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to the Director, Office of Indian Education Programs and his/her subordinates, including procurement, contracting, personnel, and other administrative support areas.

[44 FR 58103, Oct. 9, 1979. Redesignated at 47 FR 13327, Mar. 30, 1982, as amended at 49 FR 12702, Mar. 30, 1984]

### § 33.8 Realignment of area and agency offices.

The Assistant Secretary—Indian Affairs shall implement Bureau of Indian Affairs Area Office and Agency Office reorganizations required to structure these offices consistent with education program activities to be undertaken at those levels.

### § 33.9 Development of procedures.

The Director, Office of Indian Education Programs shall prepare and promulgate procedures to govern the provision of support services by the Bureau of Indian Affairs for the education function. These procedures shall be consistent with existing laws, regulations, Executive Orders, and Departmental policies governing administrative support services. These provisions shall be prepared in consultation with those personnel within the Bureau of Indian Affairs who are responsible to the Commissioner of Indian Affairs for providing support services.

### § 33.10 Issuance of procedures.

The Assistant Secretary—Indian Affairs, directly or through the Commissioner of Indian Affairs, shall issue procedures in the Bureau of Indian Affairs Manual governing the provision of support services to the Bureau's Education Office function.

## PART 36—MINIMUM ACADEMIC STANDARDS FOR THE BASIC EDUCATION OF INDIAN CHILDREN AND NATIONAL CRITERIA FOR DORMITORY SITUATIONS

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AUTHORITY: Section 502, 25 U.S.C. 2001; section 5101, 25 U.S.C. 2001; Section 1101, 25 U.S.C. 2002; 5 U.S.C. 301; 25 U.S.C. 2 and 9; 25 U.S.C. 2901, Title I of P.L. 101-477.

SOURCE: 50 FR 36816, Sept. 9, 1985, unless otherwise noted.

**Subpart A—General Provisions****§ 36.1 Purpose, scope, and information collection requirements.**

(a) The purpose of this rule is to establish minimum academic standards for the basic education of Indian children for Bureau-operated schools and for those Indian-controlled contract schools which adopt these standards and to establish national criteria for dormitory situations for schools operated by the Bureau of Indian Affairs and for Indian-controlled contract schools operating dormitories.

(b) The information collection requirement contained in § 36.61(a) has been approved by the Office of Management and Budget under 44 U.S.C. 3507 and assigned clearance number 1076-0092. The information is being collected to evaluate waiver request(s) from tribal government(s) and school board(s). The information will be used to ascertain the approval of academic waiver request. The obligation to respond is mandatory under 25 U.S.C. 2001. The information collection requirements contained in §§ 36.71(g), 36.74(f), and 36.76(b) of this rule are not required to be approved by the Office of Management and Budget since less than ten persons or tribes are affected by the information collection requirement of this rule. However, when ten or more persons or tribes become affected by this requirement, the Bureau will submit an approval request.

[50 FR 36816, Sept. 9, 1985, as amended at 70 FR 21951, Apr. 28, 2005]

**§ 36.2 Applicability.**

The national criteria for dormitory situations established under subpart H will serve as a minimum requirement and shall be mandatory for all Bureau-operated and Indian-controlled contract schools.

[50 FR 36816, Sept. 9, 1985, as amended at 70 FR 21951, Apr. 28, 2005]

**§ 36.3 Definitions.**

For purposes of this part, the following definitions apply:

*Accreditation* means a school has received an official decision by the State(s) department(s) of education, or another recognized agency having offi-

cial authority, that, in its judgment, the school has met the established standards of quality.

*Agency* means the current organizational unit of the Bureau which provides direct services to the governing body or bodies and members of one or more specified Indian tribes.

*Agency school board* as defined in sec. 1139(1), Pub. L. 95-561, means a body, the members of which are appointed by the school boards of the schools located within such Agency. The number of such members shall be determined by the Director in consultation with the affected tribes. In Agencies serving a single school, the school board of that school shall function as the Agency school board.

*Agency Superintendent for Education* means the Bureau official in charge of education functions at an Agency and to whom the school supervisor(s) and other educators under the Agency's jurisdiction report.

*Area Education Programs Administrator* means the Bureau official in charge of Bureau education programs and functions in a Bureau Area Office and is responsible for off-reservation residential schools, and, in some cases, peripheral dormitories and on-reservation day schools not receiving services from the Agency Superintendent for Education.

*Assistant Secretary* means the Assistant Secretary for Indian Affairs of the Department of the Interior.

*Authentic assessment* means the testing of higher order thinking skills by monitoring performance of tasks requiring analysis, creativity, and application skills in real life situations.

*Average daily membership (ADM)* means the aggregate days membership of a given school during a given reporting period divided by the number of days school is in session during this period. Only days on which the students are under the guidance and direction of teachers shall be considered as days in session. The reporting period is generally a given regular school term.

*Basic academic skills* means the abilities acquired by observation, study, or experience in mental and/or physical performance (e.g., proficiency in planning and investigating, operational

techniques, comprehension, organization, execution, remembrance and application of knowledge to acquire a desired result) basic to the mastery of school work or other activity.

*Basic education* means those components of education emphasizing literacy in language arts, mathematics, natural and physical sciences, history, and related social sciences.

*Bureau* means the Bureau of Indian Affairs of the Department of the Interior.

*Certification* means the general process by which the State or Agency authorized by the State adjudges and stipulates that an individual meets the established standards which are prerequisite to employment for a teacher or administrator in education.

*Competency* means having the requisite abilities, skills, or a specified level of mastery.

*Computer literacy* used here means the general range of skills and understanding needed to function effectively in a society increasingly dependent on computer and information technology.

*Content area* means the usual school subjects of instruction, such as: Language arts, mathematics, science, social studies, fine arts, practical arts, health, and physical education.

*Counselor* means a staff member, including those in both academic and dormitory situations, who helps the students to understand educational, personal, and occupational strengths and limitations; to relate abilities, emotions, and aptitudes to educational and career opportunities; to utilize abilities in formulating realistic plans; and to achieve satisfying personal and social development.

*Course of study* means a written guide prepared by administrators, supervisors, consultants, and teachers of a school system or school, as an aid to teaching a given course or an aspect of subject-matter content to a given category of pupil.

*Criterion-referenced test* means an achievement test designed to measure specific skills within a subject area. Test results indicate which skills a student has or has not learned.

*Days* means calendar days.

*Director* means the Director of the Office of Indian Education Programs in the Bureau.

*Dormitory* means a facility which provides students boarding and lodging on a temporary residential basis for the purpose of attending a Bureau-operated or Indian-controlled contract or public school.

*Dormitory manager* means a staff member who manages the day-to-day, 24-hour operation of one or more dormitories.

*Elementary school* is defined as any combination of grades K-8 except when any of these grades are included in the junior high or middle school level.

*Exceptional child program* means a program for students who are eligible to receive education and related services as defined by 25 CFR 39.11(i).

*Feeder school* means a school whose exiting students are absorbed by a school offering instruction on the next higher grade level.

*Formative evaluation* is an evaluation of progress during the implementation of a program. Its purpose is to provide immediate feedback on results to enable modifying the processes used in order to enhance success and prevent failure.

*Goals* means a statement of what the school system is attempting to do to meet the comprehensive educational needs and interests of its pupils, in accordance with its statement of philosophy.

*Grade* means the portion of a school program which represents the work of one regular school year; identified by a designation such as kindergarten, grade 1 or grade 10.

*Grade level* is a designation applied to that portion of the curriculum which represents the work of one regular school year.

*High school* is defined as grades nine through twelve, except when grade nine is included in the junior high or middle school organizational unit.

*Higher order thinking skills* (or advanced skills) means skills such as reading comprehension, written composition, and mathematical reasoning. They differ from basic or discrete skills such as phonetic decoding and arithmetic operations.

*Indian-controlled contract school* means a school that is operated by a tribal organization and funded under a contract with the Bureau.

*Indian student* means a student who is a member of an Indian tribe and is one-quarter ( $\frac{1}{4}$ ) or more degree of Indian blood quantum.

*Indian tribe or tribe* means any Indian tribe, band, nation, rancheria, pueblo, colony or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

*Intense residential guidance* means the program for residential students who need special residential services due to one or more of the problems as stated in 25 CFR 39.11(h).

*Junior high or middle school* is defined as grades seven and eight, but may include grade six when it is not included in the elementary school level and/or grade nine when it is not included in the high school level.

*Kindergarten* means a group of students or a class that is organized to provide educational experiences for children for the year immediately preceding the first grade.

*Librarian* means a certificated school employee whose principal responsibilities include selection, acquisition, preparation, cataloging, and circulation of books and other printed materials; planning the use of the library by teachers and students; and instructing students in the use of library books and materials, whether the library is maintained separately or as a part of an instructional materials center.

*Local school board* when used with respect to a Bureau-operated school means a body chosen in accordance with the laws of the tribe to be served or, in the absence of such laws, the body elected by the parents of the Indian children attending a Bureau-operated school. In schools serving a substantial number of students from different tribes, the members shall be appointed by the governing bodies of the tribes affected and the number of such members shall be determined by the

Director in consultation with the affected tribes.

*Objectives* means a statement of the general, long-range aims and the specific, short-range aims which indicate what the school is attempting to do to meet the needs of the students in accordance with the philosophy, goals, and policies of the school system.

*Paraprofessional* means a staff member who works with and is under the supervision of a professional staff member but who does not have full professional status, e.g., teacher aide. The term denotes a level of knowledge and skills possessed by an individual or required of an individual to perform an assignment. The level of skills is usually at a predetermined minimum level.

*Parent* means a natural parent or guardian or a person legally acting as parent.

*Peripheral dormitory* is a facility which provides students boarding and lodging during the school year for the purpose of attending a public school.

*Regular program student* means all students including those determined to be eligible for services as defined under the Exceptional Child Program, 25 CFR 39.11(i).

*Residential school* means an educational institution in which students are boarded and lodged as well as taught.

*Residential Services under Exceptional Child Program* means a program providing specialized residential care as determined by 25 CFR 39.11(i).

*School* means an educational institution, including elementary, junior high or middle, high school, peripheral, cooperative, and contract schools serving students in grades Kindergarten through 12 and as further defined under 25 CFR 39.2(q).

*School board* means an Agency or local school board.

*School day, instructional day, or teaching day* is a day on which the school is open and students are under the guidance and direction of teachers in instructional activities where the minimum number of instructional hours are met.

*School Supervisor* means the official in charge of a school and/or peripheral dormitory who reports to an Agency

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School Superintendent or an Area Education Programs Administrator, as appropriate.

*Secretary* means the Secretary of the Interior.

*Self-contained class* means a class having the same teacher or team of teachers for all or most of the daily session.

*Standard* means the established criterion and/or specified requirement which must be met and maintained.

*Summative evaluation* means a systematic analysis of the results or products of a program after it is completed. Its purpose is to determine the extent to which the objectives of the program have or have not been achieved. One form of summative evaluation compares results with those of another "control" program using different procedures. Other forms compare results with past results or predetermined target outcomes.

*Teacher* means a certified staff member performing assigned professional activities in guiding and directing the learning experiences of pupils in an instructional situation.

*Unit/Unit of instruction* means a major subdivision of instruction generally composed of several topics including content and learning experiences developed around a central focus such as a limited scope of subject matter, a central program, one or more related concepts, one or more related skills, or a combination of these. One unit equals one full year of instruction in a subdivision thereof. *Unit* and *credit* shall be used interchangeably.

[50 FR 36816, Sept. 9, 1985, as amended at 59 FR 61765, Dec. 1, 1994]

**Subpart B—Educational Management**

**§ 36.10 Standard I—Philosophy and goals.**

(a) Each school shall develop a written mission statement and philosophy of education that addresses the accumulation of knowledge and development of skills, interests, appreciations, ideals, and attitudes within the school's total educational program. A statement of expected outcomes shall outline what the school is attempting to do to meet the needs and interests of its students and community in accord-

ance with the school's mission statement and philosophy.

(b) The statement of philosophy and goals shall be developed with the involvement of students, parents, lay citizens, school staff, and tribe(s) and shall be formally adopted by the local school board.

(c) The philosophy and goals shall be reviewed annually and revised as necessary by each school.

(d) A copy of the philosophy and goals shall be submitted to the Agency Superintendent for Education or Area Education Programs Administrator, as appropriate.

(e) Informational provisions shall be developed in the form of a manual, handbook, brochure, or other written document(s) of the minimum academic standards of the school's programs and the basic rules and procedures of the school. The staff, students, and parents shall receive the written document or documents and have same explained to all who request explanation. The topics covered in the document(s) shall include but not be limited to the following:

- (1) Statement of philosophy and goals;
- (2) Description of how policies are developed and administered;
- (3) A brief explanation of curricular offerings;
- (4) A copy of student rights handbook;
- (5) Basic practices related to:
  - (i) Grading system;
  - (ii) Graduation requirements, if applicable;
  - (iii) Attendance policies;
  - (iv) Special programs at the school;
- and
- (v) Student activities available for students.

[50 FR 36816, Sept. 9, 1985, as amended at 59 FR 61765, Dec. 1, 1994]

**§ 36.11 Standard II—Administrative requirements.**

(a) *Staffing*. Each school shall, at a minimum, meet the following requirements:

- (1) The overall school ratio of regular program students to regular program teachers in self-contained classrooms shall not exceed the following except

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under the conditions set forth in paragraphs (a)(4) (i) and (ii) of this section. Average daily membership (ADM) shall be used in meeting the following ratios.

Level	Ratio
Kindergarten .....	20:1
1st grade—3rd grade .....	22:1
4th grade—high school .....	25:1

(2) Multi-grade classrooms that cross grade-level boundaries (e.g., K-1, 3-4, etc.) shall use the maximum of the lower grade. In grades K-8, grades shall be consolidated to meet the teacher ratios listed above.

(3) The daily teaching load per teacher in departmentalized classes shall not exceed 150 students (ADM) except in activity type classes such as music and physical education.

(4) Schools exceeding these specific staffing ratios for over 30 consecutive days during one school year shall submit a justification for a request for a waiver to the Director, through the Agency Superintendent for Education or Area Education Programs Administrator, as appropriate, which may be approved for a period not to exceed one school year and for the following reasons:

(i) Additional classroom space is not available for establishing another class; or

(ii) The school, Agency, Area and Office of Indian Education Programs Applicant Supply File has been exhausted and the required teacher position cannot be filled. However, efforts to fill the vacancy shall be continued.

(5) Each school shall provide, in the absence of a regular teacher, a certified substitute teacher who meets the State substitute teacher qualifications. In the event that such a substitute is not available, coverage will be provided by a school employee designated by the school supervisor. A class cannot have as a teacher an employee without teaching credentials for more than 20 school days during any one school year.

(b) *Written school enrollment and attendance policies.* Each school shall have written school enrollment and attendance policies in compliance with and/or consistent with 25 CFR 31, Federal Schools for Indians, the statutes of

the State, and tribal education ordinances.

(c) *Immunization.* School children shall be immunized in accordance with the regulations and requirements of the state in which they attend school or standards of the Indian Health Service.

[50 FR 36816, Sept. 9, 1985, as amended at 59 FR 61765, Dec. 1, 1994; 70 FR 21951, Apr. 28, 2005]

**§ 36.12 Standard III—Program needs assessment.**

The policy and procedures of each school and its curricula shall be developed and revised based on an assessment of educational needs. This needs assessment shall be conducted at least every seven (7) years at the same frequency as required in §36.50, School Program Evaluation. This assessment shall include at least the following:

(a) A clear statement of student educational goals and objectives. A student educational goal is defined as a statement of the knowledge, skills, attitudes, or concepts students are expected to exhibit upon completion of a grade level. Student educational objectives are defined as statements of more specific knowledge, skills, attitudes, or concepts students must exhibit in order to achieve the goal.

(b) The collection of appropriate data from which valid determinations, judgments, and decisions can be made with respect to the status of the educational program, e.g.,

(1) Perceptions of the parents, tribes, educators, and the students with regard to the relevance and importance of the goals.

(2) The extent to which educational goals and objectives have been achieved.

(3) The data developed as a result of the evaluation outlined in §36.50 School Program Evaluation.

(c) A statement of educational needs which identifies the difference between the current status of students and the desired goals for the students.

(d) A plan of action to remediate assessed needs.

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### § 36.13 Standard IV—Curriculum development.

(a) Each school shall implement an organized program of curriculum development involving certified and non-certified staff and shall provide the opportunity for involvement by members of the local community.

(b) Curriculum development program activities shall be based on an analysis of school programs and shall be related to needs assessment and evaluation.

(c) Each school shall involve staff and provide the opportunity for involvement by the tribal community in planning programs, objectives, and activities which meet student/teacher needs.

### Subpart C—Minimum Program of Instruction

#### § 36.20 Standard V—Minimum academic programs/school calendar.

(a) If an emergency arises from an uncontrollable circumstance during the school day which results in the dismissal of students by the school administration, the day may be counted as a school day provided that three-fourths of the instructional hours are met.

(b) The educational program shall include multi-culture and multi-ethnic dimensions designed to enable students to function effectively in a pluralistic society.

(1) The school's language arts program shall assess the English and native language abilities of its students and provide instruction that teaches and/or maintains both the English and the primary native language of the school population. Programs shall meet local tribal approval.

(2) The school program shall include aspects of the native culture in all curriculum areas. Content shall meet local tribal approval.

(3) The school program shall assess the learning styles of its students and provide instruction based upon that assessment. The method for assessing learning styles shall be determined at the local level.

(4) The school program shall provide for at least one field trip per child per year to broaden social and academic experiences.

(c) All intraschool programs (e.g., library, instructional labs, physical education, music, etc.) which are directly related to or affect student instruction shall provide services from the beginning of the school term through the final class period at the close of the school term.

[50 FR 36816, Sept. 9, 1985, as amended at 59 FR 61765, Dec. 1, 1994; 70 FR 21951, Apr. 28, 2005]

#### § 36.21 Standard VI—Kindergarten instructional program.

(a) The curriculum for kindergarten shall provide children with experiences which emphasize language development, native language where necessary as determined by 25 CFR 39.11(g), and performance of the requirements in paragraph (b) of this section. Such programs shall assist children in developing positive feelings toward themselves and others.

(b) A kindergarten instructional program shall include but not be limited to:

(1) Language (observing, listening, speaking).

(2) Exploration of the environment (number, space and time relationships, natural science).

(3) Psychomotor and socialization development.

(4) Development of imaginative and creative tendencies.

(5) Health education inclusive of the requirements contained in the Act of May 20, 1886, 24 Stat. 69.

#### § 36.22 Standard VII—Elementary instructional program.

(a) The elementary instruction programs, grades one through six, shall include but need not be limited to:

(1) Language arts.

(2) Mathematics.

(3) Social studies.

(4) Sciences.

(5) Fine arts.

(6) Physical education.

(b) Each school shall integrate the following content areas into its curriculum:

(1) Career awareness,

(2) Environmental and safety education,

(3) Health education (includes requirements contained in 24 Stat. 69),

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- (4) Metric education, and
- (5) Computer literacy.

**§ 36.23 Standard VIII—Junior high/middle school instructional program.**

(a) The instructional program shall reflect the school's philosophy and the needs of the students and the community. It shall be part of a progressive development that begins in the elementary program which precedes it and continues to the secondary program which follows.

(b) The curriculum shall include the following required instructional content areas at each grade level but need not be limited to:

- (1) *Language arts*. One unit shall be required of each student every year.
- (2) *Social studies*. One unit shall be required of each student every year.
- (3) *Mathematics*. One unit shall be required of each student every year.
- (4) *Science*. One unit shall be required of each student every year.
- (5) *Fine arts and practical arts*. One unit each shall be required of each student in the junior high/middle school instructional program.
- (6) *Computer literacy*. One unit shall be required of each student in the junior high/middle school instructional program.
- (7) *Physical education*. One unit shall be required of each student in the junior high/middle school instructional program.
- (c) The following content areas shall be integrated into the curriculum.
  - (1) Career exploration and orientation.
  - (2) Environmental and safety education.
  - (3) Metric education.
  - (4) Consumer economics (including personal finances).
  - (5) Health education (includes meeting the requirements contained in 24 Stat. 69).
  - (d) Languages other than English are encouraged to be offered as a content area beginning at junior high/middle school level.
  - (e) Student enrollment in any laboratory or vocational exploration class shall be consistent with applicable health and safety standards.

**§ 36.24 Standard IX—Secondary instructional program.**

(a) The secondary instructional program shall reflect the philosophy of the student, tribe, community, and school, and an awareness of the changing world.

(b) The secondary instructional curriculum shall include the following content areas:

- (1) Language arts (communication skills).
- (2) Sciences.
- (3) Mathematics.
- (4) Social studies.
- (5) Fine arts and practical arts.
- (6) Physical education.
- (7) Languages other than English.
- (8) Driver education. (See guidelines available from the applicable State Department of Education.)
- (9) *Vocational education*. Curriculum shall be designed and directly related to actual occupational trends (national, regional, and local) and to introduce and familiarize students with various occupations in technology, industry and business, as well as required special skills and the training requisites. Programs shall be directed toward assisting students in making career choices and developing consumer skills and may include the following:
  - (i) Vocational exploration,
  - (ii) Vocational skill development, and
  - (iii) School/on-the-job cooperative education programs.

(c) The following shall be integrated into the curriculum:

- (1) Consumer economics (including personal finances),
- (2) Metric education,
- (3) Safety education, and
- (4) Health education. (In addition, the program shall meet the requirements contained in 24 Stat. 69.)
- (d) The high school program shall provide program coordination with feeder schools, career direction, and preparation for the student entering independent living through employment, post-secondary education, and/or marriage.
- (e) Yearly class schedules shall take into account the graduation requirements of each student.

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(f) Student enrollment in any laboratory or vocational class shall be consistent with applicable health and safety standards.

(g) Schools are encouraged to provide alternative programs that lead to high school completion for secondary students who do not function successfully in the regular academic setting.

[50 FR 36816, Sept. 9, 1985, as amended at 59 FR 61765, Dec. 1, 1994]

#### **Subpart D—Student Instructional Evaluation**

### **§ 36.30 Standard X—Grading requirements.**

(a) Each school shall implement a uniform grading system which assesses a student's mastery of the prescribed objectives of the courses of study undertaken. The mastery of prescribed course objectives shall be the primary measure of academic attainment for reporting student grades on report cards.

(b) The information derived from student instructional evaluations shall be shared with the student and with the parents and shall be used to give teachers and students direction for subsequent learning activities.

(c) Parent/teacher and parent/teacher/student conferences focused on the student's instructional progress and development shall be held, where feasible and practical, to provide an additional means of communication between home and school. Residential schools may meet this standard by documenting the communication of student grades on report cards to parents.

(d) Each school shall issue a report card to parents of students who are under the age of eighteen (18) and to students eighteen (18) years of age and older on a regular basis, but not less than four (4) times yearly. The report card shall include, but not be limited to, the following sections:

- (1) Recommendations and probable promotion status;
- (2) Appropriate signatures and request for return of report cards; and
- (3) Student attendance record.

(e) A summary of each year's final card shall become part of the student's permanent school record.

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### **§ 36.31 Standard XI—Student promotion requirements.**

Each school shall establish and implement a promotion policy which shall be submitted to and approved by the local school board and Agency Superintendent for Education or Area Education Programs Administrator, as appropriate. The requirements shall include, but not be limited to, the following:

(a) Each grade level or equivalent shall have a minimum criteria for student promotion based primarily on measurable mastery of the instructional objectives.

(b) Criterion-referenced tests that evaluate student skills shall be utilized for measuring the mastery of instructional objectives. The evaluation results shall form the basis for the promotion of each student.

(c) A student who has not participated, either directly or through approved alternative instructional methods or programs, in a minimum of 160 instructional days per academic term or 80 instructional days per semester without a written excused absence shall not be promoted. A school board or a school committee may review a promotion decision and, if warranted due to compelling and/or extenuating circumstances, rescind in writing such action on a case-by-case basis. Alternative instructional methods shall be submitted in writing for approval by the Agency Superintendent for Education or Area Education Programs Administrator, as appropriate.

### **§ 36.32 Standard XII—Graduation requirements for a high school diploma.**

Graduation requirements contained under this section shall be applied beginning with the graduating class of the 1987–88 school year.

(a) Satisfactory completion of a minimum number of units shall be the measure for the issuance of a high school diploma.

(b) To graduate, a student shall earn 20 units in a four year high school program unless the state in which the school is located exceeds these requirements, in which case the state's requirements shall apply; fifteen (15) units shall be required as follows:

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- (1) Language arts—four (4) units.
- (2) Mathematics—three (3) units.
- (3) Social studies—three (3) units.
- (i) One (1) unit in United States history;
- (ii) One-half ( $\frac{1}{2}$ ) unit in civics/government;
- (iii) One-half ( $\frac{1}{2}$ ) unit in tribal history/government;
- (iv) One-half ( $\frac{1}{2}$ ) unit in Indian studies; and
- (v) One-half ( $\frac{1}{2}$ ) unit in any other social studies;
- (4) Science—two (2) units.
- (i) One (1) unit in the general science area.
- (ii) One (1) unit in laboratory science areas, i.e., chemistry, physics, biology, zoology, laboratory anatomy.
- (5) Physical education—one (1) unit.
- (6) Practical arts—one (1) unit. Credit in any vocational course may also be used to satisfy this required unit.
- (7) Fine arts—one (1) unit. Music, art, dance, drama, theatre, and other fine arts courses may be used to satisfy this required unit. These are minimum requirements; local schools may establish academic or vocational requirements beyond those prescribed by these standards.
- (c) A school with an average enrollment of fewer than 75 students may offer subjects in alternate years. If schools use this pattern, alternating pairs of subjects shall be listed and approved by the Agency Superintendent for Education or Area Education Programs Administrator, as appropriate.
- (d) Credits earned through approved correspondence or extension study may be accepted if such credits are from schools approved or accredited by the state in which they are located or by a college or university which is regionally accredited for such purposes.
- (e) Students who successfully complete the requirements of the High School Proficiency Examination in the State in which the school is located shall receive an endorsement so stating on their diplomas.

### Subpart E—Instructional Support

#### § 36.40 Standard XIII—Library/media program.

- (a) Each school shall provide a library/media program which shall, as a

minimum, meet the applicable state and/or regional standards, but shall not be limited to these, and shall include the following:

- (1) A written set of instructional and service objectives shall be established that is integrated and consistent with the school's educational goals and philosophy. The librarian or educational media specialist, with students and staff, shall set objectives based on assessed academic and residential needs. The program and services will be evaluated yearly by the principal and the librarian or educational media specialist to determine the degree to which all objectives have been met.

- (2) A written policy for the selection of materials and equipment shall be developed by a library committee in collaboration with the librarian and be approved by the school board. The collection of materials shall include as a minimum the following:

- (i) A collection of books suitable for the range of student abilities and interests being served in the following ADM ratios.

- (A) Elementary K-6, 15 books per student

- (B) Middle 7-8, 12 books per student

- (C) Secondary 9-12, 10 books per student

It is required that materials pertaining to Indian Tribes and/or Alaskan Natives be integrated within this basic collection.

- (ii) Eight (8) to 12 percent of the basic collection must be composed of reference books, currently relevant and in a state of good physical condition, for practical use. Single copies of the principal textbooks used to complement instruction shall be in the collection, but textbooks cannot be counted toward this standard.

- (iii) A periodical collection, suitable for the range of student abilities and interests being served, consisting of one (1) periodical for every ten (10) students, shall be maintained. Schools of over 200 will have a base collection of 20 periodicals.

- (iv) A professional collection for the school staff shall be developed and maintained by the librarian in cooperation with a faculty committee.

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(v) A variety of audio-visual materials, suitable for the range of instruction being provided, of at least 750 items or five (5) items for each student, whichever is larger, and inclusive of materials located in the classrooms shall be maintained. This category includes some of each of the following: Tactile objects, globes, models, maps, films, film-strips, microforms, slides, audio and video tapes, recordings, transparencies and graphics, and the equipment to use all of these. Multiple items within a specific set of materials will be counted as separate items.

(3) There shall be a library media center serviced by a librarian. Schools with fewer than 200 students are encouraged, wherever feasible, to cooperate in sharing librarian resources. Schools within an Agency and/or Area may cooperatively share the costs and services of a librarian who shall facilitate sharing of the combined available resources among the cooperating schools in accordance with the following ratios:

*School Enrollment (ADM)*

- Up to 100— $\frac{1}{2}$  time librarian
- 101-200— $\frac{1}{2}$  time librarian and  $\frac{1}{2}$  time library aide or 20 hours of library activity
- 201-400—1 full-time librarian or  $\frac{3}{4}$  time librarian provided the school has a full-time library aide
- 401+—1 full-time librarian and a full-time library aide

(4) All libraries must conduct an annual inventory of available books, materials, and equipment in accordance with the acquisitions and selection policies.

**§ 36.41 Standard XIV—Textbooks.**

(a) Each school shall establish a textbook review committee composed of teachers, parents, and students, and school board members. Appointment to the textbook review committee shall be subject to school board approval.

(b) The textbook review committee shall establish a procedure and criteria for the annual review of textbooks and other materials used to complement instruction. The criteria shall include, but not be limited to, the following:

(1) The textbook content shall meet the course objectives which are within the adopted school curriculum.

(2) The textbooks shall, as much as possible, reflect cultures accurately.

(3) The textbooks shall be current, in good physical condition, and varied in reading levels.

(c) Each school shall equitably distribute instructional materials to all classrooms. Each school shall inventory all property and equipment annually prior to requisitioning additional materials. Copies of the inventory shall be kept on file by the school staff.

**§ 36.42 Standard XV—Counseling services.**

Each school shall offer student counseling services concerned with physical, social, emotional, intellectual, and vocational growth for each individual. Counseling services shall be included in a school-wide assessment program.

(a) Each Agency and Area, as appropriate, shall institute and supervise an assessment program for its schools in order to provide for the objective assessment of student academic performance. Required formal tests shall be administered annually to all regular program students in grades 4, 8, and 12. (The testing of special education and gifted/talented students shall be in accordance with respective regulations.) If required by state certification standards, schools may use the state mandated academic achievement tests and accompanying requirements. These formal tests and their subtest contents, as well as the test-related procedures, shall include, but not be limited to, the following:

(1) Each Spring, schools shall conduct testing for grades 4, 8, and 12 using a current version of a standardized academic achievement test based upon the national assessment standards designed to assess higher order thinking skills. All schools shall keep a current record, with the Office of Indian Education Programs, of the test the school administers each Spring and the testing dates.

(2) Schools shall use some form of performance-based or authentic assessment in addition to standardized achievement testing.

(3) Each school shall report the summative results of its assessment program to its respective Agency or

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Area, as appropriate, and its school board.

(4) Parents/guardians shall be informed of their children's assessment results and provided with an explanation and interpretation to ensure adequate understanding of the results.

(5) Each school's instructional program shall establish an ongoing student academic assessment program to ensure that defined assessment procedures are in place. The program shall include regular training in basic assessment procedures and routines for all teachers and other staff involved in student assessment.

(6) Each Agency and Area, as appropriate, shall report the results of each school's formal Spring tests to the Office of Indian Education Programs by August 1 of each year. Summative information from performance-based and authentic assessments shall be reported at the same time.

(b) Each counseling program shall provide the following:

(1) Each school having a minimum school ADM of 200 students shall make provisions for the full-time professional services of a counselor, and each school enrolling fewer than 200 students shall make provisions for a part-time professional counselor.

(2) The counselors shall be familiar with the unique tribal, social, and economic characteristics of students.

(3) The counseling program shall contain the following:

(i) A written referral procedure;

(ii) Counseling techniques and documentation procedures to provide for the career, academic, social, and personal needs of the students which are based on the cultural beliefs and values of the students being served;

(iii) Preventative and crisis counseling on both individual and group bases;

(iv) Confidentiality and security of counseling records for each student; and

(v) Design and implementation of orientation programs to facilitate the pupil's transition from elementary to junior high/middle school and from junior high/middle school to high school.

(vi) Each junior or middle school and high school student shall receive aca-

demically counseling a minimum of twice yearly during which time the counselor shall assist the student in developing a written academic and career plan based on ability, aptitude, and interests. Additionally, counselors will assist high school students in selecting courses which satisfy the school's and the state's graduation requirements and the student's academic and career plan. Further, seniors will be given aid in completing registration and/or financial assistance applications for either vocational or academic post-secondary institutions.

(vii) Each high school counseling program shall be required to have on file for each student a planned academic program of studies which is available from the regular course offerings of the school to meet the student's career objectives and which will show that the student has received counseling.

[50 FR 36816, Sept. 9, 1985, as amended at 59 FR 61766, Dec. 1, 1994]

**§ 36.43 Standard XVI—Student activities.**

All schools shall provide and maintain a well-balanced student activities program based on assessment of both student and program needs. Each activity program shall help develop leadership abilities and provide opportunities for student participation but not be limited to activities that include special interest clubs, physical activities, student government, and cultural affairs. The activity program shall be an integral part of the overall educational program.

(a) All student activities shall be required to have qualified sponsors and be approved by the school supervisor, and the school board shall approve the overall activity plan. A qualified sponsor is a professional staff member of the school that is given responsibility to provide guidance or supervision for student activities.

(b) A plan of student activity operations shall be submitted, by each activity at the beginning of each school year, to the school supervisor. The plan will include the purpose, structure, coordination, and planned types of fund-raising activities.

(c) School may participate in interscholastic sports and activities on an

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informal or formal basis. On an informal basis, the Bureau-operated schools will coordinate with other schools in setting up a schedule of sports and games. Schools that participate in state-recognized leagues will abide by those state rules regulating interschool competition.

(d) Until comparable competitive opportunities are provided to all students, regardless of sex, no student shall be barred from participation in interscholastic competition in noncontact sports except on the basis of individual merit.

(e) Residential schools shall plan and provide an intramural program for all students. The program shall include a variety of scholastic and sport activities.

(f) Students shall be involved only in activities which are sanctioned by the school.

(g) All student activities involved only in fund raising are required to establish a school/student activity bank account following school/student banking procedures outlined under 25 CFR 31.7. All student activity accounts shall be audited annually.

(h) The school shall provide for the safety and welfare of students participating in school-sponsored activities.

(i) Each sponsor of a student activity will be given orientation and training covering the responsibilities of a sponsor by the school supervisor.

**Subpart F—Evaluation of Educational Standards**

**§ 36.50 Standard XVII—School program evaluation and needs assessment.**

Each school shall complete a formal, formative evaluation at least once every seven (7) years beginning no later than the second complete school year following the effective date of this part. Schools shall follow state and/or regional accreditation, or accreditation requirements equal to the state in which a school is located. Each school shall follow the prescribed evaluation cycle. The primary purpose of this evaluation will be to determine the effects and quality of school programs and to improve the operations and services of the school programs.

(a) Each school's evaluation design or model will provide objective and quantitative analysis of each area to be evaluated. The analysis shall include product and process evaluation methods. The areas to be reviewed will include, but not be limited to, the following:

- (1) School philosophy and objectives.
- (2) Administrative and organizational requirements.
- (3) Program planning and implementation.
- (4) Curriculum development and instruction.
- (5) Primary education.
- (6) Program of studies for elementary, junior high/middle, and high schools.
- (7) Grading requirements.
- (8) Promotion requirements.
- (9) High school graduation requirements.
- (10) Library/media.
- (11) Textbooks and other instructional materials.
- (12) Counseling services.
- (13) Medical and health services.
- (14) Student activities.
- (15) Transportation services.
- (16) Staff certification and performance.
- (17) Facilities (school plant).
- (18) Parent and community concerns.
- (19) School procedures and policies.
- (20) School board operations.

(b) The Director, within six (6) months from the effective date of this part, shall distribute to each school, Agency or Area, as appropriate, a standardized needs assessment and evaluation instrument with guidelines for developing and applying a locally appropriate evaluation model for carrying out the requirements of this standard.

**§ 36.51 Standard XVIII—Office of Indian Education Programs and Agency monitoring and evaluation responsibilities.**

(a) The Office of Indian Education Programs shall monitor and evaluate the conformance of each Agency or Area, as appropriate, and its schools with the requirements of this part. In addition, it shall annually conduct on-site monitoring at one-third of the Agencies and Areas, thereby monitoring onsite each Agency and/or Area

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at least once every three (3) years. Within 45 days of the onsite visit, the Director shall issue to each Agency Superintendent for Education or Area Education Programs Administrator, as appropriate, a written report summarizing the monitoring findings and ordering, as necessary, required actions to correct noted deficiencies.

(b) Each Agency or Area, as appropriate, in conjunction with its school board shall monitor and evaluate the conformance of its school with the requirements of this part through an annual onsite evaluation involving one-third of the schools annually, thereby monitoring onsite each school at least once every three (3) years. Within 30 days of the onsite visit, the Agency Superintendent for Education or Area Education Programs Administrator, as appropriate, shall issue to the local school supervisor and local school board a written report summarizing the findings and ordering, as necessary, required actions to correct noted deficiencies.

(c) Schools, Agencies, and Areas shall keep such records and submit to the responsible official or designee accurate reports at such times, in such form, and containing such information as determined by that official to be necessary to ascertain conformance with the requirements of this part.

(d) Schools, Agencies, and Areas shall permit access for examination purposes by the responsible official, or any duly authorized designee, to any school records and other sources of information which are related or pertinent to the requirements of this part.

(e) The Office of Indian Education Programs, Agency Superintendent for Education, or Area Education Programs Administrator, as appropriate, shall annually conduct a summative evaluation to assess the degree to which each Bureau educational policy and administrative procedure assists or hinders schools in complying with the requirements of this part. This will include, but not be limited to, the following actions:

(1) Evaluate current policies and practices not related to this part and the effects thereof on the amount of time and resources required which oth-

erwise would be available for these standards;

(2) Modify any policies and practices which interfere with or compromise a school's capability to achieve and maintain these standards;

(3) Invite non-Federal agencies to evaluate the effects current policies and procedures have had on complying with the requirements of this part; and

(4) Submit annually to the Director a copy of the summative evaluation.

### Subpart G—National Dormitory Criteria

SOURCE: 50 FR 36816, Sept. 9, 1985, unless otherwise noted. Redesignated at 70 FR 21951, Apr. 28, 2005.

#### § 36.70 Scope of subpart.

This subpart contains the criteria and mandatory requirements for all dormitories. The individual employee responsibilities, based on the terminology used to designate specific employee positions and their assigned responsibilities, may vary depending upon whether the dormitory is a direct Bureau operation or contract operation.

#### § 36.71 General provisions.

(a) The Homeliving Specialist is the administrative head of the dormitory who shall have sufficient autonomy and authority to ensure the successful functioning of all phases of the dormitory program, and, in dormitories attached to a school, shall report to the school supervisor.

(b) In situations where a Bureau-funded dormitory is maintained, operated, and administered separately from the academic program, this dormitory will ensure access to or provide a guidance program equal to the standards as those under § 36.42 of this part.

(c) Students who qualify for residential services under the Exceptional Child Program must have, in their individualized education plan, objectives that are to be met in the homeliving program. Documentation to support completion of these objectives is required.

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(d) Dormitories with intense residential guidance programs shall have updated written descriptions of the programs with stated purposes, objectives, activities, staffing, and evaluation system. Each student diagnosed as being in need of intense guidance services shall have a file which contains the following:

(1) Documentation of eligibility according to the definition contained under 25 CFR 39.11(h);

(2) Documentation of a diagnosis of the student's needs;

(3) A placement decision signed by a minimum of three (3) staff members;

(4) An individualized treatment plan which includes:

(i) Referral date and referral sources;

(ii) Diagnosis identifying specific needs;

(iii) Specific goals and objectives to be met;

(iv) Record of specific services including beginning and ending dates;

(v) Designation of responsible staff person(s); and

(vi) A means by which the student's progress and the effectiveness of the individualized treatment plan can be periodically reviewed and reevaluated.

(e) Each dormitory program that does not have an academic program under subpart C shall make available career counseling information on educational and occupational opportunities and help students assess their aptitudes and interests. This shall be done on a continuing basis, beginning at the elementary level.

(f) Counseling services shall be made available for students during non-academic hours.

(g) Provisions shall be made to interpret to staff, students, and parents the administrative policies and practices of the dormitory. This provision shall be made in the form of a manual, handbook, brochure, or other written document that will be made available and explained to all who are interested. The topics shall include, but not be limited to, the following:

(1) Statement of philosophy and goals;

(2) Description of how policies are developed and administered; and

(3) A copy of the student rights handbook.

(h) Program will be designed and orientation programs implemented to facilitate the pupils' transition from elementary to middle school and from middle to high school, where appropriate.

(i) All dormitories shall provide and maintain a well-balanced student activities program based on assessment of both student and program needs. Programs shall provide opportunities for student participation in, but not limited to, activities that include special interest clubs, physical activities, student government, and cultural affairs. In addition, the following provisions shall be adhered to:

(1) Dormitories shall plan and provide for an intramural program that includes a variety of scholastic and sport activities.

(2) A plan of operation shall be submitted by each activity at the beginning of each school year to the school supervisor and approved by the school board. The plan shall include the purpose, structure, and coordination of all activities.

(3) All dormitories conducting fundraising activities are required to establish a school/student activity bank account following school/student banking procedures outlined under 25 CFR §31.7. All accounts shall be audited annually.

**§ 36.72 Elementary level dormitories.**

(a) Each dormitory program shall provide or have access to the services of a qualified counselor who holds a valid counselor certificate and has training and experience in dealing with elementary students.

(b) Counselors may be assigned minimal or temporary school supervisory duties. A school supervisor shall not serve in the capacity of counselor while holding the position of school supervisor.

(c) The dormitory program shall have the following ratios (ADM) for counselors:

Less than 75 students: ½ time counselor  
75-150 students: 1 full-time counselor  
151-225 students: 1 full-time and ½ time counselor  
226-300 students: 2 full-time counselors

For dormitories that exceed 300 students (ADM), additional counselor time

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shall be provided according to the above ratio. Dormitories within an Agency are encouraged to try a variety of approaches to guidance service. In this arrangement, the counselor's time may be shared between dormitories. As long as one half-time, professionally-trained counselor is provided, the dormitory program may use supportive personnel and teachers to meet the ratio.

(d) Dormitory counselors' work hours shall be arranged to provide maximum availability of services to students when they are not in academic session.

**§ 36.73 Secondary level dormitories.**

(a) Each dormitory program shall provide or have access to the services of a qualified counselor who holds a valid counselor certificate and has training and experience dealing with secondary students.

(b) Counselors may be assigned minimal or temporary school supervisory duties. A school supervisor shall not serve in the capacity of a counselor while holding a position as a school supervisor.

(c) The dormitory program shall have the following ratios (ADM) for counselor:

- Less than 100 students: ½ time counselor
- 100-199 students: 1 full-time counselor
- 200-300 students: 1 full-time and ½ time counselor

For dormitories that exceed 300 students (ADM), counselor time will be provided according to the above ratio. As long as one half-time, professionally trained counselor is provided, the dormitory program may use supportive personnel and teachers to meet the ratio.

(d) Counselors' work hours shall be arranged to provide maximum availability of service to students when they are not in academic session.

**§ 36.74 Homeliving (dormitory operations).**

Staff shall be provided so that at least one adult is on duty at all times when students are in the dormitory. Each dormitory program shall include, but not be limited to, the following:

(a) Every dormitory facility shall be under the direct supervision of a dor-

mitory manager. A building composed of separate wings or several floors shall be counted as one facility.

(b) Each dormitory operation shall provide the following minimum on-duty paraprofessional staff to student ratio (ADM):

	<i>Ratio</i>
Grades 1 to 6	
Weekdays:	
Mornings .....	1:30
During school hours .....	1:40
Evenings .....	1:30
Nights .....	1:40
Weekends:	
Mornings .....	1:30
Evenings .....	1:30
Nights .....	1:40
Grades 7 to 12	
Weekdays:	
Mornings .....	1:50
During school hours .....	1:80
Evenings .....	1:50
Nights .....	1:80
Weekends:	
Mornings .....	1:50
Evenings .....	1:50
Nights .....	1:80

Dormitory operations for grades one through eight are encouraged to provide additional staff aides during the time children in the primary grades are dressing and preparing for breakfast and school. Staff ratios on weekends shall be reduced at boarding schools to adjust for those students who go home, according to the above ratio.

(c) Group instruction and discussion session shall be held on various topics at least on a monthly basis, but preferably on a weekly basis. Topics to be presented may be determined by a committee comprised of students, staff, administrators, and parents. These topics shall include discussions of problems or needs that exist at the location and/or community.

(d) Each dormitory facility shall be cleaned daily when in operation to provide a safe and sanitary environment. Student assistance may be utilized; however, the responsibility for the cleanliness, safety, and sanitation of the facility shall rest with the dormitory administrator. Bed and bath linen shall be changed a minimum of once per week. Necessary toiletry items shall be made available to those

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students who are economically unable to provide them.

(e) Dormitory operations shall have access to clothes washers and dryers. Equipment shall be utilized only for students' clothing. In grades one through six, residential paraprofessionals shall be responsible for the upkeep of clothing. Students in grades seven through 12 shall be responsible for the upkeep of their own clothing. In grades seven through 12, students shall be allowed to wash and dry their clothing after training is given in using the machines. Contracting for student clothing care may also be utilized under this part.

(f) A system of student accountability shall be established at each residential facility. Minimum requirements of the system shall include an attendance procedure at least four (4) times per normal waking day for grades one through eight and two (2) times for grades nine through 12. However, students in grades seven through 12 may be allowed to have a self check-in system provided that an employee reviews the roster within an hour of each designated check-in time. During sleeping hours, students in grades one through eight shall be checked on an hourly basis; students in grades nine through 12 shall be checked every two (2) hours. At the start of each school day, residential facilities supervisors shall report to the school office which students will not be in attendance. An intra-school pass system shall be developed and implemented.

(g) Students shall be permitted to be released from the dormitory overnight, on weekends, or during vacation periods only when prior written approval is granted by the parent or guardian and only if the local school board adopts a policy governing the conditions of release. Such policy must adhere to the concept that the dormitory/school is acting in "*loco parentis*."

(h) Dormitory facilities shall have a designated room or rooms which shall be utilized as an isolation room(s) for student health care needs. Students isolated in such room(s) shall be checked on a minimum of an hourly basis.

(i) Each dormitory operation shall develop a written procedure for han-

dling emergency situations. Such a procedure shall include names and telephone numbers of the responsible parties to contact in case of emergencies. Situations that shall be considered emergencies include life-threatening medical/health problems, power failures, walkaways, etc.

(j) A tutoring program shall be developed and implemented to assist those students having academic difficulties. Each dormitory operation shall provide a time and place where tutoring, homework, reading, and/or studying can be done for at least one hour daily.

(k) The responsible dormitory supervisor shall be accountable for reporting any hazardous or defective items in the dormitory to the appropriate supervisor and plant manager.

(l) Leisure-time activities shall be provided to dormitory students. These activities may include recreational activities, clubs, arts/crafts, and reading of newspapers and periodicals. Television viewing shall not be considered as structured leisure time unless a scheduled program provides educational benefit.

(m) Lines of communication shall be established with other local social service agencies to assist in the resolution of problems that may extend beyond the confines of the dormitory. These agencies may be State, tribal, or Federal.

(n) Dormitory personnel will receive training in emergency first aid procedures.

### § 36.75 Space and privacy.

The configuration of sleeping space and other living areas will vary according to the grade levels of the occupants; however, sleeping rooms shall provide sufficient space and privacy for the resident students. The following space and privacy requirements shall be required for dormitories. A dormitory shall be considered at capacity when the addition of one more student would put the school out of compliance with the space standard; and additional students shall not be admitted for residential purposes.

(a) Dormitory facilities for grades one through eight shall have space footage averaging from 40 to 60 square

feet per student for sleeping rooms, exclusive of furniture (wardrobe, desks, beds, etc.).

(b) Dormitories housing students who are in grades nine through 12 shall provide sleeping rooms with a per student square footage averaging from 50 to 70 square feet, exclusive of furniture (wardrobe, desks, beds, etc.).

(c) When new dormitories are constructed or existing dormitories are remodeled, sleeping rooms shall be constructed not to exceed a maximum of four students per room for grades one through 12.

(d) Each peripheral dormitory shall have a set of encyclopedias, one dictionary for every ten students (ADM), and ten other general reference materials such as an atlas or periodical subscription.

#### § 36.76 Compliance for the National Criteria for Dormitory Situations.

Implementation of the National Criteria for Dormitory Situations shall begin immediately on the effective date of this part. A dormitory is in compliance when it has met and satisfied all the requirements under subpart H.

(a) The education supervisor(s) or peripheral dormitory supervisor shall report to their supervisor(s) within 45 days after the start of each school term with a compliance report to the local school board that attests to whether a dormitory is in compliance or non-compliance; within 15 days, the compliance report shall be submitted to the Agency Superintendent for Education or Area Education Programs Administrator, as appropriate.

(b) The school supervisor or the peripheral dormitory supervisor shall notify in writing each parent or legal guardian of the dormitory noncompliance status within 60 days after the beginning of the school term.

(c) The compliance report shall contain the following:

(1) A written statement attesting to the fact that the dormitory has or has not met all of the requirements.

(2) A specific listing of the requirements that have not been met.

(3) A detailed action plan designed to correct deficiencies.

(4) A statement signed by the local school board attesting to the fact that it has been apprised of the school's compliance status and concurs or does not concur with the action plan to reach compliance.

(d) The Agency Superintendent for Education or the Area Education Programs Administrator, as appropriate, shall review each dormitory compliance report and shall provide the Director with a detailed report by November 15 each year which shall include:

(1) A list of dormitories indicating those not in compliance.

(2) A detailed statement as to why each school indicated is not in compliance and how it is proposed to reach compliance.

(3) A plan of action outlining what actions the Agency or Area education line officers, as appropriate, will take to assist the dormitories to reach compliance.

(e) In the event a dormitory is not in compliance for two consecutive years due to conditions which can be corrected locally, appropriate personnel actions shall be initiated at all appropriate levels of school/dormitory administration. Noncompliance may be grounds for dismissal.

(f) The Secretary shall submit to the appropriate committees of Congress at the time of the annual budget request a detailed plan to bring all Bureau and contract boarding schools up to the criteria established under section 1122 of Pub. L. 95-561, and 25 U.S.C. 2002. Such plan shall include, but not be limited to, predictions for the relative need for each boarding school in relation to the criteria established under this section and specific cost estimates for meeting such criteria at each school up to the level required by such criteria.

#### § 36.77 Waivers and revisions.

(a) The tribal governing body (tribe), or the local school board (LSB), if so designated by the tribe, shall have the local authority to waive or revise in part or in whole, the standard(s) established in this part if the standard(s) are determined to be inappropriate or if they fail to take into account specific needs of the tribe's children. This provision includes both tribal and Bureau-

operated schools. When the tribe or LSB, if designated by the tribe, waives or revises a standard, it shall submit the waiver or revision to the Assistant Secretary for approval within 60 days. Until this approval is obtained, the standard of this part or minimum state standards shall apply to the affected school(s).

(b) All revised standards shall be submitted to the Assistant Secretary in writing in accordance with the following procedure:

(1) Waivers and revisions shall be submitted by November 15 each school year to accompany the dormitory's annual standards compliance report.

(2) The section or part to be waived shall be specified, and the extent to which it is to be deviated from shall be described.

(3) A justification explaining why the alternative standard is determined necessary shall be included with the revised standard.

(4) Measurable objectives and the method of achieving the alternative standard along with the estimated cost of implementation shall be stated.

(c) The Assistant Secretary shall respond in writing within 45 days of receipt of the waiver or revision. The waiver shall be granted or the revision shall be accepted by the Assistant Secretary unless specifically rejected for good cause and in writing. The written rejection shall be sent to the affected tribe(s) and LSB. This rejection shall be final. The waiver is granted or revision is established automatically on the 46th day of receipt if no written response is provided by the Assistant Secretary.

(d) The Assistant Secretary shall assist the school board of an Indian-controlled contract school in the implementation of the standards established in this part if the school board requests that these standards, in part or in whole, be implemented. At the request of an Indian-controlled contract school board, the Assistant Secretary shall provide alternative or modified standards to those established in this part to take into account the needs of the Indian children and Indian-controlled contract school.

[59 FR 61766, Dec. 1, 1994]

## PART 37—GEOGRAPHIC BOUNDARIES

### Sec.

- 37.100 What is the purpose of this part?  
 37.101 What definitions apply to the terms in this part?  
 37.102 How is this part organized?  
 37.103 Information collection.

### Subpart A—All Schools

- 37.110 Who determines geographic attendance areas?  
 37.111 What role does a tribe have in issues relating to school boundaries?  
 37.112 Must each school have a geographic attendance boundary?

### Subpart B—Day Schools, On-Reservation Boarding Schools, and Peripheral Dorms

- 37.120 How does this part affect current geographic attendance boundaries?  
 37.121 Who establishes geographic attendance boundaries under this part?  
 37.122 Once geographic attendance boundaries are established, how can they be changed?  
 37.123 How does a Tribe develop proposed geographic attendance boundaries or boundary changes?  
 37.124 How are boundaries established for a new school or dorm?  
 37.125 Can an eligible student living off a reservation attend a school or dorm?

### Subpart C—Off-Reservation Boarding Schools

- 37.130 Who establishes boundaries for Off-Reservation Boarding Schools?  
 37.131 Who may attend an ORBS?

AUTHORITY: Public Law 107-110, 115 Stat. 1425.

SOURCE: 70 FR 22204, Apr. 28, 2005, unless otherwise noted.

### § 37.100 What is the purpose of this part?

(a) This part:

(1) Establishes procedures for confirming, establishing, or revising attendance areas for each Bureau-funded school;

(2) Encourages consultation with and coordination between and among all agencies (school boards, tribes, and others) involved with a student's education; and

(3) Defines how tribes may develop policies regarding setting or revising