

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

The State of KANSAS, *ex rel.* KRIS W.
KOBACH, Attorney General,

Petitioner,

v.

LAURA HOWARD, Secretary,
Department for Children and Families, in
her official capacity;
LAURA KELLY, Governor of Kansas, in
her official capacity,

Respondents.

Case No. SN-CV-000695

Petition Pursuant to K.S.A. Chapter 60

**PETITIONER'S RESPONSE IN OPPOSITION
TO RESPONDENTS' MOTION TO DISMISS**

Respondents Governor Laura Kelly and Secretary Laura Howard may not like the law, but they must follow the law. In Kansas, the law requires them to provide requested program data to the federal government and otherwise cooperate to ensure the effective, efficient, and accurate administration of the SNAP program. Instead, Respondents have chosen to defy Kansas and federal law and risk millions of dollars that ultimately help the most vulnerable Kansans. It appears that their "plan" is to do nothing and hope that no one will require them to follow the plain text of the law. Their route is neither tenable nor lawful. Respondents now seek to further evade their obligations through this motion to dismiss. This Court should deny the motion.

First, this Court has subject-matter jurisdiction. The dispute is ripe because regardless of whether the State immediately loses money, there is an active controversy between the State and Respondents over Respondents' failure to turn over data to the federal government as required by federal and state law. Even if the punishment, *i.e.*, the disallowance of federal funds, does not occur right away, that does not undercut ripeness for the broader case. Additionally, the State has standing to bring this suit because its suit rests on state statutes that require Respondents to cooperate with the federal government's request for data. While federal law supports the State's position, it most certainly does not foreclose the suit. State law is the command that brings the parties to the Court for a decision.

Second, the Petition advances four claims, each of which states a claim on which relief can be granted. Respondents' arguments deny the clear meaning of the relevant statutory and constitutional provisions, ignore applicable law, and fail to adequately address the claims that appear in the Petition.

ARGUMENT¹

I. This Court has subject-matter jurisdiction

As Respondents note, both ripeness and standing are elements of subject-matter jurisdiction. *Kan. Nat'l Educ. Ass'n v. State*, 305 Kan. 739, 748 (2017). Here, both are present and enable the State to bring this suit.

¹ Because the petition and other filings in this case provide extensive background about the instant dispute, the State does not repeat a general background section in this response.

This dispute is ripe because there is an active controversy between the State and Respondents about Respondents' failure to timely satisfy their federal and state law duties to compile and produce requested data to the federal government. Deadlines already have been missed and the federal government is in the penalty stage against Kansas. This is true regardless of when the federal government disallows funds, because Respondents' guilt will be established through their brazen noncompliance. Federal punishment aside, Respondents are state officers refusing to follow clear and direct commands within state law, so this mandamus action is ripe. Moreover, the State possesses standing to bring its suit, which is anchored in state law that requires Respondents to cooperate with the federal government. Federal law does not prevent the State from seeking injunctive relief.

This Court has subject-matter jurisdiction and it should proceed to adjudicate the State's claims.

A. The State's claims are ripe

In feigning that this case is not ripe, Respondents conflate the State's motion for a temporary injunction with its petition for a writ of mandamus. In other words, they have "frame[d] the injury inquiry too narrowly." *See Solomon v. State*, 303 Kan. 512, 522 (2015). For the reasons explained in the State's petition, motion, and supportive reply, the State is on the cusp of suffering a concrete, particularized injury that both warrants immediate relief and establishes ripeness. Regardless, the standard for ripeness is lower than the standard for a temporary injunction, and the State readily satisfies both.

i. There is a concrete dispute between the State and Respondents

For a case “[t]o be ripe, issues must have taken shape and be concrete rather than hypothetical and abstract.” *Shipe v. Pub. Wholesale Water Supply Dist. No. 25*, 289 Kan. 160, 170 (2009). This case far from hypothetical or abstract. It is ripe because there is an actual, concrete dispute between the State and Respondents. Respondents repeatedly have refused to turn over data to the federal government despite the government’s repeated requests and threats to take away critical SNAP funding due to noncompliance are palpable.

Respondents are withholding this data in violation of state and federal law, which unambiguously compel compliance. This noncompliance risks the loss of critical federal funds; that is not a guess—the federal government has already advised that this will occur. This means that there is currently a controversy between the State and Respondents about the propriety of Respondents’ actions. Regardless of whether federal funding is disallowed right away after September 19, Respondents’ noncompliance means there is and will still be a conflict between them and the State.

There is no question that Respondents intend to continue withholding the data from the federal government; they have made their position quite clear. Thus, there is an actual and current dispute. Respondents’ failure to comply means guilt will be set under federal law after September 19, and the State will suffer adverse consequences unless Respondents correct course. Respondents would apparently have the State wait to sue Respondents until the federal government has disallowed

the funds and the appeals process has run its course. As a practical matter, that is an untenable situation. And as a legal matter, Respondents cite no authority that requires the State to sit on its hands until it is too late.² There is nothing special about the State trying to prevent harm; that is the point of seeking injunctive relief.

Even if the federal punishment is not immediate (it will be irreparable), Respondents continue to violate state law by failing to cooperate with the federal government. Their violation more than establishes a ripe case for a petition for a writ of mandamus, which is the proper route for seeking to force recalcitrant state officers like Respondents to perform their duties. *See State ex rel. Fatzner v. Shanahan*, 173 Kan. 403, 405 (1952) (“The only purpose of a writ of mandamus is to require a person to whom it is issued to perform some act which the law enjoins as a duty.”). Because Respondents are not complying with their unambiguous state-law duty, this case is ripe.

In trying to deny that this case is ripe, Respondents place too much speculative weight on an abeyance request. There is no indication that the federal government will grant the request, particularly because Respondents do not qualify for an abeyance. As Respondents note, 7 C.F.R. § 276.4(d)(iii) authorizes an abeyance only upon receipt of “an acceptable plan for correcting the deficiency.” *See* MTD at 6. “Correct” means “to make or set right” and “to alter or adjust so as to

² Even if this Court determines the case would not otherwise be ripe, it should find that the potential loss of millions of dollars of funds that help facilitate SNAP is a “special circumstance[]” and proceed with this case. *See Solomon*, 303 Kan. at 521 (quotation marks omitted).

bring to some standard or required condition. *Correct*, Merriam-Webster, <https://www.merriam-webster.com/dictionary/correct> (last accessed Sept. 17, 2025). Under the plain language of the regulation, “an acceptable plan” means a state agency commits to *actually doing something* to alleviate the deficiency. It does not include a vague promise that turns on the outcome of an out-of-circuit district court lawsuit to which the requester is not a party. Moreover, “acceptable plan” must obviously be one that is acceptable to FNS, not one that Respondents decide is acceptable.

Respondents’ “plan” is to continue thumbing their noses at the federal government. That is not an abeyance factor and not an acceptable plan. Even if there is an abeyance, this case is still ripe because Respondents are continuously violating state and federal law by refusing to provide required data to the federal government. There is a concrete controversy between the State and Respondents, who are putting the State in a position to suffer a significant financial injury and who are refusing to fulfill their duties.

ii. The California case and the presence of federal law in this suit are wholly immaterial to this Court’s jurisdiction³

Many of Respondents’ arguments, like their abeyance request, are tied to a pending case in the United States District Court for the Northern District of

³ It is unclear to the State how the California case and the presence of federal law (not a federal law cause of action) in this suit are directly related to ripeness. Regardless, Respondents raise these issues under ripeness, so that is where the State addresses them.

California: *California, et al. v. U.S. Department of Agriculture, et al.*, No. 3:25-CV-6310. But their arguments cannot be reconciled. On the one hand, Respondents assert that they cannot turn over the data because if the California court rules for the plaintiffs, Respondents face significant legal liability. *See* Ex. G. On the other hand, Respondents concede, as they must, that the result of the California case is merely persuasive authority. *See* MTD at 7. And given this latter point, it seems inevitable that if the California district court (or the Ninth Circuit) finds for the federal government in that matter, Respondents will continue with their noncooperation because (as the State has noted) that court’s decision is not binding on Kansas.

Contrary to Respondents’ assertions, *see* MTD at 7–8, whether the California court finds the request unlawful is immaterial to its lawfulness in Kansas. That is the point of our nation’s geographic federal court system: district and circuit courts can disagree, which permits issues to percolate. *See Calvert v. Texas*, 141 S. Ct. 1605, 1606 (2021) (Sotomayor, J., respecting denial of certiorari) (recognizing the benefits of allowing “further percolation” of issues “in the lower courts”); *Box v. Planned Parenthood of Ind. & Ky., Inc.*, 587 U.S. 490, 496 (2019) (Thomas, J., concurring) (same). It is not absurd for a federal court’s decision to be limited to the parties before it and its geographic scope. Nor is anything amiss when courts (even federal and state) disagree over an issue.

The federal government’s request is not unlawful in Kansas unless a court with jurisdiction over Kansas holds as much. Until then, Respondents are bound to

comply with their obligations under both state and federal law. As shown by the relevant state statutes, Respondents have no discretion. Yet, they would have this Court apparently keep the State in limbo until the California case is litigated to a final judgment and all appeals have been exhausted. That is a result not based in the law, and will lead to dire consequences. It should be rejected.

Respondents assert that only when “the data request is found to be lawful” will there be an “obligation under either state or federal law to produce it.” MTD at 10. But the Kansas Legislature has not mandated data production and cooperation dependent on California federal court rulings. And the California district court will not decide Respondents’ duties under the relevant Kansas statutes.

This Court is not a subsidiary of the Northern District of California. It is a court of general jurisdiction with the authority to adjudicate the cases before it, even when they involve matters of federal law. If “the mere presence of a federal issue in a state cause of action does not automatically confer federal-question jurisdiction,” then it certainly cannot deprive this Court of jurisdiction. *See Merrell Dow Pharms. Inc. v. Thompson*, 478 U.S. 804, 813 (1986). And “state courts have inherent authority, and are thus presumptively competent, to adjudicate claims arising under the laws of the United States.” *Tafflin v. Levitt*, 493 U.S. 455, 458 (1990). The simple presence of a federal issue, or even a federal claim, does not divest this Court of jurisdiction.

Incredibly, Respondents (executive officers charged with enforcing Kansas law) assert that the State is trying to “use ambiguous state law provisions to coopt

enforcement of a federal statute.” MTD at 10. Kansas law could not clearer. And Respondents gloss over the fact that three of the State’s claims arise under state law and that the State’s case is primarily built on Respondents’ unambiguous state law duty to provide data and cooperate with the federal government. *See generally* Pet.; e.g., K.S.A. 39-708c(a) (“The secretary shall undertake to cooperate with the federal government on any other federal program providing federal financial assistance and services in the field of social welfare not inconsistent with this act.”); K.S.A. 39-708c(f) (“The secretary shall establish an adequate system of financial records [and] . . . make any reports required by federal agencies.”) (emphasis added). It is obvious from the record that the State seeks to enforce Kansas statutes that, irrespective of federal law, require data production and cooperation with the federal government.

The federal government’s *request is lawful in Kansas*. Every day that goes by where Respondents ignore Kansas law further solidifies the imminent loss of funding, which would harm the State and its most vulnerable residents. There is an active controversy between the State and Respondents, so this case is ripe.

B. The State has standing

In arguing that the State lacks standing, Respondents falter many times over. *First*, Respondents only allege the State lacks standing to bring a claim under federal law. *See* MTD at 10. But three of the State’s four claims (one, three, and four) plainly arise from and are based solely in state law. Even if this Court dismisses the State’s second claim, this suit will proceed.

Second and relatedly, the State has not premised this suit wholly on 7 U.S.C. § 2020(g). To be sure, the State maintains that Respondents are violating federal law in addition to state law. And it cited 7 U.S.C. § 2020(g) to help support its assertion that injunctive relief is the expected remedy for this type of injury. *See* Pet. ¶¶ 68–74. But this suit does not rise or fall on § 2020(g). State statutes, buttressed by federal law, require Respondents to act.

The proper course of action in seeking to require state official to act under state law is to pursue a writ of mandamus in state court. *See Fatzer*, 173 Kan. at 405. In other words, the State has taken the appropriate route in seeking compliance. Even if the federal government could pursue a similar route in federal court by requesting an injunctive, that does not undermine the State’s request for a writ of mandamus.

Finally, Respondents provide no argument that 7 U.S.C. § 2020(g) preempts this suit, and this Court should not provide one for them. Regardless, it is evident that the federal statute does not foreclose this suit. The statute does not provide that it is the only remedy that may lead to compliance and it does not address state statutes that could result in compliance. *See Johnson v. Bass Pro Outdoor World, LLC*, 320 Kan. 325, 343, 567 P.3d 810 (2025) (recognizing that “courts generally presume that federal statutes do not preempt state law”).

The claims here (and the state statutes upon which they are based) strive to facilitate the federal government’s administration of the SNAP program. The state statutes require state action to enable federal law and policy, as illustrated by,

among other things, the federal government's letters to Respondents. The ability of the federal government to also compel compliance with its requests does not deprive the State of standing to bring this suit.

II. The Petition states a claim upon which relief can be granted

When considering a motion to dismiss under K.S.A. 60-212(b)(6), a court:

must decide the issue based only on the well-pled facts and allegations, which are generally drawn from the petition. Courts must resolve every factual dispute in the plaintiff's favor when determining whether the petition states any valid claim for relief. Dismissal is proper only when the allegations in the petition clearly demonstrate that the plaintiff does not have a claim. *Halley v. Barnabe*, 271 Kan. 652, 656 (2001) (internal citations omitted).

Respondents' arguments are wrong on the law. The Petition states four different claims upon which relief can be granted; the Court should deny Respondents' motion to dismiss.

Mandamus is "a proceeding to compel some... person to perform a specified duty, which duty results from the office, trust, or official station of the party to whom the order is directed, or from operation of law." K.S.A. § 60-801. Mandamus provides the remedy of "compelling a public officer to perform a clearly defined duty, one imposed by law and not involving the exercise of discretion." *Manhattan Bldgs., Inc. v. Hurley*, 231 Kan. 20, 26 (1982).

The State's Petition identifies state law duties, federal law duties, and duties arising under the Kansas constitution which Respondents are failing to perform. These are non-discretionary, mandatory duties, each of which independently requires Respondents to comply with FNS's request for data. Respondents may disagree, but "[t]he use of mandamus to secure a speedy adjudication of questions of

law for the guidance of state officers... in the discharge of their duties is common in this state.” *Stephens v. Van Arsdale*, 227 Kan. 676, 682 (1980). Respondents’ mandatory statutory duties are therefore properly the subject of mandamus.⁴

As a preliminary note, Respondents seem to argue that mandamus is inappropriate with respect to the Governor, since none of the Kansas SNAP statutes “even mentions the Governor.” MTD at 14. The Petition is clear that Governor Kelly is a named Respondent because she supervises the activities of Secretary Howard. And, as Respondents note, “Executive agencies reside in the executive department under the Governor’s supreme executive control.” *Id.* at 23. Because she controls DCF, appoints and may fire the secretary of DCF, and she has ultimate authority over Respondent Howard in her official capacity as secretary of DCF, Governor Kelly is ultimately responsible for ensuring that DCF—through Secretary Howard or any of her successors—complies with FNS’s request for SNAP data. She is therefore an indispensable party to this action.

A. Respondents have a state-law duty to fulfill FNS’s request for data

The Petition for mandamus asks the Court to compel Respondents to perform a clearly defined duty. This clearly defined duty comes straight from the text of

⁴ Respondents cite *Armstrong v. City of Salina*, 211 Kan. 333, 340 (1973) for the proposition that mandamus is inappropriate when there is a “substantial dispute” about the defendants’ duty to act. It is clear from that case, however, that the “substantial dispute” is evidentiary, not legal. *See id.* at 328-29 (noting that mandamus is not warranted in part due to the “substantial competent evidence [existing] to support the trial court's findings.”). The Court must consider all the State’s facts as true in this motion to dismiss, so no substantial evidentiary dispute is possible.

state law. K.S.A. 39-708c(a) requires that the secretary “*shall* undertake to cooperate with the federal government.” K.S.A. 39-708c(f) requires that the secretary “shall make any reports required by federal agencies.”

Both the duty to make requisite reports and cooperate are clear, unambiguous, and not subject to discretion. The statute’s use of the term “shall” creates a mandatory duty and eliminates the possibility of any discretion. “As used in state law, the word ‘shall’ is generally imperative or mandatory.” *Matter of Guardianship and Conservatorship of Fogle*, 17 Kan. App. 357, 361 (1992) (citing BLACK’S LAW DICTIONARY 1375 (6th ed. 1990)). Mandamus is therefore appropriate to compel performance of such clearly defined ministerial duties. K.S.A. § 60-801; *see also Schmidlien Elec., Inc. v. Greathouse*, 278 Kan. 810, 833 (2005) (“[Mandamus] is available only for the purpose of compelling the performance of a clearly defined duty.”).

Respondents repeatedly insist that the statutory language K.S.A. 39-708c(a)—“shall cooperate”—does not actually impose any duties on the secretary. Their argument would improperly negate the meaning of words in the statute. “The canon against surplusage indicates that we generally must give effect to all statutory provisions, so that no part will be inoperative or superfluous—each phrase must have distinct meaning.” *Chevron Mining Inc. v. United States*, 863 F.3d 1261, 1283 n.15 (10th Cir. 2017); *see* Antonin Scalia & Bryan A. Garner, *READING LAW: THE INTERPRETATION OF LEGAL TEXTS* 174 (2012) (“If possible, every word and every provision is to be given effect.... None should be ignored. None

should needlessly be given an interpretation that causes it to duplicate another provision or to have no consequence.”). The Court should accordingly interpret the statute so that the words “shall” and “cooperate” are each given a distinct, effective meaning.

“Cooperate” means “to act or work with another or others; act together or in compliance.”⁵ When K.S.A. 39-708c(a) requires that the secretary “shall undertake to cooperate with the federal government,” the canon against surplusage requires that both “shall” and “cooperate” be given effect. “Shall” is imperative and mandatory, while “cooperate” means to act in compliance. Respondents’ duties under that language, though broad, are clearly defined: they must act to remain in compliance with SNAP program requirements. Since compliance requires submitting SNAP participant data to FNS, Respondents must do so.

Respondents attempt a similar, unsupported and unreasonable attempt to dodge the mandatory duty imposed by K.S.A. 39-708c(f) by disputing the definition of “report.” They deny that FNS’s request for information constitutes a “report” under K.S.A. 39-708c(f). Instead, they claim it is a “request.” This is a distinction without a difference. “Report” is not defined in any relevant section of state law or federal law, and Respondents offer no definition of their own. There is no evidence that the Legislature intended to use a narrow or specialized meaning of “report” such that Respondents would not be required to submit detailed program data to

⁵ *Cooperate*, MERRIAM-WEBSTER.COM DICTIONARY, <https://www.merriam-webster.com/dictionary/cooperate>.

FNS. In the absence of a statutory definition, the Court should use the commonly understood meaning of the word.⁶ The Oxford English Dictionary defines “report” as:

An account of a situation, event, etc., brought by one person to another, esp. as the result of an investigation; a piece of information or intelligence provided by an emissary, official investigator, etc.; a notification of something observed.⁷

Consistent with this definition, FNS’s request for data is a request for a report of the relevant information that could support an individual’s participation in the SNAP program. It is reasonable, relevant and necessary information⁸—a detailed account of the state’s SNAP applicants and beneficiaries—to be brought by Respondents to FNS. Accordingly, FNS’s request falls squarely within K.S.A. 39-708c(f). It is irrelevant that FNS’s report was noticed in a recent System of Record Notice (*see* 90 Fed. Reg. 26,521); no part of the statutory definition of “report” depends on where or when the requirement to make a report originated—K.S.A. 39-708c(f) requires DCF to submit “*any* reports required by federal agencies” (emphasis added). Respondents’ claim that FNS’s request is new, or unprecedented, and

⁶ *See Szboszlay v. Glessner*, 233 Kan. 475, 478 (1983) (“It is a fundamental principle of statutory construction that words in common usage are to be given their natural and ordinary meaning in arriving at the proper construction of a statute.”); *In re Marriage of Welliver*, 254 Kan. 801, 809 (1994) (“The courts are to give the language of statutes their commonly understood meaning.”).

⁷ *Report*, OXFORD ENGLISH DICTIONARY, https://www.oed.com/dictionary/report_n?tl=true.

⁸ *See, e.g.*, 7 U.S.C. § 2025(e) (“The Secretary and State agencies shall (1) require, as a condition of eligibility for participation in the supplemental nutrition assistance program, that each household member furnish to the State agency their social security account number (or numbers, if they have more than one number), and (2) use such account numbers in the administration of the supplemental nutrition assistance program.”).

therefore does not count as a “report” for purposes of K.S.A. 39-708c(f), has no basis in law and is irrelevant to their mandatory statutory duties.

Kansas statutes therefore apply to the several requests by FNS for reports of information. *See* Pet. Exs. A, B, C, D, F, & H. Respondents have not complied with any of FNS’s requests, and have refused to take any steps to comply. By refusing to cooperate with FNS and make reports of data requested by FNS, Respondents are plainly violating state law.

Respondents lack any valid legal reason for refusing to comply with their mandated obligations under the law. There is no state law that prevents Respondents from providing FNS with the necessary SNAP participant data. In fact, state law mandates that DCF *must* share data with FNS and it expressly authorizes DCF to share “information concerning applicants for and recipients of assistance” with an “outside source” (i.e. FNS) when the disclosure is “directly connected to the administration of the secretary’s program.” K.S.A. 39-709b(a)(3)(B). All SNAP applicants and recipients are advised that their information may be disclosed in this way, so they have no plausible expectation of informational privacy with respect to the federal officials. K.A.R. § 30-4-40(b)(3)(A).

Respondents’ argument against the clear mandatory import of the state statutes boils down to one claim: a general provision of law cannot create any mandatory duty. This is unsupported and should be rejected. A general statutory mandate does not “imply” nonspecific duties, it specifically includes all acts that fall

within the terms of the general mandate. Holding otherwise would render the statute meaningless.

Respondents also cite an attorney general opinion from 2010 for the incomplete proposition that state assistance data concerning applicants and recipients is confidential and privileged. MTD at 16-17; Kan. Op. Atty. Gen. No. 2010-5 (Feb. 23, 2010), 2010 WL 668873. They fail to include essential context: the attorney general was responding to a question that asked if that data must be disclosed under the Kansas Open Records Act (KORA);⁹ he did not analyze whether the data must be disclosed when requested by FNS. No one disputes that DCF may not disclose SNAP data to the public under KORA. The requirement to disclose to FNS, however, comes from the SNAP statutes, and applies only to disclosures to the federal agency administering SNAP or other federal assistance programs.

Moreover, their citation to an irrelevant attorney general opinion is the *only* source of Respondents' belief that the secretary is "barred by statute" (MTD at 16) and "expressly unauthorized" (*id.* at 17) by state law to release the requested data.¹⁰ Though they cite the Kansas Cybersecurity Act (K.S.A. 75-7236 *et seq*) for the

⁹ See A.G. Op. No. 2010-5, at 2 ("The Kansas Supreme Court has held that records are open unless specifically closed by KORA and, if there is ambiguity about a record, it should be resolved in favor of openness. In order to close a record, there has to be specific legal authority.").

¹⁰ In their motion to dismiss, Respondents do not cite any state law prohibition on disclosing data and instead ask the Court to "*Compare* K.S.A. 39-709b(a)(1) and (2) ("information *shall* be disclosed . . .") *with* K.S.A. 39-709b(a)(3) ("information *may* be disclosed.")" MTD at 17. At best, therefore, Respondents have argued that FNS's requested disclosures are voluntary, rather than mandatory. They have not even alleged that state law prohibits the disclosure.

proposition that agency heads are responsible for the security of data, the KCA does not prevent Respondents from good-faith disclosure of data to FNS. *See* K.S.A. 75-7237(b). Besides, Respondents have not alleged any data security risks associated with complying with FNS’s request that could possibly implicate the KCA. In fact, there are none. Not only does FNS protect the requested information from unauthorized disclosure,¹¹ the State routinely shares sensitive data with the federal government while sufficiently protecting that data from unauthorized disclosure. *See* Steven Anderson Declaration, attached as Exhibit 1.

Accordingly, Respondents’ motion to dismiss completely fails to provide any compelling state law justification for their refusal to cooperate with FNS and make the requested report. The Court should therefore deny their motion to dismiss Count I of the Petition.

B. Respondents have a federal statutory duty to fulfill FNS’s request for data

Respondents have a federal statutory obligation to submit to FNS the SNAP participant data that FNS lawfully requested. They are violating federal law by refusing to comply, and they have no legally-cognizable justification for their refusal. Mandamus to compel them to act in accordance with their statutory duties is clearly warranted.

¹¹ *See* “National Supplemental Nutrition Assistance Program (SNAP) Information Database.” 90 Fed. Reg. at 26,523 (June 23, 2025) (noting, for example, that “USDA has imposed strict controls to minimize the risk of compromising information in the system” and describing same).

Respondents' obligations under federal law are nearly identical to their state law obligations. States that participate in SNAP “*shall* keep such records as may be necessary to determine whether the program is being conducted in compliance with [federal law]. 7 U.S.C. § 2020(a)(3)(A). And they must disclose those records to FNS when requested. 7 U.S.C. § 2020(e)(8)(A). Federal regulations *require* that state plans permit the “disclosure of information obtained from SNAP applicant or recipient households” to “[p]ersons directly connected with the administration [of SNAP].” 7 C.F.R. § 272.1(c); *see also* 7 U.S.C. § 2020(e)(8)(A). A state is noncompliant when it refuses to disclose that information.

FNS has lawfully requested that program data be disclosed to individuals “directly connected with the administration” of SNAP, for the purpose of administration.¹² Just as with their violation of state law, there is no question Respondents have refused to provide the data FNS requested. And there is no question that they lack any legally justifiable reason for that refusal.

The SNAP statutes authorize FNS to seek injunctive relief when a state is noncompliant. 7 U.S.C. § 2020(g). Although FNS has not yet sought injunctive relief against Respondents, the federal statutory scheme indicates that injunctive relief is an appropriate response to state noncompliance. Respondents' nondiscretionary

¹² *See* 90 Fed. Reg. 26,521 (“USDA and FNS will use the SNAP data in this system to ensure the integrity of Government programs, including by verifying SNAP recipient eligibility against federally maintained databases, identifying and eliminating duplicate enrollments, and performing additional eligibility and program integrity checks specified herein.”).

duties therefore arise from their “office, trust, or official station,” by “operation of law.” K.S.A. 60-801. Accordingly, their clearly-defined obligations under federal law are an appropriate basis on which the State can seek mandamus and injunctive relief. *See Schmidlien*, 278 Kan. at 833.

Additionally, 7 U.S.C. § 2020(e)(8) requires a state plan of operation that includes safeguards of SNAP applicant information, which “*shall* permit the disclosure of such information to persons directly connected with the administration or enforcement of the provision of this chapter, Federal assistance programs, or federally-assisted State programs” and “the subsequent use of the information ... only for such administration or enforcement.” (emphasis added).

Respondents claim they cannot comply with the request because, *without any evidence*, they do not believe that the information is intended for administration or enforcement of the SNAP program. Just as with state law, federal law leaves Respondents with no discretion to not comply. In fact, twenty-three states have already supplied the data to FNS. *See* Declaration of Shiela Corley, No. 3:25-cv-6310, ECF 72-1, at para. 29, attached as Exhibit 2; Declaration of Erin Drinnin, at para. 11-12. Attached as Exhibit 4.

Respondents mischaracterize their obligations under 7 U.S.C. § 2020(e)(8). They argue that, although the statute requires disclosure of information “directly connected to the administration” of SNAP or other federal assistance programs, Respondents do not have to disclose the information because FNS listed one (out of

eleven)¹³ proposed routine uses of the information which Respondents do not believe is directly connected to the administration of those programs. Their argument falls flat.

Respondents are wrong that the requested disclosure of data is not directly related to the administration of SNAP, federal assistance programs, or other federally assisted state programs. FNS's June 23, 2025, publication in the Federal Register, "National Supplemental Nutrition Assistance Program (SNAP) Information Database," describes how FNS will administer SNAP, pursuant to its statutory authority.¹⁴ It gives eleven categories of routine uses it intends for the requested information. "Routine use" is defined in relevant federal law to mean, "with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected." 5 U.S.C. § 552a(a)(7). As long as the data disclosures described in the SORN are "compatible" with the administration or enforcement of SNAP, other federal assistance programs or federally-assisted state programs, it is "directly connected" for purposes of 7 U.S.C. § 2020(e)(8)(A). Thus, the collection of data, as described in FNS regulations, is directly connected to the administration of SNAP (or another federal assistance program). It must be disclosed to the federal government for obvious reasons.

¹³ See 90 Fed. Reg. at 26522-23; MTD at 12.

¹⁴ See 90 Fed. Reg. 26522 ("USDA will use the SNAP data to ensure the integrity of Government programs, including by verifying SNAP recipient eligibility against federally maintained databases. This is consistent with USDA's statutory authority.").

Furthermore, the SORN's routine use category (8) refers to SNAP records that indicate a potential violation of law, which may be disclosed to another federal agency responsible for enforcing the law in question. Thus, these records qualify for disclosure under 7 U.S.C. § 2020(e)(8): information which may be disclosed that "is directly connected to an investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration" of SNAP. 7 U.S.C. § 2020(e)(8) encompasses *any* investigation conducted "in connection with" SNAP or another federal assistance program or federally-funded state program, so it is broad enough to independently authorize FNS's eighth category of routine use.

Respondents agree that the federal SNAP statutes, particularly 7 U.S.C. § 2020(e)(8)(A) "may appear to create some type of duty." MTD at 18. As shown above, that duty is clear and unequivocal. Respondents' only substantive argument on this topic concerns the existence of a "substantial dispute."

Respondents do not dispute the facts (which would be inappropriate in a motion to dismiss), they dispute the law. What is in "substantial dispute," according to them, is "whether the way USDA wishes to use this data is permissible under federal and state law." MTD at 20. And they refer again to *California v. USDA*. As shown above (*see* Section II.A.ii), this pending legal challenge in an out-of-circuit federal district court will have no effect on Respondents. And it does not create a substantial dispute such that mandamus is no longer warranted.

The legality of FNS's request is not actually in dispute in any tribunal with jurisdiction over Respondents or the State of Kansas. Respondents themselves have

not disputed the legality of FNS's challenge in any meaningful way. They have merely alerted the Court to other parties disputing it, in another jurisdiction, in a case which will not affect Respondents at all. Respondents are essentially arguing that they are not required to obey federal law because someone in California believes he is not required to obey federal law.¹⁵ That is absurd.

Respondents have done nothing to challenge FNS's actions through the normal, legal means available to them for challenging unlawful actions. Nothing in federal law authorizes the course Respondents have taken: refusing to comply with FNS's request to report program data, while simultaneously failing to formally challenge the legality of that request. If Respondents are not authorized or able to challenge the legality of FNS's request, then they must comply with FNS's request. Otherwise, they violate federal law.

Respondents' duties under federal law are therefore not in substantial dispute. They are the appropriate subject of the Petition for mandamus. Respondents have not cited any case in which a mandamus action was dismissed due to a pending federal district court case in another federal circuit. Nothing prevents this Court from determining Respondents' duties under federal law, and

¹⁵ One of the Plaintiff States in *California*, the State of Nevada, timely complied with FNS's request for data, despite being a party to the dispute. *See* Declaration of Gina Brand, No. 3:25-cv-6310, ECF 78-1, attached as Exhibit 3. Nevada's compliance, completed on the same day on which *California* was filed (July 28, 2025), shows that even joining the *California* case is not an obstacle to compliance.

ordering them to obey federal law. Their motion to dismiss Count II of the Petition should therefore be denied.

C. Respondents are violating the Constitution by usurping the powers of the Legislature

Respondents' purposeful refusal to provide legally-mandated program data is tantamount to withdrawing from SNAP, thereby eviscerating the legislative mandate. Respondents' actions constitute a tectonic usurpation by the executive branch of the operations of the legislative branch's constitutional authority to decide to enter and remain in SNAP. They are violating the separation of powers, which is unconstitutional. Respondents have a clear duty to avoid violating the Constitution and mandamus is necessary and appropriate to compel them to stop doing so.

When SNAP was created by the federal government and offered to the states, the Kansas Legislature exercised its constitutional role to speak for the State and join the program. In so doing, it also imposed legal duties upon the governor and secretary to comply with all federal requests for data. Thus, there is a Kansas legislative mandate to participate in SNAP and to provide relevant data to the federal government.

The question for the Court is not whether the Constitution imposes a clear duty to cooperate with the federal government and supply requested data to FNS. It is whether the Constitution imposes a clear duty to not violate the separation of powers. Respondents' actions violate the Constitution, and mandamus is therefore appropriate to correct a constitutional violation.

Respondents argue that, to sustain a separation of powers claim, the State must show that “the Legislature expressly agreed to disclose this sensitive data to USDA.” MTD at 22. Further, they note, “the Legislature has not, as a unified branch...spoken about how it views this unprecedented data request.” *Id.* But that is false, and irrelevant. The clear words of the statute, enacted by the Legislature, give the only reliable indication of legislative intent. *See State ex rel. Kobach v. Harper*, 65 Kan. App. 2d at 703-04 (Kan. Ct. App. 2025) (“When a statute is plain and unambiguous, an appellate court does not speculate about the legislative intent behind that clear language, and it should refrain from reading something into the statute that is not readily found in its words.”). Here, the clear words of the statute impose a general duty to “cooperate” and “file any report.” FNS’s request for SNAP data falls squarely within that general duty.

Respondents next offer a bizarre argument that the State fails to state a claim because it does not include in the Petition a complete legal argument analyzing the factors listed in *State ex rel. Morrison v. Sebelius*, 285 Kan. 875 (2008). This argument has no basis in statute or caselaw—Respondents’ cited authority, *Williams v. C-U-OUT BAIL BONDS, LLC*, 310 Kan. 775 (2020), does not support their argument. Instead, in a KSA 60-212(b)(6) motion to dismiss:

It is not necessary that the petition spell out a legal theory for relief so long as an opponent is apprised of the facts that entitle plaintiff to relief. The court is under a duty to examine the petition to determine whether its allegations state a claim for relief on any possible theory. *Knight v. Neodesha, Kan., Police Dept.*, 5 Kan. App.2d 472, 475 (K. Ct. App. 1980).

Clearly, the Petition does not fail to state a claim because it did not include an extensive legal analysis along with its well-pled facts and allegations.

The State agrees with Respondents that the *Morrison* test is essential for determining when an unconstitutional violation of the separation of powers has occurred, which the Court must decide in this motion to dismiss. Respondents, however, have not applied this “basic, applicable law” (MTD at 22) to the allegations. Their failure to engage with “the proper test for separation of powers” (*id.*) is baffling, given their insistence that it is essential to the analysis. And it is fatal to their argument.

One branch of government usurps the powers of another branch when it significantly interferes with the operations of the other branch. *Morrison*, 285 Kan. at 883-884. When determining whether one branch of state government has violated the constitution by usurping or intruding into the powers of another branch, courts consider four principles:

- (1) the separation of powers doctrine requires a court to presume a statute to be constitutional...
- (2) when considering if there has been a violation of the separation of powers doctrine, a court must examine the specific facts and circumstances presented and search for a usurpation by one branch of government of the powers of another branch of government.
- (3) a usurpation of powers exists when there is a significant interference by one branch of government with the operations of another branch.
- (4) a court determining whether there has been a significant interference by one branch of government should consider
 - (a) the essential nature of the power being exercised;
 - (b) the degree of control by one [branch] over another;
 - (c) the objective sought to be attained ...; and
 - (d) the practical result of the blending of powers as shown by actual experience over a period of time.

Morrison, 285 Kan. at 883-884. When Respondents’ conduct is analyzed according to the *Morrison* factors, it is clear that they have usurped the powers of the Legislature, violating the separation of powers in the Kansas Constitution. Respondents’ complete failure to offer any argument consistent with this framework is a tacit admission that their actions violate the separation of powers.

First, the statutes commanding the Secretary to participate in SNAP, to cooperate with federal officials who administer SNAP, and to submit reports requested by those officials should be presumed constitutional. As shown above, these statutes establish an unambiguous duty to comply with FNS’s requests. Respondents, on the other hand, start from opposite presumption: they assume that the provisions of Kansas law that require them to cooperate with federal requests for program data—K.S.A. 39-708c and K.S.A. 39-708c(f)—are unconstitutional. By means of the Governor’s “special interest in protecting [the Governor’s] executive agencies,” (MTD at 23), Respondents effectively assert the unconstitutionality of any statute that would impose non-discretionary duties on an agency.

Second, it was the Kansas Legislature’s prerogative to mandate Kansas’s participation in SNAP and to mandate compliance with the federal government’s requirements for SNAP participation. Each state joined SNAP through legislative action by the respective state legislature.¹⁶ Close examination of the facts and

¹⁶ The United States Constitution recognizes state legislatures as the principal entities that speak for the sovereign states. U.S. Const. Art. I, sec. 4 (times, places and manner of elections); Art. II, sec. 1 (selection of presidential electors); Art. I,

circumstances, as shown above, reveals the complete absence of any justification, factual or legal, for the Secretary to avoid fulfilling her statutory duty to comply with FNS's request. And it shows that Respondents' failure to comply with FNS's request withdraws Kansas from compliance and imperils Kansas's continued eligibility to participate in SNAP. Respondents have therefore adopted a position which results in the exact opposite of what the Legislature mandated in statute.

Third, Respondents' action represent a serious interference with the powers of the Legislature by executive branch officials. The essential nature of the power being exercised by Respondents is legislative.¹⁷ The law establishes a nondiscretionary duty to cooperate and file reports, in furtherance of a singular legislative objective: to ensure that Kansas and its low-income residents are eligible to receive SNAP benefits. Respondents' failure to perform that nondiscretionary duty is equivalent to rewriting the law and exercising legislative powers.

Respondents attempt to frame the issue in terms of who has "supreme power over DCF" (MTD at 23), but unqualified supreme power is not actually one of the prerogatives of any branch of government. The Legislature has legislative power, and exercises that power to its constitutional limits over the executive branch and its agencies, including DCF. The Governor's authority over DCF is the authority to

sec. 2 (qualifications of electors); Art. V (ratification of proposed constitutional amendments); Amend. 18 (same); Amend. 22 (same); Art. IV, sec. 4 (application to federal government for protection against domestic violence).

¹⁷ See *State ex rel. Stephan v. Finney*, 251 Kan. 559, 578 (1992) ("[T]he legislature [has] the power, except where limited by the constitution itself, to stipulate what action executive officers shall or shall not perform.").

execute the law as written. Under the separation of powers, the Governor's executive authority does not empower her to rewrite law. And she cannot rely on her "special interest" in protecting executive agencies to do so, especially when she has failed to allege harm to any executive agency.

Only the Kansas Legislature can determine whether Kansas will continue to meet the federal government's conditions for receiving SNAP funds. If the State of Kansas wishes to change Kansas law and withdraw from SNAP, only the Legislature can do so. Unilateral action by the executive branch intrudes upon this legislative prerogative. Respondents thus usurp the Legislative role by effectively repealing state law and replacing it with a new arrangement that grants unqualified discretion to the secretary to refuse to cooperate with federal officials, refuse to file required reports, and make Kansas ineligible for SNAP reimbursements and benefits.

Fourth, there is no historical precedent, and no existing arrangement, for Respondents to exercise the legislative power in this way. Their actions represent a new and unprecedented assumption of power that this Court must reject.

Accordingly, Respondents' actions significantly interfere with the legislative power, and usurp the prerogative of the Legislature to join or withdraw from SNAP. This violates the separation of powers. Mandamus to compel Respondents to act in accordance with their constitutional responsibilities is warranted. The Court should therefore deny Respondents' motion to dismiss Count III of the Petition.

D. Respondents will expend unappropriated funds in violation of Art. 2, sec. 24. of the Kansas Constitution

Respondents have a duty to obey the Kansas Constitution, and must not spend money “except in pursuance of a specific appropriation made by law. “[T]he legislature has the exclusive power to decide how, when and for what purposes the public funds shall be applied in carrying on the state government.” *Kansas, ex rel. John Anderson, Jr. v. Fadely*, 180 Kan. 652, 661-62 (1957). Here, the Kansas Legislature has not appropriated money to DCF to administer the SNAP program in the absence of federal reimbursements for administrative expenses. Nor has it appropriated money to operate a food assistance program without federal funding.

If DCF plans to spend its operational budget, which is appropriated by the Legislature in Fiscal Year 2026, and DCF loses \$10.4 million every three months due to its failure to comply with FNS’s requests, where will it find the missing \$41.6 million? DCF’s appropriation from the State General Fund does not account for any loss of federal funding. Absent compelled compliance, DCF will spend more money than was appropriated by the Legislature, and it will therefore violate the Kansas Constitution.

Accordingly, Respondents have a clear and unambiguous constitutional duty to avoid making unappropriated expenditures. Because Respondents can perform this duty only by cooperating with FNS’s request for SNAP participant data, mandamus to compel them to do so is clearly warranted.

Respondents’ argument that the State fails to state a claim upon which relief can be granted does not address what is actually in the State’s Petition. Instead,

Respondents appear to believe that the unappropriated spending, referred to in the Petition, is the same as the federal funding that will be disallowed on September 19, 2025. And they argue that, since the disallowed federal funding was never in the state treasury, there is no constitutional violation if Respondents cause the State to lose that money. Respondents' argument is irrelevant.

To make a showing that the State has failed to make a claim upon which relief can be granted, Respondents have to prove that it is not possible for the State to succeed even if all the factual allegations (and reasonable inferences therefrom) in the Petition are true. They have not done this—instead, they applied their arguments to a different set of facts not appearing in the Petition at all.

At the motion to dismiss stage of litigation, Respondents must accept the alleged facts in the Petition: that DCF appropriations for SNAP and the agency overall rely on federal funding to avoid spending unappropriated money. And then they must show why, even if true, the State cannot prevail on its claim. Respondents do not even make this allegation, let alone give a persuasive argument for it. The Court should accordingly deny Respondents' motion to dismiss Count IV of the Petition.

CONCLUSION

For the reasons above, this Court should deny Respondents' motion to dismiss.

Respectfully submitted,

/s/Kris W. Kobach

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Counsel for the State of Kansas

CERTIFICATE OF SERVICE

I certify that on September 18, 2025, the above document was electronically filed with the Clerk of the Court using the Court's electronic filing system, which will send a notice of electronic filing to registered participants.

/s/ Kris W. Kobach _____
Kris W. Kobach
Attorney General

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

The State of KANSAS, *ex rel.* KRIS W. KOBACH, Attorney General,

Petitioner,

v.

LAURA HOWARD, Secretary,
Department for Children and Families, in
her official capacity;
LAURA KELLY, Governor of Kansas, in
her official capacity,

Respondents.

Case No. SN-2025-CV-000695

Petition Pursuant to K.S.A. Chapter 60

**PETITIONER’S RESPONSE IN OPPOSITION
TO RESPONDENTS’ MOTION TO DISMISS**

EXHIBIT 1

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

The State of KANSAS, *ex rel.* KRIS W.
KOBACH, Attorney General,

Petitioner,

v.

LAURA HOWARD, Secretary,
Department for Children and Families, in
her official capacity; LAURA KELLY,
Governor of Kansas, in her official
capacity,

Respondents.

Case No. SN-2025-CV-000695

Petition Pursuant to K.S.A. Chapter 60

**AFFIDAVIT IN SUPPORT OF PETITIONER'S RESPONSE
IN OPPOSITION TO RESPONDENTS' MOTION TO DISMISS**

My name is Steven D. Anderson and I am more than 18 years of age and in all respects qualified to attest to the statements made in this affidavit. I currently serve as the Inspector General and have served in this role since April, 2021.

Pursuant to K.S.A. § 60-902, I hereby affirm the following:

1. As Inspector General, I am responsible for overseeing the Office of Inspector General (OIG).
2. I am responsible for reviewing submissions to the Kansas Eligibility Enterprise System (KEES) from state agencies, including the Kansas Department of Health and Environment (KDHE) and the Department of Children and Families (DCF). These submissions include data indicated in paragraph 8 below.

3. An audit of the KEES to determine if data sharing between KDHE and DCF is being utilized to make accurate Medicaid and Supplemental Nutrition Assistant Program (SNAP) eligibility determinations to combat fraud, waste, and abuse. OIG determined this audit to be necessary due to accumulated knowledge of eligibility fraud involving both programs and the lack of data sharing between KDHE and DCF. It is anticipated that the audit would find additional errors in eligibility determinations for SNAP and Medicaid recipients that could be avoided if data sharing was employed.
4. The scope of the audit includes Medicaid and SNAP fraud, waste and abuse complaint referrals, investigations opened, and extrapolated eligibility error rates OIG handled between July 1, 2024, and present.
5. The audit will determine review data collection pages and imaged documents that are housed in the shared Kansas Eligibility Enforcement System (KEES) to determine if the eligibility information reported by KDHE and DCF is accurate.
6. The audit will also determine whether DCF and KDHE maximize system sharing capabilities to alert each other when there is a status change with a mutual member, and whether that data sharing could have a direct impact on eligibility.
7. This audit was formally opened on July 17, 2025, in the OIG tracking system. The assigned auditor began developing the work plan for the audit and the potential criteria. The engagement letters for KDHE and DCF were prepared

and signed on September 8, 2025, and forwarded via email to KDHE Secretary Janet Stanek and DCF Secretary Laura Howard at 2:50 p.m. by Rylee Richardson, Auditor in Charge, per my instruction. No person in the OIG was aware of the subject for the planned Attorney General press conference. No notification of the OIG's planned audit was provided to Attorney General staff.

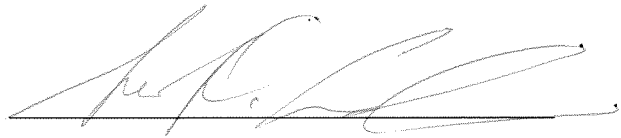
8. There are many categories of data in the possession of DCF and KDHE which are disclosed to OIG for audit purposes. The information that is available to OIG includes the following:

- i. Social security numbers
- ii. Case Names
- iii. Case Numbers
- iv. Client Names
- v. Client IDs (matches Medicaid ID once a conversion is completed)
- vi. Dates of birth
- vii. Addresses
- viii. Application Dates for benefits
- ix. Programs (including Food Assistance and SUN Bucks)
- x. Application Outcomes (approved, denied, denial rescinded, pending, redetermination)
- xi. EBT Card Numbers and Account Numbers
- xii. Dollar Value of SNAP benefits

xiii. Collection and Recovery Data

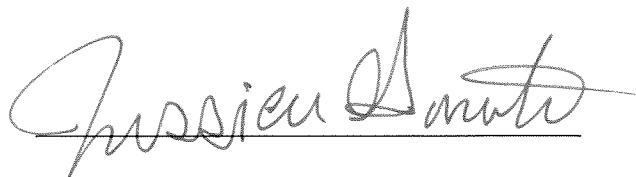
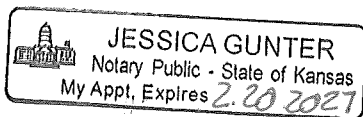
9. The above information may be disclosed by DCF and KDHE to OIG. OIG is authorized to disclose the information to other state agencies and federal agencies, consistent with state and federal law.
10. There are several secure methods for transmitting large amounts of secure data to other parties. The Office of Attorney General has a secure email program (GoAnywhere Web Client) which is used by OIG to access and disclose sensitive and confidential state agency data.
11. OIG has also used secure portals maintained by the Department of Justice (USAFX File Exchange) and Health and Human Service, Office of Inspector General (KiteWorks) to transmit sensitive and confidential information to federal agencies.

Further Affiant Saith Naught.



Steven D. Anderson

Subscribed and sworn to before the undersigned on the 17th day of September, 2025.



NOTARY PUBLIC

My appointment expires:

2.20.2027

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

The State of KANSAS, *ex rel.* KRIS W. KOBACH, Attorney General,

Petitioner,

v.

LAURA HOWARD, Secretary,
Department for Children and Families, in
her official capacity;
LAURA KELLY, Governor of Kansas, in
her official capacity,

Respondents.

Case No. SN-2025-CV-000695

Petition Pursuant to K.S.A. Chapter 60

**PETITIONER’S RESPONSE IN OPPOSITION
TO RESPONDENTS’ MOTION TO DISMISS**

EXHIBIT 2

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

STATE OF CALIFORNIA *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, *et al.*

Defendants.

)
)
)
)
) **DECLARATION OF SHIELA CORLEY**
)

) Civil Action No. 3:25-cv-06310
)
)
)
)
)

Pursuant to 28 U.S.C. § 1746, I Shiela Corley, declare:

1. I am the Chief of Staff to the Deputy Under Secretary for the Food, Nutrition, and Consumer Services (“FNCS”) mission area, which is a component of the United States Department of Agriculture (“USDA”). I have served in this position since February 2025 and have worked for FNCS since 2018. I have worked for USDA in various capacities since 1995.

2. In my capacity as Chief of Staff, I provide guidance and support to USDA senior leadership on matters pertaining to the administration of 16 domestic nutrition and food security programs and the promotion of the dietary guidelines. I also supervise Gina Brand, the Senior Policy Advisor for Integrity.

3. I make the statements herein based on personal knowledge, as well as on information I acquired while performing my official duties, including a review of agency files and discussions with colleagues at the Food Nutrition Service (“FNS”) who are familiar with the facts at issue in this litigation.

I. Administration of the Supplemental Nutrition Assistance Program (“SNAP”).

4. FNS is an agency within the FNCS mission area.

5. FNS administers nutrition assistance programs for USDA, including the Supplemental Nutrition Assistance Program (“SNAP”). 7 C.F.R. § 271.3. The mission of FNS is to provide children and needy families with better access to food and a more healthful diet through its food assistance programs and comprehensive nutrition education efforts.

6. The mission of SNAP is “to safeguard the health and well-being of the Nation’s population by raising the levels of nutrition among low-income households.” 7 U.S.C. § 2011. Assistance is focused on increasing the food purchasing power of eligible households by supplementing the funds those households have to spend on food with SNAP benefits. 7 U.S.C. § 2013. SNAP benefits are fully funded with Federal dollars, and USDA pays 50 percent of a State Agency’s administrative costs. 7 U.S.C. §§ 2025, 2027. In fiscal year 2024, USDA funded \$94.4 billion in benefits and \$5.42 billion in State Agency administrative costs.

7. SNAP’s administration is accomplished through partnerships with State Agencies. “State Agency” refers to the agency of State government, including its local offices, which has “the responsibility for the administration of the federally aided public assistance programs within such State.” 7 U.S.C. § 2012(s)(1). For SNAP, the State Agencies conduct eligibility determinations for applicant households and calculate benefit amounts for eligible households.

8. A household that meets SNAP eligibility requirements, which are predominantly income and asset-focused, is provided an Electronic Benefit Transfer (EBT) card they can then use to access their SNAP benefits. The SNAP benefits, which are 100% federally funded, are loaded onto the EBT card monthly and may only be used similar to a debit card to purchase eligible food at SNAP-authorized retailers.

9. State Agencies, using federal funding to administer SNAP, contract with private companies, known as EBT Processors, to issue SNAP benefits to households. Based on household and

benefit information transmitted from SNAP State Agencies, EBT Processors provide the digital platform to issue electronic benefits to SNAP households through the EBT system. Because of this role, EBT Processors hold the personal information obtained from SNAP applicants. Multiple States have contract provisions with the EBT Processors providing that applicant data cannot be disclosed absent State consent.

10. At the federal level, FNS is responsible, in part, for administering SNAP for retail food stores and issuing administrative rules. *See* 7 U.S.C. § 2013(a), (c); 7 CFR § 271.3. Additionally, FNS is charged with overseeing the States' administration of SNAP, including reviewing the States' submitted Plans of Operations and their payment accuracy. 7 U.S.C. § 2020(d).

II. USDA's Data Gathering Initiative

A. May 6th Letter

11. On May 6, 2025, USDA sent a letter ("May 6 Letter") to all SNAP State Agency Directors, informing them that pursuant to its authority under the Food and Nutrition Act of 2008, USDA will be collecting data from their EBT Processors to ensure program integrity, including verifying the accuracy of eligibility determinations. This letter was signed by Senior Policy Advisor for Integrity Gina Brand and was subsequently published on FNS' public website. *See* <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-DataSharingGuidance072325.pdf>. The Letter provides two authorities under the Food and Nutrition Act and implementing regulations that provide for sharing of SNAP applicant data with FNS. First, 7 U.S.C. § 2020(a)(3)(B)(i) requires States to make "available for inspection and audit by the Secretary" all SNAP records "subject to data and security protocols agreed to by the State agency and Secretary." *See also* 7 C.F.R. § 272.1(e). Second, 7 U.S.C. § 2020(e)(8)(A) provides that State "safeguards shall permit – the disclosure of such information to persons directly connected with the administration or enforcement of the provisions of this Act, [and] regulations issued pursuant to this Act... and the subsequent use of the information by [such persons] only for such administration or enforcement." *See also* 7 C.F.R. § 272.1(c)(1).

12. The May 6 Letter explained to State Agencies the purpose of the data gathering initiative so that State Agencies understood that their consent to disclosure, where State Agencies had required such consent in their contracts with EBT Processors, complied with 7 U.S.C. § 2020(a)(3)(B)(i) and 7 U.S.C. § 2020(e)(8)(A) and would not violate statutory requirements to safeguard SNAP applicant data.

13. The May 6 Letter also informed State Agencies that failure to take the steps necessary to provide SNAP data to FNS may trigger noncompliance procedures codified at 7 U.S.C. § 2020(g).

14. Although USDA sent and published the May 6 letter, USDA instructed EBT Processors to refrain from sending any data until USDA completed procedural steps to ensure that data received would be appropriately safeguarded and to satisfy legal requirements.

B. Nonsubstantive Change to Collection Information Burden

15. On June 11, 2025, in compliance with the Paperwork Reduction Act, USDA submitted to OMB a Nonsubstantive Change Request to amend USDA's previously approved information collection request for SNAP.

16. The nonsubstantive change reflected the incremental burden increase associated with the data gathering initiative (estimating an additional 20,410 annual burden hours over the previously approved 142,800,634).

17. OMB approved the Nonsubstantive Change Request on July 1, 2025.

C. Publication of the SORN

18. On June 23, 2025, USDA published a notice of a new system of records (SORN) in the Federal Register in compliance with the Privacy Act. 90 Fed. Reg. 26521. This notice established the "USDA/FNS-15, "National Supplemental Nutrition Assistance Program (SNAP) Information Database." *Id.* This SORN became effective upon publication in the Federal Register, except for the routine uses, which were open to public comment through July 23, 2025. *Id.* USDA reviewed all comments as they were submitted and is in the final stages of considering whether to amend any routine uses based upon public comment.

19. The SORN provides detailed information on the records the system would contain, how those records would be used, where they would be located, and with whom they would be shared. *Id.* It also provides the list of legal authorities for the system, including 7 U.S.C. § 2020(e)(8). *Id.* at 26521-22.

20. The SORN also explains the purpose of the system—ensuring the integrity of SNAP—and provided that the data it contained would be used “to identify and rectify any ineligible, duplicate, or fraudulent SNAP enrollments or transactions,” including “verifying eligibility based on immigration status, identifying and eliminating duplicate enrollments, assisting States in mitigating identity theft, and performing other eligibility and program integrity checks.” *Id.* at 26522. Because many Government programs confer automatic or reciprocal eligibility based on SNAP participation, these activities also ensure the integrity of Government programs writ large.

21. USDA received 457 comments on the SORN, of which one was in favor, 433 were in opposition, and 23 were nongermane. Of the 433 that opposed the SORN, most argued the database was a waste of money and/or unnecessary, either because instances of fraud are overstated or because of duplicating State Agency actions. Other opposing comments alleged concerns regarding the sharing of data outside USDA, potential unlawful use of the data, privacy concerns, purported burden on SNAP households and discouragement from participating in SNAP, government overreach, among others.

22. USDA did not find the majority of opposing comments persuasive because the concerns are already addressed by the SORN or were inconsistent with USDA’s obligations under federal law. USDA has a responsibility to administer and enforce SNAP in compliance with the Food and Nutrition Act, which includes oversight of the State Agencies and ensuring they follow all program requirements relating to eligibility determinations and benefits calculations. USDA did agree with three comments that suggested removing the reference to “foreign” governments from Routine Use 8, and is working to implement that change.

D. Privacy Impact Assessment

23. USDA also prepared a Privacy Impact Assessment (PIA) in compliance with the E-

Government Act of 2002. The PIA reflects USDA’s full consideration of privacy matters related to the data gathering initiatives and that privacy protections would be incorporated into the system throughout the life cycle of information contained therein.

E. July 9th Letter

24. On July 9, 2025, Secretary Brooke Rollins sent a letter to all SNAP State Agencies, reminding them of USDA’s commitment to effectuating Executive Order 14243, “Stopping Waste, Fraud, and Abuse by Eliminating Information Silos,” in all USDA programs, including SNAP. Secretary Rollins informed the States of the publication of the SORN and provided basic information on the system, including that FNS owns, administers, and secures it. She also provided the States with information on when various parts of the notice became or would become effective. See <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-database-letter.pdf>.

25. This letter informed States that USDA was requiring the collection of SNAP data from EBT Processors or State Agencies “beginning on July 24, 2025, with submissions to USDA no later than the close of business on July 30, 2025.”

F. July 23rd Letter

26. On July 23, 2025, Senior Policy Advisor for Integrity Gina Brand wrote a letter to SNAP State Agency Directors, reminding them of the information being requested and of the July 30, 2025 deadline for completion. See <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-DataSharingGuidance072325.pdf>.

27. The letter informed State Agencies that “states are welcome to determine the most appropriate and feasible method to share the requested data with FNS,” which can include working “through their payment processor, a vendor of their own choosing, or with their State Information Technology team.” It also provided detailed instructions on which data elements were and were not being requested, as well as how to transmit the data to FNS.

G. July 25th Letter

28. On July 25, 2025, Deputy Under Secretary for FNCS Patrick Penn wrote a letter to the SNAP State Directors. This letter reiterated that the SNAP Information Database had been established, that 7 U.S.C. § 2020(e)(8)(A) provides that state data protections must allow for this disclosure, and that failure to take the steps necessary to provide the relevant data to FNS may trigger noncompliance procedures at 7 USC § 2020(g). See <https://fns-prod.azureedge.us/sites/default/files/resource-files/snap-databaseLetter-072525.pdf>. This letter also reiterated the upcoming July 30, 2025, deadline to submit the requested data.

H. State Agency Compliance and Evidence of Fraud, Waste, and Abuse

29. As of August 12, 2025, twenty-three State Agencies had fully complied with USDA's request for SNAP data. Those States are Alabama, Alaska, Arkansas, Indiana, Louisiana, Nevada, Ohio, Texas, Vermont, Montana, Missouri, Georgia, South Dakota, Wyoming, Iowa, Nebraska, North Dakota, South Carolina, Utah, Mississippi, New Hampshire, West Virginia, and Virginia.

30. While analysis of State data is ongoing, FNS has conducted a preliminary review of data from a sample of eight states using internal FNS systems. This review uncovered evidence of fraud, waste, and abuse that had previously gone undetected. USDA's initial analysis, using a conservative analytical method to extrapolate from this sample, indicated that duplicate participation (where an individual is receiving more than the one benefit to which they may be entitled) is costing the Federal Government approximately half a billion dollars in improper SNAP payments. FNS believes that a less conservative analytical approach, and broader compliance with its data sharing request, will result in finding much larger duplication and fraud is going undetected by states, depriving the Federal Government and its taxpayers and beneficiaries of resources lost due to failures to properly administer and enforce the FNA.

I. Collection of Additional Integrity-Related Information To Provide To States

31. For states that have complied with USDA's data gathering initiative, FNS will assist

states by conducting additional administrative checks against other available federal databases. For example, USDA will conduct manual checks against the Department of Homeland Security's SAVE database, which provides immigration status and naturalized/acquired U.S. citizenship information. These additional efforts depend on manual structuring and compiling of data. To illustrate, to date, all interaction with another Department, the Department of Homeland Security, is done manually by humans. There are no direct computer connections between USDA and DHS for processing SNAP data.

32. The technical process is the following: States send USDA raw files containing SNAP recipient data. The raw state data is securely transferred and normalized into a format that is standard across all USDA SNAP data. In a separate, manual process fully contained within FNS's cloud environment by means of a simple script, the normalized SNAP data is formatted into a spreadsheet (.csv) which contains Name, DOB, and SSN. This spreadsheet follows the specific format required by the SAVE Bulk Uploader tool. When manually triggered by a human, this spreadsheet will be generated and saved to the FNS GovCloud file system.

33. The spreadsheet is downloaded by a human and then manually uploaded by a human to the SAVE bulk uploader UI interface, following the steps defined here: https://www.uscis.gov/sites/default/files/document/brochures/SAVE_Bulk_Uploader_How_To_Guide_0.pdf

34. Once SAVE completes the analysis, the result files are available in the SAVE interface. A human logs in to the interface, downloads the result files and then uploads those result files to the secure FNS cloud. The result files are then manually processed by USDA employees to determine whether there are facts about program integrity to share with the states. FNS does not make any eligibility determinations with this data; eligibility determinations remain the responsibility of the states.

35. There is no automated processing that occurs between USDA and DHS/SAVE. All transfer of information is performed manually, and all analysis is performed manually.

III. Non-Compliance Procedures

36. As State Agencies were previously advised in the May 6th Letter and the July 25th Letter, State Agencies that do not comply with the data request may be subject to noncompliance procedures under 7 U.S.C. § 2020(g). That section provides, in part, that if the Secretary determines “that in the administration of [SNAP] there is a failure by a State agency without good cause to comply with any of the provisions of this Act, the regulations issued pursuant to this Act, [or] the State plan of operation,” the Secretary shall immediately inform the State Agency of the failure and allow “a specified period of time for the correction of such failure.” 7 U.S.C. § 2020(g). If the failure is not corrected within that time, the Secretary shall proceed to withhold administrative funds and may refer the matter to the Attorney General to seek injunctive relief to require compliance. *Id.*

37. Regulations at 7 C.F.R. § 276.4 (suspension/disallowance of administrative funds) and 7 C.F.R. § 276.5 (injunctive relief) implement 7 U.S.C. § 2020(g). Suspension is the temporary withholding of all or a portion of the federal portion of a State Agency’s budget to administer SNAP, and disallowance is denial of otherwise reimbursable administrative costs. Both regulatory provisions apply to scenarios where FNS determines that a State Agency has failed to comply with the Food and Nutrition Act of 2008, the regulations issued pursuant to the Act, or the FNS-approved State Plan of Operations. See 7 C.F.R. § 276.4(a)(2); 7 C.F.R. § 276.5(a).

38. The process for suspending or disallowing funds under 7 C.F.R. § 276.4 is a multi-step process that also provides administrative and judicial appeal rights.

39. Immediately upon becoming aware of a deficiency in a State Agency’s operation of SNAP, FNS must advise the State agency in writing via an Advance Notification of the deficiency and provide a specific period of time for correction. 7 C.F.R. § 276.4(d)(1). The amount of time provided for correction “will vary according to the nature of the deficiency.” *Id.*

40. If the State Agency fails to correct the deficiency to FNS’ satisfaction in the time period provided, FNS shall issue a Formal Warning that includes a specific description of the deficiency and

how the State Agency is out of compliance with requirements; a statement on whether funds will be suspended, disallowed, or both; the amount of funds at issue or an estimate if the actual cost is unavailable; and a statement that FNS is willing to assist in resolving the deficiency. 7 C.F.R. § 276.4(d)(2).

41. State Agencies have 30 days from receipt of the Formal Warning to either submit evidence of compliance or submit a corrective action proposal that includes the date the State Agency will be in compliance. 7 C.F.R. § 276.4(d)(2)(ii). When the deficiency cannot be corrected within 30 days of receipt, but the State Agency submits an acceptable corrective action plan, the formal warning is held in abeyance pending completion of the actions contained in the plan within the specified time period. 7 C.F.R. § 276.4(d)(2)(iii).

42. If the State Agency is still deficient (i.e., the State fails to respond within 30 days of receipt of the Formal Warning, the response to the Formal Warning is unsatisfactory, or the State fails to meet the commitments of its corrective action plan), FNS shall notify the State in writing that administrative funds are being suspended or disallowed.

43. At that time, a State may appeal the decision to the State SNAP Appeals Board in accordance with procedures at 7 C.F.R. § 276.7. The filing of a timely appeal automatically stays enforcement of FNS' claims, except in limited circumstances. See 7 C.F.R. § 276.7(e).

44. State Agencies aggrieved by the final determination of the State SNAP Appeals Board may obtain judicial review by filing a complaint against the United States within 30 days after the date of delivery of the final determination. 7 C.F.R. § 276.7(j).

IV. Non-Compliance with USDA's Data Gathering Initiative

45. On August 12, 2025, Deputy Under Secretary Patrick Penn sent Advance Notifications under 7 C.F.R. § 276.4(d)(1) to all non-compliant States, except for the District of Columbia (due to an inadvertent initial oversight, the District was not notified at the same time as all the non-compliant States), that had failed to comply with USDA's request for data by July 30, 2025.

46. The Advance Notifications advised States that “Section 11(e)(8)(A) of the Act requires that [State] permits disclosure of this data ‘to persons directly connected with the administration or enforcement of the provisions of [the Act], [and] regulations issued pursuant to’ the Act.” The letter also informed the States that “FNS has not received this participant data and, as a result, the State [] is out of compliance with SNAP requirements.”

47. The Advance Notifications provided the non-compliant States until the close of business on Friday, August 15, 2025, to come into compliance with the requirements of Section 11(e)(8)(A).

48. On August 14, 2025, at the request of Plaintiff States that had received Advance Notifications, USDA extended the deadline for compliance with FNS's data sharing request from Friday, August 15, 2025, to Tuesday, August 19, 2025 for all States that had received Advance Notifications.

49. On August 20, 2025, Deputy Under Secretary Patrick Penn sent Formal Warnings under 7 C.F.R. § 276.4(d)(2) to the 25 States that had failed to comply with USDA’s Advance Notification deadline of August 19, 2025.

50. On August 20, 2025, Deputy Under Secretary Patrick Penn also sent the Advance Notification under 7 C.F.R. § 276.4(d)(1) to the District of Columbia, providing it a deadline of Monday, August 25, 2025, to comply.

51. On August 26, 2025, Deputy Under Secretary Patrick Penn sent a Formal Warning under 7 C.F.R. § 276.4(d)(2) to the District of Columbia which had failed to comply with USDA’s Advance Notification deadline of August 25, 2025.

Under penalty of perjury, pursuant to 28 U.S.C. § 1746(2), I declare the foregoing to be true and correct to the best of my knowledge.

On this 2nd day of September 2025, in Alexandria, Virginia.

**SHIELA
CORLEY**

Digitally signed by
SHIELA CORLEY
Date: 2025.09.02
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Shiela Corley

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

The State of KANSAS, *ex rel.* KRIS W.
KOBACH, Attorney General,

Petitioner,

v.

LAURA HOWARD, Secretary,
Department for Children and Families, in
her official capacity;
LAURA KELLY, Governor of Kansas, in
her official capacity,

Respondents.

Case No. SN-2025-CV-000695

Petition Pursuant to K.S.A. Chapter 60

**PETITIONER’S RESPONSE IN OPPOSITION
TO RESPONDENTS’ MOTION TO DISMISS**

EXHIBIT 3

1 BRETT A. SHUMATE
Assistant Attorney General
2 ELIZABETH J. SHAPIRO
Deputy Branch Director
3 BRADLEY P. HUMPHREYS
Senior Trial Counsel
4 BENJAMIN S. KURLAND
Trial Attorney
5 U.S. Department of Justice
Civil Division, Federal Programs Branch
6 1100 L Street, NW
Washington, DC 20005
7 *Counsel for Defendants*

8
9 **IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

10
11 STATE OF CALIFORNIA, *et al.*,
12 *Plaintiffs,*
13 v.
14 UNITED STATES DEPARTMENT OF
AGRICULTURE, *et al.*,
15 *Defendants.*

Case No. 3:25-cv-06310-MMC

**DEFENDANTS' NOTICE REGARDING
PLAINTIFF NEVADA**

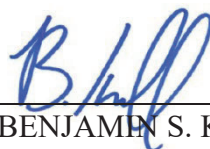
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19 Defendants submit the enclosed Declaration of Gina Brand to update the Court on the
20 status of Plaintiff the State of Nevada, which recently provided data pursuant to USDA's data
21 request.

22 Respectfully submitted,

23
24 BRETT A. SHUMATE
Assistant Attorney General
Civil Division

25
26 ELIZABETH J. SHAPIRO
Deputy Branch Director
27 Civil Division, Federal Programs Branch

28 **EXHIBIT 3**



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Counsel for Defendants

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**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

STATE OF CALIFORNIA *et al.*

Plaintiffs,

v.

UNITED STATES DEPARTMENT OF
AGRICULTURE, *et al.*

Defendants.

DECLARATION OF GINA BRAND

Civil Action No. 3:25-cv-06310

Pursuant to 28 U.S.C. § 1746, I, Gina Brand, declare:

1. I am the Senior Policy Advisor for Integrity for the Food, Nutrition, and Consumer Services (“FNCS”) mission area, which is a component of the United States Department of Agriculture (“USDA”). I have served in this position since April 2025 and was previously with the Food Nutrition Service since 2015.

2. In my capacity as Senior Policy Advisor for Integrity, I provide guidance and support to USDA senior leadership on matters pertaining to the integrity of the sixteen domestic nutrition and food security programs administered by FNCS. I also coordinate and manage the agency’s various integrity projects and efforts, including those taken in furtherance of Executive Order 14243, “Stopping Waste, Fraud, and Abuse by Eliminating Information Silos.” One of the integrity projects within my realm of responsibility is the National Supplemental Nutrition Assistance Program (SNAP) Information Database.


3. I make the statements herein based on personal knowledge, as well as on information I acquired while performing my official duties and discussions with colleagues at the USDA who are familiar with the facts at issue in this litigation.

4. On July 28, 2025, Plaintiff State Nevada submitted SNAP data in response to a request by USDA. At the time of Nevada's submission, it requested that USDA confirm receipt.

5. On July 30, 2025, USDA completed a preliminary review of Nevada's data submission to ensure it had received all of the SNAP data that had been submitted by the state. The result of that review was that all of the files that had been uploaded by Nevada were received by USDA. USDA then informed Nevada that it had received its submission.

Under penalty of perjury, pursuant to 28 U.S.C. § 1746(2), I declare the foregoing to be true and correct to the best of my knowledge.

On this 15th day of September 2025, in Washington, D.C.

 Digitally signed
by GINA BRAND
Date: 2025.09.15
11:34:24 -04'00'

Gina Brand

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

The State of KANSAS, *ex rel.* KRIS W.
KOBACH, Attorney General,

Petitioner,

v.

LAURA HOWARD, Secretary,
Department for Children and Families, in
her official capacity;
LAURA KELLY, Governor of Kansas, in
her official capacity,

Respondents.

Case No. SN-2025-CV-000695

Petition Pursuant to K.S.A. Chapter 60

**PETITIONER’S RESPONSE IN OPPOSITION
TO RESPONDENTS’ MOTION TO DISMISS**

EXHIBIT 4

IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS

The State of KANSAS, *ex rel.* KRIS W. KOBACH, Attorney General,

Petitioner,

v.

LAURA HOWARD, Secretary, Department for Children and Families, in her official capacity;

LAURA KELLY, Governor of Kansas, in her official capacity,

Respondents.

AFFIDAVIT OF ERIN DRINNIN

I, Erin Drinnin, being duly sworn, state:

1. I am the Community Access Director for the Iowa Department of Health and Human Services. I have served in this role for nearly three years. Part of my duties as Director include oversight of Iowa's Supplemental Nutrition Assistance Program (SNAP).

2. SNAP is a federally-funded program that provides benefits to supplement the food budget of income-eligible families. SNAP is regulated by the United States Department of Agriculture's (USDA) Food and Nutrition Service (FNS). While Iowa contributes state dollars to fund part of the administration of the SNAP program, the portion of the program providing food benefits to Iowans is 100% federally funded.

3. As Community Access Director, I am familiar with the manner in which the Department processes data requests. My duties include making decisions about whether Iowa HHS will release SNAP data to requesting entities.

4. On May 6, 2025, USDA wrote SNAP State Agency Directors and expressed its intent to comply with President Trump's Executive Order 14243, titled "Stopping Waste, Fraud, and Abuse by Eliminating Information Silos." I had reviewed this Executive Order upon its issuance on or about March 20, 2025, and as a result was familiar with its contents. My understanding of that Order, in relevant part, is that the Federal government intends to eliminate information silos to enable data sharing between State programs and Federal program regulators. This data sharing would allow State and Federal partners to more efficiently and accurately administer SNAP and other programs.

5. In its May 6, 2025 letter, USDA requested that SNAP State Agencies provide the following data:

1. Records sufficient to identify individuals as applicants for, or recipients of, SNAP benefits, including but not limited to personally identifiable information in the form of names, dates of birth, personal addresses used, and Social Security numbers.
2. Records sufficient to calculate the total dollar value of SNAP benefits received by participants over time with the ability to filter benefits received by date ranges.

6. On June 23, 2025, USDA published a System of Records Notice (SORN) in the Federal Register. The SORN described USDA's new system of records titled "National Supplemental Nutrition Assistance Program (SNAP) Information Database." It also described the purpose(s) of the system, noting that data sharing through the new system would allow the Federal and State systems to "identify and rectify any ineligible, duplicate, or fraudulent SNAP enrollments or transactions."

7. On July 9, 2025, USDA issued a second letter to SNAP State Agencies. The letter reiterated that USDA would move to comply with the mandate set forth in Executive Order 14243 via collection of records from SNAP State Agencies and announced publication of its new system of records. It also clarified the proposed data sharing would “eliminate bureaucratic duplication and inefficiency” between the State and Federal governments and “detect overpayments and fraud.”

8. On July 23, 2025, USDA sent a third letter detailing the data that SNAP State Agencies would be required to submit. That letter included a request for information about

individuals who have received, are currently receiving, or have applied to receive SNAP benefits from January 1, 2020, through the present date. Requested data elements shall include records sufficient to identify individuals as applicants for, or recipients of, SNAP benefits, including but not limited to all household group members names, dates of birth, social security numbers, residential and mailing addresses used or provided, as well as all data records used to determine eligibility or ineligibility.

9. On July 25, 2025, State Agency Directors received a fourth letter from USDA. USDA’s fourth letter reminded SNAP State agency directors that such data could be disclosed pursuant to 7 USC 2020(e)(8)(A) and cautioned that failure to provide relevant data could trigger noncompliance procedures.

10. Upon receiving these data requests, I consulted with Iowa HHS’s Data Privacy and Strategy team. That team is charged with reviewing data requests received by the agency and providing legal and security analysis related to proposed release of information.

11. The HHS Data Privacy and Strategy team outlined the legal framework and advised the following: first, pursuant to Iowa Code 217.30(3) and 7 USC 2020(e)(8)(A), Iowa SNAP Data should not be disclosed to or used by any person unless that individual will use it for the purpose of administration or evaluation of a program of services or assistance. Second, individuals to whom data is disclosed must be subject to standards of confidentiality comparable to those imposed on the department. And third, confidential information may be disclosed upon written application to and with the approval of the Director to a public official for use in connection with the department or public official's duties relating to law enforcement, audits, the support and protection of children and families, and other purposes directly connected with the administration of Iowa HHS's programs and services. See Iowa Code 217.30(5)(b)(1).

12. I reviewed the team's legal analysis and determined that, given USDA's stated purposes and the policy goals outlined in President Trump's Executive Order 14243, Iowa HHS could comply with USDA's July 25, 2025 data request. Based on my understanding, training, and experience, the intended purpose of the data sharing was to more efficiently and effectively administer Iowa's SNAP program.

13. Iowa HHS provided the requested data to USDA on or about July 30, 2025. The data provided to USDA included names, dates of birth, social security numbers, addresses, action type (active or denial), effective date, application date, benefit amount, case number, and gross income.


Erin Drinnin

Subscribed and sworn to before me by Erin Drinnin.


Notary Public in and for the State of Iowa

8/19/2020

