

## Bureau of Indian Affairs, Interior

## § 39.702

including repair of educational facilities.

### § 39.504 May schools carry over contingency funds to a subsequent fiscal year?

Bureau-operated schools may carry over funds to the next fiscal year.

### § 39.505 What are the reporting requirements for the use of the contingency fund?

(a) At the end of each fiscal year, Bureau/OIEP shall send an annual report to Congress detailing how the Contingency Funds were used during the previous fiscal year.

(b) By October 1 of each year, the Bureau must send a letter to each school and each tribe operating a school listing the allotments from the Contingency Fund.

## Subpart F—School Board Training Expenses

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

### § 39.600 Are Bureau-operated school board expenses funded by ISEP limited?

Yes. Bureau-operated schools are limited to \$8,000 or one percent (1%) of ISEP allotted funds (not to exceed \$15,000).

### § 39.601 Is school board training for Bureau-operated schools considered a school board expense subject to the limitation?

No, school board training for Bureau-operated schools is not considered a school board expense subject to the limitation in § 39.600.

### § 39.603 Is school board training required for all Bureau-funded schools?

Yes. Any new member of a local school board or an agency school board must complete 40 hours of training within one year of appointment, provided that such training is recommended, but is not required, for a tribal governing body that serves in the capacity of a school board.

### § 39.604 Is there a separate weight for school board training at Bureau-operated schools?

Yes. There is an ISEP weight not to exceed 1.2 WSUs to cover school board training and expenses at Bureau-operated schools.

## Subpart G—Student Transportation

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

### § 39.700 What is the purpose of this subpart?

(a) This subpart covers how transportation mileage and funds for schools are calculated under the ISEP transportation program. The program funds transportation of students from home to school and return.

(b) To use this part effectively, a school should:

(1) Determine its eligibility for funds using the provisions of §§ 39.702 through 39.708;

(2) Calculate its transportation miles using the provisions of §§ 39.710 and 39.711; and

(3) Submit the required reports as required by §§ 39.721 and 39.722.

### § 39.701 What definitions apply to terms used in this subpart?

*ISEP* means the Indian School Equalization Program.

*Transportation mileage count week* means the last full week in September.

*Unimproved roads* means unengineered earth roads that do not have adequate gravel or other aggregate surface materials applied and do not have drainage ditches or shoulders.

#### ELIGIBILITY FOR FUNDS

### § 39.702 Can a school receive funds to transport residential students using commercial transportation?

A school transporting students by commercial bus, train, airplane, or other commercial modes of transportation will be funded at the cost of the commercial ticket for:

(a) The trip from home to school in the Fall;

(b) The round-trip return home at Christmas; and

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(c) The return trip home at the end of the school year.

**§ 39.703 What ground transportation costs are covered for students traveling by commercial transportation?**

This section applies only if a school transports residential students by commercial bus, train or airplane from home to school. The school may receive funds for the ground miles that the school has to drive to deliver the students or their luggage from the bus, train, or plane terminal to the school.

**§ 39.704 Are schools eligible to receive chaperone expenses to transport residential students?**

Yes. Schools may receive funds for actual chaperone expenses, excluding salaries, during the transportation of students to and from home at the beginning and end of the school year and at Christmas.

**§ 39.705 Are schools eligible for transportation funds to transport special education students?**

Yes. A school that transports a special education student from home to a treatment center and back to home on a daily basis as required by the student's Individual Education Plan may count those miles for day student funding.

**§ 39.706 Are peripheral dormitories eligible for day transportation funds?**

Yes. If the peripheral dormitory is required to transport dormitory students to the public school, the dormitory may count those miles driven transporting students to the public school for day transportation funding.

**§ 39.707 Which student transportation expenses are currently not eligible for Student Transportation Funding?**

(a) The following transportation expenses are currently not eligible for transportation funding, however the data will be collected under the provisions in this subpart:

- (1) Fuel and maintenance runs;
- (2) Transportation home for medical or other emergencies;

(3) Transportation from school to treatment or special services programs;

(4) Transportation to after-school programs; and

(5) Transportation for day and boarding school students to attend instructional programs less than full-time at locations other than the school reporting the mileage.

(b) Examples of after-school programs covered by paragraph (a)(4) of this section include:

- (1) Athletics;
- (2) Band;
- (3) Detention;
- (4) Tutoring, study hall and special classes; and
- (5) Extra-curricular activities such as arts and crafts.

**§ 39.708 Are miles generated by non-ISEP eligible students eligible for transportation funding?**

No. Only miles generated by ISEP-eligible students enrolled in and attending a school are eligible for student transportation funding.

**CALCULATING TRANSPORTATION MILES**

**§ 39.710 How does a school calculate annual bus transportation miles for day students?**

To calculate the total annual bus transportation miles for day students, a school must use the appropriate formula from this section. In the formulas, Tu = Miles driven on Tuesday of the transportation mileage count week, W = Miles driven on Wednesday of the transportation mileage count week, and Th = Miles driven on Thursday of the transportation mileage count week.

(a) For ISEP-eligible day students whose route is entirely over improved roads, calculate miles using the following formula:

$$\frac{Tu + W + Th}{3} * 180$$

(b) For ISEP-eligible day students whose route is partly over unimproved roads, calculate miles using the following three steps.

- (1) *Step 1.* Apply the following formula to miles driven over improved roads only:

$$\frac{\text{Tu} + \text{W} + \text{Th}}{3} * 180$$

(2) *Step 2.* Apply the following formula to miles driven over unimproved roads only:

$$\frac{\text{Tu} + \text{W} + \text{Th}}{3} * 1.2 * 180$$

(3) *Step 3.* Add together the sums from steps 1 and 2 to obtain the total annual transportation miles.

**§ 39.711 How does a school calculate annual bus transportation miles for residential students?**

To calculate the total annual transportation miles for residential students, a school must use the procedures in paragraph (b) of this section.

(a) The school can receive funds for the following trips:

- (1) Transportation to the school at the start of the school year;
- (2) Round trip home at Christmas; and
- (3) Return trip to home at the end of the school year.

(b) To calculate the actual miles driven to transport students from home to school at the start of the school year, add together the miles driven for all buses used to transport students from their homes to the school. If a school transports students over unimproved roads, the school must separate the number of miles driven for each bus into improved miles and unimproved miles. The number of miles driven is the sum of:

- (1) The number of miles driven on improved roads; and
- (2) The number of miles driven on unimproved roads multiplied by 1.2.

(c) The annual miles driven for each school is the sum of the mileage from paragraphs (b)(1) and (b)(2) of this section multiplied by 4.

REPORTING REQUIREMENTS

**§ 39.720 Why are there different reporting requirements for transportation data?**

In order to construct an actual cost data base, residential and day schools must report data required by §§ 39.721 and 39.722.

**§ 39.721 What transportation information must off-reservation boarding schools report?**

(a) Each off-reservation boarding school that provides transportation must report annually the information required by this section. The report must:

- (1) Be submitted to OIEP by August 1 and cover the preceding school year;
- (2) Include a Charter/Commercial and Air Transportation Form signed and certified as complete and accurate by the School Principal and the appropriate ELO; and
- (3) Include the information required by paragraph (b) of this section.

(b) Each annual transportation report must include the following information:

- (1) Fixed vehicle costs, including: the number and type of buses, passenger size, and local GSA rental rate and duration of GSA contract;
- (2) Variable vehicle costs;
- (3) Mileage traveled to transport students to and from school on school days, to sites of special services, and to extra-curricular activities;
- (4) Medical trips;
- (5) Maintenance and Service costs; and
- (6) Driver costs;
- (7) All expenses referred to in § 39.707.

**§ 39.722 What transportation information must day schools, on-reservation boarding schools and peripheral dormitory schools report?**

(a) By August 1 of each year, all schools and peripheral dorms that provide transportation must submit a report that covers the preceding year. This report must include:

- (1) Fixed vehicle costs and other costs, including: the number and type of buses, passenger size, and local GSA rental rate and duration of GSA contract;
- (2) Variable vehicle costs;
- (3) Mileage traveled to transport students to and from school on school days, to sites of special services, and to extra-curricular activities;
- (4) Mileage driven for student medical trips;
- (5) Costs of vehicle maintenance and service cost, including cost of miles

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driven to obtain maintenance and service;

- (6) Driver costs; and
- (7) All expenses referred to in §39.707.

(b) In addition, all day schools and on-reservation boarding schools must include in their report a Day Student Transportation Form signed and certified as complete and accurate by the School Principal and the appropriate ELO.

MISCELLANEOUS PROVISIONS

**§ 39.730 Which standards must student transportation vehicles meet?**

All vehicles used by schools to transport students must meet or exceed all appropriate Federal motor vehicle safety standards and State or Tribal motor vehicle safety standards. The Bureau will not fund transportation mileage and costs incurred transporting students in vehicles that do not meet these standards.

**§ 39.731 Can transportation time be used as instruction time for day school students?**

No. Transportation time cannot be used as instruction time for day school students in meeting the minimum required hours for academic funding.

**§ 39.732 How does OIEP allocate transportation funds to schools?**

OIEP allocates transportation funds based on the types of transportation programs that the school provides. To allocate transportation funds OIEP:

- (a) Multiplies the one-way commercial costs for all schools by four to identify the total commercial costs for all schools;
- (b) Subtracts the commercial cost total from the appropriated transportation funds and allocates the balance of the transportation funds to each school with a per-mile rate;
- (c) Divides the balance of funds by the sum of the annual day miles and the annual residential miles to identify a per-mile rate;
- (d) For day transportation, multiplies the per-mile rate times the annual day miles for each school; and
- (e) For residential transportation, multiplies the per mile rate times the annual transportation miles for each school.

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**Subpart H—Determining the Amount Necessary To Sustain an Academic or Residential Program**

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

**§ 39.801 What is the formula to determine the amount necessary to sustain a school's academic or residential program?**

(a) The Secretary's formula to determine the minimum annual amount necessary to sustain a Bureau-funded school's academic or residential program is as follows:

$$\text{Student Unit Value} \times \text{Weighted Student Unit} = \text{Annual Minimum Amount per student.}$$

(b) Sections 39.802 through 39.807 explain the derivation of the formula in paragraph (a) of this section.

(c) If the annual minimum amount calculated under this section and §§ 39.802 through 39.807 is not fully funded, OIEP will pro rate funds distributed to schools using the Indian School Equalization Formula.

**§ 39.802 What is the student unit value in the formula?**

The student unit value is the dollar value applied to each student in an academic or residential program. There are two types of student unit values: the student unit instructional value (SUIV) and the student unit residential value (SURV).

- (a) The student unit instructional value (SUIV) applies to a student enrolled in an instructional program. It is an annually established ratio of 1.0 that represents a student in grades 4 through 6 of a typical non-residential program.
- (b) The student unit residential value (SURV) applies to a residential student. It is an annually established ratio of 1.0 that represents a student in grades 4 through 6 of a typical residential program.

**§ 39.803 What is a weighted student unit in the formula?**

A weighted student unit is an adjusted ratio using factors in the Indian