

SECTION IX--SCHOOL LAWS

SCHOOL LAWS

The laws set forth in this section are not intended to be all inclusive, but rather to provide LEA with a quick reference to common statutes. Those statutory requirements which require an act to be performed by a specific date are found in Section X--School Calendar.

Fiscal Year:

The school year shall begin July first and end June thirtieth. (SDCL 13-26-1)

Annual Report:

Before the first day of August every school board shall file an annual report with the Division of Education Services and Resources. The report shall contain all the educational and financial information and statistics of the school district as requested in a format established by the Division of Education Services and Resources. The business manager with assistance of the secretary of the Department of Education and Cultural Affairs shall make the annual report, and it shall be approved by the school board. The business manager shall sign the annual report and file a copy with the Division of Education Services and Resources as provided in Section 13-13-37. The division shall audit the report and return one copy to the school district. (SDCL 13-8-47)

Reports not filed prior to the fifteenth day of August are considered past due and are subject to the past-due provisions of Section 13-13-38. (SDCL 13-8-47)

Depositories and Investments:

Any state or national bank or domestic savings and loan association located in South Dakota may be designated as an official depository, notwithstanding the fact that a public officer, official or employee may have a direct or indirect interest in said bank either as an officer, director, stockholder or employee. (SDCL 4-6-2, 6-1-3, 13-16-15 and 13-16-15.1)

All accumulations in all school district funds shall be deposited in lawful depositories in checking accounts, savings accounts or time deposits, or invested in bonds, registered warrants or promissory notes of the school district making such investment, securities issued or guaranteed by the United States Government or repurchase agreements which are fully collateralized by securities guaranteed by the United States Government or in shares of an open-end, no-load fund administered by an investment company registered under the Federal Securities Act of 1933 and whose only investments are in securities described above. Domestic federal credit unions can be official depositories if funds are invested in accounts insured by the national credit union association. The interest accruing on such investments shall be credited to the respective fund or the general fund. Investment transactions or investment policies shall be approved by the school board. (SDCL 13-16-18, 13-16-18.1, 4-5-6 and 4-5-8)

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School Purchases and Contracts:

A school official may not do business with the school district except under certain conditions. (SDCL 6-1-1 and 2)

No school district officer or employee shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used in any school of this state in which the officer serves or the employee is employed. (SDCL 13-20-2.1)

Whenever any buildings or structures are to be built or remodeled or improvements are to be made to school sites, or when supplies and equipment are to be purchased, contracts shall be let in accordance with the provisions of SDCL 5-18 and SDCL 13-20.

Emergency purchases may be made without advertising for bids if the provisions of SDCL 13-20-4 and 5-18-3.1 are followed.

School board members and school officials involved in school purchases should familiarize themselves with the provisions of SDCL 5-18 and 13-20.

School District Reorganization:

Laws with regard to reorganization can be found in SDCL 13-6.

School Boards:

School boards should consist of 5, 7 or 9 members, whose terms shall be from one to three years initially and thereafter; provided that each school board member shall be entitled to complete the term of office to which he was elected. (SDCL 13-8-2)

The electors of any school district may increase the size of a school board. (SDCL 13-8-3)

Regular meeting of the board shall be on the second Monday of each month unless otherwise designated by the board at the annual meeting. (SDCL 13-8-10)

Minutes of school board meetings are to be published within twenty days after a meeting. Salaries of teachers and other employees of the school district shall be published separately only once following the date of their employment. (SDCL 13-8-35 and 6-1-10)

The publication of unapproved proceedings shall include a detailed statement of all expenditures of money with the names paid, the service rendered or goods furnished, and a detailed statement of receipts and balances on hand. (SDCL 13-8-35)

Each member of a local school board may receive the same per diem per meeting as is authorized for the members of the state boards, pursuant to Section 4-7-10.4. The per diem may be paid for each meeting actually attended by such member and also for each day a member was actually engaged in the service of the board when authorized by the board. (SDCL 13-8-37)

The amount of the business manager's bond is to be fixed and approved by the school board. (SDCL 13-8-18) (There is no longer a requirement for a bond.)

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The business manager's bond shall be approved by the school board and filed with the county auditor. (SDCL 13-8-19)

All school board members shall receive travel allowance as authorized by the rules and regulations adopted by the state board of finance. (SDCL 13-8-38)

The school board has general charge, direction and management of the schools of the district and control and care of all property belonging to it and shall have power to levy taxes, borrow money, employ any necessary personnel, to lease real and personal property, carry liability and other insurance, or in lieu of insurance, make agreements to protect and assist the school board in meeting obligations arising from acts or omissions for which the school board may be legally liable, purchase all necessary books and equipment, purchase real property and erect necessary buildings for the operation of such schools. (SDCL 13-8-39)

No school board member shall be employed to teach or to draw public money as a teacher in the school district of which he is a board member. (SDCL 13-43-1)

School Employees:

All newly elected or appointed officers must take an oath of office. (SDCL 13-8-14)

Any school board shall have the power to enter into group life and group health insurance contracts for the protection and benefit of its employees, and the immediate families of such employees, and to pay any part or all of the necessary premiums therefor. (SDCL 13-10-3)

Subject to the provisions of SDCL 3-12-65 and 3-12-66, any school board shall have the power to enter into a retirement pension agreement with its employees for their benefit and to pay any part or all of the necessary premiums therefore. (SDCL 13-10-4)

Any school board shall have the power to carry public liability insurance protecting its employed personnel against liability suits which might be brought against them for acts of negligence while performing their duties as employees of the school district. (SDCL 13-10-9)

General State Aid to Schools:

Laws relating to state aid are set forth in SDCL 13-13.

General Fund Purposes:

The General Fund is a fund provided by law to meet all the operational costs of the school district, excluding Capital Outlay Fund and Special Education Fund expenditures pursuant to SDCL 13-13-37, and to redeem all outstanding warrants against the General Fund. (SDCL 13-16-3)

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Capital Outlay Fund Purposes:

The Capital Outlay Fund of the school district is a fund provided by law to meet expenditures which result in the acquisitions of or additions to real property, plant, or equipment. Such an expenditure shall be for land, existing facilities, improvement of grounds, construction of facilities, additions to facilities, remodeling of facilities, or for the purchase of equipment. It may also be used for installment or lease-purchase payments for the purchase of real property, plant or equipment, which have a contracted terminal date not exceeding twenty years from the date of the installment contract or lease-purchase and for the payment of the principal of and interest on capital outlay certificates issued pursuant to SDCL 13-16-6.2. The total accumulated unpaid principal balances of such installment contracts and lease-purchase and the outstanding principal amounts of such capital outlay certificates shall not exceed three percent of the taxable valuation. (SDCL 13-16-6) School districts planning to enter into installment contracts should review the provisions of SDCL 13-16-6 through 13-16-6.4. **The Capital Outlay Fund may be used to purchase software and instructional software. In addition, any purchase of \$1,000 or less may be paid out of the General Fund.**

The school board may issue capital outlay certificates to acquire or construct real property, plant or equipment. The certificates mature not exceeding ten years from the date of issuance as the school board may determine. School districts planning to issue capital outlay certificates should review the provisions of SDCL 13-16-6 through 13-16-8 and SDCL 6-8B.

Any school using the Capital Outlay Fund for payment of construction of new facilities or construction of additions to facilities must develop and maintain a five-year plan on annual projected revenues and expenditures. (SDCL 13-16-9.2)

Bond Redemption Fund Purposes:

The Bond Redemption Fund is a fund created to be used for the retirement of bonded indebtedness. Money in this fund cannot be transferred to any other fund unless enough is retained in this fund to retire all outstanding bonds together with interest as will accrue on such bonds. (SDCL 13-16-10 through 14)

Special Education Fund Purposes:

The Special Education Fund is a fund created to pay costs for the special education of all children in need of special education or special education and related services who reside within the district. (SDCL 13-37-16)

Laws pertaining to special education are set forth in SDCL 13-37.

Fund Balances:

All or any part of a surplus of any school district fund except the Capital Outlay Fund and the Special Education Fund may be transferred to any other school district fund. (SDCL 13-16-26) **Notwithstanding the provisions of SDCL 13-16-26, no school district may transfer any funds, exclusive of Federal Funds, from the General Fund to the Capital Outlay Fund, Bond Redemption Fund or Capital Projects Fund. (SDCL 13-16-26.2)**

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Debt Limitation of a School District:

The debt of any school district shall never exceed ten per centum upon the assessed valuation of the taxable property therein, for the year preceding that in which said indebtedness is incurred. (Article XIII Section 4 of the South Dakota Constitution)

School District Promissory Notes:

Any school district board may borrow money from any source willing to lend the money, by issuing a promissory note for a term of not more than twenty-four consecutive months. (SDCL 13-19-1 and SDCL 13-26-26) **All or any part of any school district fund may be loaned to any other school district fund not to exceed twenty four months.**

Except for obligations to the state or federal government, the money borrowed by promissory note shall in no case exceed the sum of ninety-five percent of the amount of taxes levied but not collected by the school district board for the current school fiscal year for the fund for which the money is borrowed plus other receivables for such fund which have been earned but not collected at the date of borrowing. (SDCL 13-19-3)

In case any registered warrants or promissory notes are outstanding against the fund for which the money is to be borrowed, the borrowing limit shall be reduced by the amount of such warrants or promissory notes outstanding at the time the money is borrowed. (SDCL 13-19-3)

The rate of interest shall be stated on the note and shall be negotiated by the parties. (SDCL 13-19-4)

Notes authorized shall be signed by the president of the board and the business manager. (SDCL 13-19-5)

When a promissory note has been issued and not paid in full upon maturity, no cash receipts from the collection of taxes or from the collection of tuition charges, shall be expended for any purpose except the retirement of principal and interest of registered warrants and promissory notes outstanding against the fund into which said revenue has been received, until all of said registered warrants and promissory notes shall have been retired. (SDCL 13-19-6)

Procedures for Issuing Bonds:

School Districts that are contemplating the issuance of bonds should review the applicable provisions of SDCL 6-8B for the proper procedures to be followed.

Disposition of School Property:

The procedures to be followed in disposing of school property are set forth in SDCL 6-13.

School Buses and Transportation:

School buses must be inspected annually. (SDCL 13-29-6)

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Student Allowances in Lieu of Transportation:

Mileage, room and board allowed in lieu of transportation are set forth in SDCL 13-30.

School Food Service Program:

Any school district may establish a food service program. (SDCL 13-35-1)

Employed personnel or pupils of the school district who are fed by the school food service program may be charged for meals. (SDCL 13-35-2)

The school district shall be exempt from paying the retail occupational sales tax in purchasing food and supplies for the school food service program, and meals served from such food shall be exempt from sales tax. (SDCL 13-35-3)

A system of cost accounting shall be set up for the school food service program. (SDCL 13-35-4)

Vocational Education:

Vocational Education laws may be found in SDCL 13-39.

Certificate Required to Teach or Administer:

No person shall be allowed to teach or administer in any of the public schools of this state nor draw wages as a teacher, principal or superintendent who does not have a certificate authorizing said person to teach or administer in the school or field for which said person was employed. (SDCL 13-42-1)

Employment of Teachers:

Health certificate required (SDCL 13-43-3)

Written contract required (SDCL 13-43-4)

Teacher's certificate required (SDCL 13-43-5)

A teacher's contract shall specify:

1. date at or about which school shall begin
2. term of employment
3. wages per month
4. time of payment thereof

The contract shall be signed in duplicate with one copy filed in the office of the business manager and the other retained by the teacher. Contracts may be issued covering any period of years, not to exceed three, over which a teacher holds a certificate which will remain valid without renewal. (SDCL 13-43-6)

Other laws relating to teachers' contracts are found in SDCL 13-43.

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Public Employees Retirement system:

Laws regarding the state retirement system may be found in SDCL 3-12.

Interest on Late Payments by County Treasurer to School District:

The county treasurer shall transfer, by the twentieth day of the month, all money received during the prior month on behalf of each school district to the depository of each district. Any county failing to distribute the receipts within the time prescribed shall be subject to an interest charge of one percent per month based on the receipts for the first thirty days of delinquency or part thereof and thereafter, one percent per month for each month or part thereof. (SDCL 13-11-7)

School District Tax Levies:

Purpose	Maximum Levy	SDCL Reference
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Pension Fund	30 Cents/Thousand Dollars	13-10-6
General Fund:	The General Fund Levies are updated annually and can be found in SDCL 6-12-42	
Capital Outlay Fund	\$3.00/Thousand Dollars	13-16-7
Bond Redemption Fund	Bond Resolution	13-16-10
Special Education Fund	\$1.40/Thousand Dollars	13-37-16

Note 1 – Per SDCL 10-12-42 and 10-12-42.1, the GF levies are for FY 2000 and will change annually.

Administrative Rules of South Dakota- Special Education Allowable costs

24:05:33:07.02. Allowable costs- Special Education Fund

The special education fund of a school district may be used to pay the costs for special education of all children in need of special education or special education and related services served by the school district or for which the school district is financially responsible. These costs may not include the following:

- (1) Salaries and benefits of superintendents, chief executive officers, and principals;
- (2) Utilities;

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- (3) Custodial services;
- (4) General transportation services;
- (5) Salaries and benefits for nonspecial education staff;
- (6) Nonspecial education supplies and materials;
- (7) Nonspecial education dues and fees;
- (8) Capital outlay expenditures not directly tied to a student's individual educational program;
and
- (9) Contributions and donations.

24:05:33:11. Allowable costs- Out-of-state placements

A district may not receive any reimbursement for costs incurred in placing a child in need of special education or special education and related services in a public or nonpublic facility located outside the boundaries of the state of South Dakota unless the placement has been approved by the state review committee described in 24:05:33:06.