

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS**

STATE OF KANSAS, *ex rel*  
KRIS W. KOBACH,  
Attorney General,

Plaintiff,

v.

Case No.: SN-2025-CV-000695

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

Respondents.

**THE RESPONDENTS' JOINT RESPONSE IN OPPOSITION  
TO THE PETITIONER'S MOTION FOR TEMPORARY INJUNCTION**

Respondents, Laura Howard, in her official capacity as Secretary for the Department for Children and Families, by and through her attorney Marc Altenbernt, and Laura Kelly, in her official capacity as Governor of the State of Kansas, by and through her attorney Justin Whitten, file their Response in Opposition to the Petitioner's Motion for Temporary Injunction and hereby states as follows:

**INTRODUCTION**

The State of Kansas, *ex rel.* Kris W. Kobach, Attorney General (hereinafter referred to as the "Petitioner") filed suit in Kansas state district court against Respondents, Laura Howard, in her official capacity as Secretary for the Department for Children and Families, and Laura Kelly, in her official capacity as Governor of the State of Kansas, alleging their failure to comply with Kansas State statutes, the Kansas Constitution, and Federal statutes concerning the Federal Supplemental Nutrition Assistance Program (hereinafter "SNAP"). That same day, the Petitioner

filed a Motion for Temporary Injunction. The gist of the Petitioner's argument concerning the need for a temporary injunction is contained in the following sentences:

Respondents, who control the Kansas Department of Children and Families (DCF), are refusing to follow Kansas and federal law requiring DCF to cooperate with lawful requests by the Food and Nutrition Services (FNS) division of the United States Department of Agriculture (USDA) for information concerning participants in the Supplement Nutrition Assistance Program (SNAP). As a result, Kansas is days away from losing millions of dollars of federal funding and could eventually lose eligibility for SNAP benefits altogether....

[Petitioner's Motion for Temporary Injunction, Page 2]. Literally nothing in the foregoing excerpt is accurate. The Respondents are not failing to follow Kansas and Federal law in their current refusal to turn over certain data demanded by the USDA. In fact, they are doing the opposite. Moreover, Kansas is not "days away from losing millions of dollars of federal funding," since the administrative and judicial remedies afforded the State are far from exhausted. In sum, there is no violation of Federal or State law taking place, and the emergency alleged by the Petitioner does not exist. Therefore, this Court should deny the Petitioner's Motion for Temporary Injunction. At the very least, this Court should not hold a hearing on or order injunctive relief until after the parties have briefed and argued Respondent's forthcoming motion to dismiss for lack of subject matter jurisdiction and failure to state a claim upon which relief can be granted. This Court should decide the motion to dismiss to assure itself it has the jurisdiction to order the relief sought here, which if granted cannot be undone. Once the personal information of over one hundred and eighty thousand (180,000) Kansans is produced, it cannot meaningfully be recalled. The damage to privacy and the loss of trust would be immeasurable. The parties and this Court need not rush such a monumental decision as the State will not lose Federal funds on September 19, 2025, as alleged.

## ADDITIONAL FACTS AND LAW

1. On June 23, 2025, the USDA published a System of Records Notice in the Federal Register (hereinafter “Notice”). A true and correct copy of the June 23, 2025, Notice is attached hereto as **Exhibit “A.”** The Notice lists eleven “routine uses” of the data to be collected from State agencies. Ten out of the eleven appear to fall within the confines of Federal statutory law concerning the production of confidential SNAP data in that they specifically go to the administration or enforcement of the program. Use number eight does not, however. It reads,

(8) When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, USDA/FNS may disclose the record to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

2. On July 9, 2025, the USDA issued correspondence to all “SNAP State Agencies,” reiterating the June 23, 2025, Notice and directing all such agencies to submit the requested data to the USDA by July 30, 2025. A true and correct copy of the July 9, 2025, correspondence is attached hereto as **Exhibit “B.”**

3. DCF is tasked with maintaining SNAP data that is necessary to determine whether the program is being conducted in compliance with Federal law regarding the administration of the SNAP program (7 U.S.C. 2020(a)(3)(A)).

4. The SNAP data held by DCF is to be made available for inspection by the USDA for auditing purposes (7 U.S.C. 2020(a)(3)(B)).

5. DCF must otherwise protect the data from disclosure for any reason other than the following:

- Disclosure of the information is permitted to “persons directly connected with the *administration* or *enforcement* of the provisions of this chapter, regulations issued pursuant to this chapter, Federal assistance programs, or federally-assisted State programs;
- The subsequent use of the information contained in paragraph 1 above, but “only for such *administration* and *enforcement*;”
- Use by the “Comptroller General of the United States for *audit* and *examination authorized by any other provision of the law*;”
- Information obtained “from an applicant household shall be made available...to law enforcement *for the purpose of investigating an alleged violation of this chapter or any regulation issued under the chapter*;”
- Information may be given to the agencies of the Federal Government *for purposes of collecting the amount of overissuance of benefits*;
- Information such as “address, social security number, and photograph of any member of a household *if the law enforcement officer furnishes the State agency with the name of the member and notifies the agency that the member is fleeing to avoid prosecution, or custody or confinement, or is violating a condition of probation or parole*;”
- “For the immediate reporting to the Immigration and Naturalization Service *by the State agency*...that a member of a household is ineligible to receive SNAP benefits because that member is present in the United States” illegally.

7 U.S.C. 2020(e)(8)(A) – (E) (emphasis added).

6. Due to questions over the legality of routine use number eight in light of the aforementioned SNAP statutory scheme, Laura Howard, Secretary for the Department for Children and Families tendered correspondence to its contractor FIS, LLC on July 15, 2025, directing it to not turn over any data to the USDA at that time. A true and correct copy of the July 15, 2025, correspondence is attached as an exhibit to the Affidavit of Laura Howard, attached hereto as **Exhibit “C.”**

7. On July 23, 2025, the USDA tendered another letter to all State Agency Directors reminding them of the data demand. However, the letter expanded upon the data previously

identified in the Notice and added the confidential data, e.g., social security numbers, dates of birth, etc., of members of a recipient's household. A true and correct copy of the July 23, 2025, correspondence is attached hereto as **Exhibit "D."**

8. On July 25, 2025, the USDA tendered correspondence to all State Agency Directors ordering that all requested SNAP data be produced by July 30, 2025. A true and correct copy of the July 30, 2025, correspondence is attached hereto as **Exhibit "E."**

9. Due to continued concerns over the legality of the USDA's demand for confidential data given its intended use, Secretary Howard tendered correspondence to the USDA on July 30, 2025, again advising that DCF could not comply with the data demand at that time. A true and correct copy of the July 30, 2025, correspondence is attached as an exhibit to Secretary Howard's Affidavit, attached hereto as Exhibit C.

10. On August 12, 2025, the USDA tendered correspondence to Governor Kelly reiterating the previous data demands and providing advance notice of the disallowance of federal funds unless DCF complied with the data demand by August 15, 2025. A true and correct copy of the August 12, 2025, correspondence is attached hereto as **Exhibit "F."**

11. On August 14, 2025, Secretary Howard again advised the USDA that DCF could not comply with the data request due to concerns over the legality of the demand. A true and correct copy of the August 14, 2025, correspondence is attached as an exhibit to Secretary Howard's Affidavit attached hereto as Exhibit C.

12. On August 20, 2025, the USDA issued its "formal warning" that federal funds would be disallowed if DCF did not comply with the data demand within thirty (30) days, or by September 19, 2025. A true and correct copy of the August 20, 2025, correspondence is attached hereto as **Exhibit "G."**

13. On September 5, 2025, Secretary Howard tendered correspondence to the USDA, pursuant to 7 C.F.R. § 276.4(d)(2)(iii), seeking an abeyance of the August 20, 2025, formal warning, pending the outcome of the lawsuit currently pending in the United States District Court for the Northern District of California, case no. 3:25-cv-06310-MMC. A true and correct copy of the September 5, 2025, correspondence is attached as an exhibit to Secretary Howard's Affidavit which is attached hereto as Exhibit C.

14. In the event the USDA disallows federal funds under SNAP as they have warned, DCF may file an appeal of that decision with the State Food Stamp Appeals board, pursuant to 7 C.F.R. § 276.4(f) and 276.7. The filing of the appeal automatically stays any further action by the USDA. 7 C.F.R. § 276.7(e).

15. In the event the USDA disallows federal funds, DCF will file an appeal before the State Food Stamp Appeals Board (Exhibit C, Paragraph 7).

16. The Respondents will be filing a Motion to Dismiss the Petitioner's Petition for Mandamus and Injunctive Relief on the grounds that this Court lacks subject matter jurisdiction because the claims are not ripe and the Attorney General lacks standing, and the Petition fails to state a claim upon which relief can be granted.

### **ARGUMENT AND AUTHORITIES**

#### **I. The Respondents Will be Filing a Motion to Dismiss the Petitioner's Petition for Mandamus Contesting This Court's Subject Matter Jurisdiction.**

"Subject matter jurisdiction establishes the court's authority to hear and decide a particular action." Sleeth v. Sedan City Hosp, 298 Kan. 853, 868, 317 P.3d 782 (2014). "A court must have subject matter jurisdiction to enter a valid judgment. If a court lacks subject matter jurisdiction, its

actions have no legal force or effect, and the court's orders are void.” Interest of S.L., 61 Kan.App.2d 276 (K. Ct. App. 2021).

Before addressing the merits of the Petitioner’s motion, this Court should note that the Petitioners will be filing a Motion to Dismiss the Petition for Mandamus for lack of subject matter jurisdiction and failure to state a claim upon which relief may be granted in the coming days. Absent subject matter jurisdiction, this Court is unable to consider the Petitioner’s case and any order entered by this Court, including one addressing the instant motion, is void. As will be set forth below, there is no emergency requiring this Court to rule on the Motion for Temporary Injunction until it rules on the Petitioners’ Motion to Dismiss. In the event this Court considers the Motion for Temporary Injunction, it should deny the same for the reasons set forth below.

## **II. The Petitioner’s Motion for a Temporary Injunction Should be Denied.**

The Petitioner correctly identifies the five elements that he must establish for this Court to enter a temporary injunction. Those elements are:

(1) a substantial likelihood of eventually prevailing on the merits; (2) a reasonable probability of suffering irreparable future injury; (3) the lack of obtaining an adequate remedy at law; (4) the threat of suffering injury outweighs whatever damage the proposed injunction may cause the opposing party; (5) and the impact of issuing the injunction will not be adverse to the public interest.

Downtown Bar & Grill, LLC v. State, 294 Kan. 188, 191 (2012). However, the facts are insufficient to satisfy any of the five elements. “And *all* these factors are necessary to obtain a temporary injunction. The absence of any single factor ends the inquiry.” State ex rel. Kobach v. Harper, 65 Kan. App. 2d 680, 687, 571 P.3d 6, 13 (2025).

**A. There is No Probability of Suffering Irreparable Future Injury.**

The Petitioner argues that, absent this Court's granting of his Motion for Temporary Injunction, the USDA will disallow \$10.4 million every three months beginning on September 19, 2025. This contention is false. Two important events will occur before the USDA may disallow any funds. First, as indicated previously, there is no threat of funds being disallowed on September 19, 2025, or on any subsequent date for a period of at least several months. If the USDA indicates that it will disallow funds following the expiration of the warning period,<sup>1</sup> then DCF may file an appeal with the State Food Stamp Appeals Board. 7 C.F.R. § 276.7. Such an appeal automatically stays any further enforcement action by the USDA. 7 C.F.R. § 276.4(f) and 276.7. Had the Petitioner consulted with the Respondents, he would have been so advised of DCF's plan.

Second, there is currently pending in the United States District Court for the Northern District of California, case no. 3:25-cv-06310-MMC, a lawsuit filed by multiple states against the USDA for the very issue we address instantly. The Plaintiff's Motion for Temporary Injunction is being heard on September 16, 2025. While Kansas is not a party to that lawsuit, as the Petitioner chose not to join same, the court's decision may have a direct impact on this matter given that the issues are identical.

Given the foregoing, it is clear that there is no risk of irreparable harm being caused to the State of Kansas or its citizens receiving SNAP benefits anytime soon. Further, as Petitioner acknowledges, the SNAP program is not all or nothing in Kansas. Even if the data is not produced by some arbitrarily set deadline, the entire program is not jeopardized since DCF may later produce the data. As the litigation unfolds and the lawfulness of the USDA's data request is determined,

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<sup>1</sup> There is no certainty that the USDA will issue a notice of disallowance at all. DCF tendered a letter requesting that the formal warning be placed in abeyance on September 5, 2025. As of this date, no response has been received from the USDA.

DCF may at any time provide the requested data, which would cease any disallowance or suspension of funds (See Exhs. F & G). As such, the Petitioner have undisputedly failed to meet this element, and therefore, his Motion for Temporary Injunction must be denied.

**B. The Threat of Suffering Injury Does Not Outweigh Whatever Damage the Proposed Injunction May Cause the Opposing Party.**

As indicated above, there is no “threat of suffering injury,” which should conclude the analysis of this element. That being said, the threat of significant damage to DCF and the State of Kansas in the event it improperly discloses confidential data is real. Penalties for mishandling confidential data range from corrective action plans to fines or the loss of the federal funds, not to mention lawsuits from affected individuals.

For example, the Kansas Cybersecurity Act, K.S.A. 75-7236 et seq., imposes obligations on executive branch agency heads to: 1) “be responsible for security of all data ... under such agency's purview, irrespective of the location of the data or resources;” and 2) if the “agency owns, licenses or maintains computerized data that includes personal information, confidential information or information, the disclosure of which is regulated by law, such agency shall, in the event of a breach or suspected breach of system security or an unauthorized exposure of that information” comply with notification requirements to affected Kansas residents under K.S.A. 50-7a01. K.S.A. 75-7240(a)(1), (4). “Breach” is defined as “unauthorized access of data in electronic form containing personal information.” K.S.A. 75-7237(b). “Personal information” is defined as including first name, last name, and social security number. K.S.A. 75-7237(i)(1). There is no question that the massive amount of data requested by the USDA is “personal information” since the USDA expressly asks for names and social security numbers (Exh. A). If the USDA’s request is not lawful, then DCF has no authority to produce it; the result would be unauthorized exposure

and unauthorized access of personal information of over one hundred and eighty thousand (180,000) Kansans. Among other measures, the Kansas Cybersecurity Act would require notification to every affected Kansan. K.S.A. 75-7240(a)(4)(A), 50-7a02.

Moreover, while not a direct party to this action, the personal information of Kansas citizens utilizing SNAP, as well as those in their households, will be put at risk if DCF is ordered to turn over the requested data is turned over pursuant the USDA's demand. The information being demanded by the USDA explicitly includes, amongst other things, social security numbers and dates of birth, which are protected from unauthorized disclosure under Federal and State law. See 7 U.S.C. 2020(e)(8) and K.S.A. 39-709b, respectively.

Regardless of whether the Petitioner finds the Respondents' concerns of financial penalties to be merely theoretical, those risks are real nonetheless. On the other hand, there is literally no risk of injury in the event this Court denies the Motion for Temporary Injunction. As such, the Petitioner has failed to substantiate this necessary element and his Motion should be denied.

**C. The Impact of Issuing the Injunction Will Not be Adverse to the Public Interest.**

To reiterate, there is no risk of losing federal funds to the State of Kansas anytime in the near future. However, the illegal disclosure of confidential personal information is clearly adverse to the public interest and once it is done, it cannot be reversed. The Petitioner has failed to carry this element.

**D. The Petitioner Has Not Shown a Substantial Likelihood of Prevailing on the Merits.**

**1. Nothing in Kansas Law Requires the Production of the Requested Data.**

The Respondents wish to reiterate that they are filing a Motion to Dismiss for lack of subject matter jurisdiction on the grounds that this entire case presents a federal question: is the USDA's data demand legal *under Federal law*? While the Petitioner attempts to utilize Kansas statutes to bring this matter under State jurisdiction, the simple fact is the referenced statutes do nothing more than reflect Federal law. For example, they cite to K.S.A. 39-708c(f) which requires DCF to make any reports required by Federal agencies. DCF does not dispute that it is required to make regular reports to the USDA concerning the administration of the SNAP program. It has always done so. However, the USDA's request is not for a "report." It is a request for an unprecedented data dump of confidential information that will be placed in a Federal database and distributed to a host of other entities to be used to enforce civil, criminal, and regulatory laws (Exh. A). Moreover, the USDA's request is new. It is not authorized by any Federal statute. Instead, it was created via a Notice in the Federal Register, which obviously is not a substitute for valid legislation. In the same way, the Petitioner's references to Executive Orders are also immaterial since legislation cannot be changed via such a vehicle.

Ultimately, the issue is whether the USDA demand is legal under Federal law. The Petitioner argues that the Respondents have no "valid reason for refusing to comply with their mandated obligations under the law" [*Id.*, Pg. 17]. He further asserts that "there is no state law that prevents Respondents from providing FNS with the necessary SNAP participant data" [*Id.*]. This is inaccurate. K.S.A. 39-709b specifically prohibits the disclosure of the requested information absent a recognized exception, which is consistent with Federal law. So, too, does the

Kansas Cybersecurity Act prevent unauthorized access of personal information and information regulated by law.

The Petitioner asserts that K.S.A. 39-709b(a)(3)(B) requires the production of the requested data. This is a misinterpretation of the statute, however. The statute reads,

(a) Information concerning applicants for and recipients of assistance from the secretary shall be confidential and privileged and shall only be available to the secretary and the officers and employees of the secretary except as set forth in this section. Unless otherwise prohibited by law, such information shall be disclosed to an applicant, recipient or outside source under the following conditions:

(3) information may be disclosed to an outside source if such disclosure:

(B) is directly connected to the administration of the secretary's program....

One of the “routine uses” listed in the Notice in the Federal Register for the data is most certainly *not* directly connected to the administration of the secretary’s program. Routine use number 8 reads,

(8) When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, USDA/FNS may disclose the record to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

(Exh. A). This “use” has nothing to do with the administration of the SNAP program. Instead, it allows for the USDA to take confidential data and farm it out to a long list of parties that have no statutory right to receive such information, for purposes that are contrary to both Federal and State law. Simply put, there is no Kansas statute that requires the production of the requested data. If anything, Kansas statute supports the Respondents’ concerns over the USDA request.

## 2. The Respondents are Not Violating Federal Law

Again, the Respondents assert that this Court is without subject matter jurisdiction to determine whether the Respondents are violating Federal law in this case. The foregoing notwithstanding, the Respondents are not violating Federal law. Instead of evaluating the Federal statutory scheme in full, the Petitioner pulls random statutes out of context. In doing so, the Petitioner has misinterpreted applicable Federal law.

The Petitioner first cites to 7 U.S.C. § 2020(a)(3)(A), which reads,

Each State agency shall keep such records as may be necessary to determine whether the program is being conducted in compliance with this chapter (including regulations issued under this chapter).

The Petitioner makes no argument that DCF is not keeping records in accordance with this section. Instead, he argues that since DCF is required to maintain the records, it is automatically required to turn it over to the USDA for any suggested reason [*Id.* at Pg. 22]. He cites to 7 U.S.C. § 2020(e)(8)(A) as support for his contention. The cited section reads in full,

(e) Requisites of State plan of operation

The State plan of operation required under subsection (d) of this section shall provide, among such other provisions as may be required by regulation—

(8) safeguards which prohibit the use or disclosure of information obtained from applicant households, except that—

(A) the safeguards shall permit—

(i) the disclosure of such information to persons directly connected with the *administration or enforcement* of the provisions of this chapter, regulations issued pursuant to this chapter, Federal assistance programs, or federally-assisted State programs; and

(ii) the subsequent use of the information by persons described in clause (i) only for such *administration or enforcement*.

(Emphasis added). Contrary to the Plaintiff's interpretation, the foregoing statute supports the Respondents' concerns over producing the requested data. DCF is required to safeguard the confidential information in its possession and only release it to certain agencies for certain reasons. The cited section of the statute limits disclosure to those directly connected to the "administration

or enforcement” of the SNAP program. Moreover, any subsequent use of such information may only be for such administration and enforcement. This latter provision is the most problematic since routine use eight allows the USDA to distribute confidential information to a variety of other states, agencies, and law enforcement for the enforcement of *any* laws, whether “civil, criminal or regulatory” (Exh. A). This stated purpose far exceeds the allowed use referenced in 7 U.S.C. § 2020(e)(8)(A)(ii).

The Petitioner has failed to provide any meritorious argument that DCF is violating Federal law by refusing to produce the requested data at this time. Instead, it is clear that producing confidential data to the USDA so that they can then turn it over to a wide range of organizations for the purpose of enforcing a wide range of laws violates the SNAP statutory scheme.

### **3. Respondents are Not Violating the Kansas Constitution**

As it did with Kansas statutes, the Petitioner tries to bring this case under state jurisdiction by citing to the Kansas Constitution. This effort is without merit. Admittedly, it is somewhat difficult to follow the Petitioner’s argument here. It is true that the Legislature drafts and submits bills. However, once a bill becomes law, the execution of the law is left to the Executive branch as long as such execution complies with relevant statutes. Despite the histrionics about the Executive branch unilaterally repealing or re-writing laws, DCF is actually attempting to give effect to both State and Federal law.

When reading the Petitioner’s argument, one would think the Kansas Legislature directed DCF to comply with any demands for confidential data from the USDA for any reason. It certainly could have written such legislation if it wanted to (although such legislation would violate applicable Federal law). Such is simply not the case. As shown above, Kansas law makes disclosure of confidential SNAP data the exception, not the rule. Such information can only be

disclosed to specific groups for specific purposes. This is not a separation of powers issue. It is an interpretation of Federal statutory law issue which a Federal court is currently considering. In the event the court finds that the production of the demanded data is required, DCF will produce said data.

Further, the claim that Respondents are taking money from the state treasury without a specific appropriation made by law in violation of Article 2, Section 24 of the Kansas Constitution is factually and legally unsound. The Kansas Constitution and case law are clear that at least two prerequisites must apply before the limitation in Article 2, Section 24 of the Kansas Constitution applies. First, “from the treasury” means the money must preexist in the treasury – this alone defeats any claim that unreceived reimbursements or disallowance of future unreceived money is subject to this constitutional provision. State ex rel. Boynton v. Kansas State Highway Comm'n, 139 Kan. 391, 32 P.2d 493, 496 (1934) (stating, “Since these funds are not required by the Constitution to find their way into the state treasury, and by statute do not do so, article 2, § 24, requiring appropriation of moneys from the state treasury, has no application.”). Second, the money must be there rightfully – this defeats any claim that any money not lawfully there, e.g., by disallowance or suspension or otherwise never received is not subject to this constitutional provision.

The concept is simple: if the money is not in the state treasury or does not belong to the state, then it is not subject to Article 2, Section 24 of the Kansas Constitution. In even simpler and common-sense terms: one cannot spend money from the treasury that isn't there or isn't the state's. To hold otherwise would be a violation of separation powers in that it would be legislative overreach into the routine and necessary executive functions that agencies carry out– administering

federal programs and seeking reimbursements for costs. There are no constitutional violations here and these arguments should be disregarded.

### **III. Granting the Requested Temporary Injunction Would Irreparably Destroy the Status Quo.**

“The grant of a temporary injunction would not be proper if it would appear to accomplish the whole object of the suit without bringing the cause or claim to trial. A temporary injunction merely preserves the status quo until a final determination of a controversy can be made.” Wichita Wire, Inc. v. Lenox, 11 Kan.App.2d 459, 461, 726 P.2d 287, 290 (K. Ct. App. 1986). Maintaining the status quo requires the denial of the Petitioner’s motion. As indicated, there is no risk of Kansas losing Federal funding on September 19, 2025, or anytime soon thereafter, because DCF will file for an administrative appeal if necessary. Doing so will automatically stay any enforcement of the USDA’s decision. The only thing this Court could do to upset the status quo would be to order DCF to produce the demanded data when significant questions of the legality of such demand remain undecided. Such a production could not be practically reversed once done and the confidential information of Kansas citizens would be put at risk. As such, this Court should deny the Petitioner’s Motion for Temporary Injunction.

WHEREFORE, the Respondents respectfully request that this Court deny the Motion for Temporary Injunction and for any other relief it deems just.

Respectfully Submitted,

/s/ Marc Altenbernt

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*Attorney for Defendant, Laura Kelly, Governor  
State of Kansas*

### **CERTIFICATE OF SERVICE**

I hereby certify that I presented the foregoing to the Clerk of the Court for filing and uploading to the CM/ECF system which sent electronic notification of such filing to all those individuals currently electronically registered with the Court on the 11<sup>th</sup> day of September, 2025.

/s/ Marc Altenbernt

Marc Altenbernt

/s/ Justin H. Whitten

Justin H. Whitten



# Notices

Federal Register

Vol. 90, No. 118

Monday, June 23, 2025

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

## DEPARTMENT OF AGRICULTURE

### Privacy Act of 1974; System of Records

**AGENCY:** Department of Agriculture (USDA), Food and Nutrition Service (FNS).

**ACTION:** Notice of a new system of records.

**SUMMARY:** Pursuant to the provisions of the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the United States Department of Agriculture (USDA) proposes to create a new system of records (SOR) entitled USDA/FNS-15, "National Supplemental Nutrition Assistance Program (SNAP) Information Database." This system is owned, administered, and secured by the Food and Nutrition Service (FNS). The primary purposes of this system are to validate the accuracy of eligibility determinations and strengthen SNAP and government program integrity.

**DATES:** In accordance with 5 U.S.C. 552a(e)(4) and (11), this system of records notice will become effective upon publication in the **Federal Register**, except for the routine uses, which will become effective on July 23, 2025, unless USDA determines they must be changed as a result of public comment. USDA will publish any changes to the system of records notice resulting from public comment.

**ADDRESSES:** Interested parties may submit written comments by one of the following methods:

- *Preferred:* Federal eRulemaking Portal at <http://www.regulations.gov> provides the ability to type short comments directly into the comment field on this web page or attach a file for lengthier comments. Follow the online instructions at that site for submitting comments.

- *By email:* [Insert email contact]

- *By mail:* [Insert mail contact], FNS, 1320 Braddock Place, Alexandria, VA 22314.

**Instructions:** All comment submissions must include the agency name and docket number for this rulemaking. All comments received will be posted without change to <http://www.regulations.gov>, including any personal information provided. However, comments containing profanity or inappropriate or abusive content may be rejected or redacted before posting.

**Docket:** For access to the docket to read background documents or comments received go to <http://www.regulations.gov>.

**FOR FURTHER INFORMATION CONTACT:** For general questions, please contact: FNS Privacy Officer, Information Management Branch, Food and Nutrition Service, USDA, 1320 Braddock Pl, Alexandria, Virginia 22314; or via email at [SM.fn.Privacy-FNS@usda.gov](mailto:SM.fn.Privacy-FNS@usda.gov).

#### SUPPLEMENTARY INFORMATION:

##### Background

Pursuant to, among other authorities, 7 U.S.C. 2020(a)(3) and (e)(8)(A) and 7 CFR 272.1(c)(1) and (e), FNS will work with all State agencies and their designated vendors and/or contractors to transmit data on SNAP participants and transactions for the purposes listed below. This system is consistent with and effectuates multiple executive orders, including but not limited to Executive Order 14243 of March 20, 2025, *Stopping Waste, Fraud, and Abuse by Eliminating Information Silos* and Executive Order 14218 of February 19, 2025, *Ending Taxpayer Subsidization of Open Borders*.

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.

The system of records notice explains how the records within the new system will be used and with whom they will be shared.

##### Privacy Act

The Privacy Act of 1974 (the Privacy Act), 5 U.S.C. 552a, embodies fair

information principles in a statutory framework governing the means by which the United States Government collects, maintains, uses, and disseminates records about individuals. The Privacy Act applies to information that is maintained in a SOR. A SOR is a group of any records under the control of an agency for which information is retrieved by the name of an individual or by some identifying number, symbol, or other identifying particular assigned to the individual. In the Privacy Act, an individual is defined to encompass United States citizens and lawful permanent residents.

The Privacy Act requires each agency to publish in the **Federal Register** a description denoting the type and character of each SOR that the agency maintains, to publish the routine uses that are contained in each system in order to make agency record keeping practices transparent, and to notify individuals regarding the uses and locations of their records.

In accordance with 5 U.S.C. 552a(r), USDA has provided a report of this SOR to the Office of Management and Budget and to the relevant committees of Congress.

#### SYSTEM NAME AND NUMBER:

USDA/FNS-15, National SNAP Information Database.

#### SECURITY CLASSIFICATION:

Unclassified.

#### SYSTEM LOCATION:

The National SNAP Information Database is maintained in the FNS Amazon Web Service (AWS) cloud infrastructure environment that is used only by Federal employees and contractors. The data is processed and stored solely within the continental United States. The agency, U.S. Department of Agriculture, address is 1400 Independence Ave. SW, Washington, DC 20250 and the address of the third-party service provider is Microsoft, 1 Microsoft Way, Redmond, Washington 98052-6399.

#### SYSTEM MANAGER(S):

Director, Portfolio Management Division, Office of Information Technology, Food and Nutrition Service, 1320 Braddock Road, Alexandria, Virginia 22314. Telephone: (703) 305-2504.

**AUTHORITY FOR MAINTENANCE OF THE SYSTEM:**

7 U.S.C. 2020(a)(3) and (e)(8)(A); 7 CFR 272.1(c)(1) and (e); Executive Order (E.O.) 14243; Executive Order 14218.

**PURPOSE(S) OF THE SYSTEM:**

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 and will ensure Americans in need receive assistance, while at the same time safeguarding taxpayer dollars from abuse. USDA will leverage data-sharing across Federal and State systems to identify and rectify any ineligible, duplicate, or fraudulent SNAP enrollments or transactions. This includes 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 using lawfully shared internal and interagency data. This also includes sharing, where permitted by law and consistent with this notice, information with State agencies when necessary to investigate and rectify fraudulent or otherwise improper or illegal SNAP enrollments or transactions.

**CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:**

Individuals who have received, are currently receiving, or have applied to receive SNAP benefits.

**CATEGORIES OF RECORDS IN THE SYSTEM:**

The system consists of records containing personally identifying information, including but not limited to SNAP participant name, Social Security Number (SSN), date of birth (DOB), residential address, Electronic Benefit Transaction (EBT) card number, and case record identifier number or other identifiers or data elements maintained by States, vendors, or contractors to identify SNAP recipients. The system also consists of information derived from and associated with EBT transactions, including but not limited to records sufficient to calculate the total dollar value of SNAP benefits received by participants over time, such as applied amounts and benefit available dates.

**RECORD SOURCE CATEGORIES:**

Information in this system is provided by the 53 State agencies that administer SNAP and their designated vendors and/or contractors. Information in this system is also provided by other Federal agencies with which USDA partners on program integrity efforts.

**ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND PURPOSES OF SUCH USES:**

Records created or stored in this system may be disclosed pursuant to the permitted routine uses outlined below to the extent such uses are authorized by, among other authorities, 7 U.S.C. 2020(a)(3) and (e)(8), 7 CFR 272.1(c)(1) and (e), and Executive Orders 14218 and 14243.

(1) To the Department of Justice or in a proceeding before a court or adjudicative body when: (a) USDA/FNS or any component thereof; or (b) any employee of USDA in his or her official capacity, or any employee of the agency in his or her individual capacity where the Department of Justice has agreed to represent the employee; or (c) the United States Government, is a party to litigation or has an interest in such litigation, and USDA determines that the records are both relevant and necessary to the litigation and the use of such records by the Department of Justice is deemed by USDA to be for a purpose that is compatible with the purpose for which USDA collected the records.

(2) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body or official, when the USDA/FNS or other Agency representing the USDA, determines that the records are both relevant and necessary to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant and necessary to the proceeding.

(3) To a Member of Congress or to a Congressional staff member in response to an inquiry of the Congressional office made at the request of, and on behalf of, the individual about whom the record is maintained.

(4) To the National Archives and Records Administration or other Federal government agencies pursuant to records management activities being conducted under 44 U.S.C. 2904 and 2906.

(5) To another Federal agency or Federal entity, when USDA/FNS determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in: (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

(6) To appropriate agencies, entities, and persons when: (1) USDA/FNS suspects or has confirmed that there has been a breach of the system of records; (2) USDA/FNS has determined that as a result of the suspected or confirmed breach there is a risk of harm to individuals, USDA (including its information systems, programs, and operations), the Federal Government, or national security; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with USDA's efforts to respond to the suspected or confirmed breach or to prevent, minimize, or remedy such harm.

(7) To contractors, grantees, experts, consultants, and the agents thereof, and others performing or working on a contract, service, grant, cooperative agreement, or other assignment for USDA, when necessary to accomplish an agency function related to this system of records. USDA and FNS will require individuals provided information under this routine use to comply with all applicable requirements and limitations of disclosure imposed by the Privacy Act.

(8) When a record on its face, or in conjunction with other records, indicates a violation or potential violation of law, whether civil, criminal or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto, USDA/FNS may disclose the record to the appropriate agency, whether Federal, foreign, State, local, or tribal, or other public authority responsible for enforcing, investigating, or prosecuting such violation or charged with enforcing or implementing the statute, or rule, regulation, or order issued pursuant thereto, if the information disclosed is relevant to any enforcement, regulatory, investigative or prosecutive responsibility of the receiving entity.

(9) To Federal and State Agencies responsible for: (1) the administration of SNAP; or (2) the administration of other Federal benefits programs to the extent permitted by applicable law when such information is necessary for the performance of lawful audit, oversight, or administrative functions.

(10) To the U.S. Department of the Treasury when disclosure of the information is relevant and necessary to review payment and award eligibility through the Do Not Pay Working System for the purposes of identifying, preventing, or recouping improper payments to an applicant for, or recipient of, Federal funds, including funds disbursed by a state (meaning a state of the United States, the District of

Columbia, a territory or possession of the United States, or a federally recognized Indian tribe) in a state-administered, federally funded program.

(11) To support another Federal agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States (including any State or local governmental agency), that administers, or that has the authority to investigate or assist USDA to investigate potential fraud, waste, or abuse in, a Federal benefits program funded in whole or in part by Federal funds, when disclosure is deemed reasonably necessary by USDA to prevent, deter, discover, detect, investigate, examine, prosecute, sue with respect to, defend against, correct, remedy, or otherwise combat fraud, waste, or abuse in such programs.

**POLICIES AND PRACTICES FOR STORAGE OF RECORDS:**

The National SNAP Information Database will be hosted in the FNS AWS Cloud infrastructure environment, which is FedRAMP certified. These records are electronic.

**POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:**

Records may be indexed and retrieved by the name of the individual, SSN, EBT card number, case record identifier number, or any other identifier or data element used by any State, vendor, or contractor to identify SNAP recipients.

**POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:**

Records are retained and disposed of in accordance with Section 11(a)(3)(B) of the FNA. Records may be retained for a period of not less than 3 years as specified in the FNA or applicable regulation, or for a longer period as required by litigation, investigation, and/or audit. Electronic records are retained by FNS employees and contractors at FNS offices. This system does not yet have a NARA-approved records schedule. All records in this system will be kept indefinitely unless otherwise required by law until NARA has approved a records schedule for this system.

**ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:**

*Administrative Safeguards:* The USDA safeguards records in this system according to applicable rules and policies, including all applicable USDA automated systems security and access policies. USDA has imposed strict controls to minimize the risk of compromising information in the system. Access to the computer system containing the records in this system is

limited to those individuals who have a need to know the information for the performance of their official duties and who have appropriate clearances or permissions. Access is controlled through USDA eAuthentication service.

*Technical Safeguards:* The National SNAP Information Database will utilize a robust collection of technical safeguards to ensure the integrity of the platform. The National SNAP Information Database is designed to meet all technical safeguards required by its system categorization in National Institute of Standards and Technology (NIST) 800-53. The National SNAP Information Database will be hosted in a secure environment that uses perimeter security protection to prevent interference or access from outside intruders. When accessing the National SNAP Information Database, Secure Socket Layer (SSL)/Transport Layer Security (TLS) technology protects the user's information by using both server authentication and data encryption. Users will only access the National SNAP Information Database by USDA eAuthentication through Personal Identity Verification (PIV) Card and Personal Identification Number (PIN) entry or Login.gov. The National SNAP Information Database administrators will have a suite of security tools that can be used to increase the security of the system.

*Physical Safeguards:* The servers that host the National SNAP Information Database are stored in a USDA FedRAMP authorized data center with strict physical access control procedures in place to prevent unauthorized access.

**RECORD ACCESS PROCEDURES:**

Personal information contained in this system is provided by the State agency, or such agency's designated vendors and/or contractors, in the State where the individual is a SNAP participant or applicant. An individual may obtain information about a record in the system which pertains to the individual by submitting a written request to the systems manager listed above via letter or online at <https://efoia-pal.usda.gov/>. If by mail, the letter should be marked "Privacy Act Request." Requests should include the name of the individual making the request, the name of the system of records, any other information specified in the system notice, and a statement of whether the requester desires to be supplied with copies by mail or electronically. Individuals may also directly contact the applicable State agency or local SNAP office. A request for information pertaining to an individual should contain the name,

address, date of birth, and SSN of the individual, and any other information that will assist in locating the record.

**CONTESTING RECORD PROCEDURES:**

Individuals desiring to contest or amend information maintained in the system should direct their request to the system manager listed above or to the State agency or designated vendor/contractor that provided the data. The request should identify each record in question, state the amendment or correction desired, and state why the individual believes that the record is not accurate, relevant, timely, or complete. The individual may submit any documentation that would be helpful. Where consistent with the Privacy Act and this notice, requests sent to the system manager will be shared with the State agency in the State where the individual is a SNAP participant or applicant for resolution. Requests must follow the procedures set forth in 7 CFR 1.116 (Request for correction or amendment to record).

**NOTIFICATION PROCEDURES:**

Any individual may request information regarding this system of records, or information as to whether the system contains records pertaining to the individual, from the System Manager listed above: See RECORD ACCESS PROCEDURES.

**EXEMPTIONS PROMULGATED FOR THE SYSTEM:**

None.

**HISTORY:**

None.

**James C. Miller,**  
Administrator.

[FR Doc. 2025-11463 Filed 6-20-25; 8:45 am]

**BILLING CODE 3410-30-P**

**CIVIL RIGHTS COLD CASE RECORDS REVIEW BOARD**

[Agency Docket Number: CRCCRRB-2025-0017-N]

**Notice of Formal Determination on Records Release**

**AGENCY:** Civil Rights Cold Case Records Review Board.

**ACTION:** Notice.

**SUMMARY:** The Civil Rights Cold Case Records Review Board received 4,701 pages of records from the National Archives and Records Administration (NARA), the Department of Justice, and the Federal Bureau of Investigation (FBI) related to five civil rights cold case incidents to which the Review Board assigned the unique identifiers 2023-



*Secretary Brooke L. Rollins*

July 9, 2025

Dear SNAP State Agencies,

On March 20, 2025, President Trump issued Executive Order 14243, [Stopping Waste, Fraud, and Abuse by Eliminating Information Silos](#). This Executive Order required agency heads to “take all necessary steps, to the maximum extent consistent with law, to ensure the Federal Government has unfettered access to comprehensive data from all state programs that receive federal funding, including, as appropriate, data generated by those programs but maintained in third-party databases.” The Department of Agriculture (USDA) is committed to effectuating this Executive Order with respect to all programs in its purview.

The Food and Nutrition Service (FNS) at USDA works in partnership with State agencies to provide nutrition assistance to Americans in need through the Supplemental Nutrition Assistance Program (SNAP). It is imperative that USDA eliminates bureaucratic duplication and inefficiency and enhances the Government’s ability not only to have point-in-time information but also to detect overpayments and fraud. As noted in the May 6, 2025, announcement of the Department’s plan to request these data from EBT processors, USDA is committed to ensuring appropriate and lawful participation in SNAP.

On June 23, 2025, pursuant to the provisions of the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, USDA published a [notice in the Federal Register](#) that the department proposes to create a new system of records (SOR) entitled USDA/FNS-15, “National Supplemental Nutrition Assistance Program (SNAP) Information Database.” This system is owned, administered, and secured by FNS, and the system’s primary purpose is to strengthen SNAP and government program integrity.

In accordance with [5 USC 552a\(e\)\(4\)](#) and [\(11\)](#), this system of records notice becomes effective upon publication in the Federal Register, except for the routine uses, which will become effective on July 23, 2025. To ensure efficient implementation of this system, and to ensure USDA has a complete and accurate database, we are requiring 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. The required data are listed in the notice section, “Categories of Records in the System.”

Thank you for your continued work to help address the needs of vulnerable Americans and safeguard taxpayer dollars. If you or your staff have any questions, please have your staff contact the FNS Governmental Affairs Team at [fnsgovaffairs@usda.gov](mailto:fnsgovaffairs@usda.gov).

Sincerely,

A handwritten signature in black ink that reads "Brooke L. Rollins".

Brooke L. Rollins

Secretary

U.S. Department of Agriculture

**IN THE DISTRICT COURT OF SHAWNEE COUNTY, KANSAS**

STATE OF KANSAS, *ex rel*  
KRIS W. KOBACH,  
Attorney General,

Plaintiff,

v.

Case No.: SN-2025-CV-000695

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

Respondents.

**AFFIDAVIT OF LAURA HOWARD, SECRETARY  
FOR THE DEPARTMENT FOR CHILDREN AND FAMILIES**

I, Laura Howard, state under penalty of perjury the following to be true:

1. I have personal knowledge of the contents of this Affidavit.
2. I am the Secretary for the Kansas Department for Children and Families.
3. Due to questions over the legality of “routine use” number eight in the June 23, 2025, Notice in the Federal Register, I tendered correspondence to DCF contractor FIS, LLC on July 15, 2025, directing it to not turn over any data to the USDA at that time. A true and correct copy of the July 15, 2025, correspondence is attached hereto as **Exhibit “1.”**
4. Due to continued concerns over the legality of the USDA’s demand for confidential data given its intended use, I tendered correspondence to the USDA on July 30, 2025, again advising that DCF could not comply with the data demand at that time. A true and correct copy of the July 30, 2025, correspondence is attached hereto as **Exhibit “2.”**

5. On August 14, 2025, I tendered correspondence to the USDA advising that DCF could not comply with the data request due to concerns over the legality of the demand. A true and correct copy of the August 14, 2025, correspondence is attached hereto as **Exhibit “3.”**

6. On September 5, 2025, I tendered correspondence to the USDA seeking an abeyance of the August 20, 2025, formal warning, pending the outcome of the lawsuit currently pending in the United States District Court for the Northern District of California, case no. 3:25-cv-06310-MMC. A true and correct copy of the September 5, 2025, correspondence is attached hereto as **Exhibit “4.”**

7. In the event the USDA disallows funds under the SNAP program, I will direct DCF to file a notice appeal with the State Food Stamp Appeals Board within 10 days of that decision.

Further affiant sayeth naught,

*Laura Howard*

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July 15, 2025

Prashant Gupta  
Fidelity Information Services, LLC  
SVP, Government Services EBT

**Re: Response to June 23, 2025 Federal Register publication**

Dear Mr. Gupta,

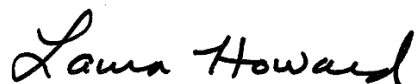
On June 23, 2025, pursuant to the provisions of the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, USDA published a notice in the Federal Register that the department proposes to create a new system of records (SOR) entitled USDA/FNS-15, "National Supplemental Nutrition Assistance Program (SNAP) Information Database." Per the notice, USDA is requiring 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. Please be advised that we **do not consent** to your providing the USDA the requested information at this time.

We are still reviewing the published notice in order to understand the intent behind this request and how the data will be used. As you know, our obligation to maintain these records in confidence is paramount and may only be disclosed to the USDA for specific program-related reasons. At this time, we are unsure as to the reason for the USDA's request. As such, we are unable to consent to your turning the information over.

Moreover, in an effort to address these issues more efficiently, we will be asking the USDA to contact us directly in the future. Per our prior communications, please advise as to any information FIS has already provided the USDA in response to their recent request. Also, per our previous conversations, please provide us with any written communications received by you from the USDA.

Please feel free to contact me with any questions.

Very truly yours,



Laura Howard, Secretary

July 30, 2025

Gina Brand  
Senior Policy Advisor for Integrity  
United States Department of Agriculture  
Food, Nutrition, and Consumer Services

**Re: Response to Correspondence from the USDA**

Dear Ms. Brand,

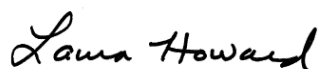
The Kansas Department for Children and Families (“KDCF”) has received correspondence dated July 9, 2025, July 23, 2025, and July 25, 2025, from the United States Department of Agriculture Food and Nutrition Service (“USDA”) concerning the production of certain data from the Supplemental Nutrition Assistance Program (“SNAP”). Specifically, the letters demand that KDCF produce a significant amount of personally identifiable information of SNAP recipients and related households by July 30, 2025. The data is to be used as part of a large federal database of SNAP participant information.

Per the June 23, 2025, Notice in the Federal Register, the USDA intends to disclose the data to other federal, state, and local agencies to investigate and prosecute alleged violations of the law. Due, in part, to this stated use, several States have filed suit to stop the forced production of said data. The suit argues that the demands for state-held SNAP data is contrary to statute and the Constitution. *See California et al. v. U.S. Dep’t of Agriculture et al.*, Civ. Action No. 3:25-6310 (N.D. Cal.). Due to the pending litigation, we are forced to deny the USDA’s demand for data at this time. Doing the opposite will place KDCF in a position of potential liability in the event a court finds that the USDA’s demand violates federal law.

Moreover, as a practical matter, KDCF is unable to comply with the timing of the USDA’s demand. Producing the amount of data being requested will require significant time, manpower, and expense. Requiring the production to occur no later than July 30, 2025, presents an unreasonable burden that simply cannot be met.

Please be advised that we will monitor the pending litigation and may re-evaluate our position in conjunction therewith. In the meantime, we will continue to administer and enforce SNAP in accordance with federal and state law. Please feel free to contact the undersigned with any questions or comments regarding the above.

Very truly yours,



Laura Howard, Secretary

August 14, 2025

Patrick A. Penn  
Deputy Under Secretary  
Food, Nutrition, and Consumer Services  
U.S. Department of Agriculture

**Re: Response to August 12, 2025 USDA Demand**

Dear Deputy Under Secretary Penn,

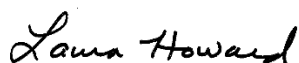
Please be advised that the Kansas Department for Children and Families (“KDCF”) is in receipt of a copy of the August 12, 2025, correspondence you submitted to Governor Kelly demanding a description of what Kansas had done to comply with requests to collect and produce to the USDA FNS a significant amount of SNAP data. This data includes “personally identifying information” of both SNAP recipients and household members. As we previously advised, we have evaluated the request and have determined that providing the data requested at this time may open KDCF to significant liability depending upon the outcome of pending litigation.

In addition, the sheer size of the data request makes compliance an impossibility given the deadlines involved. Moreover, producing the requested information will result in a significant burden on KDCF and its contractors in both man hours and monetary cost. Given these practical considerations, along with the legal uncertainty addressed above and in prior correspondence, KDCF is unable to comply with the USDA FNS request at this time. Please be advised that we will continue to evaluate this matter and will continue to administer the SNAP program as required by Federal law.

In your August 12, 2025 letter, you threaten suspension or other administrative actions unless data is provided by August 15, 2025. Under this three-day timeline, even if the request were clearly legal, it would not be possible for KDCF to produce the requested years of data. Until this demand has been determined to be lawful by the pending litigation we ask that you withdraw this threat. KDCF is positioned to take steps to respond to a potential future clearly lawful request on a timeline that is feasible.

Please do not hesitate to contact the undersigned in the event you have any questions or comments regarding the above.

Respectfully,



Laura Howard  
Secretary  
Kansas Department for Children and Families

Office of the Secretary  
555 S. Kansas Ave., 6th Floor  
Topeka, KS 66603



Phone: (785) 296-3271  
Fax: (785) 296-4985  
www.dcf.ks.gov

Laura Howard, Secretary

Laura Kelly, Governor

September 5, 2025

Patrick A. Penn  
Deputy Under Secretary  
Food, Nutrition, and Consumer Service  
Office of the Under Secretary for Food, Nutrition, and Consumer Services  
1400 Independence Avenue, SW  
Washington, DC 20250-9600

***Re: Request for Abeyance from August 20, 2025, Formal Warning Letter***

Dear Mr. Penn,

We are in receipt of your August 20, 2025, correspondence wherein you provide a formal warning to the Kansas Department for Children and Families ("KDCF") under 7 C.F.R. § 276.4(d)(2). Please accept this correspondence as our request for abeyance from said warning under 7 C.F.R. § 276.4(d)(2)(iii). As you know, several states have filed a complaint against the USDA that is currently pending in the United States District Court for the Northern District of California, case no. 3:25-cv-06310-MMC. The litigation questions the legality of the USDA's July 9, 2025, request for certain SNAP data.

Given the allegations made in the aforementioned lawsuit, any State that complies with the demand before the Federal Court can make its ruling risks significant liability. As such, KDCF is unable to comply with the data demand pending the outcome of the referenced litigation. To that end, we formally request that the USDA's formal warning be held in abeyance until the conclusion of the pending lawsuit.

Please do not hesitate to contact the undersigned in the event you have any questions or comments regarding the above.

Very truly yours,

A handwritten signature in black ink that reads "Laura Howard". The signature is written in a cursive, flowing style.

Laura Howard  
Secretary  
Kansas Department for Children and Families



United States Department of Agriculture  
Washington, D.C. 20250  
July 23, 2025

Dear State agency Directors,

On May 6, 2025, State agencies were advised of the United States Department of Agriculture's (USDA) intent to implement President Trump's March 20, 2025, Executive Order 14243, *Stopping Waste, Fraud, and Abuse by Eliminating Information Silos* through State data sharing to the Food and Nutrition Service (FNS). In the May 6, 2025, memo, States were advised that the USDA/FNS was working with Supplemental Nutrition Assistance Program (SNAP) payment processors to assist with data collection. As requested by State agencies, States are welcome to determine the most appropriate and feasible method to share the requested data with FNS. State agencies can work through their payment processor, a vendor of their own choosing, or with their State Information Technology team.

#### ***Data Elements***

The requested data elements are for individuals who have received, are currently receiving, or have applied to receive SNAP benefits from January 1, 2020, through 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. It is understood that these data records will vary household to household, and may include earned and unearned income, absent parent(s), and other data used in the determination process. Please do not include supporting documents or case comments.

Additionally, transactional records from each household are also requested, and must be sufficient to calculate the total dollar value of SNAP received by recipients over time, with the ability to filter benefits received by date ranges, as well as SNAP usage and retailer data.

#### ***Data Transmission***

Each State agency shall transmit data to FNS via the platform called Box. Once you identify the individual who will be responsible for transmitting the data for your State agency, please send their name, title, and email address to [SNAPDatabase@usda.gov](mailto:SNAPDatabase@usda.gov). The State agency identified contact will then receive an email for account creation and access for data transmission.

Box is a secure platform which employs various security measures, including encryption, access controls, and compliance features to handle the sensitive data that States will be transmitting.

Data shall be transmitted to FNS no later than Wednesday, July 30, 2025.

***Follow-Up Steps***

Upon completion of data analysis, FNS will follow up with State agencies in respect to any applicable next steps of reconciliation.

For questions related to the required data elements and/or assistance with the transmission of data, please send inquiries to [SNAPDatabase@usda.gov](mailto:SNAPDatabase@usda.gov).

We look forward to expanding this partnership with our State partners to ensure and enhance Program integrity.

Sincerely,

 Digitally signed by  
GINA BRAND  
Date: 2025.07.23  
18:15:04 -04'00'

Gina Brand  
Senior Policy Advisor for Integrity  
United States Department of Agriculture  
Food, Nutrition, and Consumer Services



U.S. DEPARTMENT OF AGRICULTURE

July 25, 2025

Dear State Agency Directors,

The Food and Nutrition Service (FNS) of the U.S. Department of Agriculture (USDA, Department) plays a key role, in conjunction with our State agency partners, providing Federally funded nutrition services to Americans in need through the Supplemental Nutrition Assistance Program (SNAP). The Department is dedicated to upholding the commitments of both President Trump and Secretary Rollins to strengthening government program integrity, as directed by Executive Order 14243, Stopping Waste, Fraud, and Abuse by Eliminating Information Silos.

To that end, USDA has established the SNAP Information Database. In accordance with Secretary Rollins' July 9, 2025, [letter](#), and in order to ensure a complete and accurate database, State agencies must be compliant with the requirement of transmitting SNAP participant data to FNS no later than July 30, 2025. As a reminder, 7 U.S.C. 2020(e)(8)(A) provides that State data protections must allow for this disclosure.

State agencies should refer to the SNAP Data Sharing Guidance [letter](#), published on July 23, 2025, to confirm the steps each State agency shall follow to transmit the data. Departmental staff stand ready to assist State partners with any technology challenges and/or provide clarifications as necessary to ensure State agency partners are compliant, and meet the July 30, 2025, deadline.

Failure to take the steps necessary to provide the relevant data to FNS may trigger noncompliance procedures codified in 7 U.S.C. 2020(g).

The Food and Nutrition Service thanks you for your dedication to improved program integrity and transparency in not only addressing the needs of vulnerable Americans, but safeguarding taxpayer dollars.

Sincerely,

A handwritten signature in blue ink, appearing to read "Patrick A. Penn", written over a white background.

Patrick A. Penn  
Deputy Under Secretary  
Food, Nutrition, and Consumer Services



## U.S. DEPARTMENT OF AGRICULTURE

August 12, 2025

Governor Laura Kelly  
Office of the Governor  
300 SW 10<sup>th</sup> Ave. Ste. 241S  
Topeka, Kansas 66612

Dear Governor Kelly,

On May 6, 2025, you were notified that the U.S. Department of Agriculture's (USDA) Food and Nutrition Service (FNS) would be collecting Supplemental Nutrition Assistance Program (SNAP) participant data from January 1, 2020, to present date and that failure to take the steps necessary to provide SNAP data to FNS may trigger noncompliance procedures codified at 7 USC 2020(g). On July 9, 2025, in a letter from Secretary Brooke Rollins, you were reminded of this collection, pursued in accordance with section 11(e)(8)(A) of the Food and Nutrition Act of 2008 (the Act), and informed that you were required to submit this data no later than the close of business July 30, 2025. Again, on July 25, 2025, in a letter from Deputy Under Secretary Patrick Penn, you were reminded of this data collection, of the July 30, 2025 deadline, and that failure to take the steps necessary to provide the relevant data to FNS may trigger noncompliance procedures codified in 7 U.S.C. 2020(g). As of the date of this letter, FNS has not received this participant data and, as a result, the State of Kansas is out of compliance with SNAP requirements.

As provided by 7 CFR 276.4, this letter serves as an advance notice that Kansas could be subject to suspension or disallowance of Federal funding for State SNAP administrative expenses if it does not submit to FNS the requested SNAP participant data. Section 11(e)(8)(A) of the Act requires that Kansas 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 July 9<sup>th</sup> letter directed that the requested data to be submitted using a system owned, administered, and secured by FNS.

In order for FNS to determine that Kansas has made adequate progress towards meeting the data collection requirements, by August 13, 2025, FNS must receive a description of the actions Kansas will undertake in order to ensure that it will submit the requested data to FNS **no later than close of business Friday, August 15, 2025.**

If Kansas fails to comply with the requirements outlined in this advance notification, the USDA may proceed with issuing a formal warning to pursue the suspension or disallowance of Federal funding for State SNAP Administrative expenses and may take any other available legal action.

As always, the USDA stands ready to provide technical assistance to you so that Kansas may come into compliance with this requirement. You may request this assistance by contacting:

FNS Tech Team at [SNAPdatabase@usda.gov](mailto:SNAPdatabase@usda.gov).

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized initial 'P' followed by a series of loops and a long horizontal stroke extending to the right.

Patrick A. Penn  
Deputy Under Secretary  
Food, Nutrition, and Consumer Services



Food, Nutrition, and Consumer Services

August 20, 2025

Governor Laura Kelly  
Office of the Governor  
300 SW 10th Ave. Ste. 241S  
Topeka, Kansas 66612

Dear Governor Kelly,

This formal warning is sent as a follow-up to our August 12, 2025 advance notification to Kansas's Department of Children and Families for non-compliance with the U.S. Department of Agriculture's (USDA) requirement to submit Supplemental Nutrition Assistance Program (SNAP) enrollment data by July 30, 2025.

The advance notification followed USDA's several earlier requests<sup>1</sup> for SNAP enrollment data and required Department of Children and Families to come into compliance with Federal requirements at 7 U.S.C. 2020(e)(8)(A) by transmitting SNAP enrollment data no later than close of business Friday, August 15, 2025. In response to State requests, on August 14, 2025, USDA extended the deadline for compliance to August 19, 2025. Although many states have fully complied with the law and submitted SNAP enrollment data to USDA, as of the date of this letter, the Food Nutrition Services (FNS) has not received complete enrollment data from Department of Children and Families.

This letter serves as a formal warning under 7 C.F.R. § 276.4(d)(2) to Kansas's Department of Children and Families for failure to comply with requirements for providing SNAP enrollment data. Unless Department of Children and Families can demonstrate compliance by transmitting the SNAP enrollment data for Kansas, FNS will initiate a disallowance of Federal funding.

FNS will determine whether Department of Children and Families has demonstrated such compliance based on successful completion of either of the two actions outlined in this letter.

- Department of Children and Families must submit, within 30 days from receipt of this letter, evidence that it has complied.

- If Department of Children and Families is unable to provide such evidence of compliance, it must submit, within 30 days from receipt of this letter, a corrective action proposal that FNS finds acceptable. The corrective action proposal must demonstrate how and by what date it will comply with the data sharing requirements outlined in USDA Secretary

Brooke Rollins' letter to State agencies on July 9, 2025. Department of Children and Families must also submit progress reports to FNS as set forth in the approved corrective action proposal.

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In letters dated May 6, 2025, July 9, 2025, and July 25, 2025, USDA informed Department of Children and Families this data collection.

If Department of Children and Families fails to demonstrate compliance with the data sharing requirements to the satisfaction of FNS, FNS will disallow up to \$10,439,386.49 for Department of Children and Families' SNAP administrative expenses for each quarter in which Department of Children and Families is out of compliance with the requirements of this letter, in accordance with 7 CFR 276.4. Because the data is needed to enhance the Government's ability to detect overpayments and fraud in SNAP, FNS has calculated this amount using Kansas's Federal Fiscal Year 2024 SNAP Quality Control payment error rate of 9.98%. As Department of Children and Families is aware, the SNAP Quality Control system measures how accurately State agencies determine eligibility and benefit amounts and, therefore, is the best measure available to FNS to estimate the cost of Department of Children and Families' noncompliance with USDA's data request. The amount of \$10,439,386.49 represents 9.98% of Kansas's FFY 2024 total allotments, divided by four.

The complete transmission of the required SNAP enrollment data is imperative to ensure FNS and the State agency have full insight into SNAP program integrity. In the absence of data, FNS lacks key information necessary to ensure effective stewardship of taxpayer dollars. FNS has already discovered from states that are complying with this statutory data sharing requirement that fraud or duplication in state distribution of federal funds has gone unreported and needs remediation. FNS stands ready to assist Department of Children and Families with resolving the deficiencies through continued technical assistance to ensure its data is transmitted in compliance with Federal requirements.

If Department of Children and Families wishes to discuss these matters further, please contact the FNS Tech Team at [SNAPdatabase@usda.gov](mailto:SNAPdatabase@usda.gov).

Sincerely,

A handwritten signature in blue ink, appearing to read 'Patrick A. Penn', with a stylized flourish at the end.

Patrick A. Penn  
Deputy Under Secretary  
Food, Nutrition, and Consumer Services

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