

connected students in ADA who are eligible for basic support payments under section 8003(b);

(4) In the case of an LEA whose tax rate is at least 95 percent but less than 100 percent of the average tax rate of its generally comparable LEAs, reducing the amount calculated in paragraph (a)(3) of this section by the percentage that the average tax rate of its generally comparable LEAs exceeds the tax rate of the LEA; and

(5) Subtracting from the amount calculated in paragraph (a)(3), or paragraph (a)(4) of this section, the total amount of payments received by the eligible LEA under sections 8003 (b) and (d) for the fiscal year for which a payment is being determined under section 8003(f).

(b) For the first step of the computations described in paragraph (a) of this section, the Secretary calculates a maximum payment under section 8003(f)(2)(A) for an eligible LEA described in §222.62 (b) or (c) by multiplying the national APPE by .70, except that the resulting amount may not exceed 125 percent of the State APPE.

(c) For the fourth step of the computations described in paragraph (a) of this section, generally comparable LEAs for reasonable tax effort purposes are the LEAs whose APPE is identified in §222.72(a)(1) except that for applicant LEAs for whom the national APPE is identified, all LEAs in the applicant's State will be used as generally comparable LEAs for reasonable tax effort purposes.

(Authority: 20 U.S.C. 7703(f))

§ 222.73 How does the Secretary determine a maximum payment for local educational agencies that are eligible for financial assistance under section 8003(f)(2)(B) and § 222.64?

Except as otherwise provided in paragraphs (b) and (c) of this section and § 222.76, the Secretary determines a maximum payment under section 8003(f)(2)(B) for an eligible LEA as follows:

(a) The Secretary increases the eligible LEA's local contribution rate (LCR) for section 8003(b) payment purposes up to the amount the Secretary determines will compensate the appli-

cant for the increase in its current expenditures necessitated by the unusual geographical factors identified under §222.64(b)(2), but no more than is necessary to allow the applicant to provide a level of education equivalent to that provided by its generally comparable LEAs.

(b) The increase in the LCR referred to in paragraph (a) of this section may not exceed the per pupil share (computed with regard to all children in ADA), as determined by the Secretary, of the increased current expenditures necessitated by the unusual geographical factors identified under §222.64(b)(2).

(c) In the case of an LEA whose tax rate is at least 95 percent but less than 100 percent of the average tax rate of its generally comparable LEAs, reducing the amount calculated in paragraph (a) of this section by the percentage that the average tax rate of its generally comparable LEAs exceeds the tax rate of the LEA.

(Authority: 20 U.S.C. 7703(f))

§ 222.74 How does the Secretary identify generally comparable local educational agencies for purposes of section 8003(f)?

(a) Except as otherwise provided in paragraph (b) of this section, the Secretary identifies generally comparable LEAs for purposes of this subpart in accordance with the LCR procedures described in §§ 222.39–222.41.

(b) For applicant LEAs described in §222.62(a), to identify the three generally comparable LEAs referred to in §222.72(a)(1)(iii), the Secretary uses the following procedures:

(1) The Secretary asks the SEA of the applicant LEA to identify generally comparable LEAs in the State by first following the directions in §222.39(a)(4), using data from the preceding fiscal year. The SEA then removes from the resulting list any LEAs that are significantly impacted, as described in §222.39(b)(1), except the applicant LEA.

(2) If the remaining LEAs are not in rank order by total ADA, the SEA shall list them in that order.

(3) The LEA may then select as its generally comparable LEAs, for purposes of section 8003(f) only, three LEAs from the list that are closest to

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it in size as determined by total ADA (e.g., the next three larger LEAs, the next three smaller, the next two larger and the next one smaller, or the next one larger and the next two smaller).

(Authority: 20 U.S.C. 7703(f))

§ 222.75 How does the Secretary compute the average per pupil expenditure of generally comparable local educational agencies under this subpart?

The Secretary computes APPE under this subpart by—

(a) Dividing the sum of the total current expenditures for the preceding fiscal year for the identified generally comparable LEAs by the sum of the total ADA of those LEAs for the same fiscal year and performing this calculation again using data for the second preceding year; and

(b) Increasing or decreasing the APPE for the preceding fiscal year by the percentage the APPE of the generally comparable LEAs increased or decreased from the second preceding fiscal year to the preceding fiscal year.

(Authority: 20 U.S.C. 7703(f))

§ 222.76 What does the Secretary do if appropriation levels are insufficient to pay in full the amounts calculated under §§ 222.72 and 222.73?

Payments under section 8003(f) for eligible LEAs will be ratably reduced if the funds available for assistance under that section are insufficient to pay the full amounts determined under §§ 222.72 and 222.73.

(Authority: 20 U.S.C. 7703(f))

§§ 222.77-222.79 [Reserved]

Subpart F—Payments to Local Educational Agencies for Children With Severe Disabilities Under Section 8003(g) of the Act

SOURCE: 62 FR 35415, July 1, 1997, unless otherwise noted.

§ 222.80 What definitions apply to this subpart?

(a) The definitions in §§ 222.2 and 222.50 apply to this subpart.

(b) In addition, the following term applies to this subpart:

Children with severe disabilities means children with disabilities who because of the intensity of their physical, mental, or emotional problems need highly specialized education, social, psychological, and medical services in order to maximize their full potential for useful and meaningful participation in society and for self-fulfillment. The term includes those children with disabilities with severe emotional disturbance (including schizophrenia), autism, severe and profound mental retardation, and those who have two or more serious disabilities such as deaf-blindness, mental retardation and blindness, and cerebral-palsy and deafness.

(Authority: 20 U.S.C. 1400 et seq., 7703(g))

§ 222.81 What requirements must a local educational agency meet to be eligible for a payment under section 8003(g) of the Act?

An LEA is eligible for a payment under section 8003(g) of the Act if it—

(a) Is eligible for and receives a payment under section 8003(d) of the Act for children identified in paragraph (b) of this section and meets the requirements of §§ 222.52 and 222.83(b) and (c); and

(b) Incurs costs of providing a free appropriate public education to at least two children with severe disabilities whose educational program is being provided by an entity outside the schools of the LEA, and who each have a parent on active duty in the uniformed services.

(Authority: 20 U.S.C. 1400 et seq., 7703(a), (d), (g))

§ 222.82 How does the Secretary calculate the total amount of funds available for payments under section 8003(g)?

(a) In any fiscal year in which Federal funds other than funds available under the Act are provided to an LEA to meet the purposes of the Act, the Secretary—

(1) Calculates the sum of the amount of other Federal funds provided to an LEA to meet the purposes of the Act and the amount of the payment that the LEA received for that fiscal year under section 8003(b) of the Act; and