

§ 222.62

(b) For purposes of this subpart, *level of education* means average per pupil expenditure amount.

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

§ 222.62 Which local educational agencies are eligible to apply for an additional payment under section 8003(f)?

Local educational agencies that are eligible to apply for additional assistance under section 8003(f) include those that have—

(a)(1) A tax effort equal to at least 95 percent of the average tax rate of generally comparable LEAs identified under §§ 222.39–222.41 or 222.74; and

(2)(i) Federally connected children equal to at least 50 percent of the total number of children in average daily attendance (ADA) if a section 8003(b) payment is received on behalf of children described in section 8003(a)(1)(F)–(G); or

(ii) Federally connected children equal to at least 40 percent of the total number of children in ADA if a section 8003(b) payment is not received on behalf of children described in section 8003(a)(1)(F)–(G);

(b)(1) A tax effort equal to at least 125 percent of the average tax rate of generally comparable LEAs identified under §§ 222.39–222.41; and

(2) Federally connected children equal to at least 35 percent of the total number of children in ADA;

(c) The same boundaries as those of a Federal military installation; or

(d) Current expenditures that are not reasonably comparable to those of generally comparable LEAs identified under §§ 222.39–222.41 because unusual geographical factors affect the applicant LEAs' current expenditures necessary to maintain a level of education equivalent to that of generally comparable LEAs.

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

§ 222.63 What other requirements must a local educational agency meet in order to be eligible for financial assistance under section 8003(f)(2)(A)?

Subject to § 222.65, an LEA described in § 222.62(a), (b), or (c) is eligible for financial assistance under section 8003(f)(2)(A) if the Secretary determines that the LEA meets all of the following requirements:

34 CFR Ch. II (7–1–01 Edition)

(a) The LEA is eligible for a basic support payment under section 8003(b).

(b) The LEA timely applies for assistance under section 8003(f) and meets all of the other application and eligibility requirements of subparts A and C of these regulations.

(c) The LEA is exercising due diligence in availing itself of revenues derived from State and other sources and, except for an LEA described in § 222.62(c), is making a reasonable tax effort in accordance with the requirements of §§ 222.66–222.71.

(d) The eligibility of the LEA for State aid and the amount of State aid are determined on a basis no less favorable than that for other LEAs in the State.

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

§ 222.64 What other requirements must a local educational agency meet in order to be eligible for financial assistance under section 8003(f)(2)(B)?

Subject to § 222.65, an LEA described in § 222.62(d) is eligible for financial assistance under section 8003(f)(2)(B) if the Secretary determines that the LEA meets all of the following requirements—

(a) The LEA complies with the requirements of § 222.63(a)–(d).

(b)(1) As part of its section 8003(f) application, the LEA provides the Secretary with documentation that demonstrates that the LEA is unable to provide a level of education equivalent to that provided by its generally comparable LEAs because—

(i) The applicant's current expenditures are affected by unusual geographical factors; and

(ii) As a result, those current expenditures are not reasonably comparable to the current expenditures of its generally comparable LEAs.

(2) The LEA's application must include—

(i) A specific description of the unusual geographical factors on which the applicant is basing its request for compensation under this section and objective data demonstrating that the applicant is more severely affected by these factors than any other LEA in its State;

(ii) Objective data demonstrating the specific ways in which the unusual geographical factors affect the applicant's current expenditures so that they are not reasonably comparable to the current expenditures of its generally comparable LEAs;

(iii) Objective data demonstrating the specific ways in which the unusual geographical factors prevent the applicant from providing a level of education equivalent to that provided by its generally comparable LEAs; and

(iv) Any other information that the Secretary may require to make an eligibility determination under this section.

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

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

§ 222.65 How may a State aid program affect a local educational agency's eligibility for assistance under section 8003(f)?

The Secretary determines that an LEA is not eligible for financial assistance under section 8003(f) if—

(a) The LEA is in a State that has an equalized program of State aid that meets the requirements of section 8009; and

(b) The State, in determining the LEA's eligibility for or amount of State aid, takes into consideration the LEA's payment under section 8003(f).

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

§ 222.66 How does the Secretary determine whether a fiscally independent local educational agency is making a reasonable tax effort?

(a) To determine whether a fiscally independent LEA, as defined in § 222.2(c), is making a reasonable tax effort as required by § 222.63 or § 222.64, the Secretary compares the LEA's local real property tax rates for current expenditure purposes (referred to in this part as "tax rates"), as defined in § 222.2(c), with the tax rates of its generally comparable LEAs.

(b) For purposes of this section, the Secretary uses—

(1) Actual tax rates if all the real property in the LEA and its generally comparable LEAs is assessed at the same percentage of true value; or

(2) Tax rates computed under §§ 222.67–222.69.

(c) The Secretary determines that an LEA described in § 222.62(a) or (d) is making a reasonable tax effort if—

(1) The LEA's tax rate is equal to at least 95 percent of the average tax rate of its generally comparable LEAs;

(2) Each of the LEA's tax rates for each classification of real property is equal to at least 95 percent of each of the average tax rates of its generally comparable LEAs for the same classification of property;

(3) The LEA taxes all of its real property at the maximum rates allowed by the State, if those maximum rates apply uniformly to all LEAs in the State; or

(4) The LEA has no taxable real property.

(d) The Secretary determines that an LEA described in § 222.62(b) is making a reasonable tax effort if—

(1) The LEA's tax rate is equal to at least 125 percent of the average tax rate of its generally comparable LEAs;

(2) Each of the LEA's tax rates for each classification of real property is equal to at least 125 percent of each of the average tax rates of its generally comparable LEAs for the same classification of property;

(3) The LEA taxes all of its real property at the maximum rates allowed by the State, if those maximum rates apply uniformly to all LEAs in the State; or

(4) The LEA has no taxable real property.

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

§ 222.67 What tax rates does the Secretary use if real property is assessed at different percentages of true value?

If the real property of an LEA and its generally comparable LEAs consists of one classification of property but the property is assessed at different percentages of true value in the different LEAs, the Secretary determines whether the LEA is making a reasonable tax effort under § 222.66(c)(1) or (d)(1) by using tax rates computed by—

(a) Multiplying the LEA's actual tax rate for real property by the percentage of true value assigned to that property for tax purposes; and