

Emergency means a school facility condition that is so injurious or hazardous that it either poses an immediate threat to the health and safety of the facility's students and staff or can be reasonably expected to pose such a threat in the near future. These conditions can include deficiencies in the following building features: a roof; electrical wiring; a plumbing or sewage system; or heating, ventilation, or air conditioning; or the need to bring a school facility into compliance with fire and safety codes, or providing accessibility for the disabled as part of a larger project.

Level of bonded indebtedness means the amount of long-term debt issued by an LEA divided by the LEA's bonding capacity.

Minimal capacity to issue bonds means that the total assessed value of real property in an LEA that may be taxed for school purposes is at least \$25,000,000 but not more than \$50,000,000.

Modernization means the repair, renovation, alteration, or extension of a public elementary or secondary school facility in order to support a contemporary educational program for an LEA's students in normal capacity, and in accordance with the laws, standards, or common practices in the LEA's State.

No practical capacity to issue bonds means that the total assessed value of real property in an LEA that may be taxed for school purposes is less than \$25,000,000.

School facility means a building used to provide free public education, including instructional, resource, food service, and general or administrative support areas, so long as they are a part of the facility.

Total assessed value per student means the assessed valuation of real property per pupil (AVPP), unless otherwise defined by an LEA's State.

(Authority: 20 U.S.C. 7707(b))

(b) *Definitions in EDGAR.* The following terms used in this subpart are defined or referenced in 34 CFR 77.1:

Applicant
Application
Award
Contract
Department
EDGAR
Equipment
Fiscal year
Grant
Grantee
Project
Public
Real property
Recipient

(Authority: 20 U.S.C. 7707(b) and 1221e-3)

Eligibility

§ 222.177 What eligibility requirements must an LEA meet to apply for an emergency grant under the first priority?

An LEA is eligible to apply for an emergency grant under the first priority of section 8007(b) of the Act if it—

- (a) Is eligible to receive formula construction funds for the fiscal year under section 8007(a) of the Act;
- (b)(1) Has no practical capacity to issue bonds;
- (2) Has minimal capacity to issue bonds and has used at least seventy-five percent of its bond limit; or
- (3) Is eligible to receive funds for the fiscal year for heavily impacted districts under section 8003(b)(2) of the Act; and
- (c) Has a school facility emergency that the Secretary has determined poses a health or safety hazard to students and school personnel.

(Authority: 20 U.S.C. 7707(b))

§ 222.178 What eligibility requirements must an LEA meet to apply for an emergency grant under the second priority?

Except as provided in § 222.179, an LEA is eligible to apply for an emergency grant under the second priority of section 8007(b) of the Act if it—

- (a) Is eligible to receive funds for the fiscal year under section 8003(b) of the Act;
- (b)(1) Has federally connected children living on Indian lands equal to at least 40 percent of the total number of children in average daily attendance (ADA) in its schools; or
- (2) Has federally connected children with a parent in the U.S. uniformed services equal to at least 40 percent of the total number of children in ADA in its schools;
- (c) Has used at least seventy-five percent of its bond limit;
- (d) Has an average per-student assessed value of real property available to be taxed for school purposes that is below its State average; and
- (e) Has a school facility emergency that the Secretary has determined is a health or safety hazard to students and school personnel.

(Authority: 20 U.S.C. 7707(b))

§ 222.179 Under what circumstances may an ineligible LEA apply on behalf of a school for an emergency grant under the second priority?

An LEA that is eligible to receive section 8003(b) assistance for the fiscal year but that does not meet the other eligibility criteria described in § 222.178(a) or (b) may apply on behalf of a school located within its geographic boundaries for an emergency grant

under the second priority of section 8007(b) of the Act if—

- (a) The school—
 - (1) Has children living on Indian lands equal to at least 40 percent of the total number of children in ADA; or
 - (2) Has children with a parent in the U.S. uniformed services equal to at least 40 percent of the total number of children in ADA;
- (b) The school has a school facility emergency that the Secretary has determined is a health or safety hazard to students and school personnel;
- (c) The LEA has used at least 75 percent of its bond limit; and
- (d) The LEA has an average per-student assessed value of real property available to be taxed for school purposes that is below its State average.

(Authority: 20 U.S.C. 7707(b))

§ 222.180 What eligibility requirements must an LEA meet to apply for a modernization grant under the third priority?

An LEA is eligible to apply for a modernization grant under the third priority of section 8007(b) of the Act if it—

- (a) Is eligible to receive funds for the fiscal year under section 8002 or 8003(b) of the Act;
- (b)(1) Has no practical capacity to issue bonds;
- (2) Has minimal capacity to issue bonds and has used at least 75 percent of its bond limit; or
- (3) Is eligible to receive funds for the fiscal year for heavily impacted districts under section 8003(b)(2) of the Act; and
- (c) Has facility needs resulting from the presence of the Federal Government, such as the enrollment of federally connected children, the presence of Federal property, or an increase in enrollment due to expanded Federal activities, housing privatization, or the acquisition of Federal property.

(Authority: 20 U.S.C. 7707(b))

§ 222.181 What eligibility requirements must an LEA meet to apply for a modernization grant under the fourth priority?

An LEA is eligible to apply for a modernization grant under the fourth priority of section 8007(b) of the Act if it—

- (a)(1) Is eligible to receive funds for the fiscal year under section 8003(b) of the Act; and
- (i) Has children living on Indian lands equal to at least 40 percent of the total number of children in ADA in its schools; or
- (ii) Has children with a parent in the U.S. uniformed services equal to at least 40 percent of the total number of children in ADA in its schools; or