(f) Each party shall bear only its own costs in the proceeding.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704(e))

§ 222.111 What is the authority of the hearing examiner in conducting a hearing?

The hearing examiner is authorized to conduct a hearing under section 8004(e) and §§ 222.109–222.113 as follows:

- (a) The hearing examiner may-
- (1) Clarify, simplify, or define the issues or consider other matters that may aid in the disposition of the complaint:
- (2) Direct the parties to exchange relevant documents or information; and
 - (3) Examine witnesses.
 - (b) The hearing examiner—
- (1) Regulates the course of proceedings and conduct of the parties;
- (2) Arranges for the preparation of a transcript of each hearing and provides one copy to each party;
- (3) Schedules the submission of oral and documentary evidence;
- (4) Receives, rules on, excludes, or limits evidence;
- (5) Establishes and maintains a record of the proceeding, including any transcripts referenced above;
- (6) Establishes reasonable rules governing public attendance at the proceeding; and
- (7) Is bound by all applicable statutes and regulations and may neither waive them nor rule them invalid.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704(e))

§ 222.112 What procedures are followed after the hearing?

- (a) Each party may submit to the hearing examiner additional evidence that is relevant to the issues raised at the hearing, within the time period and in the manner specified by the hearing examiner.
- (b) Within 30 days after the hearing, the hearing examiner—
- (1) Makes, on the basis of the record, written findings of fact and recommendations concerning any appropriate remedial action that should be taken;
- (2) Submits those findings and recommendations, along with the hearing record, to the Assistant Secretary; and

(3) Sends a copy of those findings and recommendations to each party.

- (c)(1) Each party may file with the Assistant Secretary comments on the hearing examiner's findings and recommendations.
- (2) The comments must be received by the Assistant Secretary within 10 days after the party receives a copy of the hearing examiner's findings and recommendations.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704(e))

§ 222.113 What are the responsibilities of the Assistant Secretary after the hearing?

- (a) Within 30 days after receiving the entire hearing record and the hearing examiner's findings and recommendations, the Assistant Secretary makes, on the basis of the record, a written determination that includes—
- (1) Any appropriate remedial action that the LEA must take;
- (2) A schedule for completing any remedial action; and
- (3) The reasons for the Assistant Secretary's decision.
- (b) After completing the final determination required by paragraph (a) of this section, the Assistant Secretary sends the parties a copy of that determination.
- (c) The Assistant Secretary's final determination under paragraph (a) of this section is the final action of the Department concerning the complaint and is subject to judicial review.

(Authority: 20 U.S.C. 1221e-3(a)(1) and 7704(e))

§§ 222.114-222.129 [Reserved]

Subpart H—[Reserved]

Subpart I—Facilities Assistance and Transfers Under Section 8008 of the Act

§ 222.140 What definitions apply to this subpart?

In addition to the terms referenced or defined in § 222.2, the following definitions apply to this subpart:

Minimum school facilities means those school facilities for which the Secretary may provide assistance under this part as follows:

- (1) The Secretary, after consultation with the State educational agency and the local educational agency (LEA), considers these facilities necessary to support an educational program—
- (i) For the membership of students residing on Federal property to be served at normal capacity; and
- (ii) In accordance with applicable Federal and State laws and, if necessary or appropriate, common practice in the State
- (2) The term includes, but is not restricted to—
- (i) Classrooms and related facilities; and
- (ii) Machinery, utilities, and initial equipment, to the extent that these are necessary or appropriate for school purposes.

Providing assistance means constructing, leasing, renovating, remodeling, rehabilitating, or otherwise providing minimum school facilities.

(Authority: 20 U.S.C. 7708)

§ 222.141 For what types of projects may the Secretary provide assistance under section 8008 of the Act?

The types of projects for which the Secretary may provide assistance under section 8008 of the Act during any given year include, but are not restricted to, one or more of the following:

- (a)(1) Emergency repairs to existing facilities for which the Secretary is responsible under section 8008.
- (2) As used in this section, the term "emergency repairs" means those repairs necessary—
- (i) For the health and safety of persons using the facilities;
- (ii) For the removal of architectural barriers to the disabled; or
- (iii) For the prevention of further deterioration of the facilities.
- (b) Renovation of facilities for which the Secretary is responsible under section 8008 to meet the standards of minimum school facilities in exchange for an LEA or another appropriate entity accepting transfer of the Secretary's interest in them under § 222.143.
- (c) Provision of temporary facilities on Federal property pending emergency repairs.
- (d) Construction of replacement minimum school facilities when more cost-effective than renovation and when the replacement facilities are to be transferred to local ownership under § 222.143.

(Authority: 20 U.S.C. 7708)

§ 222.142 What terms and conditions apply to minimum school facilities operated under section 8008 by another agency?

When minimum school facilities are provided under section 8008, the Secretary may—

- (a) Arrange for the operation of the facilities by an agency other than the Department;
- (b) Establish terms and conditions for the operation of the facilities; and
- (c) Require the operating agency to submit assurances and enter into other arrangements that the Secretary specifies.

(Authority: 20 U.S.C. 7708)

§ 222.143 What terms and conditions apply to the transfer of minimum school facilities?

When the Secretary transfers to an LEA or other appropriate entity (transferee) facilities that have been used to carry out the purposes of section 10 of Pub. L. 81–815 or section 8008, the Secretary establishes appropriate terms and conditions for the transfer including that it be—

- (a) Without charge; and
- (b) Consented to by the transferee.

(Authority: 20 U.S.C. 7708)