

**§ 39.209**

**§ 39.209 When may a school count a student for membership purposes?**

If a student is enrolled, is in attendance during any of the first 10 days of school, and receives at least 5 days' instruction, the student is deemed to be enrolled all 10 days and shall be counted for ADM purposes. The first 10 days of school, for purposes of this section, are determined by the calendar that the school submits to OIEP.

(a) For ISEP purposes, a school can add a student to the membership when he or she has been enrolled and has received a full day of instruction from the school.

(b) Except as provided in § 39.210, to be counted for ADM, a student dropped under § 39.209 must:

- (1) Be re-enrolled; and
- (2) Receive a full day of instruction from the school.

**§ 39.210 When must a school drop a student from its membership?**

If a student is absent for 10 consecutive school days, the school must drop that student from the membership for ISEP purposes of that school on the 11th day.

**§ 39.211 What other categories of students can a school count for membership purposes?**

A school can count other categories of students for membership purposes as shown in the following table.

Type of student	Circumstances under which student can be included in the school's membership
(a) Homebound .....	(1) The student is temporarily confined to the home for some or all of the school day for medical, family emergency, or other reasons required by law or regulation; (2) The student is being provided by the school with at least 5 documented contact hours each week of academic services by certified educational personnel; and (3) Appropriate documentations is on file at the school.
(b) Located in an institutional setting outside of the school.	The school is either: (1) Paying for the student to receive educational services from the facility; or (2) Providing educational services by certified school staff for at least 5 documented contact hours each week.

Type of student	Circumstances under which student can be included in the school's membership
(c) Taking college courses during the school day.	The student is both: (1) Concurrently enrolled in, and receiving credits for both the school's courses and college courses; and (2) In physical attendance at the school at least 3 documented contact hours per day.
(d) Taking distance learning courses.	The student is both: (1) Receiving high school credit for grades; and (2) In physical attendance at the school at least 3 documented contact hours per day.
(e) Taking internet courses.	The student is both: (1) Receiving high school credit for grades; and (2) Taking the courses at the school site under a teacher's supervision.

**§ 39.212 Can a student be counted as enrolled in more than one school?**

Yes, if a student attends more than one school during an academic year, each school may count the student as enrolled once the student meets the criteria in 39.209.

**§ 39.213 Will the Bureau fund children being home schooled?**

No, the Bureau will not fund any child that is being home schooled.

**§ 39.214 What is the minimum number of instructional hours required in order to be considered a full-time educational program?**

A full time program provides the following number of instructional/student hours to the corresponding grade level:

Grade	Hours
K .....	720
1-3 .....	810
4-8 .....	900
9-12 .....	970

**§ 39.215 Can a school receive funding for any part-time students?**

(a) A school can receive funding for the following part-time students:

- (1) Kindergarten students enrolled in a 2-hour program; and
- (2) Grade 7-12 students enrolled in at least half but less than a full instructional day.

(b) The school must count students classified as part-time at 50 percent of their basic instructional WSU value.

**Bureau of Indian Affairs, Interior**

**§ 39.230**

RESIDENTIAL PROGRAMS

**§ 39.216 How does ISEF fund residential programs?**

Residential programs are funded on a WSU basis using a formula that takes into account the number of nights of 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.