

cation of Indian children in Bureau of Indian Affairs schools, prior to the general amendment of this chapter by Pub. L. 107-110.

Another prior section 2001, Pub. L. 95-561, title XI, §1121, Nov. 1, 1978, 92 Stat. 2316; Pub. L. 96-46, §2(b)(2)-(4), Aug. 6, 1979, 93 Stat. 341; Pub. L. 96-88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 98-511, title V, §502, Oct. 19, 1984, 98 Stat. 2391; Pub. L. 99-89, §2, Aug. 15, 1985, 99 Stat. 379; Pub. L. 99-570, title IV, §4133(b)(3), Oct. 27, 1986, 100 Stat. 3207-134; Pub. L. 100-297, title V, §§5102, 5104, Apr. 28, 1988, 102 Stat. 363, 365; Pub. L. 100-427, §1(a), (b), Sept. 9, 1988, 102 Stat. 1603; Pub. L. 102-531, title III, §312(b), Oct. 27, 1992, 106 Stat. 3504, related to standards for basic education of Indian children in Bureau or contract schools, prior to the general amendment of this chapter by Pub. L. 103-382.

#### AMENDMENTS

2005—Subsec. (d)(7). Pub. L. 109-54 added par. (7) and struck out heading and text of former par. (7). Text read as follows: “The Secretary may, with the approval of the tribal governing body, terminate, contract, transfer to any other authority, consolidate, or substantially curtail the operation or facilities of—

“(A) any Bureau-funded school that is operated on or after January 1, 1999;

“(B) any program of such a school that is operated on or after January 1, 1999; or

“(C) any school board of a school operated under a grant under the Tribally Controlled Schools Act of 1988.”

#### CHANGE OF NAME

Committee on Resources of House of Representatives changed to Committee on Natural Resources of House of Representatives by House Resolution No. 6, One Hundred Tenth Congress, Jan. 5, 2007.

### § 2002. National criteria for home-living situations

#### (a) Revision of standards

##### (1) In general

The Secretary, in consultation with the Secretary of Education, Indian organizations and tribes, and Bureau-funded schools, shall revise the national standards for home-living (dormitory) situations to include such factors as heating, lighting, cooling, adult-child ratios, needs for counselors (including special needs related to off-reservation home-living (dormitory) situations), therapeutic programs, space, and privacy.

##### (2) Implementation

Such standards shall be implemented in Bureau-operated schools, and shall serve as minimum standards for contract or grant schools.

##### (3) Revision after establishment

Once established, any revisions of such standards shall be developed according to the requirements established under section 2017 of this title.

#### (b) Implementation

The Secretary shall implement the revised standards established under this section immediately upon completion of the standards.

#### (c) Plan

##### (1) In general

The Secretary shall submit to the appropriate committees of Congress, the tribes, and the affected schools, and publish in the Fed-

eral Register, a detailed plan to bring all Bureau-funded schools that provide home-living (dormitory) situations up to the standards established under this section.

#### (2) Components of plan

The plan described in paragraph (1) shall include—

(A) a statement of the relative needs of each Bureau-funded home-living (dormitory) school;

(B) projected future needs of each Bureau-funded home-living (dormitory) school;

(C) detailed information on the status of each school in relation to the standards established under this section;

(D) specific cost estimates for meeting each standard for each such school;

(E) aggregate cost estimates for bringing all such schools into compliance with the criteria established under this section; and

(F) specific timelines for bringing each school into compliance with such standards.

#### (d) Waiver

##### (1) In general

A tribal governing body or local school board may, in accordance with this subsection, waive the standards established under this section for a school described in subsection (a) of this section.

##### (2) Inappropriate standards

###### (A) In general

A tribal governing body, or the local school board so designated by the tribal governing body, may waive, in whole or in part, the standards established under this section if such standards are determined by such body or board to be inappropriate for the needs of students from that tribe.

###### (B) Alternative standards

The tribal governing body or school board involved shall, not later than 60 days after providing a waiver under subparagraph (A) for a school, submit to the Director a proposal for alternative standards that take into account the specific needs of the tribe's children. Such alternative standards shall be established by the Director for the school involved unless specifically rejected by the Director for good cause and in writing provided to the affected tribes or local school board.

##### (e) Closure for failure to meet standards prohibited

No school in operation on or before July 1, 1999 (regardless of compliance or noncompliance with the standards established under this section), may be closed, transferred to another authority, or consolidated, and no program of such a school may be substantially curtailed, because the school failed to meet such standards.

(Pub. L. 95-561, title XI, §1122, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2018.)

#### PRIOR PROVISIONS

A prior section 2002, Pub. L. 95-561, title XI, §1122, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3984; amended Pub. L. 105-362, title VIII, §801(c)(2), Nov. 10, 1998, 112 Stat. 3288, related to national criteria

for dormitory situations, prior to the general amendment of this chapter by Pub. L. 107-110.

Another prior section 2002, Pub. L. 95-561, title XI, §1122, Nov. 1, 1978, 92 Stat. 2318; Pub. L. 96-46, §2(b)(5), Aug. 6, 1979, 93 Stat. 341; Pub. L. 96-88, title III, §301(a)(1), title V, §507, Oct. 17, 1979, 93 Stat. 677, 692; Pub. L. 100-297, title V, §5105, Apr. 28, 1988, 102 Stat. 367, related to national criteria for dormitory situations, prior to the general amendment of this chapter by Pub. L. 103-382.

### § 2003. Codification of regulations

#### (a) Part 32 of Title 25, Code of Federal Regulations

The provisions of part 32 of title 25, Code of Federal Regulations, as in effect on January 1, 1987, are incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Such provisions may be altered only by means of an Act of Congress. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before November 1, 1978, the provisions of this Act and the provisions of such other statutory law shall govern.

#### (b) Definition of regulation

In this section, the term "regulation" means any rule, regulation, guideline, interpretation, order, or requirement of general applicability prescribed by any officer or employee of the executive branch.

(Pub. L. 95-561, title XI, §1123, as added Pub. L. 107-110, title X, §1042, Jan. 8, 2002, 115 Stat. 2019.)

#### REFERENCES IN TEXT

This Act, referred to in subsec. (a), means Pub. L. 95-561, Nov. 1, 1978, 92 Stat. 2143, as amended, known as the Education Amendments of 1978. For complete classification of this Act to the Code, see Short Title of 1978 Amendment note set out under section 6301 of Title 20, Education, and Tables.

#### PRIOR PROVISIONS

A prior section 2003, Pub. L. 95-561, title XI, §1123, as added Pub. L. 103-382, title III, §381, Oct. 20, 1994, 108 Stat. 3985, related to the incorporation of regulations into, or the application of regulations to, Pub. L. 95-561, prior to the general amendment of this chapter by Pub. L. 107-110.

Another prior section 2003, Pub. L. 95-561, title XI, §1123, Nov. 1, 1978, 92 Stat. 2319; Pub. L. 100-297, title V, §5106, Apr. 28, 1988, 102 Stat. 367, related to the incorporation of regulations into, or the application of regulations to, Pub. L. 95-561, prior to the general amendment of this chapter by Pub. L. 103-382.

### § 2004. School boundaries

#### (a) Establishment by Secretary

The Secretary shall establish, by regulation, separate geographical attendance areas for each Bureau-funded school.

#### (b) Establishment by tribal body

In any case where there is more than one Bureau-funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau-funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.

### (c) Boundary revisions

#### (1) Notice

On or after July 1, 2001, no geographical attendance area shall be revised or established with respect to any Bureau-funded school unless the tribal governing body or the local school board concerned (if so designated by the tribal governing body) has been afforded—

(A) at least 6 months notice of the intention of the Bureau to revise or establish such attendance area; and

(B) the opportunity to propose alternative boundaries.

#### (2) Revision process

Any tribe may petition the Secretary for revision of existing attendance area boundaries. The Secretary shall accept such proposed alternative or revised boundaries unless the Secretary finds, after consultation with the affected tribe or tribes, that such revised boundaries do not reflect the needs of the Indian students to be served or do not provide adequate stability to all of the affected programs. The Secretary shall cause such revisions to be published in the Federal Register.

#### (3) Tribal resolution determination

Nothing in this section shall deny a tribal governing body the authority, on a continuing basis, to adopt a tribal resolution allowing parents the choice of the Bureau-funded school their children may attend, regardless of the attendance boundaries established under this section.

### (d) Funding restrictions

#### (1) In general

The Secretary shall not deny funding to a Bureau-funded school for any eligible Indian student attending the school solely because that student's home or domicile is outside of the geographical attendance area established for that school under this section.

#### (2) Transportation

No funding shall be made available without tribal authorization to enable a school to provide transportation for any student to or from the school and a location outside the approved attendance area of the school.

### (e) Reservation as boundary

When there is only one Bureau-funded program located on an Indian reservation—

(1) the attendance area for the program shall be the boundaries (established by treaty, agreement, legislation, court decisions, or executive decisions and as accepted by the tribe) of the reservation served; and

(2) those students residing near the reservation shall also receive services from such program.

### (f) Off-reservation home-living (dormitory) schools

#### (1) In general

Notwithstanding any geographical attendance areas, attendance at off-reservation home-living (dormitory) schools shall include students requiring special emphasis programs to be implemented at each off-reservation home-living (dormitory) school.