**24:05:19:05.  Proscribed use of funds.** Except as provided in §§ 24:05:19:05.01 and 24:05:19:05.05, Individuals with Disabilities Education Act, Part B funds may not be used to reduce the level of expenditures made by a local education agency from local funds below the level of expenditures for the fiscal year immediately preceding the fiscal year for which the local education agency is applying for funds for the education of children with disabilities.

 A school district complies with this section for purposes of establishing the school district's eligibility for an award for a fiscal year if the district budgets, for the education of students with disabilities, at least the same total or per capita amount from either of the following sources as the district spent for that purpose from the same source for the most recent prior year for which information is available:

 (1)  Local funds only; or

 (2)  The combination of state and local funds.

 A district that relies on subdivision (1) of this section for any fiscal year must ensure that the amount of local funds it budgets for the education of students with disabilities in that year is at least the same, either in total or per capita, as the amount it spent for that purpose in the most recent fiscal year for which information is available, and must ensure that the standard in subdivision (1) of this section was used to establish compliance.

 The department may not consider any expenditures made from funds provided by the federal government for which the department is required to account to the federal government or for which the district is required to account to the federal government directly or through the department in determining a district's compliance with the requirements of this section.

 **Source:** 16 SDR 41, effective September 7, 1989; 23 SDR 31, effective September 8, 1996; 26 SDR 150, effective May 22, 2000; 33 SDR 236, effective July 5, 2007.

 **General Authority:** SDCL 13-37-1.1.

 **Law Implemented:** SDCL 13-37-1.1.