

§ 39.12

25 CFR Ch. I (4-1-05 Edition)

(iii) Inappropriate types of behavior or feelings under normal circumstances;

(iv) A general pervasive mood of unhappiness or depression; or

(v) A tendency to develop physical symptoms or fears associated with personal or school problems.

(12) *Severely and profoundly retarded* means a degree of mental retardation (as defined in paragraph (i)(3) of this section) which severely restricts and delays major aspects of intellectual functioning so as to require intensive small group instruction and supervision.

(13) *Students requiring home/hospital based instruction* means students provided a program of instruction in a home or hospital setting because in the judgement of a physician a student cannot receive instruction in a regular public school facility without endangering the health or safety of the student or of other students.

(14) *Multihandicapped* means concomitant impairments (such as mentally retarded with a minor additional handicap such as speech impaired) the combination of which causes educational problems that can not be accommodated in regular education programs or in part-time special education programs.

(15) *Blind* means the possession of a central vision acuity of 20/200 or less in the better eye with correcting glasses or a peripheral field of vision so contracted that its widest diameter is less than 20%.

(j) *Resident* means a student officially enrolled in the residential care program of a Bureau operated or funded school and actually receiving supplemental services provided to all students who are provided room and board in a boarding school or a dormitory during those weeks when student membership counts are conducted. Such students must be members of the instructional program in the same boarding school in which they are counted as residents. To be counted as dormitory residents, students must be enrolled in and be current members of a public school in the community in which they reside.

[44 FR 61864, Oct. 26, 1979, as amended at 67 FR 52830, Aug. 13, 2002]

§ 39.12 Instructional funding.

(a) Schools are to use the following sources to fund their special Education programs:

(1) 15 percent of the Indian Student Equalization Program (ISEP) funds generated by their ADM; and

(2) Funds under Part B of the Individuals with Disabilities Education Act (IDEA), if the 15 percent of ISEP funds is inadequate to fund the services needed by all eligible ISEP students with disabilities.

(b) All ISEP special education funds must be spent before the need for Part B of IDEA funds can be demonstrated. Part B funds are designed to provide for special education needs not funded by ISEP. By demonstrating that 15 percent of the ISEP base instructional funds were spent on special education, there is support for the need for Part B funds.

(c) To receive ISEP special education funding a student must be:

(1) At least 5 years old by December 31 to be counted as a kindergarten student;

(2) At least 6 years old by December 31 to be counted as a first grade student; and

(3) Under 22 years of age and not have received a high school diploma or its equivalent on the first day of full attendance during the ISEP student count week.

(d) A school may spend ISEP funds on school-wide programs to benefit all students (including those without disabilities) only if all of the following conditions are met:

(1) The school sets aside 15 percent of the basic instructional allotment to meet the needs of students with disabilities;

(2) The school can document that it has met all needs of students with disabilities and addressed all components of IDEA; and

(3) There are unspent funds after the conditions in paragraphs (d)(1) and (d)(2) of this section are met.

(e) Public Law 100-297 establishes a weighted unit for each ISEP-eligible full-time student that is gifted and talented. The weighted unit for gifted and talented is 2.0 weighted student units minus the basic instructional program weight by grade level. The weights for

Bureau of Indian Affairs, Interior

§ 39.16

eligible gifted and talented students must be computed according to the following revised weighted student unit factors:

Grade level	Add-on weight
Kindergarten	0.85
Grades 1 to 3	0.62
Grades 4 to 6	0.85
Grades 7 to 8	0.62
Grades 9 to 12	0.50

(f) This paragraph applies to disabled students who are eligible for ISEP and were not counted during the ISEP Student Count Week. Schools must fund services for these students using the 15 percent of the ISEP funds based upon the school ADM for those students counted during the ISEP Student Count Week. See paragraph (a)(2) of this section for further guidance.

(g) To compute the funding for individual elementary and secondary children, schools must use the weighted student unit factors in paragraphs (g)(1) and (g)(2) of this section.

(1) The factors for basic programs are contained in the following table:

Basic programs	Base weights
Kindergarten	1.15
Grades 1 to 3	1.38
Grades 4 to 6	1.15
Grades 7 to 8	1.38
Grades 9 to 12	1.50

(2) For each student in the intense bilingual supplemental program, the school must add to the base weight an add-on weight of .20.

[67 FR 52830, Aug. 13, 2002]

§ 39.13 Residential funding.

Basic funds for student residential purposes must be computed according to the following weighted student unit factors:

Basic programs	Add-on weights
Grades 1 to 3	1.40
Grades 4 to 8	1.25
Grades 9 to 12	1.25
Intensive Residential Guidance50

[67 FR 52830, Aug. 13, 2002]

§ 39.14 Entitlement for small schools.

To compensate for the additional costs of operating small schools, qualified schools shall receive the following adjustments:

(a) Instructional programs in day and boarding schools. For each separate small school having an instructional average daily membership count (called x) of less than 100 students, the formula [(100-x) divided by 200] times x shall be used to generate add-on weighted pupil units for each such school.

(b) *Boarding school residential programs.* For each separate small boarding school having a resident average daily membership count (called y) of less than 100 students, the formula [(100-y) divided by 200] times y shall be used to generate add-on weighted pupil units for each such boarding school.

(c) *Dormitory residential programs serving public schools.* For each small dormitory program having an average daily membership count (called z) of less than 100 students, the formula [(100-z) divided by 200] times z shall be used to generate add-on weighted pupil units for each dormitory.

§ 39.15 Alaskan school cost supplements.

To meet the statutory requirements for a salary supplement for Alaskan educational staff, and add-on weight of .25 will be used as a factor by which all pupil program-generated weighted students shall be supplemented. Such generated Alaskan cost supplements will be added to the weighted pupil units generated by each school in the same manner as small school units.

§ 39.16 Computation of school entitlements.

The sum of all weighted student units, including any small school and any Alaskan school cost supplements shall be computed for each school under the management of the Director. The total number of units generated by each approved school shall be multiplied by a base dollar value which is equivalent to a base weight of 1.0 in the