

SOUTH DAKOTA

Ethics Agencies

1. Is there an ethics agency with the authority to conduct its own investigations, including public hearings and subpoena power?

The State Government Accountability Board has jurisdiction over elected statewide officials and executive branch appointees, but not members of the state legislature. [S.D. Codified Laws § 3-24-3](#); [SD § 12-27-1](#). The Board can conduct investigations upon allegation of violations. [S.D. Codified Laws § 3-24-3](#). The Board can hold contested case hearings to investigate misconduct. [S.D. Codified Laws § 3-24-7](#). Contested case hearings are open to the public. Phone Interview with Doug Decker, Code Counsel, South Dakota Legislative Research Council (Aug. 2, 2018). The Board also has subpoena power. [S.D. Codified Laws § 3-24-3](#).

Both houses of the legislature have an ethics committee with jurisdiction over its members, composed of members of that body. Both Committees on Discipline and Expulsion are ad-hoc committees that can be called by any two members of the respective house. [S.D. Sess. Laws ch. S8 §1](#); [S.D. Sess. Laws ch. H6 § 1](#).

2. Will the ethics agency accept anonymous complaints and is the ethics agency required to reveal the name of the complainant to the respondent?

The complaint may not be anonymous and requires the complainant's name, address, telephone number and email address. South Dakota Government Accountability Board, [Complaint Form](#). The complaints and the investigative records and files of the Board remain confidential until the board votes in favor of conducting a contested case hearing. [S.D. Codified Laws § 3-24-4](#). When it votes in favor of conducting a contested case hearing, the Board forwards a copy of the complaint to the respondent, which includes the name of the complainant. [S.D. Codified Laws § 1-26-17](#).

3. Does the ethics agency have the ability to sanction, including personnel actions, injunctions, and fines?

Personnel Actions – The Board may issue reprimands, order a person to engage in coursework or community service, or make a specific recommendation to the Governor. [S.D. Codified Laws § 3-24-8](#).

Injunctions – NONE

Fines – NONE

4. Are members of the ethics agency protected from removal from cause?

The Governor may only remove members of the board for “good cause,” which means “malfeasance or misfeasance in office, neglect of duty, corrupt conduct, gross incompetency, or active partisanship.” [S.D. Codified Laws § 3-24-1](#).

Gifts

- 5. Are elected and appointed executive branch officials and legislators prohibited from accepting gifts from high-risk sources (lobbyists, lobbyist's principals, government contractors) in an aggregate of \$250 or more?**

Legislators, elected and appointed executive branch officials, and heads of executive branch agencies are not allowed to accept gifts from lobbyists or their principals with a cumulative value of \$100 a calendar year. [S.D. Codified Laws § 2-12-16](#); [S.D. Codified Laws § 2-12-17](#).

- 6. Are elected and appointed executive branch officials and legislators prohibited from accepting gifts from persons other than high-risk sources in an aggregate of \$250 or more?**

There are no other rules regarding acceptance of gifts.

- 7. Are elected and appointed executive branch officials and legislators required to publicly disclose the gifts that they receive?**

There is no requirement to disclose gifts on the financial disclosure forms. South Dakota Secretary of State, [Elected Official Financial Interest Statement](#), last visited June 16, 2020).

Campaigns

- 8. Does the state require reporting of contributors to independent spenders?**

Political action committees that make independent expenditures are required to report contributions of over \$100, including the name and address of the contributor and the amount contributed. [S.D. Codified Laws § 12-27-22\(3\)](#), [12-27-24\(12\)](#).

There is no requirement for disclosure of donors to 501(c) organizations, which contribute to independent spenders. Nor is there a requirement to disclose beneficial owners of an LLC, unless that entity is making the independent expenditure itself. [S.D. Codified Laws § 12-27-16\(4\)](#) and (5).

- 9. Does the state require the disclosure of the payors of political advertisements or other electioneering communications to appear directly on the communication made through print media, broadcast media (TV, radio etc.), and Internet-based media (Facebook, Twitter, Google, and other online platforms)?**

The disclosure of the payor of all independent communications regarding candidates, public office holders, ballot questions, or political parties who are not controlled by, coordinated with, requested by, or made upon consultation with that candidate, political committee, or agent of a candidate or political committee is required for all communications where over \$100 was spent. [S.D. Codified Laws § 12-27-16](#). If it is an entity (as opposed to individual) making the expenditure, a notation of

“Top Five Contributors” consisting of the five persons making the largest contributions during the preceding 12 months must be included. *Id.*

Legislators

10. Do legislators have to disclose client names as part of financial disclosure reports?

Legislators are required to file annual financial disclosure reports but they do not include client information. [S.D. Codified Laws § 3-1A](#).

Appendix: Sources of Law & Guidance

Statutes

[South Dakota Codified Law, Title 1: State Affairs and Government.](#)

[South Dakota Codified Law, Title 2: Legislature and Statutes.](#)

[South Dakota Codified Law, Title 3: Public Officers and Employees.](#)

[South Dakota Codified Law, Title 12: Elections.](#)

Regulations

South Dakota Secretary of State, [Elected Official Financial Interest Statement](#), (last visited June 16, 2020).

South Dakota Government Accountability Board, [Complaint Form](#), (last visited June 24, 2020).