

group of 15. The applicant LEA then recommends to the Secretary as its LCR the rate computed for this group by the SEA. However, as provided in § 222.39(b)(2), if the SEA were to have identified fewer than 10 LEAs under any factor or combination of factors, the SEA would not have computed a rate for such a group. Therefore, an applicant LEA included in such a group would not be able to use this factor or combination of factors in recommending its LCR to the Secretary. The significantly impacted LEA described in § 222.39(b)(1), while included for determining the median ADA, is excluded from the computation of any group's LCR. However, the significantly impacted LEA may recommend for itself the LCR of any group it matches in grade span/legal classification, size, location, or a combination of these factors, (that is, in the case of the significantly impacted LEA referred to in this example, below the median ADA and outside an MSA), provided the group contains at least 10 LEAs that are not significantly impacted.

(Approved by the Office of Management and Budget under control number 1810-0036)

(Authority: 20 U.S.C. 7703(b)(1)(C)(iii) and 7703(f)(3)(A)(i)(II) and (III))

§ 222.41 How does a State educational agency compute local contribution rates based upon generally comparable local educational agencies?

Except as otherwise specified in the Act, the SEA, subject to the Secretary's review and approval, shall compute an LCR for each group of generally comparable LEAs within its State that was identified using the factors in § 222.39, as follows:

(a)(1) The SEA shall compile the aggregate local current expenditures of the comparable LEAs in each group for the third fiscal year preceding the fiscal year for which the LCR is being computed.

(2) For purposes of this section, the SEA shall consider only those aggregate current expenditures made by the generally comparable LEAs from revenues derived from local sources. No State or Federal funds may be included.

(b) The SEA shall compile the aggregate number of children in ADA to whom the generally comparable LEAs in each group provided a free public education during the third fiscal year preceding the fiscal year for which the LCR is being computed.

(c) The SEA shall divide—

(1) The aggregate current expenditures determined under paragraph (a) of this section by;

(2) The aggregate number of children determined under paragraph (b) of this section.

(d) The SEA shall submit the resulting figure as the "comparable LCR" to be used by the Secretary under section 8003(b)(1)(C)(iii) in determining the LEA's maximum payment amount under section 8003.

(Authority: 20 U.S.C. 7703(b)(1)(C)(iii))

§§ 222.42–222.49 [Reserved]

Subpart D—Payments Under Section 8003(d) of the Act for Local Educational Agencies That Serve Children With Disabilities

§ 222.50 What definitions apply to this subpart?

In addition to the terms referenced or defined in § 222.2, the following definitions in 20 U.S.C. 1401 or 34 CFR § 77.1 apply to this subpart:

Children with disabilities means children—

(1)(i) With mental retardation, hearing impairments including deafness, speech or language impairments, visual impairments including blindness, serious emotional disturbance, orthopedic impairments, autism, traumatic brain injury, other health impairments, or specific learning disabilities; and

(ii) Who, by reason thereof, need special education and related services.

(2) The term *children with disabilities* for children aged 3 to 5, inclusive, may, at a State's discretion, include children—

(i) Experiencing developmental delays, as defined by the State and as measured by appropriate diagnostic instruments and procedures, in one or more of the following areas: physical development, cognitive development, communication development, social or emotional development, or adaptive development; and

(ii) Who, by reason thereof, need special education and related services.