

**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