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the good cause for rejecting the submission.

(c) If the Director rejects a submission under paragraph (c) of this section, the governing body or school board may submit another waiver and proposal for approval. The standards in this part remain in effect until the Director approves alternative standards.

§ 36.112 Can a homeliving program be closed, transferred, consolidated, or substantially curtailed for failure to meet these standards?

No, a homeliving program cannot be closed, transferred to any other authority, consolidated, or its programs substantially curtailed for failure to meet these standards.

§ 36.120 What type of reporting is required to ensure accountability?

The homeliving program must provide to the appropriate local school board or alternative board such as a homeliving board, the tribal governing body, BIE, and the Secretary of the Interior, an annual accountability report within 45 days following the end of the school year consisting of:

- (a) Enrollment figures identified by the homeliving count period;
- (b) A brief description of programs offered;
- (c) A statement of compliance with the requirements of this part and, if the program is not in compliance, recommendations for achieving compliance; and
- (d) Recommendations to improve the homeliving program including identification of issues and needs.

PART 37—GEOGRAPHIC BOUNDARIES

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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 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 Reduction 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 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,

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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.

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§ 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

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AUTHORITY: 25 U.S.C. 2011 and 2015, Secs. 1131 and 1135 of the Act of November 1, 1978, 92 Stat. 2322 and 2327; Secs. 511 and 512, Pub. L. 98-511; Secs. 8 and 9, Pub. L. 99-89; Title V of Pub. L. 100-297; Pub. L. 105-337.