

**§ 222.75**

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

(2) Determines whether the sum calculated under paragraph (a)(1) of this section exceeds the maximum basic support payment for which the LEA is eligible under section 8003(b), and, if so, subtracts from the amount of any payment received under section 8003(b), any amount in excess of the maximum basic support payment for which the LEA is eligible.

(b) The sum of all excess amounts determined in paragraph (a)(2) of this section is available for payments under section 8003(g) to eligible LEAs.

(Authority: 20 U.S.C. 7703(b), (g))

**§ 222.83 How does an eligible local educational agency apply for a payment under section 8003(g)?**

(a) In fiscal years in which funds are available for payments under section 8003(g) of the Act, the Secretary provides notice to all potentially eligible LEAs that funds will be available.

(b) An LEA applies for a payment under section 8003(g) by submitting to the Secretary documentation detailing the total costs to the LEA of providing a free appropriate public education to the children identified in § 222.81, during the LEA's preceding fiscal year, including the following:

(1) For the costs of the outside entity providing the educational program for those children, copies of all invoices, vouchers, tuition contracts, and other similar documents showing the signature of an official or authorized employee of the outside entity; and

(2) For any additional costs (such as transportation) of the LEA related to providing an educational program for those children in an outside entity, copies of invoices, check receipts, contracts, and other similar documents showing the signature of an official or authorized employee of the LEA.

(c) An LEA applying for a payment must submit to the Secretary the information required under paragraph (b) of this section within 60 days of the date of the notice that funds will be available.

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

(Authority: 20 U.S.C. 7703(g)(2))

**§ 222.84 How does the Secretary calculate payments under section 8003(g) for eligible local educational agencies?**

For any fiscal year in which the Secretary has determined, under § 222.82, that funds are available for payments under section 8003(g) of the Act, the Secretary calculates payments to eligible LEAs under section 8003(g) as follows:

(a) For each eligible LEA, the Secretary subtracts an amount equal to that portion of the payment the LEA received under section 8003(d) of the Act for that fiscal year, attributable to children described in § 222.81, from the LEA's total costs of providing a free appropriate public education to those children, as submitted to the Secretary pursuant to § 222.83(b). The remainder is the amount that the LEA is eligible to receive under section 8003(g).

(b) If the total of the amounts for all eligible LEAs determined in paragraph (a) of this section is equal to or less than the amount of funds available for payment as determined in § 222.82, the Secretary provides each eligible LEA with the entire amount that it is eligible to receive, as determined in paragraph (a) of this section.

(c) If the total of the amounts for all eligible LEAs determined in paragraph (a) of this section exceeds the amount of funds available for payment as determined in § 222.82, the Secretary ratably reduces payments under section 8003(g) to eligible LEAs.

(d) If the total of the amounts for all eligible LEAs determined in paragraph (a) of this section is less than the amount of funds available for payment as determined in § 222.82, the Secretary pays the remaining amount to LEAs under section 8003(d). An LEA that receives such a payment shall use the funds for expenditures in accordance with the requirements of section 8003(d) and subpart D of this part.

(Authority: 20 U.S.C. 7703 (d) and (g))

**§ 222.85 How may a local educational agency use funds that it receives under section 8003(g)?**

An LEA that receives a payment under section 8003(g) of the Act shall use the funds for reimbursement of costs reported in the application that