

§ 222.91 What requirements must a local educational agency meet to receive a payment under section 8003 of the Act for children residing on Indian lands?

To receive a payment under section 8003 of the Act for children residing on Indian lands, a local educational agency (LEA) must—

- (a) Meet the application and eligibility requirements in section 8003 and subparts A and C of these regulations;
- (b) Develop and implement policies and procedures in accordance with the provisions of section 8004(a) of the Act; and
- (c) Include in its application for payments under section 8003—

(1) An assurance that the LEA established these policies and procedures in consultation with and based on information from tribal officials and parents of those children residing on Indian lands who are Indian children; and

(2) A copy of the policies and procedures or documentation that the LEA has received a waiver in accordance with the provisions of section 8004(c).

(Authority: 20 U.S.C. 7703(a), 7704(a), (c), and (d)(2))

§ 222.92 What additional statutes and regulations apply to this subpart?

(a) The following statutes and regulations apply to LEAs that claim children residing on Indian lands for payments under section 8003:

(1) The General Education Provisions Act (GEPA) in 20 U.S.C. 1221 *et seq.*, unless otherwise noted.

(2) Other relevant regulations in this part.

(b) The following statutes, rules, and regulations do not apply to any hearing proceedings under this subpart:

- (1) Administrative Procedure Act.
- (2) Federal Rules of Civil Procedure.
- (3) Federal Rules of Evidence.
- (4) GEPA, part E.
- (5) 34 CFR part 81.

(Authority: 20 U.S.C. 1221 *et seq.* unless otherwise noted, 7703, and 7704)

§ 222.93 [Reserved]

INDIAN POLICIES AND PROCEDURES

§ 222.94 What provisions must be included in a local educational agency's Indian policies and procedures?

(a) An LEA's Indian policies and procedures (IPPs) must include a description of the specific procedures for how the LEA will—

(1) Give the tribal officials and parents of Indian children an opportunity to comment on whether Indian children participate on an equal basis with non-Indian children in the education programs and activities provided by the LEA;

(2) Assess the extent to which Indian children participate on an equal basis with non-Indian children served by the LEA;

(3) Modify, if necessary, its education program to ensure that Indian children participate on an equal basis with non-Indian children served by the LEA;

(4) Disseminate relevant applications, evaluations, program plans and information related to the education programs of the LEA in sufficient time to allow the tribes and parents of Indian children an opportunity to review the materials and make recommendations on the needs of the Indian children and how the LEA may help those children realize the benefits of the LEA's education programs and activities;

(5) Gather information concerning Indian views, including those regarding the frequency, location, and time of meetings;

(6) Notify the Indian parents and tribes of the locations and times of meetings;

(7) Consult and involve tribal officials and parents of Indian children in the planning and development of the LEA's education programs and activities; and

(8) Modify the IPPs if necessary, based upon the results of any assessment described in paragraph (b) of this section.

(b) Tribes and parents of Indian children may assess the effectiveness of their input regarding the participation of Indian children in the LEA's education programs and activities and the

§ 222.95

development and implementation of the IPPs, and share the results of that assessment with the LEA.

(Authority: 20 U.S.C. 7704)

§ 222.95 How are Indian policies and procedures reviewed to ensure compliance with the requirements in section 8004(a) of the Act?

(a) The Director of the Impact Aid Program (Director) periodically reviews applicant LEAs' IPPs to ensure that they comply with the provisions of section 8004(a) and § 222.94.

(b) If the Director determines either that the LEA's IPPs do not comply with the minimum standards of section 8004(a), or that the IPPs have not been implemented in accordance with § 222.94, the Director provides the LEA with written notification of the deficiencies related to its IPPs and requires that the LEA take appropriate action.

(c) An LEA shall make the necessary changes within 60 days of receipt of written notification from the Director.

(d) If the LEA fails to make the necessary adjustments or changes within the prescribed period of time, the Director may withhold all payments that the LEA is eligible to receive under section 8003.

(e) Each LEA that has developed IPPs shall review those IPPs annually to ensure that they—

(1) Comply with the provisions in section 8004(a); and

(2) Are implemented by the LEA in accordance with § 222.94.

(f) If an LEA determines that its IPPs do not meet the requirements in paragraphs (e) (1) and (2) of this section, the LEA shall amend its IPPs to conform with those requirements within 60 days of its determination.

(g) An LEA that amends its IPPs shall, within 30 days, send a copy of the amended IPPs to—

- (1) The Director for approval; and
- (2) The affected tribe or tribes.

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

(Authority: 20 U.S.C. 7704 (a) and (d)(2))

[60 FR 50778, Sept. 29, 1995, as amended at 62 FR 35416, July 1, 1997]

34 CFR Ch. II (7-1-02 Edition)

§§ 222.96-222.101 [Reserved]

**INDIAN POLICIES AND PROCEDURES
COMPLAINT AND HEARING PROCEDURES**

§ 222.102 Who may file a complaint about a local educational agency's Indian policies and procedures?

(a) Only a tribal chairman or an authorized designee for a tribe that has students attending an LEA's schools may file a written complaint with the Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) regarding any action of the LEA pursuant to, or relevant to, section 8004(a) and § 222.94.

(b) If a tribe files a complaint through a designee, the tribe shall acknowledge in writing in the complaint that the designee is authorized to act on its behalf.

(Authority: 20 U.S.C. 7704(e)(1))

§ 222.103 What must be included in a complaint?

For purposes of this subpart, a complaint is a signed statement that includes—

(a) An allegation that an LEA has failed to develop and implement IPPs in accordance with section 8004(a);

(b) Information that supports the allegation;

(c) A specific request for relief; and

(d) A statement describing what steps the tribe has taken to resolve with the LEA the matters on which the complaint is based.

(Authority: 20 U.S.C. 7704(e)(1))

§ 222.104 When does the Assistant Secretary consider a complaint received?

(a) The Assistant Secretary considers a complaint to have been received only after the Assistant Secretary determines that the complaint—

(1) Satisfies the requirements in §§ 222.102 and 222.103; and

(2) Is in writing and signed by the tribal chairman or the tribe's authorized designee.

(b) If the Assistant Secretary determines that a complaint fails to meet the requirements in §§ 222.102-222.103, the Assistant Secretary notifies the tribe or its designee in writing that the