§ 222.5
Secretary does not accept either of the following as proof of mailing:

(1) A private metered postmark.

(2) A mail receipt that is not dated by the U.S. Postal Service.

(Authority: 20 U.S.C. 7705)

Note to paragraph (b)(1): The U.S. Postal Service does not uniformly provide a dated postmark. Before relying on this method, an applicant should check with its local post office.

[62 FR 35412, July 1, 1997]

§ 222.5 When may a local educational agency amend its application?

(a) An LEA may amend its application following any of the events described in §222.3(b)(1) by submitting a written request to the Secretary and a copy to its SEA no later than the earlier of the following events:

(1) The 60th day following the applicable event.

(2) By the end of the Federal fiscal year—

(i) For which assistance is sought under section 8002; or

(ii) Preceding the fiscal year for which the LEA seeks assistance under section 8003.

(b) The LEA also may amend its application no later than the end of the Federal fiscal year for which assistance is sought under section 8002 or of the fiscal year preceding the fiscal year for which the LEA seeks assistance under section 8003—

(1) For an adjustment to its payment based on data obtained from a second membership count; or

(2) For an adjustment to its payment based on actual satisfactory data regarding eligible Federal properties or federally connected children if those data were not available at the time the LEA filed its application.

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

(Authority: 20 U.S.C. 7705)

§ 222.6 Which applications does the Secretary accept?

(a) The Secretary accepts or approves any otherwise approvable application under section 8002 or 8003 that is timely filed with the Secretary in accordance with §§222.3, 222.4, and 222.5, as applicable.

(b)(1) Except as provided in paragraph (b)(2) of this section, the Secretary does not accept or approve for payment any application under section 8002 or 8003 that is not timely filed with the Secretary.

(2) The Secretary accepts and approves for payment any otherwise approvable application filed within 60 days of the applicable filing date established in §222.3, but reduces the payment based on the application by 10 percent of the amount that would have been paid if the application had been filed by the applicable filing date established in that section.

(Authority: 20 U.S.C. 7705)

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

(a) General. Except as indicated in paragraph (b) of this section, the Secretary does not consider information submitted by an applicant after the deadlines prescribed in this subpart for submission of applications and amendments to applications.

(b) Information solicited by the Secretary. The Secretary may solicit from an applicant at any time additional information to process an application.

(Authority: 20 U.S.C. 7702, 7703, 7705, 7706)

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

(a) Any applicant that is a party to an annexation, consolidation, deconsolidation, merger, or other similar action affecting its boundaries, classification, control, governing authority, or identity must provide the following information to the Secretary as soon as practicable:

(1) A description of the character and extent of the change.

(2) The effective date of the change.

(3) Full identification of all predecessor and successor LEAs.

(4) Full information regarding the disposition of the assets and liabilities of all predecessor LEAs.

(5) Identification of the governing body of all successor LEAs.
§ 222.10 How long must a local educational agency retain records?

An LEA shall retain the records described in § 222.9 until the later of—

(a) Three years after the last payment for a fiscal year; or

(b) If the records have been questioned on Federal audit or review, until the question is finally resolved and any necessary adjustments to payments have been made.

(Authority: 20 U.S.C. 7702, 7703, 7704, 7706)

§ 222.11 How does the Secretary recover overpayments?

Except as otherwise provided in §§ 222.12–222.18, the Secretary adjusts for and recovers overpayments as follows:

(a) If the Secretary determines that an LEA has received a payment in excess of what it should have received under the Act and this part, the Secretary deducts the amount of the overpayment from subsequent payments for which the LEA is eligible under the Act.

(b)(1) If the LEA is not eligible for subsequent payments under the Act, the LEA must promptly refund the amount of the overpayment to the Secretary.

(2) If the LEA does not promptly repay the amount of the overpayment or promptly enter into a repayment agreement with the Secretary, the Secretary may use the procedures in 34 CFR part 30 to offset that amount against payments from other Department programs or, under the circumstances permitted in part 30, to request that another agency offset the debt.

(Authority: 20 U.S.C. 1226a–1, 7702, 7703, 7706, 7712)


§ 222.12 What overpayments are eligible for forgiveness under section 8012 of the Act?

(a) The Secretary considers as eligible for forgiveness under section 8012 of the Act ("eligible overpayment") any overpayment amount that is more than an LEA was eligible to receive for a particular fiscal year under Public Law...