

**Addition of new article with chapters and section divisions in response to IM 26.**

**ARTICLE 24:80**

**MEDICAL CANNABIS AND SCHOOLS**

Chapter

24:80:01 Definitions.

24:80:02 General provisions.

24:80:03 District discretion.

CHAPTER 24:80:01

DEFINITIONS

Section

24:80:01:01 Definitions.

**24:80:01:01. Definitions.** Words and phrases defined in [SDCL chapter 34-20G](#) have the same meaning when used in this article. In addition, as used in this article:

- (1) “School property” means any school premises, vehicle, or building, or any premises, vehicle, or building used or leased for school functions.

**Source:**

**General Authority:** SDCL §§ 34-20G-95, 13-33A-2.

**Law Implemented:** SDCL §§ 34-20G-95, 13-33A-1.

CHAPTER 24:80:02

## GENERAL PROVISIONS

### Section

24:80:02:01 Administration of medical cannabis to students.

24:80:02:02 Allowable forms of medical cannabis.

24:80:02:03 Required notification.

24:80:02:04 Notice provided to individuals within the district.

24:80:02:05 Restrictions on administering medical cannabis.

24:80:02:06 Required documentation.

24:80:02:07 Students 18 years or older.

24:80:02:08 Prohibited acts -- Student.

24:80:02:09 School district may not discipline a student solely for being a cardholder.

24:80:02:10 School, school employee or volunteer not required to administer or store medical cannabis.

24:80:02:11 Records.

24:80:02:12 Exemption.

**24:80:02:01. Administration of medical cannabis to students.** A school district shall, upon notification pursuant to § 24:80:02:03, allow a registered designated caregiver to administer medical cannabis to a student cardholder on or in school property or at a school-sponsored activity in accordance with a practitioner's recommendation.

**Source:**

**General Authority:** SDCL §§ [34-20G-95](#), [13-33A-2](#).

**Law Implemented:** SDCL §§ [34-20G-95](#), [13-33A-1](#).

**24:80:02:02. Allowable forms of medical cannabis.** Medical cannabis administered on or in a school property or at a school-sponsored activity shall be in the form of non-smokable marijuana.

**Source:**

**General Authority:** SDCL §§ [34-20G-95](#), [13-33A-2](#).

**Law Implemented:** SDCL §§ [34-20G-95](#), [13-33A-1](#).

**24:80:02:03. Required notification.** The parent or legal guardian of any student cardholder must notify the school district before any medical cannabis is administered on or in a school property or at a school-sponsored activity. The parent or legal guardian shall present the student's registry identification card to the school district. The school district shall retain a copy, both front and back, of the card for the student's file. The school district may accept a nonresident card, pursuant to the restrictions in [SDCL chapter 34-20G](#). The parent or legal guardian shall provide written notice to the school district within ten days of any of the following:

- (1) Change in designated caregiver(s);
- (2) If the student ceases to have a debilitating medical condition; or
- (3) If the card is void, expired, or revoked.

**Source:**

**General Authority:** SDCL §§ 34-20G-95, 13-33A-2.

**Law Implemented:** SDCL §§ 34-20G-95, 13-33A-1.

**24:80:02:04. Notice provided to individuals within the district.** If a school district receives notice pursuant § 24:80:02:03, the school district shall ensure that such notice is provided to the student’s educators and persons designated to provide health services to the student at the school.

**Source:**

**General Authority:** SDCL §§ [34-20G-95](#), [13-33A-2](#).

**Law Implemented:** SDCL §§ [34-20G-95](#), [13-33A-1](#).

**24:80:02:05. Restrictions on administering medical cannabis.** A student may not possess or self-administer medical cannabis on or in school property or at a school-sponsored activity. Only a designated caregiver may possess and administer to a student cardholder on or in school property or at a school-sponsored activity. The designated caregiver may not administer the medical cannabis in a manner that creates disruption to the educational environment or causes exposure to other students. After the designated caregiver administers the medical cannabis, the designated caregiver shall remove any remaining medical cannabis from the school property or school-sponsored activity.

**Source:**

**General Authority:** SDCL §§ 34-20G-95, 13-33A-2.

**Law Implemented:** SDCL §§ 34-20G-95, 13-33A-1.

**24:80:02:06. Required documentation.** Before the administration of medical cannabis and at any time when the student’s administration of medical cannabis changes, the school district must have the following documentation on file. The student's parent or legal guardian shall at least annually complete and submit to the school district the documentation required by this article, including:

- (1) A written certification including the signature of the recommending practitioner and the recommended dosage, frequency or time of administration, and length of time between dosages of the medical cannabis to be administered;
- (2) The student’s registry identification card and proof of the registered designated caregiver(s);
- (3) A written statement from the student's parent or legal guardian, including:
  - a. Acknowledgment stating the school district and personnel and volunteers of the school district are released from any and all liability, except in cases of willful or wanton conduct, or reckless disregard of the criteria of the treatment plan; and
  - b. Acknowledgment that no school personnel are required to administer medical cannabis.

**Source:**

**General Authority:** SDCL §§ 34-20G-95, 13-33A-2.

**Law Implemented:** SDCL §§ 34-20G-95, 13-33A-1.

**24:80:02:07. Students 18 years or older.** A student who is 18 years or older or who has been emancipated may not possess or self-administer medical cannabis while on or in school

property or at a school-sponsored activity. Such student shall provide the notices and documentation required by § 24:80:02:03, the written documentation in § 24:80:02:06, and must designate a caregiver for the purposes of possession and administration on or in school property or at a school-sponsored activity.

**Source:**

**General Authority:** [SDCL §§ 34-20G-95, 13-33A-2.](#)

**Law Implemented:** [SDCL §§ 34-20G-95, 13-33A-1.](#)

**24:80:02:08. Prohibited acts -- Student.** Student possession, use, distribution, or sale, or a student being under the influence of a cannabis product inconsistent with this article is prohibited.

**Source:**

**General Authority:** [SDCL §§ 34-20G-95, 13-33A-2.](#)

**Law Implemented:** [SDCL §§ 34-20G-95, 13-33A-1.](#)

**24:80:02:09. School district may not discipline a student solely for being a cardholder.** A school district may not discipline a student cardholder solely because the student requires medical cannabis as a reasonable accommodation necessary to attend school.

**Source:**

**General Authority:** [SDCL §§ 34-20G-95, 13-33A-2.](#)

**Law Implemented:** [SDCL §§ 34-20G-95, 13-33A-1.](#)

**24:80:02:10. School, school employee or volunteer not required to administer or store medical cannabis.** Neither this article nor any other state or federal law, including without limitation the “Individuals with Disabilities Education Act,” 20 U.S.C. § 1400 et seq., as amended to December 10, 2015, and section 504 of the “Rehabilitation Act of 1973,” 29 U.S.C. § 794, as amended to December 10, 2015, may be used to require a school district or any personnel thereof to store medical cannabis on or in school property or at a school-sponsored activity or to administer medical cannabis.

**Source:**

**General Authority:** SDCL §§ [34-20G-95](#), [13-33A-2](#).

**Law Implemented:** SDCL §§ [34-20G-95](#), [13-33A-1](#).

**24:80:02:11. Records.** Any information received by a school district pursuant to article 24:80, containing confidential information or personally identifiable information is protected by the “Family Educational Rights and Privacy Act of 1974,” 20 U.S.C. § 1232g, as amended to July 1, 2013, and shall become part of the student’s educational record.

**Source:**

**General Authority:** SDCL §§ [34-20G-95](#), [13-33A-2](#).

**Law Implemented:** SDCL §§ [34-20G-95](#), [13-33A-1](#).

**24:80:02:12. Exemption.** A school district is not required to comply with §§ 24:80:02:01 through 24:80:02:11, if:

- (1) The school district posts on its website in a conspicuous place a statement regarding its decision not to comply with §§ 24:80:02:01 through 24:80:02:11; and

(2) The school district can reasonably demonstrate that it will lose or has lost federal funding as a result of complying with §§ 24:80:02:01 through 24:80:02:11.

**Source:**

**General Authority:** SDCL §§ 34-20G-95, 13-33A-2.

**Law Implemented:** SDCL §§ 34-20G-95, 13-33A-1.

CHAPTER 24:80:03

DISTRICT DISCRETION

Section

24:80:03:01 Permissive district policy.

24:80:03:02 District policy -- Requirements.

**24:80:03:01. Permissive district policy.** A school district may adopt policies to permit the administration and storage of medical cannabis by school personnel on or in school property or at a school-sponsored activity. The school district may adopt policies regarding the reasonable parameters of the administration and storage of medical cannabis. Such policies may establish criteria for designated school personnel to administer medical cannabis or emergency administration of medical cannabis due to a life-threatening event. Criteria may also address the form of non-smokable medical cannabis that will be allowed to be stored and administered.

**Source:**

**General Authority:** SDCL §§ [34-20G-95](#), [13-33A-2](#).

**Law Implemented:** SDCL §§ [34-20G-95](#), [13-33A-1](#).



**24:80:03:02. District policy -- Requirements.** If a school district adopts such policies detailed in § 24:80:03:01, such policies shall include the following provisions:

- (1) The student's parent or legal guardian shall deliver the student's medical cannabis in a container that contains clearly labeled instructions, or the plan for administration must clearly specify instructions, to include the dosage, frequency or time of administration, and length of time between dosages of the medical cannabis from the student's recommending practitioner;
- (2) A student may not possess or self-administer medical cannabis on or in school property or at a school-sponsored activity;
- (3) The school district shall designate specific school personnel at each school who secure and store the medical cannabis; and
- (4) The designated school personnel shall secure the medical cannabis in a locked storage container.

**Source:**

**General Authority:** SDCL §§ [34-20G-95](#), [13-33A-2](#).

**Law Implemented:** SDCL §§ [34-20G-95](#), [13-33A-1](#).