**24:05:20:23.04.  State enforcement -- Determinations.** On an annual basis, based on local district performance data, information obtained through monitoring visits, and other information available, the department shall determine whether each school district meets the requirements and purposes of Part B of the IDEA. If the department determines, for two consecutive years, that a school district needs assistance in implementing the requirements of Part B of the IDEA, the department shall take one or more of the following actions:

 (1)  Advise the district of available sources of technical assistance that may help the district address the areas in which the district needs assistance. Assistance may include assistance from the department's special education programs, other offices of the department, other state agencies, technical assistance providers approved by the department, and other federally-funded nonprofit agencies. The department shall require the district to work with appropriate entities. Such technical assistance may include:

 (a)  The provision of advice by experts to address the areas in which the district needs assistance, including explicit plans for addressing the area for concern within a specified period of time;

 (b)  Assistance in identifying and implementing professional development, instructional strategies, and methods of instruction that are based on scientifically-based research;

 (c)  Designating and using distinguished superintendents, principals, special education administrators, special education teachers, and other teachers to provide advice, technical assistance, and support; and

 (d)  Devising additional approaches to providing technical assistance, such as collaborating with institutions of higher education, educational service agencies, national centers of technical assistance supported under Part D of the IDEA, and private providers of scientifically-based technical assistance; and

 (2)  Identify the district as a high-risk grantee and impose special conditions on the district's grant under Part B of the IDEA.

 If the department determines, for three or more consecutive years, that a district needs intervention in implementing the requirements of Part B of the IDEA, the department shall require the district to prepare a corrective action plan if the department determines that the district should be able to correct the problem within one year or withhold, in whole or in part, any further payments to the district under Part B of the IDEA.

 Notwithstanding the provisions of this section, if the department determines that a district needs substantial intervention in implementing the requirements of Part B of the IDEA or that there is a substantial failure to comply with any condition of the district's eligibility under Part B of the IDEA, the department shall withhold, in whole or in part, any further payments to the district under Part B of the IDEA.

 **Source:** 33 SDR 236, effective July 5, 2007.

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

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