigation into the alleged bullying will be initiated. The District's investigation may include, but is not limited to, such things as interviewing individuals with actual or possible knowledge regarding the conduct in question, identifying facts related to the conduct in question, identifying when and over what period of time the conduct is to have occurred, determining whether the conduct negatively affects the educational opportunities or employment condition of the victim, identifying prior history of a similar nature by any of the individuals involved, and attempting to obtain possible verification from other persons. The investigation shall be conducted promptly and completed in a reasonable time frame given the nature of the complaint.

The person alleged to have bullied another person will be notified that a complaint has been filed pursuant to this policy and that the complaint is being investigated. The name of the person making the complaint will not be disclosed to the person alleged to have violated this policy unless and until the investigation results in a determination that there is reasonable cause to suspect that bullying did occur.

Upon reasonable suspicion by the school administrator responsible for the investigation that the allegation of bullying may be true, the employee, student or other person accused of bullying conduct shall be notified in writing that reasonable suspicion exists that the complaint may be valid, including a statement of the facts supporting the determination that reasonable suspicion exists, and the name of the alleged victim.

The person alleged to have bullied another person in violation of this policy shall be afforded an opportunity to respond to the allegation of bullying but is not required to submit a response.

Pending the outcome of the investigation the school administrator responsible for conducting the investigation may take such action consistent with school policy and state law as deemed appropriate in order to facilitate the investigation and protect the rights of all persons involved. If there is reasonable suspicion to believe that a person bullied another person while at school or at a school activity on non-school property in violation of this policy, the administration may prohibit that person from being on school property or at school activities.

Upon reasonable suspicion by the school administrator responsible for the investigation that the allegation of bullying may be true, the employee, student or other person accused of bullying conduct shall be notified in writing that reasonable suspicion exists that the complaint may be valid, a statement of the facts supporting the determination that reasonable suspicion exists, and the name of the alleged victim and complaining individual(s).

The person alleged to have bullied another person in violation of this policy shall be afforded an opportunity to respond in writing to the notification of alleged bullying but is not required to submit a written response.

At the conclusion of the investigation, the Principal shall make a determination as to whether bullying did occur or whether the facts are insufficient to determine that a determination that bullying occurred. The complainant and the person alleged to have bullied another person will receive written notice of the Principal's determination. Should

the Principal conclude that bullying did occur, the Principal shall take such action as deemed appropriate, which may include imposing disciplinary consequences on the person found to have violated this policy prohibiting bullying.

STEP 2: Appeal to the Superintendent

The following procedure shall be used to address an appeal of the Principal's decision in Step 1 to the Superintendent :

1. If either party is not satisfied with the Principal's decision, or if the Principal does not render a written decision within fourteen (14) calendar days of the request for a decision on the merits of the complaint, that party may appeal to the Superintendent by filing form JFCD-E(2). The appeal must be filed within ten (10) calendar days of receipt of the Principal's written decision, or ten (10) days of the deadline for the Principal's written decision, whichever comes first. The appealing party must attach the Principal's written decision.
2. Within fourteen (14) calendar days from the date the appeal was filed, the Superintendent shall render a decision in writing. All parties shall receive copies of the decision. The Superintendent shall uphold, reverse, modify the principal's decision, or the Superintendent may refer the matter back to the Principal for further investigation and supplemental decision which decision may restate, modify or reverse the Principal's initial decision. A supplemental decision by the Principal after a referral back to the Principal is subject to appeal to the Superintendent. The time frame for rendering a decision by the Superintendent may be extended by the Superintendent for good cause and upon written notification to all parties, which notification shall identify the reason for the extension and the date on or before which the decision shall be rendered.

STEP 3: Appeal to the Board

If either party is not satisfied with the Superintendent's decision, or if the Superintendent does not render a written decision within fourteen (14) calendar days of the receipt of the appeal, that party may appeal to the School Board by filing with the Business Manager using Form JFCD-E(3) within ten (10) calendar days of receipt of the Superintendent's written decision, or ten (10) days of the deadline for the Superintendent's written decision, whichever comes first. The appeal shall be in writing and the appealing party must attach to the appeal the Principal's written decision, the appeal to the Superintendent, and the Superintendent's written decision or notice of the Superintendent's failure to render a written decision.

The following procedure shall be used by the Board to address an appeal of the Superintendent's decision on the merits related to a bullying complaint:

1. Upon receipt by the Board President/Chairperson of an appeal by the Complainant, a copy of the appeal shall be given to the person alleged to have violated the bullying policy.
2. Upon receipt of an appeal, the Board shall at its next meeting schedule a date, time and location for the appeal hearing.
3. The following procedure shall be applicable at the appeal hearing before the Board:
 - A. The Board shall appoint a board member or a person who is not an employee of the school district as the hearing officer;
 - B. Within thirty (30) calendar days of an appeal being filed with the Board, the Board shall conduct a hearing in executive session;

- C. The Complainant, person alleged to have violated the bullying policy, and Superintendent each have the right to be represented at the hearing;
- D. The 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;
- E. The issue on appeal is whether the Superintendent's decision should be upheld, reversed or modified;
- F. All parties shall be given the opportunity to make an opening statement, with the appealing party being given the first opportunity, followed by the other party, and then the Superintendent;
- G. The appealing party shall present his or her case first, and the other party shall then present his or her case. Both parties shall have the opportunity to ask questions of the other's witnesses. The hearing officer and board members may ask questions of any witness;
- H. The Superintendent shall present the basis of his/her decision which led to the appeal. Both parties shall have the opportunity to ask the Superintendent questions. The hearing officer and board members may also ask questions of the Superintendent;
- I. Unless a witness is a party to the appeal, witnesses may be present only when testifying unless the hearing officer rules otherwise. 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;
- J. The hearing officer shall admit all relevant evidence. The hearing officer may limit unproductive or repetitious evidence. The strict rules of evidence do not apply. *Moran v. Rapid City Area School Dist.*, 281 N.W.2d 595. 602 (S.D. 1979).
- K. All parties shall be given the opportunity to make a closing statement, with the appealing party having the first opportunity, followed by the other party, and then the Superintendent. The appealing party shall be given the opportunity for a brief rebuttal;
- L. After the evidentiary hearing, the Board shall continue to meet in executive session for deliberations. No one other than the hearing officer may meet with the Board during deliberations. The 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 both parties and Superintendent are present. The Board may, in its sole discretion, continue the proceedings and make a final decision on the appeal at a later date; Within twenty (20) calendar days of the hearing, the Board shall render its decision and issue its written Findings of Fact, Conclusions of Law and Decision. The time frame for rendering a decision may be extended by the Board President for good cause and upon written notification to both parties and the Superintendent, and the notification shall identify the reason for the extension and the date on or before which the decision shall be rendered;
- M. 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 Board will convene in open session and a motion to uphold, reverse, or modify the Superintendent's decision shall be made and voted upon. Findings of Fact, Conclusions of Law and Decision, consistent with the Board

motion shall be in writing and approved by the Board. Both parties, the Principal and the Superintendent will receive copies after the Findings of Fact, Conclusions of Law and Decision are approved by the Board.

- N. Following the Board hearing, should the Board determine there has been a violation of this policy prohibiting bullying, Board action may include but is not limited to the following: (1) suspend or expel a student from any or all school programs, including but not limited to classes, extracurricular activities, or attendance at school activities; (2) pursuant to statute, reprimand, suspend without pay, or terminate the contract of an employee, or (3) prohibit a person from being on school property or at school activities for such time as may be determined by the Board.
- O. If either party is dissatisfied with the Board's decision, that party may appeal the decision by filing an appeal to circuit court pursuant to SDCL 13-46-1.

Notes: ASBSD sample policies are intended to be a guide for school districts. As is the case with any policy, a local school district's unique circumstances, challenges and opportunities need to be considered.

Elkton School District 5-3

Date Adopted: Pending
Last Revised: 12/8/2014

State Reference

*Moran v. Rapid City Area School Dist.

SDCL 13-32-14

SDCL 13-32-15

SDCL 13-32-16

SDCL 13-32-17

SDCL 13-32-18

SDCL 13-32-19

SDCL 22-19A

SDCL 49-31-31

Description

Employee hearing due process

Adoption of bullying policy

Bullying defined

Bullying policy requirements

Action for damages from bullying--Immunity for reporting

Incidents involving electronic devices

Model bullying policy

Stalking

Threatening or harassing contacts by telephone or other electronic communication device

Legal references indicate the basis or authority for the board to enact this policy, and policy cross-references identify additional policies related to the subject matter of the above policy.

Policy
STUDENT DUE PROCESS RIGHTS

Descriptor Code: JFA

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. Fairley 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.

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Elkton School District 5-3

Date Adopted: Pending
Last Revised: 2/9/2012

State Reference

Description

ARSD 24:05:26

Suspension

ARSD 24:05:26.01

Expulsion

ARSD 24:05:30

Procedural safeguards

ARSD 24:07

Student due process

SDCL 1-26-26

Ex parte consultations by agency personnel

SDCL 13-32-4

School board to assist in discipline

SDCL 13-32-4.2

Procedure for suspension

SDCL 13-32-4.7

Early reinstatement – Due Process

Legal references indicate the basis or authority for the board to enact this policy, and policy cross-references identify additional policies related to the subject matter of the above policy.

Policy
PROHIBITION OF CORPORAL PUNISHMENT

Descriptor Code: JGA

The use of corporal punishment, defined as any act of physical force on a pupil for the purpose of punishing that child, is not acceptable in this district and will not be tolerated as a disciplinary measure. The term will not apply, however, to the use of reasonable physical force in the following situations.

1. For self-defense;
2. To protect other persons from physical injury;
3. To protect property of the school or others;
4. To remove a student who has refused to comply with requests to refrain from disruptive behavior; and
5. To restrain or control a student that is out of control.

By law, physical force may be used by the Superintendent, principal, supervisor, and teachers and their aids and assistants. This authority extends to any person delegated to supervise children who are authorized to attend a school function away from school premises and to school bus drivers.

Any employee using physical force to control a student will document the incident in writing, with copies given to the principal and Superintendent by the close of the following school day. The Superintendent will keep the Board apprised of unusual or extreme incidents of the use of physical force.

In-service training for teachers and staff in the use of alternative, positive measures of discipline will be provided and the Superintendent will report to the Board annually regarding training programs provided to staff.

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Elkton School District 5-3

Date Adopted: Pending
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State Reference

SDCL 13-32-2

Description

Physical force authorized when necessary

Legal references indicate the basis or authority for the board to enact this policy, and policy cross-references identify additional policies related to the subject matter of the above policy.

Policy
INTERROGATIONS AND SEARCHES

Descriptor Code: JFG

SEARCHES BY STAFF

The right of inspection of students' school lockers is inherent in the authority granted school boards and administrators. This authority may be exercised as needed in the interest of safeguarding children, their property and school property.

Nevertheless, exercise of that authority by school officials places unusual demands on their judgment so as to protect each child's constitutional rights to personal privacy and protection from coercion and to act in the best interest of all students and the schools.

The following rules apply to the search of school property assigned to a specific student (locker, desk, etc.), and the seizure of items in his possession:

1. There should be reasonable cause for school authorities to believe that articles are kept in the locker, desk, or other storage space whose possession constitutes a crime or rule violation.
2. Search of an area assigned to a student should be for a specifically identified item, and should be conducted in his or her presence and with his or her knowledge.
3. General housekeeping inspection of school property may be conducted with reasonable notice.
4. Illegal items (drugs, weapons, etc.) or other possessions reasonably determined to be a threat to the safety or security of others may be seized by school authorities at any time.

SEARCHES OF STUDENT PROPERTY BY POLICE

A proper search warrant is required for any search of a student's personal property kept on school premises; however, if the police have reason to believe any item that might pose an immediate threat to the safety or security of others, searches may be conducted without a previously issued warrant.

INTERROGATIONS BY POLICE

The school district has legal custody of students during the school day and during hours of approved extracurricular activities. It is the responsibility of the school administration to make an effort to protect each student's rights with respect to interrogations by law enforcement officials. Therefore:

1. When law enforcement officials find it necessary to question students during the school day or periods of extracurricular activities, the school principal or the principal's designee will cooperate. An effort will be made to contact the student's parent or guardian so that the responsible individual may be notified of the situation.
2. Parents or guardians will not be contacted in child abuse cases if the law enforcement official requests confidentiality.
3. If custody and/or arrest is involved, the principal will request that all procedural safeguards, as prescribed by law, be observed by the law enforcement officials.

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Elkton School District 5-3

Date Adopted: Pending
Last Revised: 2/9/2012

Federal Reference	Description
*New Jersey v. T.L.O.	<u>Student search and seizure</u>

Legal references indicate the basis or authority for the board to enact this policy, and policy cross-references identify additional policies related to the subject matter of the above policy.

Policy
STUDENT COMPLAINTS AND GRIEVANCES

Descriptor Code: JFH

The Board recognizes that there may be conditions in the school district that are in need of improvement and that students should have some means by which their concerns may be effectively expressed, considered, and dealt with fairly. Such means, if well conceived and understood in advance, can do much to maintain harmonious relationships between the schools and the students and community.

The Board desires student complaints and grievances to be resolved through orderly processes and at the lowest possible level, but that channels be provided for eventual hearing by the Board in instances when this becomes necessary. Therefore:

1. Any student or his or her parent or guardian will be provided the opportunity to discuss with the student's teacher a decision or situation which the student, parent, or guardian considers unjust or unfair.
2. If the incident remains unresolved, the student or his or her parent or guardian or the teacher, may bring the matter to the principal's attention for consideration and action.
3. The student may also bring a matter of general student concern to the attention of class officers or the student council (in grades and schools where such are elected) for possible presentation to the principal.
4. If the matter is still unresolved after the procedure outlined above, it may be brought to the Superintendent for consideration.
5. Complaints that remain unresolved following any action of the Superintendent may be referred in writing to the Board for review.

The Board's decision will be final unless an appeal hearing is requested.

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Elkton School District 5-3

Date Adopted: Pending
Last Revised: 2/9/2012

Policy
STUDENT DISCIPLINE

Descriptor Code: JG

Staff and students share responsibility for maintaining a climate in which education can be pursued. What is best for the individual must be balanced with what is most desirable for the entire school population.

The following principles will be observed by the school staff in maintaining student control and discipline in the schools:

1. It is believed that most individuals modify behavior faster under praise than under blame. Therefore, the general approach to discipline will be a positive one. This will include attempting to identify the social, emotional, and academic problems that underlie a student's poor attitude or misconduct, and striving to meet his or her social, emotional, and academic needs.
2. Every individual needs to feel worthy and accepted as a person. In criticizing a student for his or her conduct or attitude and in taking disciplinary action, teachers and other staff members will endeavor to show the student that it is his or her behavior that is objectionable, not the student.
3. The best discipline is self-discipline. Modes of student control over classroom management will offer students the freedom to acquire self-control and self-discipline. This freedom will be extended in keeping with the student's maturity.

Within the above guidelines and specific policies regulating conduct and disciplinary action, the Superintendent will set up procedures for dealing with disciplinary problems.

The Board extends to all of its school employees, professional and nonprofessional, the authority to enforce policy and regulations governing student behavior. Students will comply with the directions given them by staff members.

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Elkton School District 5-3

Date Adopted: Pending
Last Revised: 2/9/2012

Policy
STUDENT SUSPENSION AND EXPULSION**Descriptor Code: JGD**

Serious breaches of standards of behavior may result in suspensions or expulsions from school. A principal is authorized to suspend pupils for not more than ten school days and a Superintendent is authorized to suspend pupils for not more than 90 days. 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.

Any student bringing a 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 to school, except as authorized by law, shall be expelled for not less than twelve months and will be referred to law enforcement authorities. The Superintendent shall have the authority to decrease the length of expulsion on a case-by-case basis. This policy shall be implemented in a manner consistent with IDEA and Section 504.

A suspension may be imposed, but is not limited to, when a student's behavior creates a threat to his own or other's safety or imposes a threat to property or premises or creates a serious disruption of the school environment. Behavior such as fighting or committing an assault on another; stealing; vandalism; possessing weapons, explosives or other prohibited materials; making a false alarm or terroristic threat; lewd or threatening behavior or language; possession of drugs; or possession of beer or alcoholic beverages on the school premises or at school activities may result in suspensions.

Hearing procedures as established by state regulations will be followed for all students who receive long-term suspensions or expulsion.

- In case of a suspension by the Superintendent for more than ten school days, the Superintendent will schedule a hearing before the Board of Education and the hearing shall be scheduled within ten (10) school days of the first day of the student's suspension.
- Additional procedures mandated by state and federal law apply to special education students.

NOTE: Statute states that no school board may impose a lesser consequence than those established in SDCL 13-32-9 but may by board policy adopt more strict consequences for adjudication, conviction, informal adjustment or court-approved diversion program, or a suspended imposition of sentence or suspended adjudication of delinquency, for possession, use, or distribution of controlled drugs or substances or marijuana. Statute also says the suspension "may" be reduced and the student "may" be allowed to practice during the period of suspension. To avoid discriminatory application, it is ASBSD's recommendation that the Board decide, for policy purposes, if the suspension period is to be reduced upon the student meeting the requirements, and if reduced to what extent, and whether the student may participate in practice during a period of suspension.

Suspension from Extra-Curricular Activities:

If a student is 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, or for ingesting, inhaling, or otherwise taking into the body any substance as prohibited by statute, the student shall be suspended as follows:

First offense: The student shall be suspended one year which shall be reduced to thirty calendar days if the student participates in an assessment with a certified licensed addiction counselor. If a suspension for a first offense is reduced to 30 calendar days, the student is 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. Students who are ineligible to participate in activity events, competitions, and performances shall be allowed to participate in practices.

Second offense: The student shall be suspended one year. The one year suspension for a second offense shall be reduced to 60 calendar days if the student completes an accredited intensive prevention or treatment program. If the suspension for a second offense is reduced, the student is ineligible for a minimum of six South Dakota High School Activities Association sanctioned events. 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. Students who are ineligible to participate in activity events, competitions, and performances shall be allowed to participate in practices.

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.

A suspension that is reduced pursuant to this policy 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.

In order for events to count toward the minimum number of events for which the student is ineligible following a reduction in the suspension for a first or second offense, the student must participate in the entire activity season. Failure of a student to complete the entire activity season results in the student being ineligible for one year from the date of adjudication, conviction, the subject of an informal adjustment or court approved diversion program, or 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 carries over to the next activity season in which the student participates.

Third offense: 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, or for ingesting, inhaling, or otherwise taking into the body any substances as prohibited by statute, by a court of competent jurisdiction, the student is ineligible to participate in any extracurricular activity.

Elkton School District 5-3

Date Adopted: Pending
Last Revised: 7/31/2015

State Reference

Description

ARSD 24:05:26
ARSD 24:05:26.01
ARSD 24:07
SDCL 13-32-4
SDCL 13-32-4.2
SDCL 13-32-5
SDCL 13-32-7
SDCL 13-32-9
SDCL 13-32-9.1
SDCL 13-32-9.2

Suspension
Expulsion
Student due process
School board to assist in discipline
Procedure for suspension
Injury to school property as grounds
Possession of firearms on premises
Suspension from extracurricular activities
Consequences imposed by local school districts
Reduced suspensions--Commencement of suspension

SDCL 22-11-9.2
SDCL 22-14A-24

SDCL 22-14A-25
SDCL 22-42

Falsely reporting a threat
Use of substance or device to communicate felonious threat
Use of hoax substance or device to cause fear
Controlled Substances and Marijuana

Federal Reference

Description

Public Law 103-382

Improving America's Schools Act of 1994

Legal references indicate the basis or authority for the board to enact this policy, and policy cross-references identify additional policies related to the subject matter of the above policy.

Regulation**Descriptor Code:
JGD-R(1)****STUDENT SUSPENSION AND EXPULSION - PROCEDURES (Regulation)**

PROCEDURAL CHECKLIST FOR SHORT TERM SUSPENSION

1. Give oral or written notice to student and to parents, guardian, or other responsible person, if available, as soon as possible after discovery of misconduct.
 2. The notice is to contain the rule, regulation, or policy violated. The student must be given an opportunity to answer the charges.
 3. This process does not involve board participation.
 4. The hearing is no more than an informal setting granting the student the opportunity to answer the charges and present his/her side of the story.
 5. Superintendent or principal should issue a decision as soon as possible. This may be done right on the spot.
 6. If the student is suspended, written notice of due process rights must be provided to the student and the parent, guardian, or other responsible person. An unemancipated minor may not be removed from the school during school without notice to the parent, guardian, or responsible person. Dangerous students may be turned over to law enforcement.
- * Many of the due process guidelines set forth in this chapter may be helpful in dismissal of non-certified employees under contract.

PROCEDURAL CHECKLIST FOR LONG TERM SUSPENSION

1. The Superintendent must prepare and seal a written report to the school board not later than the end of the fifth school day following the first day of a long-term suspension. The Superintendent may request that a hearing be held before the school board. (It is recommended that the school board conduct a hearing for any suspension extending more than ten days.)
2. The Superintendent's report includes the facts of the situation, the action taken, the reasons for the action, and the Superintendent's decision or recommendation. The report remains in the possession of the school board secretary or business manager, sealed and unavailable to individual school board members until and unless a hearing is held. A copy of the report must be sent to the 18-year-old pupil and, as to unemancipated minors, to the parent, guardian, or responsible person at the time it is filed with the secretary or business manager.
3. The Superintendent may exclude the pupil from class or classes by using a short-term suspension procedure. Note: An activity should be considered a class, especially if credit is given for the activity. The Superintendent must give notice to the 18-year-old pupil or the unemancipated minor's parent, guardian, or responsible person of a proposed long-term suspension, and may schedule a hearing. The notice must contain:

- a. Policy allegedly violated;

- b. The reason for the discipline;
 - c. Notice of the right to a hearing or the right to waive this hearing;
 - d. A description of the hearing procedure;
 - e. A statement that the records are available for examination; and
 - f. Notice that the pupil may present witnesses.
4. If a hearing is requested, the Superintendent shall set the date, time, and place for the hearing and send notice to the school board members, as well as a notice by certified mail to the 18-year-old pupil or the parents of an unemancipated minor.
5. If no hearing is requested or if the hearing is waived, the proposed action or decision of the Superintendent is final.
6. A hearing may be waived by an 18-year-old pupil or the parents of an unemancipated minor, in writing. If the hearing is not waived, the hearing shall be held as set forth in the notice.

CONDUCTING THE HEARING

1. The school board is the hearing board.
2. The school board shall appoint either one of its own members or someone not an employee of the district as hearing officer. At the commencement of the hearing, the hearing officer should state that the hearing is open at the time and place contained in the notice, should state the reason for the hearing, identify the date of the notice of hearing, identify to whom the notice was provided, and have each person present identify themselves by name.
3. The school board shall arrange the place of hearing with three tables, one for the board, one for the administration, and one for the student.
4. The hearing is closed to the public and a verbatim record will be made and sealed pending court order. (It is recommended that the verbatim record be either a court reporter or a videotape. Audio recordings are less than satisfactory.)
5. Each party may make an opening statement, introduce evidence, present witnesses, and examine and cross-examine witnesses.
6. The school administration shall present its case.
7. Each party may be represented by an attorney.
8. If the school attorney is going to present the administration's case, the attorney should not also advise the board. The board should engage separate counsel in that case.
9. Witnesses, other than the student and his/her representative, are present only while testifying and each witness must take an oath and affirmation administered by the school board president or business manager.
10. Each party may raise objections to relevancy and scope of the questions. All relevant evidence must be admitted; however, unproductive or repetitious evidence may be limited by the hearing officer.
11. The hearing officer may ask questions of witnesses, as may school board members.
12. Each party may make a closing statement.
13. After the hearing is closed, the board shall deliberate in executive session. No one other

Policy
QUALIFICATIONS OF TEACHERS

Descriptor Code: GCB

The School Board shall employ teachers on a professional basis without regard to age, race, color, sex, or national origin.

Every teacher employed in this school system must possess a valid license or certificate and shall execute a written contract with the board of education. Teacher contracts shall be considered for renewal on or before April 15 each year.

The Principal and the Superintendent shall consider applications. Selected applicants shall be interviewed by the administration and a recommendation shall be made to the board of education who shall make the final employment determination.

Starting with the 2002-2003 school year, school districts receiving Title I funds must ensure that teachers hired after the first day of school in a program supported by such funds are "highly qualified." By the end of the 2005-2006 school year, all teachers within this school district are required to be "highly qualified." The No Child Left Behind Act defines "highly qualified" as an elementary or secondary school teacher who has obtained full state certification and has not had certification requirements waived on an emergency, temporary, or provisional basis.

Elementary teachers who are new to the profession must hold at least a bachelor's degree and have demonstrated, by passing a rigorous state test, subject knowledge and teaching skills in reading, writing, mathematics, and other areas of the basic elementary curriculum. Middle and secondary school teachers, new to the profession, will be deemed to be highly qualified if the individual teacher holds at least a bachelor's degree and has demonstrated a high level of competency in each of the academic subjects in which the individual teaches by passing a rigorous state academic subject test in each such academic subject; or has successfully completed a grade degree with coursework that is equivalent to an undergraduate major, or advanced certification or credentialing for each academic subject that the individual teaches.

Veteran teachers currently employed by the district will be identified as highly qualified if they:

1. Hold at least a bachelor's degree; and
2. Have met the applicable standard for a teacher who is new to the profession, which includes an option for a test; or
3. Demonstrate competence in all the academic subjects in which the teachers teach, based upon a high objective uniform state standard of evaluation.

Additional qualifications and terms of employment for teachers may be found in the standard teacher contract. Specific duties may be found in the teacher job description found elsewhere in this manual. Nothing in this policy manual shall be construed as limiting or expanding the terms of the employment contract.

THIS POLICY REQUIRED BY THE NO CHILD LEFT BEHIND ACT

Notes: ASBSD sample policies are intended to be a guide for school districts. As is the case with any policy, a local school district's unique circumstances, challenges and opportunities need to be considered.

Elkton School District 5-3

Date Adopted: Pending
Last Revised: 2/7/2013

State Reference

ARSD 24:43:02:08
SDCL 13-43-5

Description

Plan of intent for certification
Certificate required before contract signed -
exception

Legal references indicate the basis or authority for the board to enact this policy, and policy cross-references identify additional policies related to the subject matter of the above policy.

Policy
TOBACCO-FREE SCHOOLS

Descriptor Code: AEA

The District recognizes its duty to promote the health and safety of students, staff and citizens on district property and during school-sponsored activities. In accordance with this responsibility, it is the intent of the School Board to establish a tobacco-free school environment that demonstrates a commitment to helping students resist tobacco use and that emphasizes the importance of adult role modeling.

The use, possession, or promotion of tobacco on school property or during school-sponsored activities is prohibited. This policy shall be in effect at all times and shall apply to all students, employees and visitors.

For the purposes of this policy:

1. "Tobacco" means any substance or item, in any form, containing tobacco;
2. "School property" means all district-owned, rented or leased buildings, grounds and vehicles;
3. "School-sponsored activity" means any planned, organized, endorsed, or supervised activity involving district students or staff that occurs either before, during or after regular school hours;
4. "Promotion" means the use or display of tobacco-related clothing, bags, lighters, or other material that is designed to encourage the acceptance or use of tobacco.

Students or district employees found in violation of this policy will be subject to appropriate consequences, which may involve a range of enforcement options including disciplinary action and educational alternatives to disciplinary action. Visitors in violation of this policy will result in appropriate sanctions as determined and imposed by the administration, which may include direction to leave school property.

The superintendent shall provide reasonable public notification of the district's policy, including, but not limited to, inclusion in student and staff handbooks. The superintendent may develop administrative regulations as necessary to implement this policy.

ASBSD sample policies are intended to be a guide for school districts. As is the case with any policy, a local school district's unique circumstances, challenges and opportunities need to be considered.

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Elkton School District 5-3

Date Adopted: Pending
 Last Revised: 12/1/2009

State Reference

SDCL 13-8-39

Description

Management of schools by board - general powers

SDCL 34-46-14

Smoking in public or place of employment prohibited

Legal references indicate the basis or authority for the board to enact this policy, and policy cross-references identify additional policies related to the subject matter of the above policy.

**Policy
STAFF ETHICS**

Descriptor Code: GBC

An effective educational program requires the services of men and women of integrity, high ideals, and human understanding. To maintain and promote these essentials, all employees of the district are expected to maintain high standards in their school relationships. These standards include the following:

- The maintenance of just and courteous professional relationships with students, parents, staff members, and others.
- The maintenance of their own efficiency and knowledge of the developments in their fields of work.
- The transaction of all official business with the properly designated authorities of the school system.
- The establishment of friendly and intelligent cooperation between the community and the school district.
- Favorable representation of the school district at local events that are in recognition of the schools' contributions to the community.
- The placement of the welfare of children as the first concern of the school district, thus appointments to positions and promotion must be based solely on merit. The use of pressure on school officials for appointment or promotion is unethical.
- Restraint from using school contacts and privileges to promote partisan politics, sectarian religious views, or selfish propaganda of any kind.
- Directing any criticism of other staff members or of any department of the school district toward the improvement of the school district. Such constructive criticism is to be made directly to the particular school administrator who has the administrative responsibility for improving the situation and then to the Superintendent if necessary.

Notes: Teachers should also abide by the code of ethics for the teaching profession, developed by the state Professional Teachers Practices and Standards Commission (PTPSC).

ASBSD sample policies are intended to be a guide for school districts. As is the case with any policy, a local school district's unique circumstances, challenges and opportunities need to be considered.

Elkton School District 5-3

Date Adopted: Pending
Last Revised: 1/1/2007

State Reference

ARSD 24:08
ARSD 24:11

Description

Professional Teachers Ethics
Professional Administrators Ethics

Legal references indicate the basis or authority for the board to enact this policy, and policy

cross-references identify additional policies related to the subject matter of the above policy.

**Descriptor
Code:
GCPD**

Policy

SUSPENSION WITHOUT PAY AND DISMISSAL OF PROFESSIONAL STAFF MEMBERS

Employment and dismissal of professional staff members is the responsibility of the Board and dismissal will conform with the conditions and procedures specified in state law.

A contract may be terminated at any time, or non-renewed in the case of continuing contract status, for just cause including:

1. plain violation of contract;
2. gross immorality;
3. incompetency or neglect of duty;
4. poor performance;
5. unprofessional conduct;
6. insubordination;
7. violation of any policy or regulation of the school district;
8. neglect.

The Superintendent will give notice of the intent to recommend termination. The notice must specify the grounds for the recommendation, and inform the right to request a hearing.

After the hearing, or if a hearing is not requested, the Board will make its determination by majority vote in open session. Any order of termination of contract will state the grounds for termination.

SUSPENSION

The Board or the Superintendent may suspend pending final action to terminate the contract if, in its judgment, the character of the charges warrants such action.

Notes: ASBSD sample policies are intended to be a guide for school districts. As is the case with any policy, a local school district's unique circumstances, challenges and opportunities need to be considered.

Elkton School District 5-3

Date Adopted: Pending
Last Revised: 2/7/2013

State Reference

SDCL 13-10-15

Description

Suspension or resignation for criminal conviction

SDCL 13-43-6.1

Just cause for termination or nonrenewal

SDCL 13-43-6.2

Written notice of intention to recommend nonrenewal

SDCL 13-43-6.3	<u>Nonrenewal of teacher's contract</u>
SDCL 13-43-6.4	<u>Nonrenewal due to staff reduction</u>
SDCL 13-43-6.5	<u>Termination not caused by amount of compensation</u>
SDCL 13-43-6.6	<u>Right to termination on statutory grounds</u>
SDCL 13-43-6.7	<u>Written notice of recommendation for termination</u>
SDCL 13-43-6.8	<u>Evidence of delivery of notification</u>
SDCL 13-43-6.9	<u>Evidence of delivery of written request for a hearing</u>

Legal references indicate the basis or authority for the board to enact this policy, and policy cross-references identify additional policies related to the subject matter of the above policy.