

Bureau of Indian Affairs, Interior

§ 39.401

service per week. Funding for residential programs is based on the average of the 3 previous years' residential WSUs.

§ 39.217 How are students counted for the purpose of funding residential services?

For a student to be considered in residence for purposes of this subpart, the school must be able to document that the student was:

- (a) In residence at least one night during the first full week of October;
- (b) In residence at least one night during the week preceding the first full week in October;
- (c) In residence at least one night during the week following the first full week in October; and
- (d) Present for both the after school count and the midnight count at least one night during each week specified in this section.

§ 39.218 Are there different formulas for different levels of residential services?

(a) Residential services are funded as shown in the following table:

If a residential program operates . . .	Each student is funded at the level of . . .
(1) 4 nights per week or less	Total WSU × 4/7.
(2) 5, 6 or 7 nights per week	Total WSU × 7/7.

(b) In order to qualify for residential services funding under paragraph (a)(2) of this section, a school must document that at least 10 percent of residents are present on 3 of the 4 weekends during the count period.

(c) At least 50 percent of the residency levels established during the count period must be maintained every month for the remainder of the school year.

(d) A school may obtain waivers from the requirements of this section if there are health or safety justifications.

§ 39.219 What happens if a residential program does not maintain residency levels required by this subpart?

Each school must maintain its declared nights of service per week as certified in its submitted school calendar. For each month that a school

does not maintain 25 percent of the residency shown in its submitted calendar, the school will lose one-tenth of its current year allocation.

§ 39.220 What reports must residential programs submit to comply with this subpart?

Residential programs must report their monthly counts to the Director on the last school day of the month. To be counted, a student must have been in residence at least 10 nights during each full school month.

§ 39.221 What is a full school month?

A full school month is each 30-day period following the first day that residential services are provided to students based on the school residential calendar.

PHASE-IN PERIOD

§ 39.230 How will the provisions of this subpart be phased in?

The calculation of the three-year rolling average of ADM for each school and for the entire Bureau-funded school system will be phased-in as shown in the following table.

Time period	How OIEP must calculate ADM
(a) First school year after May 31, 2005.	Use the prior 3 years' count period to create membership for funding purposes
(b) Second school year after May 31, 2005.	(1) The academic program will use the previous year's ADM school year and the 2 prior years' count periods; and (2) The residential program will use the previous year's count period and the 2 prior years' count weeks
(c) Each succeeding school year after May 31, 2005.	Add one year of ADM or count period and drop one year of prior count weeks until both systems are operating on a 3-year rolling average using the previous 3 years' count after period or ADM, respectively.

Subpart D—Accountability

SOURCE: 70 FR 22205, Apr. 28, 2005, unless otherwise noted.

§ 39.401 What is the purpose of this subpart?

The purpose of this subpart is to ensure accountability of administrative officials by creating procedures that are systematic and can be verified by a random independent outside auditing

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procedures. These procedures will ensure the equitable distribution of funds among schools.

§ 39.402 What definitions apply to terms used in this subpart?

Administrative officials means any persons responsible for managing and operating a school, including the school supervisor, the chief school administrator, tribal officials, Education Line Officers, and the Director, OIEP.

Director means the Director of the Office of Indian Education Programs of the Bureau of Indian Affairs.

Education Line Officer means the Bureau official in charge of Bureau education programs and functions in an Agency who reports to the Director.

§ 39.403 What certification is required?

(a) Each school must maintain an individual file on each student receiving basic educational and supplemental services. The file must contain written documentation of the following:

(1) Each student's eligibility and attendance records;

(2) A complete listing of all supplemental services provided, including all necessary documentation required by statute and regulations (*e.g.*, a current and complete Individual Education Plan for each student receiving supplemental services); and

(3) Documentation of expenditures and program delivery for student transportation to and from school provided by commercial carriers.

(b) The School must maintain the following files in a central location:

(1) The school's ADM and supplemental program counts and residential count;

(2) Transportation related documentation, such as school bus mileage, bus routes;

(3) A list of students transported to and from school;

(4) An electronic student count program or database;

(5) Class record books;

(6) Supplemental program class record books;

(7) For residential programs, residential student attendance documentation;

(8) Evidence of teacher certification; and

(9) The school's accreditation certificate.

(c) The Director must maintain a record of required certifications for ELOs, specialists, and school superintendents in a central location.

§ 39.404 What is the certification and verification process?

(a) Each school must:

(1) Certify that the files required by § 39.403 are complete and accurate; and

(2) Compile a student roster that includes a complete list of all students by grade, days of attendance, and supplemental services.

(b) The chief school administrator and the president of the school board are responsible for certifying the school's ADM and residential count is true and accurate to the best of their knowledge or belief and is supported by appropriate documentation.

(c) OIEP's education line officer (ELO) will annually review the following to verify that the information is true and accurate and is supported by program documentation:

(1) The eligibility of every student;

(2) The school's ADM and supplemental program counts and residential count;

(3) Evidence of accreditation;

(4) Documentation for all provided basic and supplemental services, including all necessary documentation required by statute and regulations (*e.g.*, a current and complete Individual Education Plan for each student receiving supplemental services); and

(5) Documentation required by subpart G of this part for student transportation to and from school provided by commercial carriers.

§ 39.405 How will verifications be conducted?

The eligibility of every student shall be verified. The ELO will take a random sampling of five days with a minimum of one day per grading period to verify the information in § 39.404(c). The ELO will verify the count for the count period and verify residency during the remainder of the year.