

Guidance for Requesting BIE Homeliving Standards Waiver Policy

POLICY: School boards or Tribal governing bodies that determine that any part of the homeliving standards established in 25 CFR part 36 should not apply due to their specific circumstances may submit an application for waiver pursuant to 25 CFR 36.111. Only a school board or tribal governing body may apply for such a waiver.

- I.** In order to grant a waiver from the homeliving standards contained in part 36, a requesting school board or Tribal governing body must:
- a) Issue a formal resolution which waives the standard;
 - b) Submit to the school's assigned BIE Education Program Administrator (EPA) a waiver package within sixty (60) days of the resolution's passage that includes:
 - i. A certified copy of the resolution; and
 - ii. A written application for a waiver, which:
 - a. Identifies the standard(s) in 25 CFR part 36 for which a waiver is being sought;
 - b. Explains why the standard is inappropriate for the unique needs of the school's students;
 - c. Includes an alternative standard to be used by the school;
 - d. Explains how the alternative standard better addresses the unique needs of the school's students;
 - e. Describes how the alternative standard will be implemented; and
 - f. Identifies the proposed school year in which the alternative standard will be implemented.
 - c) Upon receipt of a waiver package, EPAs must:
 - i. Review the waiver package;
 - ii. If the waiver package is missing a resolution from the school board/Tribal governing body, or if the waiver package does not sufficiently address one or more of the six (6) above listed requirements, the EPA must communicate to the school board/Tribal governing body of any such deficiency in writing

within fourteen (14) business days providing the applicant the opportunity to amend and complete their waiver package, as necessary, without time constraints.

- II.** A waiver granted pursuant 25 CFR 36.111 shall be valid for so long as the circumstances on which the waiver was originally granted are unchanged and the alternative standard(s) continue to better address student needs.
- a)** Consistent with the annual reporting and accountability requirements under 25 CFR 36.120, homeliving programs must:
 - i.** Include a statement of compliance with the approved alternate standards; and
 - ii.** Identify any issues and needs related to the implementation of such standards and the impact of the waiver on the program.
 - b)** School boards or Tribal governing bodies have an affirmative duty to promptly notify the school's assigned EPA should the factual circumstances on which the initial application waiver was based substantially change, including if the alternative standards fail to better address the unique needs of the school's students. At which time, a requesting school board or Tribal governing body may either submit a new waiver application or be subject to the homeliving standards as described in 25 CFR part 36.
 - c)** There is no limit to the number of subsequent new waiver applications that can be submitted by a school board or Tribal governing body.
- III.** The BIE Director reserves the right to revoke any waiver issued pursuant to 25 CFR 36.111 for good cause, which includes but is not limited to:
- a)** To protect the health and safety of students; or
 - b)** If the alternative standards fail to better address the unique needs of the school's students.