**24:05:26.01:05.  Hearing procedure.** The school board is the hearing board and shall conduct the hearing in the following manner:

(1)  The school board shall appoint a school board member or a person who is not an employee of the school district as the hearing officer;

(2)  Each party may make an opening statement;

(3)  Each party may introduce evidence, present witnesses, and examine and cross-examine witnesses;

(4)  Each party may be represented by an attorney;

(5)  The school administration shall present its case first;

(6)  The hearing is closed to the public. The school board shall make a verbatim record of the hearing by means of an electronic or mechanical device or by court reporter. This record and any exhibits must be sealed and must remain with the hearing officer until the appeal process has been completed;

(7)  Witnesses may be present only when testifying. All witnesses must take an oath or affirmation administered by the school board president, hearing officer, or other person authorized by law to take oaths or affirmations;

(8)  Each party may raise any legal objections to evidence;

(9)  The hearing officer shall admit all relevant evidence; however, the hearing officer may limit unproductive or repetitious evidence;

(10)  The hearing officer may ask questions of witnesses and may allow other school board members to interrogate witnesses;

(11)  Each party may make a closing statement;

(12)  After the hearing, the school board shall continue to meet in executive session for deliberation. No one other than the hearing officer may meet with the school board during deliberation. The school board may seek advice during deliberation from an attorney who has not represented any of the parties to the hearing. Consultation with any other person during deliberation may occur only if a representative of the student is present; and

(13)  The decision of the school board must be based solely on the evidence presented at the hearing and must be formalized by a motion made in open meeting. The motion shall omit the name of the student and shall state the reason for the board's action. The school board shall notify the student's parent or parents or a student who is 18 years of age or older or who is an emancipated minor in writing of the decision. The notice shall state the length of the expulsion.

**Source:** 23 SDR 179, effective April 29, 1997.

**General Authority:** SDCL 13-32-4, 13-37-1.1.

**Law Implemented:** SDCL 13-32-4, 13-37-1.1.