§ 222.165 What procedures does the Secretary follow after making a determination under section 8009?

Section 222.165 describes the procedures for administrative appeals of determinations by the Secretary and the procedures for corrective actions by States.

## Waiver of Proposed Rulemaking

In accordance with the Administrative Procedure Act (5 U.S.C. 553), it is the Secretary's practice to offer interested parties the opportunity to comment on proposed regulations. However, these regulations merely reflect statutory changes, remove unnecessary and obsolete regulatory provisions, reorganize and clarify the language of the regulations, and make minor procedural revisions. Thus, the regulations do not establish or affect substantive policy. Therefore, the Secretary has determined with respect to amendments made due to statutory changes that, pursuant to 5 U.S.C. 553(b)(B), publication of a proposed rule is unnecessary and contrary to the public interest, and with respect to the procedural changes that, pursuant to 5 U.S.C. 553(b)(A), public comment is not required.

# Regulatory Flexibility Act Certification

The Secretary certifies that these regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these regulations are small LEAs receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations will not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

#### List of Subjects in Part 222

Education, Education of children with disabilities, Elementary and secondary education, Federally affected areas, Grant programs—education, Indianseducation, Public housing, Reports and recordkeeping requirements, School construction.

# 34 CFR Part 218

Education, Elementary and secondary education, Federally affected areas, Grant programs—education.

## 34 CFR Part 219

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Reports and recordkeeping requirements, School construction.

#### 34 CFR Parts 221 and 222

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Reports and recordkeeping requirements, School construction.

#### 34 CFR Part 223

Education, Elementary and secondary education, Federally affected areas, Grant programs—education, Indians education.

Dated: September 25, 1995.

Thomas W. Payzant,

Assistant Secretary for Elementary and Secondary Education.

(Catalog of Federal Domestic Assistance Number 84.041, Impact Aid—Maintenance and Operations)

For the reasons set out in the preamble and under the authority at 20 U.S.C. 7701–7714, the Secretary amends chapter II of title 34 of the Code of Federal Regulations as follows:

## Part 218 [Removed]

1.Part 218 is removed.

Part 219 [Removed]

2. Part 219 is removed.

Part 221 [Removed]

3. Part 221 is removed.

### Part 223 [Removed]

- 4. Part 223 is removed.
- 5. Part 222 is revised to read as

## PART 222—IMPACT AID PROGRAMS

### Subpart A—General

Sec.

What is the scope of this part? 222.1

222.2 What definitions apply to this part?

How does a local educational agency apply for assistance under section 8002 or 8003 of the Act?

222.4 How does the Secretary determine when an application is timely filed?

222.5 When may a local educational agency amend its application?

222.6 Which applications does the Secretary accept?

222.7 What information may a local educational agency submit after the application deadline?

222.8 What action must an applicant take upon a change in its boundary, classification, control, governing authority, or identity?

222.9 What records must a local educational agency maintain?

222.10 How long must a local educational agency retain records?

222.11 How does the Secretary recover overpayments?

222.12 [Reserved]

222.13 What other statutes and regulations apply to this part?

222.14-222.19 [Reserved]

#### Subpart B—Payments for Federal Property under Section 8002 of the Act

- 222.20 What definitions apply to this
- subpart? 222.21 What requirements must a local educational agency meet concerning Federal acquisition of real property within the local educational agency?
- 222.22 How does the Secretary treat compensation from Federal activities for purposes of determining eligibility and payments? 222.23–222.29

[Reserved]

#### Subpart C—Payments for Federally Connected Children under Section 8003(b) and (e) of the Act

- 222.30 What is "free public education"? 222.31 To which local educational agencies does the Secretary make basic support payments under section 8003(b) of the
- 222.32 Upon what information is a local educational agency's basic support payment based?
- 222.33 When must an applicant make its first or only membership count?
- 222.34 If an applicant makes a second membership count, when must that count be made?
- 222.35 How does a local educational agency count the membership of its federally connected children?
- 222.36 What minimum number of federally connected children must a local educational agency have to receive a payment on behalf of those children under section 8003(b) and (e)?
- 222.37 How does the Secretary calculate the average daily attendance of federally connected children?
- 222.38 What is the maximum basic support payment that a local educational agency may receive under section 8003(b)?
- 222.39 How does a State educational agency identify generally comparable local educational agencies for local contribution rate purposes?
- 222.40 How does a local educational agency select a local contribution rate based on generally comparable local educational agencies?
- 222.41 How does a State educational agency compute local contribution rates based upon generally comparable local educational agencies?

222.42-222.49 [Řeserved]

#### 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?
- 222.51 Which children may a local educational agency count for payment under section 8003(d) of the Act?
- 222.52 What requirements must a local educational agency meet to receive a payment under section 8003(d)? 222.53 What restrictions
- What restrictions and requirements apply to the use of funds provided under section 8003(d)?
- 222.54 What supplement-not-supplant requirement applies to this subpart?
- 222.55 What other statutes and regulations are applicable to this subpart?
- 222.56–222.59 [Reserved]