

ARTICLE 24:80

MEDICAL CANNABIS AND SCHOOLS

Chapter

24:80:01 Definitions.

24:80:02 Mandatory district provisions.

24:80:03 Permissive district policy.

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 district” means a public school system subject to the provisions of SDCL 13-33A-2 and defined by SDCL 13-5-1;
- (2) “School property” means any school premises, vehicle, or building, or any premises, vehicle, or building when used or leased for school functions.

Source:

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

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

CHAPTER 24:80:02

MANDATORY DISTRICT PROVISIONS

Section

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

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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 13-33A-2, 34-20G-95.

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

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 cannabis.

Source:

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

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

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 educational record. 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;
- (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 13-33A-2, 34-20G-95.

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

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 the 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 13-33A-2, 34-20G-95.

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

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 13-33A-2, 34-20G-95.

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

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 documentation described in this section 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;
- (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 13-33A-2, 34-20G-95.

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

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. The 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 13-33A-2, 34-20G-95.

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

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 13-33A-2, 34-20G-95.

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

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 13-33A-2, 34-20G-95.

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

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. However, a school district may provide storage or administer medical cannabis to a student pursuant to a policy adopted under chapter 24:80:03:01.

Source:

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

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

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 13-33A-2, 34-20G-95.

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

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 13-33A-2, 34-20G-95.

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

CHAPTER 24:80:03

PERMISSIVE DISTRICT POLICY

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 polices may also set parameters for student participation in school-sponsored activities or educational tasks that may put the student or others in an unsafe environment or potentially cause disruption. Such policies may also 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 13-33A-2, 34-20G-95.

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

24:80:03:02. District policy -- Requirements. If a school district adopts the policies detailed in § 24:80:03:01, the 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 shall secure and store the medical cannabis. School personnel may volunteer to store and administer medical cannabis in a non-smokable form to any student cardholder.
Nothing in this section requires the school personnel to administer medical cannabis;
and
- (4) The designated school personnel shall secure the medical cannabis in a locked storage container.

Source:

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

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