

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

## Bureau of Indian Affairs, Interior

## § 37.120

geographic attendance boundaries, attendance, and transportation funding for their area of jurisdiction.

(b) The goals of the procedures in this part are to:

- (1) Provide stability for schools;
- (2) Assist schools to project and to track current and future student enrollment figures for planning their budget, transportation, and facilities construction needs;
- (3) Adjust for geographic changes in enrollment, changes in school capacities, and improvement of day school opportunities; and
- (4) Avoid overcrowding or stress on limited resources.

### § 37.101 What definitions apply to the terms in this part?

*Act* means the No Child Left Behind Act, Public Law 107–110, enacted January 8, 2002. The No Child Left Behind Act reauthorizes and amends the Elementary and Secondary Education Act (ESEA) and the amended Education Amendments of 1978.

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

*Geographic attendance area* means a physical land area that is served by a Bureau-funded school.

*Geographic attendance boundary* means a line of demarcation that clearly delineates and describes the limits of the physical land area that is served by a Bureau-funded school.

*Secretary* means the Secretary of the Interior or a designated representative.

### § 37.102 How is this part organized?

This part is divided into three subparts. Subpart A applies to all Bureau-funded schools. Subpart B applies only to day schools, on-reservation boarding schools, and peripheral dorms—in other words, to all Bureau-funded schools except off-reservation boarding schools. Subpart C applies only to off-reservation boarding schools (ORBS).

### § 37.103 Information collection.

Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with, a collection of information subject to the requirements of the Paperwork Reduc-

tion Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This part involves collections of information subject to the PRA in §§ 37.122(b), and 37.123(c). These collections have been approved by OMB under control number 1076–0163.

## Subpart A—All Schools

### § 37.110 Who determines geographic attendance areas?

The Tribal governing body or the Secretary determines geographic attendance areas.

### § 37.111 What role does a tribe have in issues relating to school boundaries?

A tribal governing body may:

- (a) Establish and revise geographical attendance boundaries for all but ORB schools;
- (b) Authorize ISEP-eligible students, residing within the tribe's jurisdiction, to receive transportation funding to attend schools outside the geographic attendance area in which the student lives; and
- (c) Authorize tribal member students who are ISEP-eligible and are not residing within the tribe's jurisdiction to receive transportation funding to attend schools outside the student's geographic attendance area.

### § 37.112 Must each school have a geographic attendance boundary?

Yes. The Secretary must ensure that each school has a geographic attendance area boundary.

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

### § 37.120 How does this part affect current geographic attendance boundaries?

The currently established geographic attendance boundaries of day schools, on-reservation boarding schools, and peripheral dorms remain in place unless the tribal governing body revises them.

**§ 37.121**

**25 CFR Ch. I (4–1–06 Edition)**

**§ 37.121 Who establishes geographic attendance boundaries under this part?**

(a) If there is only one day school, on-reservation boarding school, or peripheral dorm within a reservation's boundaries, the Secretary will establish the reservation boundary as the geographic attendance boundary;

(b) When there is more than one day school, on-reservation boarding school, or peripheral dorm within a reservation boundary, the Tribe may choose to establish boundaries for each;

(c) If a Tribe does not establish boundaries under paragraph (b) of this section, the Secretary will do so.

**§ 37.122 Once geographic attendance boundaries are established, how can they be changed?**

(a) The Secretary can change the geographic attendance boundaries of a day school, on-reservation boarding school, or peripheral dorm only after:

(1) Notifying the Tribe at least 6 months in advance; and

(2) Giving the Tribe an opportunity to suggest different geographical attendance boundaries.

(b) A tribe may ask the Secretary to change geographical attendance boundaries by writing a letter to the Director of the Office of Indian Education Programs, explaining the tribe's suggested changes. The Secretary must consult with the affected tribes before deciding whether to accept or reject a suggested geographic attendance boundary change.

(1) If the Secretary accepts the Tribe's suggested change, the Secretary must publish the change in the FEDERAL REGISTER.

(2) If the Secretary rejects the Tribe's suggestion, the Secretary will explain in writing to the Tribe why the suggestion either:

(i) Does not meet the needs of Indian students to be served; or

(ii) Does not provide adequate stability to all affected programs.

**§ 37.123 How does a Tribe develop proposed geographic attendance boundaries or boundary changes?**

(a) The Tribal governing body establishes a process for developing proposed boundaries or boundary changes. This

process may include consultation and coordination with all entities involved in student education.

(b) The Tribal governing body may delegate the development of proposed boundaries to the relevant school boards. The boundaries set by the school boards must be approved by the Tribal governing body.

(c) The Tribal governing body must send the proposed boundaries and a copy of its approval to the Secretary.

**§ 37.124 How are boundaries established for a new school or dorm?**

Geographic attendance boundaries for a new day school, on-reservation boarding school, or peripheral dorm must be established by either:

(a) The tribe; or

(b) If the tribe chooses not to establish boundaries, the Secretary.

**§ 37.125 Can an eligible student living off a reservation attend a school or dorm?**

Yes. An eligible student living off a reservation can attend a day school, on-reservation boarding school, or peripheral dorm.

**Subpart C—Off-Reservation Boarding Schools**

**§ 37.130 Who establishes boundaries for Off-Reservation Boarding Schools?**

The Secretary or the Secretary's designee, in consultation with the affected Tribes, establishes the boundaries for off-reservation boarding schools (ORBS).

**§ 37.131 Who may attend an ORBS?**

Any student is eligible to attend an ORBS.

**PART 38—EDUCATION PERSONNEL**

Sec.

38.1 Scope.

38.2 Information collection.

38.3 Definitions.

38.4 Education positions.

38.5 Qualifications for educators.

38.6 Basic compensation for educators and education positions.

38.7 Appointment of educators.

38.8 Nonrenewal of contract.

38.9 Discharge of educators.