

the LEA's total eligible overpayments will result in an undue financial hardship on the LEA and seriously harm the LEA's educational program; or

(2) In the case of the Department's error, determined on a case-by-case basis, repayment would be manifestly unjust ("manifestly unjust repayment exception").

[62 FR 35413, July 1, 1997]

**§222.15 How are the filing deadlines affected by requests for other forms of relief?**

Unless the Secretary (or the Secretary's delegatee) extends the applicable time limit in writing—

(a) A request for forgiveness of an overpayment under §222.14 does not extend the time within which an applicant must file a request for an administrative hearing under §222.151; and

(b) A request for an administrative hearing under §222.151, or for reconsideration under §222.152, does not extend the time within which an applicant must file a request for forgiveness under §222.14.

(Authority: 20 U.S.C. 7712)

[62 FR 35413, July 1, 1997]

**§222.16 What information and documentation must an LEA submit for an eligible overpayment to be considered for forgiveness?**

(a) Every LEA requesting forgiveness must submit, within the time limits established under §222.14(b), the following information and documentation for the fiscal year immediately preceding the date of the forgiveness request ("preceding fiscal year"):

(1) A copy of the LEA's annual financial report to the State.

(2) The LEA's local real property tax rate for current expenditure purposes, as described in §222.17(b).

(3) The average local real property tax rate of all LEAs in the State.

(4) The average per pupil expenditure (APPE) of the LEA, calculated by dividing the LEA's aggregate current expenditures by the total number of children in average daily attendance for whom the LEA provided a free public education.

(5) The APPE of the State, as defined in section 8013 of the ESEA.

(b) An LEA requesting forgiveness under §222.14(c)(2) (manifestly unjust repayment exception), or §222.17(a)(3) (no present or prospective ability to repay), also must submit written information and documentation in specific support of its forgiveness request under those provisions within the time limits established under §222.14(b).

(Authority: 20 U.S.C. 7712)

[62 FR 35413, July 1, 1997]

**§222.17 How does the Secretary determine undue financial hardship and serious harm to a local educational agency's educational program?**

(a) The Secretary determines that repayment of an eligible overpayment will result in undue financial hardship on an LEA and seriously harm its educational program if the LEA meets the requirements in paragraph (a)(1), (2), or (3) of this section.

(1) An LEA other than an LEA described in paragraphs (a)(2) and (3) of this section meets the requirements of paragraph (a) of this section if—

(i) The LEA's eligible overpayments on the date of its request total at least \$10,000;

(ii) The LEA's local real property tax rate for current expenditure purposes, for the preceding fiscal year, is equal to or higher than the State average local real property tax rate for that preceding fiscal year; and

(iii) The LEA's average per pupil expenditure (APPE) (as described in §222.16(a)(4)) for the preceding fiscal year is lower than the State APPE (as described in §222.16(a)(5)) for that preceding fiscal year.

(2) The following LEAs qualify under paragraph (a) of this section if they meet the requirements in paragraph (a)(1)(i) of this section and their APPE (as described in §222.16(a)(4)) for the preceding fiscal year does not exceed 125 percent of the State APPE (as described in §222.16(a)(5)) for that preceding fiscal year:

(i) An LEA with boundaries that are the same as a Federal military installation.

(ii) Other LEAs with no local real property tax revenues, or with minimal local real property tax revenues per pupil due to substantial amounts of