

STATE OF SOUTH DAKOTA IDENTIFYING STATUTES

SDCL 13-1-57 DEFINITIONS REGARDING NEWS MEDIA COVERAGE OF HIGH SCHOOL ACTIVITIES (AMENDED 2021)

Terms used in §§ 13-1-58 and 13-1-59 mean:

- (1) "Association," any association that meets the requirements of § 13-36-4;
- (2) "Journalism," the gathering, preparing, collecting, photographing, recording, streaming, broadcasting, writing, editing, reporting, or publishing of news or information that concerns matters of public interest for dissemination to the public, including on the internet;
- (3) "Media contractor," any entity that contracts with a school board, school district, or association to conduct journalism at any interscholastic high school activity or event;
- (4) "News media," personnel of a newspaper or other periodical issued at regular intervals, a news service, a radio station, a television station, or a television network, regardless of whether the news media is in print, electronic, or digital format;
- (5) "School district," the same meaning as in § 13-5-1;
- (6) "School board," the same meaning as in § 13-8-1.

SDCL 13-1-58 INTERFERENCE WITH NEW MEDIA COVERAGE OF HIGH SCHOOL ACTIVITIES PROHIBITED- EXCEPTION (AMENDED 2021)

No school district, school board, association, or media contractor may interfere with the right of news media to attend and engage in journalism concerning any interscholastic high school activity or event. No association or media contractor may charge a fee for news media to engage in journalism at any such activity or event. The school district or school board shall prevent any school under its authority from interfering with the right of news media to engage in journalism at any such activity or event. The provisions of this section do not apply to any state championship interscholastic event.

SDCL 13-1-59 PROMULGATION OF RULES TO ACCOMMODATE NEWS MEDIA COVERAGE OF HIGH SCHOOL ACTIVITIES (AMENDED 2021)

The board of a school district may adopt policies governing reasonable accommodations for news media to conduct journalism at all interscholastic high school activities and events. The policies on reasonable accommodations shall allow news media all necessary access to conduct journalism at such events, free of charge, subject to reasonable limitations for public safety, available space, and the right of the general public to attend such events.

SDCL 13-16-35 HIGH SCHOOL INTERSCHOLASTIC ACTIVITIES ENDOWMENT

Any member school of an association provided for in 13-36-4 to which control, supervision, and regulation of high school interscholastic activities has been delegated, may, during each school year, allow any portion of the admissions fees collected at a single event in each activity recognized by the association to be used by a local organization that supports local interscholastic activities. The portion of the admissions fees provided to the local organization shall be used for a purpose that is approved in advance by the local school board, and may be used for a local endowment fund that is dedicated to assisting the local school district with its educational needs. The local organization shall maintain complete records of the admissions fees it receives, and shall provide a report to the local school board detailing the specific use of the admission fees.

SDCL 13-28A-1 OPEN ENROLLMENT WITH NEIGHBORING STATES

The secretary of the Department of Education may enter into agreements with the appropriate parties from the states bordering South Dakota to establish an enrollment options program between South Dakota and each neighboring state.

SDCL 13-28A-2 CONTENT OF AGREEMENT

Any agreement to allow open enrollment between South Dakota school districts and a bordering state's school districts entered into pursuant to this chapter shall specify the following:

- 1) If the bordering state sends more students to South Dakota than South Dakota send to the bordering state, the bordering state will pay South Dakota an amount agreed upon for the excess number of students sent to South Dakota; and
- 2) If South Dakota sends more students to the bordering state than the bordering state sends to South Dakota, South Dakota will pay the bordering state an amount agreed upon for the excess number of students sent to bordering state.

SDCL 13-28A-3 APPLICATION PROCEDURE

Any agreement entered into pursuant to this chapter shall specify the application procedures for the enrollment options program between South Dakota and the bordering state.

SDCL 13-28A-7

If South Dakota enters into an open enrollment agreement with a bordering state, for the purposes of state aid to education distributed pursuant to chapter 13-13, any student open enrolled to a South Dakota district from a bordering state is included in the receiving school district's fall enrollment.

SDCL 13-28-10. School residency of child residing in home other than residence of parents, guardian, or noncustodial parents--Petition to local school board--Appeal. Amended 2022

Except as otherwise provided in this section, if a school age child resides in a home other than the residence of the child's parents, guardian, or noncustodial parents, on a temporary or permanent basis, the school residency of the child is where the parents, noncustodial parents, or guardian reside unless, upon request of the person with whom the child is living, the board of the school district accepts the child as a resident of that school district.

If the board rejects the request, the person who made the request may, within fifteen days after receipt of the rejection, petition the board for a hearing. The decision of the board, after the hearing, may be appealed to the circuit court.

A school age child is a resident of the school district in which the child is placed by the Department of Corrections, the Department of Human Services, or the Department of Social Services.

SDCL 13-28-37 COLLEGE CREDIT—Amended 2003—An act to repeal the limit on credit hours for certain students. (Amended 2020)

Any student in grades nine, ten, eleven or twelve may apply to an institution of higher education or a technical college as a special student in a course or courses offered at the institution of higher education or technical college. The student shall obtain the school district's approval of the postsecondary course or courses prior to enrolling. If, however, the student is enrolled in a nonpublic school or a tribal school, the student shall obtain approval of the postsecondary course or courses prior to enrolling, and if the student is receiving alternative instruction pursuant to § 13-27-3, the student shall obtain approval of the postsecondary course or courses prior to enrolling from the provider of the alternative instruction. If approved, the student shall receive full credit towards high school graduation as well as postsecondary credit for each postsecondary course. The school district shall record each course under this section on the student's transcript and shall use each course score to calculate academic standing.

If a failing final course grade is received in a postsecondary course under this section, the student receiving the failure is no longer eligible to enroll for postsecondary courses under this section absent a showing of good cause.

SDCL 13-28-43 OPEN ENROLLMENT BETWEEN SOUTH DAKOTA SCHOOLS

Amended 2018

A student's parent or legal guardian who wishes to enroll the student, or an emancipated student who wishes to enroll, under the provisions of §§ 13-28-40 to 13-28-47, inclusive, in a South Dakota school district other than the resident district or in a school within the resident district other than the school to which the student has been assigned shall apply on forms provided by the Department of Education.

The school board or the board's designee of the district in which the student desires to enroll shall approve or disapprove the application and shall notify the applicant and the resident board, if applicable, of its decision within five days of the decision. The district in which the student desires to enroll shall review the applications in the order received. However, if the applicant is a sibling of a student accepted into and currently enrolled in the district pursuant to §§ 13-28-40 to 13-28-47, inclusive, that student's application shall take priority over all other applications the district has received consistent with § 13-28-44.

Transfers to a school district other than the resident school district under the provisions of §§ 13-28-40 to 13-28-47, inclusive, may only take place prior to the last Friday in September during the first semester of any school year, and prior to the last Friday in January during the second semester of any school year. If a school district approves an application for such a transfer after the deadline in the first semester, the transfer will occur at the start of the second semester. If a school district approves an application for such a transfer after the deadline in the second semester, the transfer will occur at the start of the following school year. However, the deadlines for transfer do not apply if:

- (1) A student is seeking to transfer to an alternative school or a specialized nonpublic educational program;
- (2) A student enrolls in a school district after the deadline in either semester; or
- (3) The receiving school district school board or the board's designee determines that special circumstances exist and allows a student to transfer after the deadline.

Intradistrict transfer applications may be accepted and acted upon at any time at the board's discretion if the policies on which the transfer decisions are based are consistent with the other requirements of §§ 13-28-40 to 13-28-47, inclusive.

An application may be withdrawn by the applicant prior to the approval of the request and upon notification of the district to which the student applied. Once approved by the district in which the student wishes to enroll, the approved application serves as the applicant's notice of intent to enroll in the nonresident district or desired school during the school year and obligates the student to attend school in the nonresident district or desired school during the school year, unless, as provided in § 13-28-47.1, the affected school board or boards agree in writing to allow the student to transfer back to the resident district or assigned school, or unless the parents, guardians, or emancipated student change residence to another district.

Once enrolled in a nonresident district or nonassigned school, the student may remain enrolled and is not required to resubmit annual applications.

SDCL 13-32-9 SUSPENSION FROM EXTRACURRICULAR ACTIVITIES FOR CONTROLLED SUBSTANCE VIOLATIONS. (Amended 2014)

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. (Amended 2014) CONSEQUENCES IMPOSED BY LOCAL 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. (Amended 2015) 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.

SDCL 13-36-4 HIGH SCHOOL INTERSCHOLASTIC ACTIVITIES ASSOCIATIONS-QUALIFICATIONS-POWER AND AUTHORITY Amended 2021

13-36-4. Delegation of control, supervision, and regulation of high school interscholastic activities to association. The school board of a public school, approved and accredited by the secretary of the Department of Education, may delegate, on a year to year basis, the control, supervision, and regulation of any high school interscholastic activities to any association which is voluntary and nonprofit if:

(1) Membership in such association is open to all high schools approved and accredited pursuant to this section, including any school that allows participation by students receiving alternative instruction as set forth in § 13-27-3, pursuant to the provisions of this title;

(2) The constitution, bylaws, and rules of the association are subject to ratification by the school boards of the member public school districts and the governing boards of the member nonpublic schools and include a provision for a proper review procedure and review board;

(3) The report of any audit required by § 13-36-5 is made public on the association's website as well as the Department of Legislative Audit's website;

(4) The association complies with the provisions of chapter 1-25 and chapter 1-27. However, the association, and its employees, meetings, and records, are afforded the same exemptions and protections as a political subdivision or public body is provided under chapter 1-25 and chapter 1-27; and

(5) The association shall report to the Government Operations and Audit Committee annually, or at the call of the chair.

The governing body of a nonpublic school, approved and accredited by the secretary of the Department of Education, or AdvancED, or the Association of Christian Schools International (ACSI), or the Association of Classical and Christian Schools (ACCS), or Christian Schools International (CSI), or National Lutheran School Accreditation (NLSA), or Commission for Oceti Sakowin Accreditation (COSA), or Wisconsin Evangelical Lutheran Synod School Accreditation, may also delegate, on a year to year basis, the control, supervision, and regulation of any high school interscholastic activities to any association which is voluntary and nonprofit if membership in such association is open to all high schools approved and accredited pursuant to this section, including any school that allows participation by students receiving alternative instruction as set forth in § 13-27-3, pursuant to the provisions of this title, and if the constitution, bylaws, and rules of the association are subject to ratification by the school boards of the member public school districts and the governing boards of the member nonpublic schools and include a provision for a proper review procedure and review board.

Any association which complies with this section may exercise the control, supervision, and regulation of interscholastic activities, including interscholastic athletic events of member schools. Such association may promulgate reasonable uniform rules, to make decisions and to provide and enforce reasonable penalties for the violation of such rules.

SDCL 13-36-5 ANNUAL AUDIT OF HIGH SCHOOL ACTIVITIES ASSOCIATION-PAYMENT-REPORT

Any association exercising the grant of authority contained in SDCL 13-36-4 to regulate public and non-public schools shall be audited annually by the state department of legislative audit and a report of such audit shall be made to the Legislature. The association shall pay for the audit at the rate prescribed by SDCL 4-11-18.

SDCL 13-36-7 OPEN ENROLLMENT/OUT OF STATE/ALT. INSTRUCTION (AMENDED 2021 LEGISLATIVE SESSION)

Any student enrolling in a South Dakota district pursuant to § 13-15-21 is eligible to participate in any interscholastic activity sponsored by the South Dakota High School Activities Association.

Each public school district shall allow participation in athletics, fine arts, or activities for a child being provided alternative instruction pursuant to § 13-27-3 within the district in which the child resides. The parent, guardian, or other person in control of a child being provided alternative instruction shall submit proof of age when participating in athletics, fine arts, or activities. Any child being provided with alternative instruction and participating in South Dakota High School Activities Association activities shall be held to the same local training rules and South Dakota High School Activities Association transfer and non-academic eligibility rules as enrolled students.

Pursuant to § 13-27-3 and before the current season of the sport or activity the alternative instruction child is participating in, the parent, guardian, or other person in control of a child being provided alternative instruction shall provide the appropriate school official with a copy of a transcript of the previous semester's completed coursework that is issued by the parent, guardian, or other person in control of the child. The parent, guardian, or other person in control of a child being provided alternative instruction shall notify the appropriate school official if the child becomes ineligible under South Dakota High School Activities Association or local school rules in so far as those standards apply to § 13-27-3.

Nothing in this section confers any vested right in any student wishing to participate in any interscholastic activity to be selected for competition in such activity. However, any enrolled student who leaves an accredited program during the course of the school year and who will be provided alternative instruction is ineligible for participation in interscholastic activities for the balance of the current season of the sport or activity the student is participating in at the time of notification of alternative instruction.

SDCL 13-36-8 7th and 8th GRADE NONPUBLIC ELEMENTARY OR MIDDLE SCHOOL STUDENTS

Any seventh or eighth grade student who attends a nonpublic elementary or middle school that is not affiliated with a nonpublic high school may participate in interscholastic activities at a nonpublic high school, at the discretion of the nonpublic school, if the student meets the same scholastic standards required by the South Dakota High School Activities Association for high school participation.

Adopted 2005 session

SDCL 13-36-9 to 13-36-14 adopted 2011 session

Concussion guidelines and information sheet. The South Dakota High School Activities Association, in concert with the Department of Education, shall develop guidelines to inform and educate member schools, coaches, athletes, and the parents or guardians of athletes, of the nature and risk of concussion, including continuing to play after sustaining a concussion. A concussion information sheet shall be signed and returned by any athlete who seeks to compete in activities sanctioned by the South Dakota High School Activities Association and the athlete's parent or guardian prior to the athlete's participation in any youth athletic activities sanctioned by the South Dakota High School Activities Association. A signed information sheet is effective for one academic year.

The guidelines and information sheet shall include protocols and content consistent with current medical knowledge for informing and educating each member school, coach, and athlete participating in athletic activities sanctioned by the South Dakota High School Activities Association, and the athlete's parent or guardian as to:

- 1) The nature and risk of concussions associated with athletic activity;
- 2) The signs, symptoms, and behaviors consistent with a concussion;
- 3) The need to alert appropriate medical professionals for urgent diagnosis or treatment if an athlete is suspected to have received a concussion; and
- 4) The need to follow proper medical direction and protocols for treatment and return to play after an athlete sustains a concussion.

SDCL 13-36-10

Coaches to complete training program. The South Dakota High School Activities Association and the South Dakota Department of Education shall develop a training program consistent with § 13-36-9. Each coach participating in athletic activities sanctioned by the South Dakota High School Activities Association shall complete the training program each academic year.

SDCL 13-36-11

Removal of athlete exhibiting symptoms of concussion. An athlete shall be removed from participation in any athletic activity sanctioned by the South Dakota High School Activities Association at the time the athlete:

- 1) Exhibits signs, symptoms, or behaviors consistent with a concussion; or
- 2) Is suspected of sustaining a concussion.

SDCL 13-36-12

Return of athlete to activity. No athlete who has been removed from participation in an athletic activity sanctioned by the South Dakota High School Activities Association may return to athletic activities until the athlete:

- 1) No longer exhibits signs, symptoms, or behavior consistent with a concussion; and
- 2) Receives an evaluation by a licensed health care provider trained in the evaluation and management of concussions and receives written clearance to return to play from such health care provider.

SDCL 13-36-13

Licensed health care provider defined. For the purposes of § 13-36-12, a licensed health care provider is a person who is:

- 1) Registered, certified, licensed, or otherwise recognized in law by the State of South Dakota to provide medical treatment; and
- 2) Trained and experienced in the evaluation, management, and care of concussions.

SDCL 13-36-14

Cause of action not created. Sections to §§ 13-36-9 to 13-36-13, inclusive, do not create any liability for, or create any cause of legal action against, a school, a school district, or any officer or employee of a school or school district.

SDCL 13-67-1 (2022) Athletic teams and sports- Designation by Sex- Participation

Any interscholastic, intercollegiate, intramural, or club athletic team, sport, or athletic event that is sponsored or sanctioned by an accredited school, school district, an activities association or organization, or an institution of higher education under the control of either the Board of Regents or the Board of Technical Education must be designated as one of the following, based on the biological sex at birth of the participating students:

- (1) Females, women, or girls;
- (2) Males, men, or boys; or
- (3) Coeducational or mixed.

Only female students, based on their biological sex, may participate in any team, sport, or athletic event designated as being for females, women, or girls.

For purposes of this section, biological sex is either female or male and the sex listed on the student's official birth certificate may be relied upon if the certificate was issued at or near the time of the student's birth. The failure to comply with this section is a limited waiver of sovereign immunity for relief authorized under this chapter.

SDCL 13-67-2 (2022)- Complaint- Investigation- Harm incurred by athlete

If a student suffers direct or indirect harm as a result of a violation of § 13-67-1, that student has a private cause of action for injunctive, mandamus, and declaratory relief, against the accredited school, school district, activities association or organization, or institution of higher education under the control of either the Board of Regents or the Board of Technical Education that caused the harm.

If a student is subjected to retaliation or other adverse action by an accredited school, school district, activities association or organization, or institution of higher education as a result of reporting a violation of § 13-67-1 to an employee or representative of the school, school district, activities association or organization, institution of higher education, or to a state or federal governmental entity having oversight authority, that student has a private cause of action for injunctive, mandamus, and declaratory relief, against the school, school district, activities association or organization, or institution of higher education. In addition, no governmental entity may investigate a complaint or take any adverse action against an accredited school, school district, activities association or organization, or institution of higher education, or any employee or governing board member of the foregoing for compliance with § 13-67-1.

SDCL 13-67-3 (2022)- Harm incurred by institution

If an accredited school, school district, or institution of higher education under the control of either the Board of Regents or the Board of Technical Education suffers any direct or indirect harm as a result of a violation of § 13-67-1, that school, school district, or institution of higher education has a private cause of action for injunctive, mandamus, and declaratory relief, against the governmental entity, licensing or accrediting organization, or activities association or organization.

SDCL 13-67-4 (2022)- Limitation of actions – Attorney Fees

No governmental entity, accredited school, school district, or institution of higher education may be liable to any student for its compliance with § 13-67-1. A civil action under § 13-67-2 or 13-67-3 must be initiated within two years from the date the alleged harm occurred. Any party prevailing on a claim brought under § 13-67-2 or 13-67-3 is entitled to reasonable attorney's fees and costs.

SDCL 13-67-5 (2022)- Lawsuit- Public defense- Costs assumed by the state

For any lawsuit brought or any complaint filed against an accredited school, a school district, or an institution of higher education under the control of either the Board of Regents or the Board of Technical Education, or an employee, board, or a member thereof, as a result of compliance with § 13-67-1, the attorney general shall provide legal representation at no cost to that entity or individual.

In addition to the expenses of representation, the state shall assume financial responsibility for any other expense related to the lawsuit or complaint and incurred by an accredited school, a school district, or an institution of higher education, or an employee, board, or a member, including any award for attorney's fees and costs for which that entity or individual would be otherwise responsible.

SDCL 36-4A-26.1 PHYSICALS

In addition to doctors of medicine and doctors of osteopathy, this statute gives physician's assistants the authority to give exams and sign the form.

SDCL 36-9A-12 PHYSICALS

In addition to doctors of medicine and doctors of osteopathy, this statute gives nurse practitioners the authority to give exams and sign the forms.

SDCL 36-5-15 PHYSICALS

In addition to doctors of medicine and doctors of osteopathy, this statute gives doctors of chiropractic the authority to give exams and sign the forms.