

# **Board of Education Standards**

## **Powers, Duties, Responsibility**

**South Dakota Codified Laws**

**as of September 1, 2024**

**compiled by Steve Perkins, President**

### **13-1-12.1. Promulgation of rules on classification and accreditation of schools, preparation of certified personnel, eligibility for state aid, career and technical education, and curriculum requirements.**

The South Dakota Board of Education Standards shall promulgate rules pursuant to chapter 1-26 to establish standards for the classification and accreditation of schools within this state, to establish standards for preparation of certified personnel, to set forth procedures for determining the eligibility of school districts to receive state aid to education funding, to adopt policies and rules necessary to establish standards and procedures for career and technical education, and to establish curriculum requirements for a recommended high school program for all public and nonpublic schools within the state. The recommended high school program shall include a rigorous high school curriculum in both academic and career and technical courses. The requirements of the recommended program shall be aligned to the academic content standards developed pursuant to § 13-3-48 and shall, at a minimum, include the content standards tested pursuant to § 13-3-55.

Nothing in this section authorizes the board to require the use of specifically designated curriculum or methods of instruction.

### **13-1-31. School library supervision--No minimum expenditures.**

The secretary of education shall have supervision over school libraries. The South Dakota Board of Education Standards shall adopt such rules as it deems necessary to govern them. The board may not require minimum library expenditures.

### **13-1-39. State board recommendations to Governor and Legislature.**

The South Dakota Board of Education Standards shall have the power and duty to consider the educational needs of the state and recommend to the Governor and the Legislature such additional legislation or changes in existing legislation as may be deemed desirable.

### **13-1-43. Board and department to develop standards and practices for students.**

The South Dakota Board of Education Standards and the Department of Education shall work jointly with other state government agencies to ensure that children enter the K-12 education system ready to learn. The board and the department shall jointly work to develop standards and practices that ensure that, by the third grade, all children, to the best of their abilities, have learned fundamental reading, mathematics, language, science, and technology skills that form the foundation for further learning. The board and the department shall work together to develop standards and practices that ensure that, by completion of the twelfth grade,

all students, to the best of their abilities, have learned the educational and personal skills that will allow them to enter adulthood as responsible members of society

**13-1-51. Promulgation of rules regarding curriculum and coursework.**

The Board of Education **Standards** may promulgate rules pursuant to chapter 1-26 to provide for curriculum and coursework in South Dakota American Indian history and culture.

**13-1-55. Promulgation of rules regarding reimbursement and stipend.**

The Board of Education **Standards** shall promulgate rules, pursuant to chapter 1-26, establishing the procedures for documenting the necessary certification and for providing the payments required in § 13-1-54.

**13-3-47. Classification and accreditation of schools.**

The secretary of the Department of Education shall be responsible for the classification and accreditation of all public and nonpublic schools under the rules established by the South Dakota Board of Education **Standards** pursuant to chapter 1-26.

**13-3-48. Standards revision cycle--Content standards.**

The secretary of the Department of Education shall prepare and submit for approval of the South Dakota Board of Education **Standards** a standards revision cycle and content standards for kindergarten through grade twelve.

**13-3-48.1. Adoption of uniform content standards drafted by multistate consortium.**

Prior to July 1, 2016, the **Board of Education** may not, pursuant to § 13-3-48, adopt any uniform content standards drafted by a multistate consortium which are intended for adoption in two or more states. However, this section does not apply to content standards whose adoption by the **Board of Education** was completed and finalized prior to July 1, 2014. However, nothing in this section prohibits the board from adopting standards drafted by South Dakota educators and professionals which reference uniform content standards, provided that the board has conducted at least four public hearings in regard to those standards.

**13-3-51. Data reporting and record systems--Evaluation--Promulgation of rules--Exception.**

The secretary of the Department of Education shall establish a uniform system for the gathering and reporting of educational data for the keeping of adequate educational and financial records and for the evaluation of educational progress. Any school district or school seeking state accreditation shall submit enrollment data, personnel data, and shall verify all state and federal standards for accreditation and approval of schools, including those related to safety and educational equity of the school district or school by October fifteenth of each year. If the due date falls on a weekend or state holiday, the due date is the next business day following the scheduled due date. An annual written evaluation of the educational progress in the state and in each school district shall be submitted to the Legislature and shall be made available in each

school district to the general public. The South Dakota Board of Education **Standards** may promulgate rules pursuant to chapter 1-26 to further define the data required pursuant to this section. However, nothing in this section authorizes the collection of information not necessary for the calculation of funding for public education, the determination of student academic progress, state and federal reporting requirements, or other duties prescribed to a school district, the department, or the South Dakota Board of Education **Standards** by law.

### **13-3-56.2. Report of investigation--Consequences of a determination of cheating.**

Following the investigation, the superintendent shall report the results of the investigation to the secretary of the Department of Education. Upon receiving the report, the secretary shall determine whether the alleged cheating occurred and, if so, if it was severe enough to affect the results of the achievement test. If the secretary finds that the cheating did occur, the affected score sheets may not count and shall be discarded. The secretary shall also determine if the cheating was severe enough to affect the school's adequate yearly progress under the terms of the state accountability system established pursuant to § 13-3-62. If the cheating was severe enough to affect the school's adequate yearly progress, the secretary may determine that the school does not meet adequate yearly progress for that school year. The decision of the secretary regarding adequate yearly progress may be appealed to the South Dakota Board of Education **Standards**.

### **13-3-63. State accountability system based on standards approved by board--Annual academic indicators.**

The state accountability system **shall** be based on the South Dakota Content Standards in reading and mathematics approved by the South Dakota Board of Education **Standards**. The yearly progress of students shall be measured by the state academic assessments as may be prescribed by the Legislature, and shall take into account the achievement of all public elementary school and secondary school students in reading and mathematics annually. Additional indicators established pursuant to § 13-3-69 shall be used in the measurement of yearly progress.

### **13-3-69. Promulgation of rules to establish state accountability system.**

The South Dakota Board of Education **Standards** may promulgate administrative rules pursuant to chapter 1-26 to establish the state accountability system based on achievement and other indicators including:

- (1) A definition of academic progress;
- (2) The method of calculating yearly progress in mathematics and reading for all public schools, including methods for determining both the status and growth;
- (3) A definition of four levels of student achievement, including a proficient level;
- (4) Determination of cut scores in mathematics and reading for each level of student achievement;
- (5) Establishment of the measurable objectives for academic progress;
- (6) Establishment of a system of sanctions, rewards, and recognition;
- (7) Establishment of the process for teacher and principal evaluation;
- (8) Determination of the criteria to demonstrate student preparedness for college and career for each public high school;

- (9) Determination of the method for calculating the attendance rate for each public elementary and middle school;
- (10) Establishment of an appeal process for public schools; and
- (11) Establishment of a process whereby the state accountability system will be periodically reviewed.

**13-3-89. Public hearings prior to adoption of content standards--Quorum.**

The Board of Education **Standards**, prior to adopting content standards pursuant to § 13-3-48, **shall** conduct, over a period of no less than six months, at least four public hearings. The purpose of the hearings is to give members of the public the opportunity to provide input to the board on whether the standards being proposed should be adopted and implemented in South Dakota. The board **shall** conduct at least one of the public hearings in each of the following cities: Aberdeen, Pierre, Rapid City, and Sioux Falls. No public hearing required pursuant to this section is valid unless a quorum of the board is physically present at each of these public hearings.

**13-3-90. Notice of intent to receive public comment and testimony--Notice of hearings.**

In addition to complying with the requirements of chapter 1-25, the Board of Education **Standards shall**, at least thirty days prior to each public hearing, publish notice of the intent to receive public comment and testimony concerning the adoption and implementation of content standards in at least three newspapers of general circulation in different parts of the state, post the notice on the board's website, and provide the notice, via United States mail or e-mail, to each person who has, in writing, via United States mail or e-mail, requested notice of the hearings referenced in § 13-3-89.

**13-5-14. School districts overlapping county boundaries--County determined by residence of majority.**

For the purposes of this title, a school district which overlaps boundaries of a county is considered to be in that county where the majority of the children belonging to the district reside as determined by the fall submission of student enrollment data, and when once established, the district shall so remain until the boundaries thereof shall be changed under other provisions of this title. However, any disputes arising under the provisions of § 13-5-1 or 13-5-2, or this section, **shall** be determined by the South Dakota Board of Education **Standards**.

**13-5-34. Application procedure by school district for waiver from compliance with administrative rules--School reform plan.**

School districts may apply for waivers from compliance with state administrative rules which a majority of the local school board agrees limit its ability to make specified reforms and are unnecessary for maintaining the quality of education within the school district. Prior to applying for the waivers, the school district shall hold a public hearing within the district to seek public comment on its school reform plan and the waivers being sought. A list of the waivers being sought and justification for each shall be submitted to the Department of Education at least sixty days before the date that waivers are to occur. The request for waiver shall provide a method for evaluation which includes the involvement of students, parents, teachers, and

administrators. The secretary of the Department of Education may approve waivers of up to four years. Any district which is aggrieved by a decision of the secretary of the Department of Education may, within thirty days, appeal to the South Dakota Board of Education **Standards** pursuant to chapter 1-26.

The South Dakota Board of Education **Standards** may promulgate rules, pursuant to chapter 1-26, to establish standards for waivers, reform plans, approval process, and rescission procedures.

#### **13-6-4. Requirements for school district reorganization.**

Reorganization of school districts **shall** meet the requirements set forth in § 13-6-7 and the standards for proposed school districts as adopted by the South Dakota Board of Education **Standards**.

#### **13-6-7. Municipality to be all in same district--Exception.**

All territory within the corporate limits of any municipality shall be included in the same school district. However, this section does not apply to a municipality created pursuant to chapter 9-3 after July 1, 1991.

#### **13-6-13. Contents of reorganization plan--Acceptance or rejection of annexed area by receiving board--Excess tax levy.**

The plan shall contain:

- (1) A map or maps showing the boundaries of the proposed district or districts, the boundaries of the existing districts involved, the location of existing and proposed attendance centers and a description of the facilities, and the proposed school bus routes, if any;
- (2) A legal description of the boundaries of the proposed district or districts;
- (3) Estimates of the school age population within the proposed district or districts;
- (4) The assessed valuation of all taxable property of each existing district and of the proposed district or districts;
- (5) Outstanding general obligation bonds of any component district, funds in all school accounts and estimated receipts in all accounts in process of collection;
- (6) If a joint district, the designation of the county of jurisdiction;
- (7) The official name of the proposed district;
- (8) A statement with regard to a proposed method of adjustment of assets and liabilities;
- (9) The proposed number of school board members if a new entity is to be created;
- (10) A description of the proposed educational program;
- (11) A reasonably detailed budget showing estimated annual receipts and expenditures for the operation of the proposed district or districts;
- (12) A process for a landowner to request their land be transferred to another school district when their land is adjacent to a school district other than a school district involved in the reorganization;
- (13) Such additional information as may be necessary to show compliance with the standards for school districts as adopted by the South Dakota Board of Education **Standards**.

If the plan proposes the dissolution and annexation of a school district to one or more school districts, the school board of the receiving district, or districts, shall by resolution express their

acceptance or rejection of all or part of the district to be dissolved as set forth in the proposed plan.

If the school boards of two or more school districts are developing a plan to consolidate, and two-thirds of the members of each affected school board agree, the plan may also include the provisions of an excess tax levy authorized in § 10-12-43 if an excess tax levy currently exists in one or more of the school districts. If the plan is approved by the voters, the proposed excess tax levy may be applied in the new consolidated school district. If a proposed excess tax levy is included in the plan, the plan shall state the amount of the proposed excess tax levy. The proposed excess tax levy may be applied for taxes payable in any of the five years following the date of reorganization. In addition, each school board involved in the development of the plan shall announce the inclusion of the proposed excess tax levy in the plan to the taxpayers in the manner set forth in § 10-12-43.

**13-6-18. Review of plan by secretary--Hearings--Notice of compliance or noncompliance--Duration of plan.**

Upon receipt of a proposed plan, the secretary of the Department of Education shall review the plan and compare its features with the requirements for school district reorganization as provided in § 13-6-4. The secretary of the Department of Education may call a hearing on the proposal, or request additional information as deemed necessary before his approval or disapproval. He shall notify in writing the school boards of the school districts and boards of county commissioners affected that the proposal is found, or is not found, to be in compliance with the requirements for school district reorganization and the standards and rules adopted by the South Dakota Board of Education **Standards**.

The secretary of the Department of Education may deny approval of a plan when in the superintendent's judgment the proposed district does not contain enough valuation or enrollment to provide an adequate educational program.

**13-6-97. Required reorganization of school district with low enrollment--Exceptions .**

Any school district that has a fall enrollment, as defined in § 13-13-10.1, of fewer than one hundred and is not a sparse school district, as defined in § 13-13-78, shall reorganize with one or more school districts to create a newly reorganized school district with a fall enrollment of one hundred or greater. After July 1, 2007, if the fall enrollment of any school district that is not a sparse school district falls to one hundred or fewer, that school district shall prepare a plan for reorganization within two years. If a school district is required to prepare a plan for reorganization under this section and fails to prepare a plan, the Board of Education **Standards shall** prepare a plan for reorganization for that school district. The minimum fall enrollment for any school district that does not operate a high school and that contracts with an adjoining school district in Minnesota to educate its resident high school students is equal to a pro-rated share of one hundred based upon the number of grades offered within the school district. The provisions of this section do not apply to:

- (1) A school district that receives no state aid distributed pursuant to chapter 13-13, and that is located not less than twenty-five miles from the nearest high school in an adjoining school district in the state;
- (2) A school district that is part of a consortium of school districts exercising joint governmental powers pursuant to chapter 1-24, or intergovernmental cooperation in education pursuant to chapter 13-15 for the purposes stated in § 13-8-1, if the joint

powers agreement or intergovernmental cooperation agreement is approved each year before the first day of July by the secretary of education; and

- (3) The only school district in the county with an existing attendance center, and whose attendance center is at least twenty miles away from any other attendance center.

The Board of Education **Standards** may promulgate rules, pursuant to chapter 1-26, to establish the procedures and criteria for the secretary's approval of any reorganization agreement required under this section. The criteria established by the Board of Education **Standards** under this section **shall** take into account any significant cost savings that may be achieved through the reorganization agreement and the educational needs of the students in the districts that are parties to the reorganization agreement.

#### **13-10-17. School counselors.**

If a school district employs a school counselor, on either a full-time or part-time basis, or contracts for the services of a school counselor through an educational cooperative or other entity, that school counselor **shall** be certified in accordance with the standards established by the South Dakota Board of Education **Standards** pursuant to § 13-1-12.1.

#### **13-13-37.4. Promulgation of rules.**

The secretary of the Department of Education and the South Dakota Board of Education **Standards shall** promulgate rules pursuant to chapter 1-26 to implement state aid to education funding as provided in this chapter.

#### **13-14-1. Contracts with federal agencies--Receipt and expenditure of federal grants.**

The secretary of education is hereby authorized to enter into contracts with any agency of the United States government for the purposes of education, to receive grants of federal funds for those purposes, and to expend such funds under such rules and regulations as the South Dakota Board of Education **Standards** may establish.

#### **13-15-1.4. Shared employee services grant program.**

There is hereby established in the Department of Education a shared employee services grant program. The purpose of the grant program is to provide an incentive for school districts to share an employee pursuant to § 13-15-1.1. The South Dakota Board of Education **Standards shall** promulgate rules, pursuant to chapter 1-26, regarding the application process and timelines, the guidelines and criteria for eligibility and approval of applications, and the distribution of funds from the shared employee services grant program, not to exceed the amount appropriated by the Legislature for this program.

#### **13-15-2. Contracts for education of Indian children--Receipt and expenditure of federal grants.**

The secretary of education is hereby authorized to enter into contracts with the United States Department of the Interior for the education of Indian children, to receive grants of federal funds for that purpose, and to expend such funds under such rules as the South Dakota Board of Education **Standards** may establish.

#### **13-15-5. Rules applicable to education provided under federal contract--Acceptance in lieu of public education.**

Education provided under § 13-15-3 shall comply with the rules of the South Dakota Board of Education Standards. Such education, when supplied by a federally operated school shall be considered in lieu of the public education required by law to be furnished by the school districts.

**13-16-32. Special education fund--Legal costs allowable expenditures.**

The South Dakota Board of Education Standards may promulgate rules pursuant to chapter 1-26 to identify allowable expenditures from the special education fund. Legal costs incurred by a school district as a direct result of providing special education or special education and related services to a child for whom the district is financially responsible are allowable expenditures. The allowable expenditures may include any legal costs incurred by the school district in the referral, evaluation, and placement processes as well as any other legal expenses for which the district is determined to be legally responsible to pay as a result of due process hearings.

**13-24-1. School board authority to purchase or lease land for school purposes.**

The school board of a school district shall have authority to purchase or lease land for school purposes, subject to the rules for the use of such land as adopted by the South Dakota Board of Education Standards.

**13-26-2. Time required in school term--Make up time--Summer term.**

The school board or governing body shall operate kindergarten through grade twelve in its schools. The school board shall operate grades one through twelve for at least a nine-month regular term in any one school year, and the number of hours in a school term for kindergarten shall be set pursuant to § 13-26-1. The regular school term may be conducted on a year-round basis and shall begin on a date established by the school board. The Board of Education Standards shall promulgate rules pursuant to chapter 1-26 governing the operation and scheduling of year-round schools. Any school board or governing body may release graduating high school seniors from school before the end of the regular term. A school is not required to make up time for school closing because of weather, disease, or emergency once it has reached the minimum number of hours in the school term as required by state law. Graduating seniors are excused from make up time if the make up time occurs after the students have graduated or after graduation exercises have been held. If classes have been convened and then are dismissed, or if classes convene at a time later in the day than normal, because of inclement weather, that day constitutes a school day in session equal to the number of hours planned for that day as established in the local school district calendar for the year.

School boards are encouraged to provide time within the regular school term for curriculum and staff development which shall be in addition to the time required in this section. Each school board shall determine the appropriate amount of time for this activity and how best to use the time based on local needs for program development, increased parent participation, student contact, teachers' preparation, or other needs of the schools in the district. School is in session only when classes are held and as provided in §§ 13-26-4 and 13-26-4.1. A school board may operate a special term during the summer months.

**13-27-8. Appeal on attendance matters to state board --Finality of decision.**

Any parent or guardian of a student denied a certificate pursuant to §§ 13-27-6 and 13-27-6.1 who is dissatisfied with the decision of the school board may appeal the matter to the South Dakota Board of Education **Standards** who **shall** conduct a hearing pursuant to chapter 1-26. The state board's decision **shall** be final as to the secretary's right of appeal.

**13-28-15. Assignment of elementary students within district--Factors considered--Review of board's decision.**

Every school board shall make assignment and distribution of all students with school residence within the district. The board shall take into consideration in assigning and distributing students its duty to provide an education within the guidelines of the State Board of Education **Standards'** accreditation rules, the wishes of the parents or guardians of the child being assigned and the district patrons, the miles and time involved in transporting the child to school, and the educational and financial impact on the district. Any patron who is aggrieved by a decision of the school board may request a hearing within thirty days before the secretary of the Department of Education or his representative. If the Department of Education has not rendered a decision within thirty days following final submission of the appeal, the board's decision is affirmed.

**13-29-2. Establishment of bus routes within district--Rules prescribed by state board.**

The school board shall also have authority to establish the school bus routes within its own school district. Such bus service **shall** be subject to the rules for buses and bus routes as prescribed by the South Dakota Board of Education **Standards**.

**13-29-4. Regulation of bus routes crossing school district boundaries--Appeal to state board and courts.**

If the buses operated by a school district cross the boundaries of another school district to transport students to and from school, the school board of such other district or districts shall have the authority to designate which school district operating such buses shall be authorized to transport the students of that district and to regulate the routes of buses picking up students within that district, and that the school districts operating buses shall not violate the routes so designated, except that any person aggrieved by the decision of any such school board shall have a right to appeal to the South Dakota Board of Education **Standards** and to the courts as provided in chapter 13-46.

**13-29-6. Annual inspection of school buses--Issuance and display of certificate--Operation without certificate as petty offense.**

Each school bus used for the transportation of school children which is owned by a school district, a nonpublic school or alternative education program or privately owned and operated under a contract with a school board or nonpublic school or alternative instruction program shall be inspected before the beginning of each school year by an inspector approved by the Division of Highway Patrol pursuant to § 13-29-6.1 to certify that the vehicle complies with state law, and rules of the South Dakota Board of Education **Standards**, the Department of Public Safety, and the Division of Highway Patrol. However, if a school bus is purchased from a licensed motor vehicle dealer during the school year, the dealer may inspect and certify that the vehicle complies with such law and rules. The owner of any bus certified by a dealer **shall** have the bus inspected by an approved inspector before the beginning of the next school year. The owner of the bus shall display a certificate certifying that the school bus has successfully passed

inspection issued by the Division of Highway Patrol or the dealer in a form prescribed by the Division of Highway Patrol in the vehicle above the windshield. Any school board, contractor, or person operating a school bus that has not been certified commits a petty offense. This section does not apply to federally regulated charter bus service operations.

**13-32-4. School board to assist in discipline--Suspension and expulsion of pupils--Report to local authorities--Hearings--Alternative settings.**

The school board of every school district shall assist and cooperate with the administration and teachers in the government and discipline of the schools. The board may suspend or expel from school any student for violation of rules or policies or for insubordination or misconduct, and the superintendent or principal in charge of the school may temporarily suspend any student in accordance with § 13-32-4.2. The rules or policies may include prohibiting the following:

- (1) The consumption or possession of beer or alcoholic beverages on the school premises or at school activities;
- (2) The use or possession of a controlled substance, without a valid prescription, on the school premises or at school activities; and
- (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary or secondary school premises, vehicle, or building or any premises, vehicle, or building used or leased for elementary or secondary school functions or activities.

In addition to administrative and school board disciplinary action, any violation of § 13-32-7 shall be reported to local law enforcement authorities.

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. If a student has intentionally brought a firearm onto school premises, the expulsion may not be for less than twelve months.

However, the superintendent or chief administering officer of each local school district or system may increase or decrease the length of a firearm-related expulsion on a case-by-case basis. The South Dakota Board of Education **Standards shall** promulgate rules pursuant to chapter 1-26 to establish administrative due process procedures for the protection of a student's rights. The administrative due process procedures shall include a requirement that the school give notice of a student's due process rights to the parent or guardian of the student at the time of suspension or expulsion. Each school district board shall provide a procedural due process hearing, if requested, for a student in accordance with such rules if the suspension or expulsion of the student extends into the eleventh school day.

This section does not preclude other forms of discipline which may include suspension or expulsion from a class or activity.

This section does not prohibit a local school district from providing educational services to an expelled student in an alternative setting.

**13-32-4.1. Attendance policy--Adoption by school board--Suspension and expulsion power unaffected.**

The school board of every school district may adopt an attendance policy in accordance with procedural due process rules established by the South Dakota Board of Education **Standards** pursuant to § 13-32-4. Any attendance policy adopted pursuant to this section is not to be

construed as limiting the powers of the school board of a school district to suspend or expel students pursuant to § 13-32-4.

**13-32-4.7. Due process procedures--Promulgation of early reinstatement rules.**

The administrative due process procedures established in ARSD 24:07:04 for the protection of students' rights in an expulsion procedure apply to the early reinstatement process established in §§ 13-32-4.4 to 13-32-4.6, inclusive, and the South Dakota Board of Education **Standards** may promulgate rules pursuant to chapter 1-26 to establish additional procedures for the early reinstatement process, including the development of early reinstatement conditions by school boards.

**13-33-1. Conformity to standards adopted by state board.**

All the public schools in the state shall provide instruction in substantial conformity to the accreditation standards adopted by the South Dakota Board of Education **Standards**.

**13-33-3. Adult education, summer school, kindergarten, and nursery schools.**

The school board of any school district may maintain as a part of the public schools adult education courses, summer schools, kindergartens, and nurseries under the rules adopted by the South Dakota Board of Education **Standards**.

**13-33-4. Instruction on United States and state Constitutions required--Years when given.**

In all public and nonpublic schools located within the state there shall be given regular courses of instruction in the Constitutions of the United States and the State of South Dakota. Such instruction shall begin not later than the opening of the eighth grade and shall continue in the high school to an extent to be determined by the South Dakota Board of Education **Standards**.

**13-33-17. American sign language recognized--Authorized in high school and colleges--Encouraged in elementary schools.**

American sign language is hereby recognized as a language. Any high school may offer American sign language as a for-credit elective pursuant to rules adopted by the South Dakota Board of Education **Standards**. The teaching of American sign language is encouraged at the elementary level.

**13-33-19. Recommended high school program and basic high school program--Enrollment and completion requirements.**

For students entering the ninth grade in the 2006-2007 school year and thereafter, a school district shall require that each student enrolls in courses of instruction necessary to complete the recommended high school program established by the South Dakota Board of Education **Standards** pursuant to § 13-1-12.1. However, a student entering the ninth grade in the 2006-2007, 2007-2008, 2008-2009, or 2009-2010 school years may be excused from taking courses of instruction necessary to complete the recommended high school program if the student's parent or guardian and a school counselor or school administrator agree that the student should instead take courses of instruction necessary to complete the basic high school program also established by the board pursuant to § 13-1-12.1.

Any student who is seeking eligibility in the South Dakota scholarship program established in § 13-55-30 and is therefore adhering to the high school course requirements as provided in Board of Regents Policy Number 2:3(2)(F) as in effect on January 1, 2003, meets the requirements of this section.

**13-33-22. Promulgation of rules relating to distance learning certificate.**

The South Dakota Board of Education **Standards shall** promulgate rules pursuant to chapter 1-26 defining a distance learning provider, and establishing the requirements and criteria that an applying provider must meet in order to be issued a distance learning certificate by the secretary of the Department of Education. The rules **shall** specify the duration and the method of renewal, the amount of the fee, not to exceed one hundred dollars, for issuing a certificate, the application procedures for a certificate, the requirements for certification, and other procedures necessary for the administration of distance learning certification.

**13-33-23. Promulgation of rules establishing priorities and eligibility for distance learning courses.**

The board **shall** also promulgate rules pursuant to chapter 1-26 establishing priorities and eligibility for distance learning courses.

**13-33-25. South Dakota Virtual School Advisory Council established.**

The South Dakota Virtual School Advisory Council is established. The council shall advise the Department of Education, the South Dakota Board of Education **Standards**, education-related organizations, and other education groups on issues related to distance learning. The council shall meet quarterly with the Department of Education to discuss, develop, and make recommendations for the promulgation of rules concerning policies that affect distance delivery.

**13-33-26. Council membership.**

The council shall consist of seven members appointed by the secretary of education with broadly based representation from entities involved in virtual education efforts statewide.

**13-33-30. Accredited schools required to accept transfer credits for courses taken from other accredited schools outside regular school term--Conditions.**

Any school accredited by the Department of Education shall accept transfer credits earned by a student for any course taken by the student from another school accredited by the Department of Education outside the regular school term as established pursuant to § 13-26-2. However, an accredited school is only required to accept the transfer credits if the student notifies a school administrator of the credits sought prior to taking the course. If the student fails to provide the advance notice, the school may refuse to accept the credits.

Each school district shall establish a policy for accepting transfer credits pursuant to this section. If upon review of the coursework for which transfer credit is sought, a school determines that the course rigor is not sufficient to meet the graduation requirements established by the Board of Education **Standards** pursuant to § 13-1-12.1 or by the school, the transfer credits earned by the student for the course will count as elective credits, but the course will not count as a course required for graduation. If the school accepting the transfer credits determines that the

credits do not meet graduation requirements, the school shall notify the student in writing to explain the reason for that determination and to cite the provisions of formally adopted school policy that apply.

### **13-33A-1. School health services--Coordination by registered nurse.**

A public school system shall provide school health services coordinated by a registered nurse, whose services may be shared by one or more school systems. The services shall include assessment and implementation of services for students with special needs, administration of medications, and performance of specialized health care procedures.

The registered nurse is responsible for the training and supervision of any school employee to whom provision of any of the services listed in this section is delegated.

### **13-33A-2. Promulgation of rules--Board of Education Standards--Board of Nursing--Application of chapter.**

By rules promulgated pursuant to chapter 1-26, the South Dakota Board of Education Standards shall establish the requirements for storage and control of medications at the school site and the policies and procedures for provision of the school health services listed in § 13-33A-1.

Pursuant to chapter 1-26, the Board of Nursing shall promulgate rules regarding any function of nursing as defined in chapter 36-9 that may be delegated to a school employee at a school site.

This section applies only to public school systems that have students with special needs.

### **13-35-1. Establishment of programs by districts.**

School districts and other agencies eligible under Title 42 United States Code §§ 1751 to 1769, inclusive, and §§ 1771 to 1785, inclusive, the National School Lunch Act and the Child Nutrition Act of 1966, may enter into contractual agreements with the Department of Education for the purpose of establishing school food services programs. The agreements and the operation of such programs are subject to the provisions of this chapter and the rules for school food services programs as adopted by the South Dakota Board of Education Standards.

### **13-37-1. Children in need of special education or special education and related services.**

As used in this chapter, "children in need of special education or special education and related services" means any person under the age of twenty-one years who is a resident of the State of South Dakota and who, because of his educational needs as defined by the South Dakota Board of Education Standards in rules promulgated pursuant to chapter 1-26 and this chapter, is not adequately provided for through the usual facilities and services of the school and requires special education.

#### **13-37-1.1. Rules governing standards for special education.**

The South Dakota Board of Education Standards may adopt rules, pursuant to chapter 1-26, governing standards for educational and noneducational programs, public and nonpublic, serving children in need of special education or special education and related services and children, ages birth through two, with developmental delays and severe disabilities; appeal procedures for disputes involving the placement or program of such children; and administration,

funding and personnel associated with special education or special education and related services.

**13-37-1.2. Department as agency responsible for special education--Regulatory and coordinating authority.**

The Department of Education is hereby designated as the state agency with responsibility for the education of children in need of special education or special education and related services. In accordance with § 13-37-1.1, the department has regulatory and coordinating authority over any program within any state agency insofar as such programs pertain to the special education of children in need of special education or special education and related services.

**13-37-1.3. Free education for special education children.**

Each school district shall provide all of its resident children in need of special education or special education and related services, as defined in § 13-37-1, with a free appropriate public education, as defined in rules promulgated pursuant to chapter 1-26 by the South Dakota Board of Education **Standards**.

**13-37-8.6. Costs of special education services--Sources--Provisions--Financial losses.**

The costs for special education and related services, as defined in rules promulgated by the South Dakota Board of Education **Standards** pursuant to chapter 1-26, may be covered and available from accident and health insurers, nonprofit medical and surgical plans, health maintenance organizations, fraternal benefit societies, or federally reimbursed program sources. If a school district chooses to access these funds through the use of parent's insurance proceeds, the following provisions apply:

- (1) Expenses for special education and related services may not be borne by the parent;
- (2) The filing of claims may not delay the education of a child;
- (3) The school district is responsible for payment of a deductible amount and for any advance payment required until the time a claim is paid;
- (4) Parental consent shall be obtained to file an insurance claim;
- (5) The school district shall inform parents of any potential financial losses that they could incur; and
- (6) If parents would incur a financial loss, the use of parent's insurance proceeds must be voluntary.

For purposes of this section only, financial losses include a decrease in available lifetime coverage or any other benefit under an insurance policy, an increase in premiums under an insurance policy, or an out-of-pocket expense such as the payment of a deductible amount incurred in filing a claim.

**13-37-31. Competency of braille instructors--Promulgation of rules.**

The South Dakota Board of Education **Standards** shall promulgate rules pursuant to chapter 1-26 governing the determination of the competency of braille instructors according to their education or experience.

**13-37-58. Promulgation of rules on early intervening services.**

The Board of Education **Standards** shall promulgate rules pursuant to chapter 1-26 establishing the application process, the application timelines, the criteria the department will use in approving a district's use of special education funds pursuant to § 13-37-55, and the collection of data on children served pursuant to § 13-37-57.

**13-39-13. Agreements with federal and state agencies.**

The secretary of education may enter into contracts and agreements with any agency of the United States government or any agency of the state government or its political subdivisions for the purpose of career and technical education, to receive grants of federal funds for career and technical education and to expend those funds under rules promulgated by the South Dakota Board of Education **Standards** or the South Dakota Board of Technical Education pursuant to chapter 1-26.

**13-39-19. Distribution of state and federal funds to schools--State treasurer custodian of money from federal appropriations.**

The secretary of education may distribute funds appropriated to the department by the Legislature or granted by any federal agency to the state in accordance with chapter 4-8B, for career and technical education in public secondary and technical colleges in the state in accordance with a state plan or plans adopted by the South Dakota Board of Education **Standards** or the South Dakota Board of Technical Education. The aid disbursed to the different schools of the state and all expenses incurred in the administration of the provisions of any federal acts relating to career and technical education shall be paid out of the funds of the secretary appropriated for that purpose and from the federal funds allotted to the State of South Dakota for similar purposes. The state treasurer is the custodian of all money paid to the state from federal appropriations for the purpose of career and technical education and shall disburse the funds on warrants issued by the state auditor upon vouchers approved by the director. The secretary of education shall authorize the director to submit vouchers to the state auditor for the amount payable as state and federal aid to each school approved under the provisions of this chapter. Upon receipt of the vouchers, the state auditor shall draw warrants on the state treasury in favor of the treasurer of the public secondary and technical college for the sum approved by the secretary.

**13-39-28. Persons eligible for vocational education.**

Anyone who may profit from the vocational education course to which the person applies may be enrolled upon application and acceptance in accordance with the provisions of §§ 13-39-1.2 to 13-39-29, inclusive, and as prescribed by the South Dakota Board of Education **Standards**.

**13-39-41. Submission of plan for multidistrict, career and technical academy--Compliance with state plan and rules.**

The school boards of two or more school districts may submit to the South Dakota Board of Education **Standards** a proposed plan to establish a multidistrict, career and technical academy. The proposal shall be consistent with the state plan for career and technical education and shall meet the rules as promulgated by the state board pursuant to chapter 1-26.

**13-39-42. State board examination of plan for multidistrict, career and technical academy-- Approval or disapproval.**

When the state board receives a proposed plan to establish a multidistrict, career and technical academy, the board shall examine the plan and may conduct hearings to receive evidence pertaining to the proposed multidistrict, career and technical academy. The state board may approve or disapprove the proposed plan.

**13-39-56. Apportionment and distribution of funds available to multidistrict, career and technical academies.**

The secretary of education shall apportion and distribute funds made available to multidistrict, career and technical academies to assist in defraying instructional costs. The use of these funds is subject to the state plans for career and technical education and to rules promulgated by the South Dakota Board of Education Standards pursuant to chapter 1-26.

**13-42-3. Certification of educational professionals--Promulgation of Rules.**

The South Dakota Board of Education Standards shall promulgate rules, pursuant to chapter 1-26, to establish the requirements and criteria that an applicant shall meet in order to be issued a certificate by the secretary as a teacher, administrator, or other educational professional authorizing the holder of the certificate to accept a position in any elementary or secondary school in the grades and fields specified by the certificate. The rules shall specify the duration and the method of renewal, the amount of the fee for issuing the certificate, the application procedures and documentation requirements for certificates, the endorsements to certificates, the requirements for certification, the procedures for denial or nonrenewal of a certificate and disciplinary proceedings and assessment of costs, the procedures for requesting an inactive status and reinstatement, the procedures and costs for reinstatement of an invalid certificate, the definition of inactive certificate status, the procedures for processing applications and issuing certificates for military spouses, the procedures for granting reciprocity for any teacher who is certified to teach in another state and has completed an accredited teacher education program, and other procedures necessary for the administration of certification.

In addition to teacher certificate renewal based on academic coursework, the rules for teacher certificate renewal shall include guidelines and criteria by which an applicant may receive credit toward renewal based on private or public sector experience that was not obtained through academic coursework if the experience is related to the applicant's teaching field. Any change to a rule promulgated pursuant to this section that increases the educational requirements an applicant shall meet to qualify for a certificate shall be preceded by at least two years' notice before the effective date of the change. The two-year notice requirement does not apply to an increase in the application fee, which must comply with §§ 1-26-4.8 and 1-26-6.9.

**13-42-3.2. Educator permit--Emergency CTE instructor--Promulgation of rules.**

The secretary may issue a one-year career and technical education (CTE) instructor educator permit to an applicant who submits documentation showing that the applicant holds a minimum of a high school diploma or its equivalent and:

- (1) An associate of applied science degree or higher; or
- (2) At least two thousand hours of work experience in a related CTE field; or
- (3) A national or state certification in a related CTE field.

An individual who holds an active one-year CTE instructor educator permit is considered certified pursuant to this chapter.

The applicant must submit documentation from a public or department-accredited school showing that the school is unable to hire a certified educator to fill the vacancy and listing the position to be held by the applicant and the name of the certified teacher who will act as a mentor to the applicant. The applicant must submit the required documentation on forms approved by the secretary.

The South Dakota Board of Education **Standards shall** promulgate rules, pursuant to chapter 1-26, establishing the process by which an applicant may apply for the one-year CTE instructor educator permit, the CTE career pathway endorsements that the applicant for the one-year CTE instructor educator permit is eligible to add to the permit, and what continuing education an individual must complete to renew the one-year CTE instructor educator permit. The educator permit may not be renewed for more than one year at a time.

#### **13-42-4. Issuance of certificates by secretary.**

The authority to issue a certificate is vested in the secretary, and the certificate shall be issued, renewed, or validated to a person who has met the rules and requirements for the certificate as determined by the South Dakota Board of Education **Standards**.

#### **13-42-26. Certification by National Board for Professional Teaching Standards--Reimbursement for fees--Stipend for certified teachers--Adoption of rules.**

The Department of Education shall establish a program to reimburse public school teachers for the application and processing fee for the National Board for Professional Teaching Standards certification process. The reimbursement shall include any federal funds that may be available through a candidate subsidy program. The reimbursement shall be paid upon receipt of documentation that the teacher successfully completed all certification requirements and was awarded the credential.

In addition to the reimbursement provided pursuant to this section, a teacher who teaches in a public school and who has obtained certification by the National Board for Professional Teaching Standards shall receive a payment of two thousand dollars per year for five years. The stipend shall be paid as follows:

- (1) One thousand dollars from the Department of Education;
- (2) One thousand dollars from the school district where the teacher is employed.

Once the first five years is complete, the school district that employs the teacher may opt to continue payments during the period of the next five years. If, during that period, the school district pays the teacher a stipend, the Department of Education shall also pay the teacher a stipend equal to the amount offered by the school district, up to a maximum of one thousand dollars. However, the department is not required to pay a teacher a stipend pursuant to this section during years six to ten unless the school district employing the teacher opts to pay a stipend.

The Board of Education **Standards shall** adopt rules, pursuant to chapter 1-26, to establish guidelines necessary to implement the program.

**13-42-27. Board to review certification process and establish revised standards.**

Pursuant to § 13-1-12.1, the Board of Education Standards shall examine programs that prepare and certify school personnel, identify deficiencies, and establish revised standards designed to deliver more qualified staff to classrooms. The board's review shall identify ways to streamline the alternative certification process whereby persons holding a bachelor's degree or higher can be certified to teach in elementary and secondary schools.

**13-42-28. Board to establish alternative certification program.**

The Board of Education Standards shall promulgate rules pursuant to chapter 1-26 establishing an alternative certification program for any person seeking employment as a school administrator who does not currently meet the certification requirements for the position sought. The alternative certification program shall permit satisfaction of certification requirements by passing a certification examination for school administrators selected by the Board of Education Standards. The Board of Education Standards shall establish eligibility requirements for sitting for the certification examination for school administrators and shall identify the passing scores required on such examination.

**13-42-29. Administrator not meeting certification standards to submit professional development plan.**

Each school administrator whose preparation does not meet certification standards established by the South Dakota Board of Education Standards shall submit to the Department of Education a professional development plan to meet the alternative certification requirements established by the South Dakota Board of Education Standards.

**13-42-33. Promulgation of rules on performance standards.**

The Board of Education Standards shall, no later than July 1, 2011, promulgate rules pursuant to chapter 1-26 to establish minimum professional performance standards for certified teachers in South Dakota public schools, and to establish best practices for the evaluation of the performance of certified teachers that may be used by individual school districts.

**13-42-34. Teacher evaluations.**

Any public school district seeking state accreditation shall evaluate the performance of each certified teacher in years one through three not less than annually, and each certified teacher in the fourth contract year or beyond, not less than every other year.

Each school district shall adopt procedures for evaluating the performance of certified teachers employed by the school district that:

- (1) Are based on the minimum professional performance standards established by the Board of Education Standards pursuant to § 13-42-33;
- (2) Require multiple measures;
- (3) Serve as the basis for programs to increase professional growth and development of certified teachers; and
- (4) Include a plan of assistance for any certified teacher, who is in the fourth or subsequent year of teaching, and whose performance does not meet the school district's performance standards.

### **13-42-35. Work group to develop model evaluation instrument.**

A work group appointed by the secretary of education shall provide input in developing the standards and shall develop a model evaluation instrument that may be used by school districts. The work group shall consist of the following:

- (1) Six teachers: two from an elementary school, two from a middle school, and two from a high school;
- (2) Three principals: one from an elementary school, one from a middle school, and one from a high school;
- (3) Two superintendents;
- (4) Two school board members;
- (5) Four parents who have students in various levels of the K-12 system;
- (6) One representative of the South Dakota Education Association;
- (7) One representative of the School Administrators of South Dakota; and
- (8) One representative of the Associated School Boards of South Dakota.

### **13-42-71. Suicide awareness and prevention training--Board approval--Requirements.**

Prior to beginning employment at a school district or department-accredited school and every five years thereafter, an individual certified pursuant to this chapter and employed by a school district or department-accredited school must complete an approved youth suicide awareness and prevention training that is at least one hour in duration and shall submit a certificate showing completion of the approved training to the school district or department-accredited school where the individual is employed. The school district or department-accredited school shall retain the certificates submitted as a part of the documentation necessary to earn or maintain state accreditation.

The South Dakota Board of Education **Standards shall** consult with suicide prevention or counseling experts to identify evidence-based resources that will fulfill the youth suicide awareness and prevention training required by this section and **shall** make the list of the approved trainings available to school districts and department-accredited schools. An individual may complete a required training through a self-review of youth suicide prevention materials that are approved by the board, provided that the training issues a certificate of completion that contains:

- (1) The name of the training completed;
- (2) The name of the individual who completed the training;
- (3) The length of the training completed; and
- (4) The date on which the training was completed.

### **13-43-25. Rules of Professional Teachers Practices and Standards Commission--Code of ethics--Recommendations to boards.**

The Professional Teachers Practices and Standards Commission shall promulgate rules pursuant to chapter 1-26, to carry out the provisions of §§ 13-43-16 to 13-43-28.1, inclusive.

The commission shall adopt a code of professional ethics for the teaching profession in this state.

The commission may make any recommendation to the South Dakota Board of Education **Standards** or to school boards which will promote an improvement in the teaching profession.

**13-43-39. Operation within department--Functions--Submission of records and reports.**

The Professional Administrators Practices and Standards Commission shall operate within the Department of Education and shall retain all its prescribed functions, including administrative functions. The commission shall submit such records, information and reports in such form and at such times as required by the South Dakota Board of Education **Standards**, except that the commission shall report at least annually.

**13-43-45. Adoption of rules and code of professional ethics--Recommendations to boards.**

The Professional Administrators Practices and Standards Commission may adopt rules in accordance with the provisions of chapter 1-26, to carry out the provisions of §§ 13-43-38 to 13-43-49, inclusive.

The commission shall adopt a code of professional ethics for the administrator's profession in this state.

The commission may make any recommendation to the South Dakota Board of Education **Standards** or to school boards which will promote an improvement in the administrator's profession.

**13-43-55.1. Mentor teacher program created--Promulgation of rules--Participation in program.**

There is hereby created a program to provide for the mentoring of teachers new to the profession in South Dakota school districts. The program shall provide a new teacher access to a mentor teacher for a period of two years and participation in a summer workshop program following the first year of employment. The South Dakota Board of Education **Standards shall** promulgate rules, pursuant to chapter 1-26, to establish duties and qualifications for teachers to be designated as mentor teachers. Participation in the program is discretionary with each school district according to a mentor teacher plan adopted by the school board for the school district.

**13-48A-7. Annual accountability report to Government Operations and Audit Committee.**

The Board of Regents and the Board of Education **Standards shall** each provide to the Government Operations and Audit Committee an annual accountability report as determined by the committee. The annual accountability report provided by the Board of Regents shall include a financial report on each of the university centers located in Pierre, Rapid City, and Sioux Falls as prescribed by the auditor general.