

# State of South Dakota

EIGHTY-FOURTH SESSION  
LEGISLATIVE ASSEMBLY, 2009

956Q0578

SENATE EDUCATION

ENGROSSED NO. **HB 1241** - 3/3/2009

**This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.**

Introduced by: Representatives Sly, Bolin, Killer, Lange, Lucas, McLaughlin, Romkema, Schlekeway, Sorenson, and Vanderlinde and Senators Jerstad, Bradford, Maher, and Merchant

1 FOR AN ACT ENTITLED, An Act to clarify that certain special education placements are not  
2 suspensions or expulsions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-32-4 be amended to read as follows:

5 13-32-4. The school board of every school district shall assist and cooperate with the  
6 administration and teachers in the government and discipline of the schools. The board may  
7 suspend or expel from school any student for violation of rules or policies or for insubordination  
8 or misconduct, and the superintendent or principal in charge of the school may temporarily  
9 suspend any student in accordance with § 13-32-4.2. The rules or policies may include  
10 prohibiting the following:

11 (1) The consumption or possession of beer or alcoholic beverages on the school premises  
12 or at school activities;

13 (2) The use or possession of a controlled substance, without a valid prescription, on the



1 school premises or at school activities; and

2 (3) The use or possession of a firearm, as provided in § 13-32-7, on or in any elementary  
3 or secondary school premises, vehicle, or building or any premises, vehicle, or  
4 building used or leased for elementary or secondary school functions or activities.

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

7 The period of expulsion may extend beyond the semester in which the violation,  
8 insubordination, or misconduct occurred. Any expulsion for consumption or possession of beer  
9 or alcoholic beverages may not extend beyond ninety school days. If a student has intentionally  
10 brought a firearm onto school premises, the expulsion may not be for less than twelve months.

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

20 This section does not preclude other forms of discipline which may include suspension or  
21 expulsion from a class or activity. An individualized education program team decision for an  
22 initial placement or a change in placement of a student in need of special education or special  
23 education and related services does not constitute a suspension or an expulsion, or a  
24 continuation of a suspension or expulsion, if the education provided to that student is in

1 compliance with rules established by the South Dakota Board of Education.

2 This section does not prohibit a local school district from providing educational services to

3 an expelled student in an alternative setting.