

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

**Finality Rule and Equitable Relief
7-CP (Revision 3)**

Amendment 4

Approved by: Deputy Administrator, Farm Programs



Amendment Transmittal

A Reasons for Amendment

Subparagraph 3 C has been amended to clarify that SED equitable relief authority is granted according to paragraph 48.

Exhibit 10 has been amended to:

- reflect current policy that only misinformation/misaction and failure to fully comply cases are those under which an SED may exercise discretion under SED Special Approval Authority
- detail what must be reported (PA-134R) to reflect the correct basis for relief consistent with the rules
- clarify that negative reports are not required.

Page Control Chart		
TC	Text	Exhibit
	1-9, 1-10	10, pages 1, 2

3 **Equitable Relief and Finality Rule (Continued)**

B Steps in Determining Whether Relief or Finality May Apply (Continued)

Making Finality Rule and Equitable Relief Decisions	
Step	Action
6	<p>If misaction/misinformation, failure to fully comply provisions, or programmatic relief may apply according to Part 3, the case shall be forwarded for determination to the State Office. If the amount of relief sought for the participant:</p> <ul style="list-style-type: none"> • does not exceed \$5,000 for each case and is not programmatic relief, the case is within the relief authority of STC • does not exceed a total of \$20,000 for the participant and is not programmatic relief, the case is within the special relief approval authority of SED, subject to OGC concurrence, as long as all of the following apply: <ul style="list-style-type: none"> • the type of case is within the special relief authority of SED as provided in Part 3 • the total amount of such relief, that has been previously provided to the participant using this special authority for errors in that year, is not more than \$5,000 • the total amount of loans, payments, and benefits of any kind for which relief is provided to similarly situated participants by SED or SED’s predecessor, using this special authority is not more than \$1 million • exceeds the authority of STC or SED * * *, the case may be submitted to DAFP, if relief is recommended by STC.
7	Process case according to STC, SED, or DAFP determination, as applicable.

3 Equitable Relief and Finality Rule (Continued)

C Relief Authority Overview

The following provides a summary of finality rule and equitable relief authority.

Summary of Finality Rule and Equitable Relief Authority - Not Programmatic Relief		
Finality Rule	SED	Up to \$25,000 per case.
	DAFP	Cases exceeding SED authority.
Misaction/Misinformation and Failure to Fully Comply	STC	Up to \$5,000 per case.
	SED	Less than \$20,000 per participant per calendar year. <u>1/</u>
	DAFP	Cases exceeding STC or SED authority. <u>2/</u>
<p>Note: Relief for a participant cannot be combined among the various granting authorities. Relief may be granted by STC, SED, or DAFP.</p> <p>Example 1: A participant is requesting \$24,000 in equitable relief resulting from misaction by FSA. SED cannot grant relief of \$19,000 in addition to STC relief of \$5,000, bringing the total to the requested \$24,000.</p> <p>Example 2: A participant is requesting \$30,000 in equitable relief in a failure to fully comply case. If SED grants \$19,999 in relief to this participant, additional relief shall not be granted by DAFP.</p>		

1/ Providing any previous relief granted by SED in the same calendar year to that participant did not exceed \$5,000 and relief provided to similarly situated participants is *--not greater than \$1 million. SED authority granted according to paragraph 48.--*

2/ If STC or SED has authority to grant relief on a case that is similar to another case that requires a decision by a higher authority, no action shall be taken on the case until a determination on the other case has been made by the higher authority.

Note: Unless specifically delegated by DAFP, only DAFP has authority to grant programmatic relief. See paragraph 43.

4-15 (Reserved)

Example Format for Report of SED Special Approval Authority (PA-134R)

The following is an example format of a report of SED special approval authority.

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PA-134R				
State - <u>Nebraska</u>			Report Date - <u>June 1, 2011</u>	
County	Payment Type Per Participant	Amount of Relief Requested	Amount of Relief Approved	Basis for Relief
Lincoln	NAP	\$19,000	\$19,000	Misinformation/Misaction.
Lincoln	LDP	\$5,000	\$2,000	Failure to totally comply.

Note: This report will be submitted following the approval of each case of relief to a participant using the special relief approval authority of SED.--*

The following provides instructions for the report of SED special approval authority.

Item	Instructions
County	Enter the name of the administrative County Office. A separate line item shall be used for each program and for each basis for relief listed in the last column.
Payment Type Per Participant	List the program for which relief is requested on FSA-321.
Amount of Relief Requested	Enter the dollar amount of relief requested as listed on FSA-321.
Amount of Relief Approved	The amount or relief approved shall not exceed the amount requested. This figure may be zero if the request was denied.
Basis for Relief	*--The basis must be either misaction or misinformation, or failure to fully comply. This authority does not apply to programmatic relief.--* Note: Finality rule cases shall not be included. See Exhibit 12 for the annual report of finality rule cases.
Additional Clarification	
<ul style="list-style-type: none"> • This report shall be submitted to PECD immediately upon approval of each misaction/misinformation case by SED after OGC concurrence. • This report shall include cases documented on FSA-321 including cases where relief was *--disapproved by SED.--* • Do not include finality rule cases. See Exhibit 12 for the annual report of finality rule cases. • Do not include cases where the final determination was made by STC, DAFP, or NAD. 	

*--**Note:** Negative reports are required.--*

