

**Bureau of Indian Affairs, Interior**

**§ 39.144**

its regular academic program. Language Development does not have to be offered as a stand-alone program.

**§ 39.133 Who decides how Language Development funds can be used?**

Tribal governing bodies or local school boards decide how their funds for Language Development programs will be used in the instructional program to meet the needs of their students.

**§ 39.134 How does a school identify a Limited English Proficient student?**

A student is identified as limited English proficient (LEP) by using a nationally recognized scientifically research-based test.

**§ 39.135 What services must be provided to an LEP student?**

A school must provide services that assist each LEP student to:

- (a) Become proficient in English and, to the extent possible, proficient in their Native language; and
- (b) Meet the same challenging academic content and student academic achievement standards that all students are expected to meet under 20 U.S.C. 6311(b)(1).

**§ 39.136 What is the WSU for Language Development programs?**

Language Development programs are funded at 0.13 WSUs per student.

**§ 39.137 May schools operate a language development program without a specific appropriation from Congress?**

Yes, a school may operate a language development program without a specific appropriation from Congress, but any funds used for such a program must come from existing ISEP funds. When Congress specifically appropriates funds for Indian or Native languages, the factor to support the language development program will be no more than 0.25 WSU.

**SMALL SCHOOL ADJUSTMENT**

**§ 39.140 How does a school qualify for a Small School Adjustment?**

A school will receive a small school adjustment if either:

- (a) Its average daily membership (ADM) is less than 100 students; or
- (b) It serves lower grades and has a diploma-awarding high school component with an average instructional daily membership of less than 100 students.

**§ 39.141 What is the amount of the Small School Adjustment?**

- (a) A school with a 3-year ADM of 50 or fewer students will receive an adjustment equivalent to an additional 12.5 base WSU; or
- (b) A school with a 3-year ADM of 51 to 99 students will use the following formula to determine the number of WSU for its adjustment. With X being the ADM, the formula is as follows:

$$\text{WSU adjustment} = ((100 - X)/200) * X$$

**§ 39.143 What is a small high school?**

For purposes of this part, a small high school:

- (a) Is accredited under 25 U.S.C. 2001(b);
- (b) Is staffed with highly qualified teachers;
- (c) Operates any combination of grades 9 through 12;
- (d) Offers high school diplomas; and
- (e) Has an ADM of fewer than 100 students.

**§ 39.144 What is the small high school adjustment?**

(a) The small high school adjustment is a WSU adjustment given to a small high school that meets both of the following criteria:

- (1) It has a 3-year average daily membership (ADM) of less than 100 students; and
  - (2) It operates as part of a school that during the 2003-04 school year also included lower grades.
- (b) The following table shows the WSU adjustment given to small high schools. In the table, "X" stands for the ADM.

§ 39.145

25 CFR Ch. I (4–1–08 Edition)

ADM of high school component	Amount of small high school adjustment	School receives a component small school adjustment under § 39.141
50 or fewer students .....	6.25 base WSU .....	Yes.
51 to 99 students .....	determined using the following formula: $WSU = ((100-X)/200) \cdot X/2$ .....	Yes.
50 or fewer students .....	12.5 base WSU .....	No.
51 to 99 students .....	determined using the following formula: $WSU = ((100-X)/200) \cdot X$ .....	No.

**§ 39.145 Can a school receive both a small school adjustment and a small high school adjustment?**

A school that meets the criteria in § 39.140 can receive both a small school adjustment and a small high school adjustment. The following table shows the total amount of adjustments for eligible schools by average daily membership (ADM) category.

ADM—entire school	ADM—high school component	Small school adjustment	Small high school adjustment	Total adjustment
1–50 .....	NA	12.5	NA	12.5
1–50 .....	1–50	12.5	6.25	18.75
51–99 .....	1–50	<sup>2</sup> 12.5–0.5	6.25	18.75–6.75
51–99 .....	51–99	<sup>1</sup> 12.5–0.5	<sup>2</sup> 6.25–0.25	18.75–0.7
99 .....	1–50	0.5	12.5	12.5
99 .....	51–99	0.5	<sup>2</sup> 12.5–0.5	12.5–0.5

<sup>1</sup> The amount of the adjustment is within this range. The exact figure depends upon the results obtained using the formula in § 39.141.

<sup>2</sup> The amount of the adjustment is within this range. The exact figure depends upon the results obtained using the formula in § 39.144.

**§ 39.146 Is there an adjustment for small residential programs?**

In order to compensate for the additional costs of operating a small residential program, OIEP will add to the total WSUs of each qualifying school as shown in the following table:

Type of residential program	Number of WSUs added
Residential student count of 50 or fewer ISEP-eligible students	12.5.
Residential student count of between 51 and 99 ISEP-eligible students.	Determined by the formula $((100-X)/200)X$ , where X equals the residential student count.

GEOGRAPHIC ISOLATION ADJUSTMENT

**§ 39.160 Does ISEF provide supplemental funding for extraordinary costs related to a school's geographic isolation?**

Yes. Havasupai Elementary School, for as long as it remains in its present location, will be awarded an additional cost factor of 12.5 WSU.

**Subpart C—Administrative Procedures, Student Counts, and Verifications**

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

**§ 39.200 What is the purpose of the Indian School Equalization Formula?**

OIEP uses the Indian School Equalization Formula (ISEF) to distribute Indian School Equalization Program (ISEP) appropriations equitably to Bureau-funded schools.

**§ 39.201 Does ISEF reflect the actual cost of school operations?**

ISEF does not attempt to assess the actual cost of school operations either at the local school level or in the aggregate nationally. ISEF is a relative distribution of available funds at the local school level by comparison with all other Bureau-funded schools.