

§ 222.13

34 CFR Ch. II (7–1–08 Edition)

(3) Is the subject of a pending, timely written request for an administrative hearing or reconsideration, and has not previously been reviewed under §§ 222.12–222.18.

(b) The Secretary applies §§ 222.14–222.18 in forgiving, in whole or part, an LEA's obligation to repay an eligible overpayment that resulted from error either by the LEA or the Secretary.

(Authority: 20 U.S.C. 7712)

[62 FR 35412, July 1, 1997]

§ 222.13 What overpayments are not eligible for forgiveness under section 8012 of the Act?

The Secretary does not consider the following overpayments to be eligible for forgiveness under section 8012 of the Act:

(a) Any overpayment under section 7 of Public Law 81–874 or section 16 of Public Law 81–815.

(b) An amount received by an LEA, as determined under section 8003(g) of the Act (payments to LEAs for certain federally connected children with severe disabilities, implemented in subpart F of this part), that exceeds the LEA's maximum basic support payment under section 8003(b) of the Act.

(c) Any overpayment caused by an LEA's failure to expend or account for funds properly in accordance with the following laws and regulations:

(1) Section 8003(d) of the Act (implemented in subpart D of this part) or section 3(d)(2)(C) of Public Law 81–874 for certain federally connected children with disabilities.

(2) Section 8003(g) of the Act.

(Authority: 20 U.S.C. 7712)

[62 FR 35413, July 1, 1997]

§ 222.14 What requirements must a local educational agency meet for an eligible overpayment to be forgiven in whole or part?

The Secretary forgives an eligible overpayment, in whole or part as described in § 222.18, if—

(a) An LEA submits to the Department's Impact Aid Program office a written request for forgiveness by the later of—

(1) Thirty days from the LEA's initial receipt of a written notice of the overpayment; or

(2) September 2, 1997;

(b) The LEA submits to the Department's Impact Aid Program office the information and documentation described in § 222.16 by the deadlines described in paragraph (a) of this section, or other time limit established in writing by the Secretary due to lack of availability of the information and documentation; and

(c) The Secretary determines under § 222.17 that—

(1) In the case either of an LEA's or the Department's error, repayment of the LEA's total eligible overpayments will result in an undue financial hardship on the LEA and seriously harm the LEA's educational program; or

(2) In the case of the Department's error, determined on a case-by-case basis, repayment would be manifestly unjust (“manifestly unjust repayment exception”).

[62 FR 35413, July 1, 1997]

§ 222.15 How are the filing deadlines affected by requests for other forms of relief?

Unless the Secretary (or the Secretary's delegatee) extends the applicable time limit in writing—

(a) A request for forgiveness of an overpayment under § 222.14 does not extend the time within which an applicant must file a request for an administrative hearing under § 222.151; and

(b) A request for an administrative hearing under § 222.151, or for reconsideration under § 222.152, does not extend the time within which an applicant must file a request for forgiveness under § 222.14.

(Authority: 20 U.S.C. 7712)

[62 FR 35413, July 1, 1997]

§ 222.16 What information and documentation must an LEA submit for an eligible overpayment to be considered for forgiveness?

(a) Every LEA requesting forgiveness must submit, within the time limits established under § 222.14(b), the following information and documentation for the fiscal year immediately preceding the date of the forgiveness request (“preceding fiscal year”):

(1) A copy of the LEA's annual financial report to the State.