

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TENNESSEE
KNOXVILLE DIVISION**

THE STATE OF TENNESSEE; THE)
STATE OF INDIANA; THE STATE OF)
ALABAMA; THE STATE OF ALASKA;)
THE STATE OF ARIZONA; THE STATE)
OF ARKANSAS; THE STATE OF)
GEORGIA; THE STATE OF KANSAS;)
THE COMMONWEALTH OF)
KENTUCKY; THE STATE OF)
LOUISIANA; THE STATE OF)
MISSISSIPPI; THE STATE OF)
MISSOURI; THE STATE OF MONTANA;)
THE STATE OF NEBRASKA; THE)
STATE OF OHIO; THE STATE OF)
OKLAHOMA; THE STATE OF SOUTH)
CAROLINA; THE STATE OF SOUTH)
DAKOTA; THE STATE OF TEXAS; THE)
STATE OF UTAH; THE)
COMMONWEALTH OF VIRGINIA; THE)
STATE OF WEST VIRGINIA,)

Case No. 3:22-cv-00257

Plaintiffs,)

v.)

UNITED STATES DEPARTMENT OF)
AGRICULTURE; THOMAS VILSACK, in)
his official capacity as Secretary of)
Agriculture; CINDY LONG, in her official)
capacity as Administrator of Food and)
Nutrition Service at the United States)
Department of Agriculture; ROBERTO)
CONTRERAS, in his official capacity as)
Director of the Food and Nutrition Service)
Civil Rights Division at the United States)
Department of Agriculture,)

Defendants.

COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. President Biden directed federal agencies to rewrite federal law to implement the Administration’s policy of “prevent[ing] and combat[ing] discrimination on the basis of gender identity or sexual orientation.” Exec. Order No. 13,988, 86 Fed. Reg. 7023-25 (Jan. 20, 2021). In response, the United States Department of Agriculture (“USDA” or “Department”), ignoring procedural requirements, issued directives and rules that misconstrue the law and impose unlawful requirements on Plaintiffs.

2. First, the Department issued a memorandum updating the Food and Nutrition Services complaint-processing policy related to claims of discrimination based on gender identity or sexual orientation. USDA, CRD 01-2022, Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update (May 5, 2022), <https://bit.ly/3NuXnSx> (“Memorandum”) (attached as Exhibit A). The Memorandum purports to impose new requirements on States, forcing them to adopt the Department’s flawed understanding of what constitutes sex discrimination under Title IX. *Id.* at 2-3.

3. The cover letter for the Memorandum stated that the Department’s new policy “applies to prohibitions against discrimination based on sex in all FNS programs,” recognizing that “these changes may impact [State and local] operations.” USDA, Cover Letter to CRD 01-2022, Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update (May 5, 2022) (“Cover Letter”) (attached as Exhibit B).

4. Attached to the Memorandum was a “questions and answers” document, which, among other commands, directs States to “update their program discrimination complaint processing procedures for allegations related to service and activities receiving federal financial assistance from the USDA to ensure discrimination complaints alleging sexual orientation and

gender identity discrimination are processed as complaints of prohibited sex discrimination.” USDA, CRD 02-2022, Questions and Answers Related to CRD 01-2022 Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update (May 5, 2022), <https://bit.ly/3yzKpyG> (“Memorandum Q&A”) (attached as Exhibit C).

5. The Department provided “[a]dditional guidance” a short time later, which made plain the extent of federal overreach. While purporting to explain the Memorandum, the agency separately directed State-level SNAP administrators—which include public primary schools, secondary schools, and universities—to “update[]” their “documents, pamphlets, websites, etc.” with the following “Nondiscrimination Statement”:

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), religious creed, disability, age, political beliefs, or reprisal or retaliation for prior civil rights activity.

Supplemental Memoranda at 1 (citing Technical Assistance & Guidance, FNS Nondiscrimination Statement (May 5, 2022), <https://bit.ly/3nZTc6W> (“Nondiscrimination Statement”)).

6. This was immediately followed with a directive ordering Plaintiffs to update various posters and policies with immediate effect. *See* USDA, Memorandum Regarding Revised Nondiscrimination Statement and “And Justice for All” Posters; Timelines and Guidance for Implementation (May 5, 2022) (“Supplemental Memorandum”) (attached as Exhibit D) (collectively with the Cover Letter, Memorandum, and Memorandum Q&A, the “Memoranda”).

7. The Department compounded its errors by ignoring procedural requirements and issuing a final rule to formalize a new policy misapplying *Bostock*. Supplemental Nutrition Assistance Program: Civil Rights Update to the Federal-State Agreement, 87 Fed. Reg. 35,855 (June 14, 2022), <https://bit.ly/3bDC4RA> (“Final Rule”) (attached as Exhibit

E). Instead of going through the legal process mandated by the Administrative Procedure Act (“APA”), the Department coopted a previously discarded proposed regulation from 2016 to issue the new Final Rule. Supplemental Nutrition Assistance Program: Civil Rights Update to the Federal-State Agreement, 81 Fed. Reg. 81,015 (Nov. 17, 2016) <https://bit.ly/3aMNXVf> (“Proposed Rule”) (attached as Exhibit F).

8. Collectively, the Memoranda and Final Rule inappropriately expand the law far beyond what statutory text, regulatory requirements, judicial precedent, and the U.S. Constitution permit.

9. The Department claims that the interpretations in the Memoranda and Final Rule are required by the Supreme Court’s decision in *Bostock v. Clayton County*, 140 S. Ct. 1731 (2020). But *Bostock* was a narrow decision. The Court held only that terminating an employee “simply for being homosexual or transgender” constitutes discrimination “because of . . . sex” under Title VII of the Civil Rights act of 1964, 42 U.S.C. § 2000e-2. *Bostock*, 140 S. Ct. at 1737-38 (quoting 42 U.S.C. § 2000e-2(a)(1)).

10. The Department’s Memoranda and Final Rule concern highly controversial and localized issues of enormous importance to the States, their subdivisions, affiliates, and citizens. The Department has no power to settle such issues, let alone by executive fiat without providing any opportunity for public comment.

11. Plaintiffs—the States of Tennessee, Indiana, Alabama, Alaska, Arizona, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, and West Virginia sue to prevent the Department from usurping authority that properly belongs to Congress, the States, and

the people and to eliminate the nationwide confusion and upheaval that the Department's Guidance has inflicted on States and regulated entities.

12. To be clear, the States do not deny benefits based on a household member's sexual orientation or gender identity. But the States do challenge the unlawful and unnecessary new obligations and liabilities that the Memoranda and Final Rule attempt to impose—obligations that apparently stretch as far as ending sex-separated living facilities and athletics and mandating the use of biologically inaccurate preferred pronouns.

PARTIES

13. Plaintiff the State of Tennessee is a sovereign State and an employer subject to the requirements of the Memoranda and Final Rule.

14. Tennessee is home to political subdivisions and other entities that are subject to the requirements of the Memoranda and Final Rule.

15. Tennessee has entered into a Federal-State Agreement to operate the Supplemental Nutrition Assistance Program ("SNAP") within Tennessee and is thus subject to the requirements of the Memoranda and Final Rule.

16. Tennessee operates programs and activities that receive funding and are thus subject to the Food and Nutrition Act. 7 U.S.C. §§ 2011-2036.

17. In fiscal year 2020-2021, Tennessee received approximately \$2,600,264,708 in federal funding to operate SNAP under the Food and Nutrition Act. This includes approximately \$102,192,555 for SNAP administration and \$2,498,072,153 for SNAP benefits.

18. Plaintiff the State of Indiana likewise has entered into a Federal-State Agreement to operate SNAP programs under the Food and Nutrition Act and thus is subject to the requirements of the Memoranda and Final Rule.

19. Plaintiffs the States of Alabama, Alaska, Arizona, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, and West Virginia likewise have entered into Federal-State Agreements to operate SNAP programs under the Food and Nutrition Act and thus are subject to the requirements of the Memoranda and Final Rule.

20. Each of the States receives significant federal funding for its SNAP-related programs. The Department's own reporting shows that in Fiscal Year 2020, the Plaintiff States, combined, received approximately \$28,675,549,470 in funding for SNAP benefits. USDA Food and Nutrition Service Supplemental Nutrition Assistance Program, *Supplemental Nutrition Assistance Program State Activity Report Fiscal Year 2020*, at 8 (March 2022) <https://bit.ly/3ouapppp> (attached as Exhibit G).

21. These benefits were distributed to approximately 15,478,511 persons residing within the Plaintiff States. *Id.* at 6.

22. Tennessee, Indiana, Alabama, Alaska, Arizona, Arkansas, Georgia, Kansas, Kentucky, Louisiana, Mississippi, Missouri, Montana, Nebraska, Ohio, Oklahoma, South Carolina, South Dakota, Texas, Utah, Virginia, and West Virginia would also incur various administrative and compliance costs if forced to comply with the requirements of the Memoranda and Final Rule.

23. Defendant United States Department of Agriculture is an executive agency of the federal government responsible for enforcement and administration of SNAP under the Food and Nutrition Act. 7 U.S.C. §§ 2011 et seq.

24. Defendant Thomas J. Vilsack is the United States Secretary of Agriculture responsible for the operation of the USDA. 7 U.S.C. § 2013. He is sued in his official capacity.

25. Defendant Cindy Long is the Administrator of the Food and Nutrition Service at the USDA and responsible for the operation of programs under the Food and Nutrition Act. She is sued in her official capacity.

26. Defendant Roberto Contreras is Director of the Food and Nutrition Service Civil Rights Division at the USDA. He is sued in his official capacity.

JURISDICTION AND VENUE

27. This Court has federal-question jurisdiction under 28 U.S.C. § 1331 because this case concerns whether the Department and its officials acted in compliance with the Administrative Procedure Act and other federal laws.

28. This Court has jurisdiction under 28 U.S.C. § 1346 because this case involves a claim against agencies and employees of the federal government.

29. This Court has jurisdiction under 28 U.S.C. § 1361 because the Court has jurisdiction over any case “to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.”

30. Venue is proper in this Court under 28 U.S.C. § 1391(e)(1) because (1) Plaintiff Tennessee resides in this District; (2) Tennessee’s agencies and employees subject to the agency actions at issue reside in the District; and (3) “a substantial part of the events or omissions giving rise to [Tennessee’s] claim occurred” in this District.

31. This Court has the authority to grant Plaintiffs the relief they request under the Administrative Procedure Act, 5 U.S.C. §§ 705-06; the Declaratory Judgment Act, 28 U.S.C. §§ 2201-02; and 28 U.S.C. § 1361.

FACTUAL ALLEGATIONS

A. The Cooperative-Federalist Operation of the Supplemental Nutrition Assistance Program and The Department's Regulatory Changes to SNAP Federal-State Agreements.

32. Under the Food and Nutrition Act, SNAP provides support for vulnerable groups, including low-income working families, the elderly, those with physical or intellectual developmental disabilities, and others. 7 U.S.C. § 2014.

33. The purpose of SNAP is to raise the “levels of nutrition among low-income households” because “establishing and maintaining adequate national levels of nutrition will promote the distribution in a beneficial manner of the Nation’s agricultural abundance and will strengthen the nation’s agricultural economy.” *Id.* § 2011. For these reasons, and “to alleviate such hunger and malnutrition,” Congress established SNAP to “permit low-income households to obtain a more nutritious diet through normal channels of trade.” *Id.*

34. To effectuate SNAP, States enter into a Federal-State Agreement with the Department, outlining how States will administer SNAP. 7 U.S.C. § 2020; *see also* 7 C.F.R. Part §§ 272.2 et seq. The Federal-State Agreement is the “legal agreement between the State and the Department of Agriculture” and “is the means by which the State elects to operate SNAP and to administer the program in accordance with the Food and Nutrition Act of 2008.” 7 C.F.R. § 272.2(a)(2).

35. The basic language and requirements of the Federal-State Agreements are set out in statute, 7 U.S.C. § 2020(d)-(e), and in regulation, 7 C.F.R. § 272.2(b).

36. Federal-State Agreements must be signed by “the Governor of the State or authorized designee” and “be submitted” to the Department “within 120 days after publication of these regulations in final form.” *Id.* § 272.2(e)(1).

37. SNAP funding is also utilized for various ancillary work such as planning, outreach, and educational programs, which require similar agreements or State plans to be submitted to and approved by the Department and include requirements to adopt the Department’s nondiscrimination policy. *See* 7 C.F.R. § 272.2(d)(1)-(2).

38. States are already obligated to comply with and enact a nondiscrimination policy that prohibits “discriminat[ion] against any applicant or participant in any aspect of program administration, including, but not limited to, the certification of households, the issuance of coupons, the conduct of fair hearings, or the conduct of any other program service for reasons of age, race, color, sex, disability, religious creed, national origin, or political beliefs.” 7 C.F.R. § 272.6(a). “Discrimination in any aspect of program administration is prohibited.” *Id.*

39. The Food and Nutrition Act itself specifies that State agencies are responsible for conducting SNAP programs on Indian reservations unless the tribal organization has, among other requirements, “ensure[d] that there shall be no discrimination in the operation of the program on the basis of . . . sex.” 7 U.S.C. § 2020(d).

40. States—including the Plaintiff States—do not discriminate in the distribution of SNAP-funded assistance based on age, race, color, sex, disability, religious creed, national origin, or political beliefs. Nor do the States deny SNAP certification of applicant households based on household members’ sexual orientation or gender identity.

41. Revisions to the Federal-State Plan, from the State or as required by the Department “shall be prepared and submitted for approval” in the same manner as the original planning documents. 7 C.F.R. § 272.2(f).

42. States must also set up a complaint process, publicize these procedures and policies, collect data for the Department, and report that data. *Id.* § 272.6(c)-(h).

43. Moreover, State agencies and their affiliates administering SNAP must publish and abide by a “Nondiscrimination Statement,” which the Department crafts and distributes. *See* 7 C.F.R. § 272.6(f)(2).

44. If the Department determines that a State is not compliant with the statutes or regulations governing SNAP, “the Secretary shall immediately inform such State agency of such failure and shall allow the State agency a specified period of time for the correction of such failure.” 7 U.S.C. § 2020(g).

45. “If the State agency does not correct such failure within that specified period” the Department may refer the matter to the Department of Justice to seek injunctive relief and “shall proceed to withhold from the State such funds . . . as the Secretary determines to be appropriate.” *Id.*

46. One week after the 2016 Presidential Election, the outgoing Administration published the Proposed Rule to update the civil rights assurance language contained in the SNAP regulations contained in the Federal-State Agreement (FSA). *See* Proposed Rule, 81 Fed. Reg. at 81,015.

47. The original Proposed Rule merely amended the boilerplate language of the SNAP Federal-State Agreements to “comply with . . . Title IX of the Education Amendments of 1972 (42 U.S.C. 2000d *et seq.*)” so that “no person in the United States shall, on the grounds of

sex, race, color, age, political belief, religious creed, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under SNAP.” *Id.* at 81,017.

48. The original Proposed Rule also included new references to other civil rights laws already applicable to SNAP, including the Age Discrimination Act of 1975, 42 U.S.C. § 6101 et seq; Title II and Title III of the Americans with Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008, 42 U.S.C. §§ 12131-12189; and Executive Order 13166, “Improving Access to Persons with Limited English Proficiency.” *Id.* at 81,017.

49. There is no mention of discrimination based on sexual orientation or gender identity in the Proposed Rule.

50. The public comment period was opened for sixty (60) days, during which only five (5) comments were submitted—two of which were beyond the scope of the regulation.

51. The public comment period closed on January 17, 2017, over five years ago.

52. None of the public comments addressed the issue of discrimination based on sexual orientation or gender identity because this change was not included in the Proposed Rule.

53. The only commenter who mentioned “sex” merely stated her understanding that “[t]he proposed rule will codify all of the civil rights language within Title IX of the Education Amendments of 1972 prohibiting discrimination based on sex for federally funded programs.” Comment to Proposed Rule by Brittany Jones, FNS-2016-0078-0005 (Posted on Feb. 5, 2017), <https://bit.ly/3Phippw>.

54. The Proposed Rule was withdrawn from the unified regulatory agenda on June 23, 2017. *See* Office of Information and Regulatory Affairs, RIN 0584-AE51, Summary of

the Proposed Rule, <https://bit.ly/3PiVv0T> (last visited July 18, 2022) (indicating that the Proposed Rule was “withdrawn” on June 23, 2017).

B. The Supreme Court Narrowly Held in *Bostock v. Clayton County* That Terminating an Employee Simply for Being Homosexual or Transgender Constitutes Sex Discrimination.

55. Three years later, the U.S. Supreme Court held in *Bostock* that Title VII’s prohibition on employment discrimination “because of [an] individual’s . . . sex,” 42 U.S.C. § 2000e-2(a)(1), includes terminating that individual simply for being homosexual or transgender, because—under Title VII’s precise wording—“[s]ex plays a necessary and undisguisable role” in such decisions, 140 S. Ct. at 1737.

56. “[O]ther federal or state laws that prohibit sex discrimination,” such as Title IX and the Food and Nutrition Act, were not “before” the Court. *Id.* at 1753. The Court thus expressly declined to “prejudge” whether its decision in *Bostock* would “sweep beyond Title VII” to those other laws. *Id.*

57. The Court further specifically declined to consider whether employer conduct other than terminating an employee simply because the employee is homosexual or transgender—for example, “sex-segregated bathrooms, locker rooms, and dress codes”—would constitute actionable discrimination under Title VII. *Id.*

58. The Court assumed that “sex” in Title VII “refer[s] only to biological distinctions between male and female.” *Id.* at 1739.

59. The Court did not consider or decide what the statutory phrase “on the basis of sex” means in Title IX or in the Food and Nutrition Act. 20 U.S.C. § 1681(a); 7 U.S.C. § 2020(d).

60. Nor did the Court address Title IX’s safe harbor for sex-separated living facilities. *See* 20 U.S.C. § 1686; 34 C.F.R. § 106.33.

61. Nor did the Court consider or decide questions about any other statute or any other form of alleged discrimination.

C. President Biden’s Administration Uses *Bostock* to Justify Its Misinterpretation of Title IX and Other Statutes and Threatens States with Enforcement Action.

62. As one of his first official acts as President, President Biden declared that *Bostock*’s analysis changed the meaning of federal law regarding sex discrimination: “Under *Bostock*’s reasoning, laws that prohibit sex discrimination—including Title IX of the Education Amendments of 1972, as amended (20 U.S.C. 1681 *et seq.*), the Fair Housing Act, as amended (42 U.S.C. 3601 *et seq.*), and section 412 of the Immigration and Nationality Act, as amended (8 U.S.C. 1522), along with their respective implementing regulations—prohibit discrimination on the basis of gender identity or sexual orientation, so long as the laws do not contain sufficient indications to the contrary.” Exec. Order No. 13,988, 86 Fed. Reg. 7023-25 (Jan. 20, 2021).

63. Accordingly, President Biden directed federal agencies to “review all existing orders, regulations, guidance documents, policies, programs, or other agency actions” that either “(i) were promulgated or are administered by the agency under Title VII or any other statute or regulation that prohibits sex discrimination, including any that relate to the agency’s own compliance with such statutes or regulations” or “(ii) are or may be inconsistent with the policy set forth” in the Executive Order. *Id.*

64. President Biden further directed that the “head of each agency shall, as soon as practicable, also consider whether there are additional actions that the agency should take to ensure that it is fully implementing the policy” set forth in the Executive Order. *Id.*

65. Finally, President Biden directed that, within “100 days of the date of this order, the head of each agency shall develop, in consultation with the Attorney General, as appropriate, a plan to carry out actions that the agency has identified.” *Id.*

66. On March 26, 2021, the Civil Rights Division of the Department of Justice (“DOJ”) released a memorandum concluding that Title IX “prohibit[s] discrimination on the basis of gender identity and sexual orientation.” DOJ, Memorandum Regarding Application of *Bostock v. Clayton County* to Title IX of the Education Amendments of 1972 (Mar. 26, 2021), <https://bit.ly/2WpV5zq> (“DOJ Memorandum”).

67. The DOJ Memorandum relied primarily on two post-*Bostock* cases. In the first, a divided panel of the U.S. Court of Appeals for the Fourth Circuit held that a school district violated Title IX by using sex-separated bathrooms. *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 616 (4th Cir. 2020), *as amended* (Aug. 28, 2020), *cert. denied* 141 S. Ct. 2878 (with Justices Thomas and Alito noting that they would have granted the petition for writ of certiorari).

68. The second opinion the DOJ Memorandum relied on was *Adams v. School Board of St. Johns County*, 968 F.3d 1286 (11th Cir. 2020), but it is no longer of any effect. It was subsequently replaced by the panel with a narrower one that “d[id] not reach the Title IX question,” *Adams v. School Board of St. Johns County*, 3 F.4th 1299, 1304 (11th Cir. 2021). The Eleventh Circuit then granted rehearing en banc and vacated even the narrower opinion. *Adams v. Sch. Bd. of St. Johns Cnty.*, 9 F.4th 1369 (11th Cir. 2021).

69. The DOJ Memorandum was contrary to what the author of the DOJ Memorandum, Pamela Karlan, told the U.S. Supreme Court during oral argument in *Bostock*: that sex-separated bathrooms are “not discriminatory because” no one is “subjected to a disadvantage.”

Tr. of Oral Arg. at 12-13, *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731 (2020) (Nos. 17-1618, 17-1623).

70. Despite her representation of private parties in *Bostock*, Pamela Karlan did not recuse herself from authoring the DOJ Memorandum. Karlan recently resigned from DOJ amid reports that she was earning nearly \$1 million a year from Stanford University while employed at DOJ. Steven Nelson, *Anti-Trump Stanford law prof Pamela Karlan quietly leaves DOJ amid attacks on ‘unethical’ \$1M salary*, N.Y. Post (July 12, 2022), <https://bit.ly/3Pm9OBV>.

71. The U.S. Department of Education has also engaged in at least two agency actions to implement President Biden’s executive order.

72. First, on June 22, 2021, the Department of Education published an interpretation of Title IX in the Federal Register. See Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021) (“Department of Education Interpretation”).

73. The Department of Education acknowledged that it “at times has stated that Title IX’s prohibition on sex discrimination does not encompass discrimination based on sexual orientation and gender identity.” *Id.*

74. Earlier in 2021, the Department of Education concluded that *Bostock* did not apply to Title IX or require a different interpretation of Title IX. See U.S. Dep’t of Educ., Memorandum for Kimberly M. Richey Acting Assistant Secretary of the Office for Civil Rights Re: *Bostock v. Clayton Cnty.*, 140 S. Ct. 1731 (2020) (Jan. 8, 2021), <https://bit.ly/3mwKI7H>.

75. The Department of Education’s current view, however, is that “Title IX Prohibits Discrimination Based on Sexual Orientation and Gender Identity.” Department of Education Interpretation, 86 Fed. Reg. at 32,637.

76. The Department of Education applied *Bostock*’s Title VII interpretation to Title IX. *See id.* at 32,638 (“*Bostock*’s Application to Title IX”); *see also id.* (“[T]he Department has determined that the interpretation of sex discrimination set out by the Supreme Court in *Bostock*—that discrimination ‘because of . . . sex’ encompasses discrimination based on sexual orientation and gender identity—properly guides the Department’s interpretation of discrimination ‘on the basis of sex’ under Title IX and leads to the conclusion that Title IX prohibits discrimination based on sexual orientation and gender identity.”).

77. The Department of Education first concluded that “[t]here is textual similarity between Title VII and Title IX.” *Id.*

78. The texts of Title VII and Title IX are materially different:

- **Title VII:** “It shall be an unlawful employment practice for an employer (1) to fail or refuse to hire or to discharge any individual, or otherwise to discriminate against any individual with respect to his compensation, terms, conditions, or privileges of employment, because of such individual’s . . . sex[] . . . ; or (2) to limit, segregate, or classify his employees or applicants for employment in any way which would deprive or tend to deprive any individual of employment opportunities or otherwise adversely affect his status as an employee, because of such individual’s . . . sex” 42 U.S.C. § 2000e-2(a).
- **Title IX:** “No person in the United States shall, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any education program or activity receiving Federal financial assistance” 20 U.S.C. § 1681(a).

79. Nevertheless, the Department of Education concluded that the phrase “on the basis of sex” in Title IX has the same meaning as the phrase “because of . . . sex” in Title VII. Department of Education Interpretation, 86 Fed. Reg. at 32,638.

80. The Department of Education also cited decisions from federal courts of appeals that “recognize that Title IX’s prohibition on sex discrimination encompasses discrimination based on sexual orientation and gender identity.” *Id.* at 32,639 (collecting cases).

81. The Department of Education omitted any mention of or citation to decisions from federal courts of appeals recognizing that “Title VII differs from Title IX in important respects” and that “principles announced in the Title VII context [do not] automatically apply in the Title IX context.” *Meriwether v. Hartop*, 992 F.3d 492, 510 n.4 (6th Cir. 2021) (noting that, “under Title IX, universities must consider sex in allocating athletic scholarships, 34 C.F.R. § 106.37(c), and may take it into account in ‘maintaining separate living facilities for the different sexes.’ 20 U.S.C. § 1686.”); *cf. Pelcha v. MW Bancorp, Inc.*, 988 F.3d 318, 324 (6th Cir. 2021) (“[T]he Court in *Bostock* was clear on the narrow reach of its decision and how it was limited only to Title VII itself.”).

82. The Department of Education further “conclude[d] that the interpretation set forth in this document is most consistent with the purpose of Title IX, which is to ensure equal opportunity and to protect individuals from the harms of sex discrimination.” Department of Education Interpretation, 86 Fed. Reg. at 32,639.

83. The Department of Education also noted that the “U.S. Department of Justice’s Civil Rights Division has concluded that *Bostock*’s analysis applies to Title IX.” *Id.*

84. The Department of Education failed to mention that, just two months before the DOJ reached that conclusion about *Bostock*, it had reached the exact opposite conclusion. DOJ, Memorandum for the Civil Rights Division Regarding Application of *Bostock v. Clayton County* 4 (Jan. 17, 2021) (“*Bostock* does not require any changes to . . . sex-specific facilities or policies.”).

85. Finally, the Department of Education declared that it “will fully enforce Title IX to prohibit discrimination based on sexual orientation and gender identity in education programs and activities that receive Federal financial assistance from the Department.” Department of Education Interpretation, 86 Fed. Reg. at 32,638.

86. The Department of Education also declared that its Interpretation “will guide the Department in processing complaints and conducting investigations.” *Id.* at 32,639.

87. *Second*, on June 23, 2021, Acting Assistant Secretary Suzanne B. Goldberg issued a “Dear Educator” Letter notifying Title IX recipients of the Department of Education Interpretation and reiterating that the Department “will fully enforce Title IX to prohibit discrimination based on sexual orientation and gender identity.” U.S. Dep’t of Educ., Letter to Educators on Title IX’s 49th Anniversary (June 23, 2021), <https://bit.ly/3ksLLDj> (“Dear Educator Letter”).

88. The Dear Educator Letter was accompanied by a “fact sheet” issued by the Civil Rights Division of the DOJ and the Office for Civil Rights (“OCR”) at the Department of Education. DOJ & U.S. Dep’t of Educ., Confronting Anti-LGBTQI+ Harassment in Schools (June 2021), <https://bit.ly/3sQjZnM> (“Fact Sheet”).

89. The Fact Sheet purports to provide examples of what constitutes discrimination under Title IX.

90. *Bostock* did not address any of the examples of purported discrimination identified in the Fact Sheet.

91. In particular, the Fact Sheet indicates that preventing a transgender high school girl (a biological male) from using the girls’ restroom would constitute discrimination. *See*

Fact Sheet at 1. *Bostock* expressly declined to resolve any questions about bathrooms, locker rooms, or the like. 140 S. Ct. at 1737.

92. The Fact Sheet also indicates that preventing a transgender high school girl (a biological male) from “try[ing] out for the girls’ cheerleading team” would constitute discrimination. Fact Sheet at 1. *Bostock* did not address athletics.

93. The Fact Sheet suggests that failing to use a transgender student’s preferred name or pronouns would constitute discrimination. *See id.* *Bostock* did not address that issue.

94. Plaintiffs operate and are home to programs and activities subject to Title IX, and thus the Department of Education has pledged to enforce its Title IX interpretation against Plaintiffs.

95. On June 17, 2021, for example, the Department of Education and DOJ filed a statement of interest in which they took the position that Title IX prohibits West Virginia from “categorically exclud[ing] transgender girls from participating in single-sex sports restricted to girls.” Statement of Interest of the United States at 1, *B.P.J. v. W.V. State Bd. of Educ.*, No. 2:21-cv-00316 (S.D. W. Va. June 17, 2021), ECF No. 42 (footnote omitted).

96. In response, States sued to enjoin these and other unlawful regulatory actions of President Biden’s Administration. *See Tennessee v. U.S. Dept. of Educ.*, No. 3:21-cv-308 (E.D. Tenn.) (States’ preliminary injunction motion granted and federal government’s motion to dismiss denied on July 15, 2022); *Texas v. EEOC*, No. 2:21-CV-194-Z (N.D. Tex.) (federal government’s motion to dismiss denied on May 26, 2022).

97. The U.S. District Court for the Eastern District of Tennessee has preliminarily enjoined the Department of Education from enforcing its Interpretation, Dear Educator Letter, and Fact Sheet against Tennessee, Indiana, and 18 other States because those

documents violated the APA by “creat[ing] rights for students and obligations for regulated entities not to discriminate based on sexual orientation or gender identity that appear nowhere in *Bostock*, Title IX, or its implementing regulations.” *Tennessee v. Dep’t of Educ.*, No. 3:21-cv-308, 2022 WL 2791450, at *21 (E.D. Tenn. July 15, 2022).

98. While those cases remain pending, President Biden continues to threaten States if they do not capitulate to the Federal Government’s rewriting of Title IX and other statutes.

99. For example, a few months ago, the Biden Administration emphasized its commitment to “combatting” what it calls “legislative attacks on transgender kids at the state level.” White House, *Fact Sheet: Biden-Harris Administration Advances Equality and Visibility Transgender Americans* (Mar. 31, 2022), <https://bit.ly/3PeX5Rh>.

100. President Biden has told the American public that “the onslaught of anti-transgender laws . . . is simply wrong” and that his “administration is standing up . . . against all these hateful bills.” White House, *President Biden on Transgender Day of Visibility 2022* (Mar. 31, 2022), <https://bit.ly/3OIfJRt>.

101. Because Congress has declined the Biden Administration’s call to rewrite Title IX and other statutes, Defendants are “expanding Federal non-discrimination protections” through acts such as these regulations masquerading as mere guidance. White House, *A Proclamation on Transgender Day of Visibility, 2022* (Mar. 30, 2022), <https://bit.ly/3yea26Z>.

102. According to President Biden, people are “made in the image of God” as “transgender, nonbinary, and gender nonconforming.” *Id.*

103. In June 2022, President Biden released yet another executive order. *See* Advancing Equality for Lesbian, Gay, Bisexual, Transgender, Queer, and Intersex Individuals, Exec. Order No. 14,075, 87 Fed. Reg. 37,189 (June 15, 2022).

104. The executive order was designed to combat what it misleadingly calls “unrelenting political and legislative attacks at the State level—on LGBTQI+ children and families in particular”—that “threaten the civil rights gains of the last half century and put LGBTQI+ people at risk.” *Id.* at 37,189; *see also* White House, *Remarks by President Biden at a Pride Month Reception and Signing of an Executive Order on Advancing LGBTQI+ Individuals* (June 15, 2022), <https://bit.ly/3nu2Q1w> (alleging that “[t]hree hundred discriminatory bills introduced in states across the country” are part of “the ultra-MAGA agenda attacking families and our freedoms”).

105. The Biden Administration’s sweeping rhetoric treats normal practices, such as sex-separated bathrooms and athletics, as “discriminatory” even though DOJ and the Department of Education treated those as legal, nondiscriminatory practices as recently as last year.

106. As part of the new executive order, President Biden has directed the Department of Education to “use the Department of Education’s authorities to support LGBTQI+ students, their families, educators, and other school personnel targeted by harmful State and local laws and practices, and shall promote the adoption of promising policies and practices to support the safety, well-being, and rights of LGBTQI+ students.” Exec. Order No. 14,075, 87 Fed. Reg. at 37,190. “Within 200 days of the date of this order, the Secretary of Education shall develop and release sample policies for supporting LGBTQI+ students’ well-being and academic success in schools and educational institutions.” *Id.*

D. The USDA’s Unlawful Actions.

107. Because the Department of Education has so far not prevailed in the States’ lawsuits against its Interpretation, Dear Educator Letter, and Fact Sheet, President Biden’s

Administration seemingly decided to use the USDA to accomplish its rewriting of Title IX through other means. In early May 2022, the Department issued the Memorandum directing States to incorporate its misapplication of *Bostock* into their Federal-State Agreements with USDA. *See* Memorandum at 1-2, <https://bit.ly/3NuXnSx>. In doing so, the Department relied on its misreading of *Bostock* and Executive Order 13,988 to determine “that discrimination based on gender identity and sexual orientation can constitute prohibited sex discrimination under Title IX and the Food and Nutrition Act.” *Id.* at 2.

108. In the Memorandum, the USDA expressly adopts the DOJ’s and the Department of Education’s analyses “concluding that Title IX’s prohibition on sex discrimination includes a prohibition on discrimination on the basis of gender identity and sexual orientation.” *Id.* (citing DOJ Memorandum; now-enjoined Department of Education Interpretation).

109. The USDA directed state agencies and program operators to “expeditiously review their program discrimination complaint procedures and make any changes necessary to ensure complaints alleging discrimination on the basis of gender identity and sexual orientation are processed and evaluated as complaints of discrimination on the basis of sex” and directed that States “distribute this memorandum to local agencies, Program Operators and Sponsors, and all other subrecipients of Federal financial assistance.” Memorandum at 3.

110. Attached to the Memorandum was a “questions and answers” document, which directs States to “update their program discrimination complaint processing procedures for allegations related to service and activities receiving federal financial assistance from the USDA to ensure discrimination complaints alleging sexual orientation and gender identity discrimination are processed as complaints of prohibited sex discrimination.” Memorandum Q&A at 2.

111. The Memorandum Q&A also asserted that these regulatory changes were “effective immediately” and that “additional guidance is forthcoming.” *Id.*

112. Soon after issuing the Memorandum and Memorandum Q&A, the Department issued its “additional guidance” in the form of a Supplemental Memorandum, which imposed new obligations going far above and well beyond the “complaint procedure” requirements.

113. Those obligations, which related to program posters and “Nondiscrimination Statements,” laid bare the Department’s novel and expansive new view of SNAP governance. Consistent with its other pronouncements, the Department would prohibit discrimination on the basis of “gender identity” and “sexual orientation,” not just “sex.” But more importantly, where the old policy prohibited discrimination only “in any program or activity conducted or funded by USDA,” the new policy seemingly applies to each program-administering “institution” as a *whole*.

114. Though there is a grace period of not issuing findings related to a state agency’s inability to display the new posters and statements, there is no grace period for “accepting and processing discrimination complaints based on sexual orientation and gender identity” in SNAP or other Food and Nutrition Service programs. Memorandum Q&A at 3.

115. Perhaps in recognition of the procedural flaws with the Memoranda, the Department decided to dust off the long-shelved Proposed Rule. The Department repurposed the Proposed Rule and used it to address issues nowhere contemplated in the original notice. *See* Final Rule, 87 Fed. Reg. at 35,855, <https://bit.ly/3bDC4RA>.

116. The Proposed Rule, which went through the notice and comment process over five years ago, was promulgated in 2016 and never went into effect. As noted above, the

Proposed Rule received only five public comments, none of which addressed sexual orientation or gender identity. *See* Comments to Proposed Rule, FNS-2016-0078-0002 to -0006, (posted Feb. 5, 2017), <https://bit.ly/3v5Iv6Y>.

117. The Department, using the 2016 Proposed Rule, inserted new language defining sex discrimination under Title IX as including sexual orientation and gender identity when it issued the Final Rule. Final Rule, 87 Fed. Reg. at 35,857. The Department made this change without providing an opportunity for public comment on this new language.

118. In the process of recycling the Proposed Rule, the Department made a substantive change to the Final Rule requiring States to adopt language in their Federal-State Agreements to “[c]omply with . . . Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.) . . . to the effect that, no person in the United States shall, on the grounds of sex, *including gender identity and sexual orientation*, race, color, age political belief, religious creed, disability or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under SNAP.” Final Rule, 87 Fed. Reg. at 35,857 (emphasis added).

119. States were provided with neither notice nor an opportunity to provide public comment on the Final Rule’s expansion of Title IX and the Food and Nutrition Act to include discrimination based on sexual orientation or gender identity.

120. The expansion of Title IX and the Food and Nutrition Act will affect the States’ administration of SNAP.

E. The USDA Memoranda and Final Rule Irreparably Harm Plaintiff States

121. The USDA’s Memorandum requires “State agencies” to “expeditiously review their program discrimination complaint procedures and make any changes necessary to ensure complaints alleging discrimination on the basis of gender identity and sexual orientation

are processed and evaluated as complaints of discrimination on the basis of sex.” Memorandum at 3.

122. The USDA’s Memorandum Q&A reiterates that “State agencies . . . have to update their program discrimination complaint processing procedures for allegations related to services and activities receiving federal financial assistance from the USDA to ensure discrimination complaints alleging sexual orientation and gender identity discrimination are processed as complaints of prohibited sex discrimination.” Memorandum Q&A at 2. And it states that “there will not be a grace period.” *Id.* at 3.

123. The USDA’s Final Rule states that, to enter into any SNAP agreement, States must agree to prevent discrimination “on the grounds of sex, including gender identity and sexual orientation.” Final Rule, 87 Fed. Reg. at 35,857.

124. Plaintiffs face an immediate requirement (“120 days after the publication of the regulations in final form”) to accept the Final Rule’s terms in SNAP Federal-State Agreements.

125. Plaintiffs also face an imminent deadline for the 2023 Supplemental Nutrition Assistance Program – Nutrition Education (SNAP-Ed). That program requires State entities to make incorporate the new USDA non-discrimination statement and policies to various projects and requires inclusion of certain non-discrimination statements to use federal funds. *See* FY 2023 Supplemental Nutrition Assistance Program Education Plan Guidance, U.S. Department of Agriculture Food and Nutrition Service, at 77, 159 (May 10, 2022), <https://bit.ly/3IJLWWu> (adopting the new USDA nondiscrimination statement and providing general guidance for FY 2023 and setting the deadline for submission as August 15, 2022).

126. Plaintiffs thus face an immediate threat that the USDA will enforce the Final Rule against Plaintiffs.

127. The Memoranda Q&A state that “there will not be a grace period” for changing discrimination complaint procedures. Memorandum Q&A at 3.

128. Plaintiffs thus face an immediate threat that the USDA will enforce the Memoranda against Plaintiffs.

129. The USDA stated that it would “ensur[e] consistent and robust enforcement of Title IX and the Food and Nutrition Act.” Memorandum at 2.

130. Plaintiff the State of Tennessee maintains laws or policies that at least arguably conflict with the USDA’s Memoranda and Final Rule. *See, e.g.*, Tenn. Code Ann. § 49-6-310 (providing that “[a] student’s gender for purposes of participation in a public middle school or high school interscholastic athletic activity or event must be determined by the student’s sex at the time of the student’s birth”); *id.* § 49-2-805 (giving public school students, teachers, and employees a private right of action against a school that “intentionally allow[s] a member of the opposite sex to enter [a] multi-occupancy restroom or changing facility while other persons [are] present”); *id.* § 49-6-2904(b)(2) (providing students a right to “[e]xpress religious viewpoints in a public school”); *id.* § 49-7-2405(a)(2), (a)(10) (providing, with certain limitations, that public higher educational institutions in Tennessee “shall be committed to giving students the broadest possible latitude to speak, write, listen, challenge, learn, and discuss any issue” and that “no faculty will face adverse employment action for classroom speech”).

131. Other Plaintiff States also maintain laws or policies that at least arguably conflict with Memoranda and Final Rule. *See, e.g.*, Ala. Code § 16-1-52(a)(2) (providing that “[a] public K-12 school may not allow a biological female to participate on a male team if there is a female team in a sport” or “allow a biological male to participate on a female team”); Alaska Stat. § 14.18.040 (allowing schools to provide “[s]eparate school-sponsored teams . . . for each sex”);

Ark. Code Ann. § 6-1-107(c) (providing that sex designations for school-sponsored “athletic teams or sports” must be “based on biological sex”); Gender Integrity Reinforcement Legislation for Sports (GIRLS) Act, 2021 Ark. Act 953 (Apr. 29, 2021) (creating Ark. Code Ann. § 16-129-101 et seq.) (chapter number subject to change in final codification) (similar); Ariz. Rev. State § 15-120.02 (requiring that school athletic teams be designed based on biological sex, effective as of Sept. 24, 2022); Ind. Code § 20-33-13-4 (providing that “[a] male, based on a student’s biological sex at birth...may not participate on an athletic team or sport...as being a female”); Ky. Rev. Stat. Ann. § 156.070(2)(g) (defining the sex of a student as the student’s biological sex and prohibiting male students from competition on female teams); La. Stat. Ann. § 23:332 (prohibiting discrimination based on “sex” which Louisiana courts have confirmed includes only discrimination based on biological sex, not sexual orientation or gender identity, *see Louisiana Dep’t of Justice v. Edwards*, 2017-0173 (La. App. 1 Cir. 11/1/17), 233 So. 3d 76, 81); Save Women’s Sports Act, 2021 Mont. Laws, ch. 405 (similar); Neb. Rev. Stat. § 79-2,124 (providing that the “Nebraska Equal Opportunity in Education Act does not prohibit any educational institution from maintaining separate toilet facilities, locker rooms, or living facilities for the different sexes”); Okla. Stat. tit. 51, § 253(B) (prohibiting government entities from “substantially burden[ing] a person’s free exercise of religion” unless the burden is the “least restrictive means of furthering [a] compelling governmental interest”); Okla. Stat. tit. 70, § 2119.2(B) (similar prohibition with respect to “public institution[s] of higher education”); Okla. Stat. tit. 70, § 2120 (protecting freedom of expression in public higher educational institutions); Okla. Admin. Code § 335:15-3-2(b)(5) (providing, in the employment context, that “Oklahoma Law may require that separate restroom facilities be provided employees of each sex”); W. Va. Code Ann. § 18B-20-2 (providing for freedom of expression in higher education); W. Va. Code Ann. § 21-3-12 (providing

for sex-separated water closets in workplaces and specifying that “[n]o person or persons shall be allowed to use the closets assigned to the opposite sex”); W. Va. Code Ann. § 21-3-13 (providing for separate dressing rooms and washing facilities in workplaces “for each sex”); W. Va. Const. art. 3, § 15 (guaranteeing religious liberty).

132. Enforcement of the USDA’s Memoranda or a refusal to accept the Final Rule’s terms could cause Plaintiff States to lose significant federal funds from the USDA.

133. Because the Memoranda and Final Rule appear to stretch beyond compliance with the Food and Nutrition Act and may impact Plaintiff States’ Title IX policies more generally, the USDA’s actions could trigger Title IX enforcement action by the Department of Education, which also enforces Title IX.

134. The Memoranda and Final Rule, with their rewriting of Title IX, could cause Plaintiff States to lose significant federal funds.

135. Plaintiffs adopted their laws and policies, and established sex-separated restrooms, locker rooms, showers, residence halls, and other living facilities in reliance on their understanding that Title IX does not (and could not) prohibit those laws, policies, and practices. This understanding was based on the text of Title IX itself, longstanding federal regulations, and prior guidance—including initial post-*Bostock* guidance from the Department of Education and the DOJ.

136. The Memoranda and Final Rule undermine Plaintiffs’ reliance interests and create regulatory uncertainty for Plaintiffs and other regulated entities.

137. Adopting the Memoranda and Final Rule just weeks before the beginning of the new school year would also undermine Plaintiffs’ reliance interests and create significant

logistical obstacles to ensure compliance. Plaintiffs would incur significant administrative and compliance costs if forced to comply with the Memoranda and Final Rule.

138. The Memoranda and Final Rule interfere with Plaintiffs' sovereign authority to enforce and administer their laws and to carry out important government functions.

139. The Memoranda and Final Rule impose immediate administrative and compliance costs and burdens on Plaintiffs and other regulated entities.

140. The Memoranda and Final Rule violate the protections of the First Amendment, and it is well settled that "[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury." *Roman Cath. Diocese of Brooklyn v. Cuomo*, 141 S. Ct. 63, 67 (2020) (per curiam) (quotation marks omitted).

COUNT I
USDA Memoranda Are
Agency Action Without Observance of Procedures Required by Law
5 U.S.C. § 706

141. The allegations in all preceding Paragraphs are reincorporated herein.

142. The Administrative Procedure Act (APA) requires courts to "hold unlawful and set aside agency action, findings, and conclusions found to be . . . (A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law; (B) contrary to constitutional right, power, privilege, or immunity; (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right; [or] (D) without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

143. The USDA's Memoranda are final agency actions subject to judicial review. *Id.* § 706(2)(A)-(D).

144. The USDA's Memoranda impose "rules" under the APA. *Id.* § 701(b)(2).

145. The USDA is an "agency" under the APA. *Id.* § 701(b)(1).

146. The APA requires agencies to engage in “notice and comment” for legislative rules. *Id.* § 553(b).

147. The USDA’s Memoranda are legislative rules because they “intend[] to create new law, rights or duties” and thus should have been subject to notice and comment. *Tenn. Hosp. Ass’n v. Azar*, 908 F.3d 1029, 1042 (6th Cir. 2018) (quoting *Michigan v. Thomas*, 805 F.2d 176, 183 (6th Cir. 1986)).

148. The Memoranda “seek[] to amend, rather than merely clarify,” what Title IX requires. *Id.* at 1043.

149. The Memoranda “effec[t] a substantive change in the regulations” the USDA has already issued—and any agency action that “adopt[s] a new position inconsistent with any of the Secretary’s existing regulations” is a legislative rule requiring notice and comment. *Id.* at 1042 (first alteration in original) (quoting *Shalala v. Guernsey Mem’l Hosp.*, 514 U.S. 87, 100 (1995)).

150. Because the Memoranda are legislative rules that were adopted without the required notice-and-comment procedures, they are unlawful and should be “set aside.” 5 U.S.C. § 706(2).

COUNT II
USDA Final Rule Is
Agency Action Without Observance of Procedures Required by Law
5 U.S.C. § 706

151. The allegations in all preceding Paragraphs are reincorporated herein.

152. The APA requires an agency engaging in notice-and-comment rulemaking to publish in its notice of proposed rulemaking “either the terms or substance of the proposed rule or a description of the subjects and issues involved.” 5 U.S.C. § 553(b)(3).

153. To satisfy that requirement, an agency's final action must be a logical outgrowth of its proposed rule.

154. The USDA's Proposed Rule made no mention of gender identity or sexual orientation.

155. The USDA's Proposed Rule did not provide notice that it intended to impose requirements related to "discrimination" on the basis of gender identity or sexual orientation.

156. The USDA's Final Rule imposes non-discrimination requirements that include "discrimination" on the basis of "gender identity and sexual orientation." Final Rule, 87 Fed. Reg. at 35,857.

157. The USDA's Final Rule is not a logical outgrowth of its notice of proposed rulemaking.

158. The USDA failed to provide adequate notice and a fair opportunity for comment as required by the APA.

159. Because the Final Rule failed to properly comply with the required notice-and-comment procedures, it is unlawful and should be vacated or "set aside." 5 U.S.C. § 706(2).

COUNT III
USDA Memoranda Are
Agency Action That Is Arbitrary and Capricious
5 U.S.C. § 706

160. The allegations in all preceding Paragraphs are reincorporated herein.

161. The Administrative Procedure Act requires courts to "hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

162. An “arbitrary and capricious regulation . . . is itself unlawful and receives no *Chevron* deference.” *Encino Motorcars, LLC v. Navarro*, 136 S. Ct. 2117, 2126 (2016).

163. “When an agency changes its existing position, it . . . must at least ‘display awareness that it is changing position’ and ‘show that there are good reasons for the new policy.’” *Id.* at 2125-26 (quoting *FCC*, 556 U.S. at 515). An “[u]nexplained inconsistency’ in agency policy ‘is a reason for holding an interpretation to be an arbitrary and capricious change from agency practice.’” *Id.* (alteration in original) (quoting *Nat’l Cable & Telecomm. Ass’n v. Brand X Internet Servs.*, 545 U.S. 967, 981 (2005)).

164. The USDA’s Memoranda are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because the USDA concurs with and adopts the DOJ’s and Department of Education’s analyses of Title IX with no explanation.

165. The USDA’s Memoranda are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because the USDA failed to consider the Memoranda’s effect on the reliance and religious interests of the regulated parties, alternatives that would avoid a rushed enforcement time before the new school year begins, and federalism interests of States, among other things.

166. The USDA’s Memoranda are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because the USDA fails to acknowledge that those analyses were changes in position from existing regulations and initial post-*Bostock* guidance. Moreover, the USDA fails to acknowledge that the States are challenging those DOJ and Department of Education analyses of Title IX in the federal courts or that the authority cited in those analyses has been weakened.

167. The USDA’s Memoranda are arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because their purported clarifications are premised on a misreading and unwarranted extension of *Bostock*. The USDA cannot point to *Bostock* to justify its interpretations because *Bostock* concerned only Title VII; *Bostock* expressly disclaimed application to “other federal or state laws that prohibit sex discrimination”—like Title IX and the Food and Nutrition Act—and expressly did not “prejudge any such questions.” 140 S. Ct. at 1753. Since “Title VII differs from Title IX in important respects,” “it does not follow that principles announced in the Title VII context automatically apply in the Title IX context.” *Meriwether*, 992 F.3d at 510 n.4.

168. Because the USDA’s Memoranda are arbitrary and capricious, they are unlawful and should be “set aside.” 5 U.S.C. § 706(2).

COUNT IV
USDA Final Rule Is
Agency Action That Is Arbitrary and Capricious
5 U.S.C. § 706

169. The allegations in all preceding Paragraphs are reincorporated herein.

170. The Administrative Procedure Act requires courts to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

171. An “arbitrary and capricious regulation . . . is itself unlawful and receives no *Chevron* deference.” *Encino Motorcars*, 136 S. Ct. at 2126.

172. “When an agency changes its existing position, it . . . must at least ‘display awareness that it is changing position’ and ‘show that there are good reasons for the new policy.’” *Id.* at 2125-26 (quoting *FCC*, 556 U.S. at 515). An “[u]nexplained inconsistency’ in agency policy

‘is a reason for holding an interpretation to be an arbitrary and capricious change from agency practice.’” *Id.* (alteration in original) (quoting *Brand X*, 545 U.S. at 981).

173. The USDA’s Final Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because the USDA incorporates the DOJ’s and Department of Education’s analyses of Title IX with no explanation.

174. The USDA’s Final Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because the USDA failed to consider its effect on the reliance and religious interests of the regulated parties, alternatives that would avoid a rushed enforcement time before the new school year begins, and federalism interests of States, among other things.

175. The USDA’s Final Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because the USDA fails to acknowledge its change in position from existing regulations and initial post-*Bostock* guidance. Moreover, the USDA fails to acknowledge that the States are challenging the DOJ’s and Department of Education’s analyses of Title IX in the federal courts or that the authority cited in those analyses has been weakened.

176. The USDA’s Final Rule is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law because it is premised on a misreading and unwarranted extension of *Bostock*. The USDA cannot point to *Bostock* to justify its interpretations because *Bostock* concerned only Title VII; *Bostock* expressly disclaimed application to “other federal or state laws that prohibit sex discrimination”—like Title IX and the Food and Nutrition Act—and expressly did not “prejudge any such questions.” 140 S. Ct. at 1753. And since “Title VII differs from Title IX in important respects,” “it does not follow that principles announced in the Title VII context automatically apply in the Title IX context.” *Meriwether*, 992 F.3d at 510 n.4.

177. Because the USDA's Final Rule is arbitrary and capricious, it is unlawful and should be "set aside." 5 U.S.C. § 706(2).

COUNT V
USDA Memoranda Are
Agency Action That Is Contrary to Title IX
5 U.S.C. § 706

178. The allegations in all preceding Paragraphs are reincorporated herein.

179. The Administrative Procedure Act requires courts to "hold unlawful and set aside agency action, findings, and conclusions found to be . . . (A) . . . not in accordance with law; . . . [or] (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2).

180. The USDA's Memoranda are contrary to law and exceed the Department's statutory authority because *Bostock*'s interpretation of Title VII's language is inapplicable to Title IX's materially different language.

181. The USDA's Memoranda are contrary to law and exceed the Department's statutory authority because, properly interpreted, Title IX's prohibition of discrimination "on the basis of sex" does not encompass discrimination based on sexual orientation or gender identity.

182. The USDA's Memoranda are contrary to law and exceed the Department's statutory authority because, properly interpreted, Title IX and longstanding Department regulations expressly permit distinctions based on biological sex in certain circumstances.

183. Because the USDA's Memoranda are contrary to Title IX and exceed the Department's statutory authority, they are unlawful and should be "set aside."

COUNT VI
USDA Memoranda
Agency Action That Is Contrary to the Food and Nutrition Act
5 U.S.C. § 706

184. The allegations in all preceding Paragraphs are reincorporated herein.

185. The Administrative Procedure Act requires courts to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . (A) . . . not in accordance with law; . . . [or] (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2).

186. The USDA’s Memoranda are contrary to law and exceed the Department’s statutory authority because *Bostock*’s interpretation of Title VII’s language is inapplicable to the Food and Nutrition Act.

187. Because the USDA’s Memoranda are contrary to the Food and Nutrition Act and exceed the Department’s statutory authority, they are unlawful and should be “set aside.”

COUNT VII
USDA Final Rule Is
Agency Action That Is Contrary to Title IX
5 U.S.C. § 706

188. The allegations in all preceding Paragraphs are reincorporated herein.

189. The Administrative Procedure Act requires courts to “hold unlawful and set aside agency action, findings, and conclusions found to be . . . (A) . . . not in accordance with law; . . . [or] (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2).

190. The USDA’s Final Rule is contrary to law and exceeds the Department’s statutory authority because *Bostock*’s interpretation of Title VII’s language is inapplicable to Title IX’s materially different language.

191. The USDA’s Final Rule is contrary to law and exceeds the Department’s statutory authority because, properly interpreted, Title IX’s prohibition of discrimination “on the basis of sex” does not encompass discrimination based on sexual orientation or gender identity.

192. The USDA's Final Rule is contrary to law and exceeds the Department's statutory authority because, properly interpreted, Title IX and longstanding Department regulations expressly permit distinctions based on biological sex in certain circumstances.

193. Because the USDA's Final Rule is contrary to Title IX and exceeds the Department's statutory authority, it is unlawful and should be "set aside."

COUNT VIII
USDA Final Rule Is
Agency Action That Is Contrary to the Food and Nutrition Act
5 U.S.C. § 706

194. The allegations in all preceding Paragraphs are reincorporated herein.

195. The Administrative Procedure Act requires courts to "hold unlawful and set aside agency action, findings, and conclusions found to be . . . (A) . . . not in accordance with law; . . . [or] (C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2).

196. The USDA's Final Rule is contrary to law and exceeds the Department's statutory authority because *Bostock*'s interpretation of Title VII's language is inapplicable to the Food and Nutrition Act.

197. Because the USDA's Final Rule is contrary to the Food and Nutrition Act and exceeds the Department's statutory authority, it is unlawful and should be "set aside."

COUNT IX
USDA Memoranda Are
Agency Action That Violates the Spending Clause
5 U.S.C. § 706, U.S. Const. art. I, § 8

198. The allegations in all preceding Paragraphs are reincorporated herein.

199. The USDA's Memoranda are "not in accordance with law," "contrary to constitutional right, power, privilege, or immunity," and "in excess of statutory jurisdiction,

authority, or limitations,” 5 U.S.C. § 706(2)(A)-(C), because they violate the Spending Clause of the U.S. Constitution.

200. The Spending Clause authorizes Congress to “attach conditions on the receipt of federal funds,” but the “spending power is of course not unlimited.” *South Dakota v. Dole*, 483 U.S. 203, 206-07 (1987).

201. One such limit is that, “if Congress desires to condition the States’ receipt of federal funds, it ‘must do so unambiguously, enabling the States to exercise their choice knowingly, cognizant of the consequences of their participation.’” *Id.* at 207 (cleaned up) (quoting *Pennhurst State Sch. & Hosp. v. Halderman*, 451 U.S. 1, 17 (1981)).

202. Another limit is that Congress may not use its spending power to “indirectly coerce[] a State to adopt a federal regulatory system as its own.” *NFIB v. Sebelius*, 567 U.S. 519, 578 (2012) (opinion of Roberts, C.J.).

203. The Memoranda violate the Spending Clause because they purport to impose obligations on Plaintiffs that Congress did not clearly impose when it enacted Title IX or the Food and Nutrition Act, contrary to the requirement that Congress must “unambiguously” notify the States of any conditions attached to the funds. *Dole*, 483 U.S. at 207 (quoting *Pennhurst*, 451 U.S. at 17).

204. The Memoranda also violate the Spending Clause because they place in jeopardy a significant amount of Plaintiffs’ federal funding if they refuse or otherwise fail to comply with the Department’s new interpretation of Title IX and the Food and Nutrition Act, leaving Plaintiffs with “no real option but to acquiesce” in the interpretation. *See NFIB*, 567 U.S. at 587 (opinion of Roberts, C.J.).

205. Because the USDA's Memoranda violate the Spending Clause, they are unlawful and should be "set aside." 5 U.S.C. § 706(2).

COUNT X
USDA Final Rule Is
Agency Action That Violates the Spending Clause
5 U.S.C. § 706, U.S. Const. art. I, § 8

206. The allegations in all preceding Paragraphs are reincorporated herein.

207. The USDA's Final Rule is "not in accordance with law," "contrary to constitutional right, power, privilege, or immunity," and "in excess of statutory jurisdiction, authority, or limitations," 5 U.S.C. § 706(2)(A)-(C), because it violates the Spending Clause of the U.S. Constitution.

208. The Spending Clause authorizes Congress to "attach conditions on the receipt of federal funds," but the "spending power is of course not unlimited." *Dole*, 483 U.S. at 206-07.

209. One such limit is that, "if Congress desires to condition the States' receipt of federal funds, it 'must do so unambiguously, enabling the States to exercise their choice knowingly, cognizant of the consequences of their participation.'" *Id.* at 207 (cleaned up) (quoting *Pennhurst*, 451 U.S. at 17).

210. Another limit is that Congress may not use its spending power to "indirectly coerce[] a State to adopt a federal regulatory system as its own." *NFIB*, 567 U.S. at 578 (opinion of Roberts, C.J.).

211. The Final Rule violates the Spending Clause because it purports to impose obligations on Plaintiffs that Congress did not clearly impose when it enacted Title IX and the Food and Nutrition Act, contrary to the requirement that Congress must "unambiguously" notify

the States of any conditions attached to the funds. *Dole*, 483 U.S. at 207 (quoting *Pennhurst*, 451 U.S. at 17).

212. The Final Rule also violates the Spending Clause because it places in jeopardy a significant amount of Plaintiffs' federal funding if they refuse or otherwise fail to comply with the Department's new interpretation of Title IX or the Food and Nutrition Act, leaving Plaintiffs with "no real option but to acquiesce" in the interpretation. *See NFIB*, 567 U.S. at 587 (opinion of Roberts, C.J.).

213. Because the Final Rule violates the Spending Clause, it is unlawful and should be "set aside." 5 U.S.C. § 706(2).

COUNT XI
USDA Memoranda Are
Agency Action That Violates the Spending Clause and First Amendment
5 U.S.C. § 706, U.S. Const. art. I, § 8, U.S. Const. amend. I

214. The allegations in all preceding Paragraphs are reincorporated herein.

215. The USDA's Memoranda are "not in accordance with law," "contrary to constitutional right, power, privilege, or immunity," and "in excess of statutory jurisdiction, authority, or limitations," 5 U.S.C. § 706(2)(A)-(C), because they violate the First Amendment to the U.S. Constitution, condition the receipt of federal funds on recipients violating the First Amendment rights of others, and condition existing funding on new and unexpected restrictions on recipients' First Amendment rights.

216. The Sixth Circuit has held that requiring a state university professor to use a transgender student's preferred pronouns violates the professor's First Amendment rights. *See Meriwether*, 992 F.3d at 511-12.

217. The Memoranda also conflict with the First Amendment's protection of religious liberty.

218. The Memoranda infringe on Plaintiffs' sovereign authority to enact and enforce laws that protect the First Amendment rights of their citizens.

219. To the extent the Memoranda require Plaintiffs to adopt policies or engage in conduct that would infringe on First Amendment rights, the Memoranda impose unconstitutional conditions on Plaintiffs' receipt of federal funds. *See, e.g., Dole*, 483 U.S. at 210 (explaining that the spending power "may not be used to induce the States to engage in activities that would themselves be unconstitutional").

220. Plaintiffs also have First Amendment rights, which include the right not to express messages they do not want to express. *See Walker v. Tex. Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 219-20 (2015). That is particularly true regarding speech on controversial topics such as sexual orientation and gender identity. *See Bongo Prods., LLC v. Lawrence*, No. 3:21-cv-00490, 2022 WL 1557664, at *1, *16-17 (M.D. Tenn. May 17, 2022).

221. The Memoranda would force Plaintiffs to post posters, rewrite policies, enforce policies, and otherwise engage in actions that express messages Plaintiffs do not agree with.

222. The Memoranda seem to force Plaintiffs and their employees to engage in biologically inaccurate speech and to forbid biologically accurate speech due to the USDA's essentially moral judgment on the meaning of "sex." *See Epperson v. Arkansas*, 393 U.S. 97, 106 (1968).

223. Title IX and the Food and Nutrition Act did not clearly impose such a curtailing of Plaintiffs' First Amendment rights, and the Memoranda place significant federal funding in jeopardy if Plaintiffs' do not express these newly required messages.

224. Because the USDA's Memoranda violate the First Amendment and impose unconstitutional conditions on federal funding, they are unlawful and should be "set aside." 5 U.S.C. § 706(2).

COUNT XII
USDA Final Rule Is
Agency Action That Violates the Spending Clause and First Amendment
5 U.S.C. § 706, U.S. Const. art. I, § 8, U.S. Const. amend. I

225. The allegations in all preceding Paragraphs are reincorporated herein.

226. The USDA's Final Rule is "not in accordance with law," "contrary to constitutional right, power, privilege, or immunity," and "in excess of statutory jurisdiction, authority, or limitations," 5 U.S.C. § 706(2)(A)-(C), because it violates the First Amendment to the U.S. Constitution, conditions the receipt of federal funds on recipients violating the First Amendment rights of others, and conditions existing funding on new and unexpected restrictions on recipients' First Amendment rights.

227. The Sixth Circuit has held that requiring a state university professor to use a transgender student's preferred pronouns violates the professor's First Amendment rights. *See Meriwether*, 992 F.3d at 511-12.

228. The Final Rule also conflicts with the First Amendment's protection of religious liberty.

229. The Final Rule infringes on Plaintiffs' sovereign authority to enact and enforce laws that protect the First Amendment rights of their citizens.

230. To the extent the Final Rule requires Plaintiffs to adopt policies or engage in conduct that would infringe on First Amendment rights, the Final Rule imposes unconstitutional conditions on Plaintiffs' receipt of federal funds. *See, e.g., Dole*, 483 U.S. at 210 (explaining that

the spending power “may not be used to induce the States to engage in activities that would themselves be unconstitutional”).

231. Plaintiffs also have First Amendment rights, which include the right not to express messages they do not want to express. *See Walker*, 576 U.S. at 219-20. That is particularly true regarding speech on controversial topics such as sexual orientation and gender identity. *See Bongo Prods*, 2022 WL 1557664, at *1, *16-17.

232. The Final Rule would force Plaintiffs to post posters, rewrite policies, enforce policies, and otherwise engage in actions that express messages Plaintiffs do not agree with.

233. The Final Rule seems to force Plaintiffs and their employees to engage in biologically inaccurate speech and to forbid biologically accurate speech due to the USDA’s essentially moral judgment on the meaning of “sex.” *See Epperson*, 393 U.S. at 106.

234. Title IX and the Food and Nutrition Act did not clearly impose such a curtailing of Plaintiffs’ First Amendment rights, and the Final Rule places significant federal funding in jeopardy if Plaintiffs do not express these newly required messages.

235. Because the USDA’s Final Rule violates the First Amendment and imposes unconstitutional conditions on federal funding, it is unlawful and should be “set aside.” 5 U.S.C. § 706(2).

COUNT XIII
USDA Memoranda Are
Agency Action That Violates the Tenth Amendment and the Anticommandeering Doctrine
5 U.S.C. § 706, U.S. Const. amend. X

236. The allegations in all preceding Paragraphs are reincorporated herein.

237. The USDA’s Memoranda are “not in accordance with law,” “contrary to constitutional right, power, privilege, or immunity,” and “in excess of statutory jurisdiction,

authority, or limitations,” 5 U.S.C. § 706(2)(A)-(C), because they violate the Tenth Amendment to the U.S. Constitution, *see* U.S. Const. amend. X (“The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”); *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230 (1947) (explaining that Congress must make “clear and manifest” its purpose to supersede powers historically reserved to the States).

238. The Tenth Amendment and structure of the Constitution also deprive Congress of “the power to issue direct orders to the governments of the States,” *Murphy v. NCAA*, 138 S. Ct. 1461, 1476 (2018), and forbid the federal government from commandeering state officers “into administering federal law,” *Printz v. United States*, 521 U.S. 898, 928 (1997).

239. The Memoranda commandeer Plaintiffs and their employees into enforcing federal policy by threatening Plaintiff States’ SNAP funding and funding for entities subject to Title IX. If the Memoranda are left in effect, Plaintiff States have no real choice but to allow their employees to be commandeered and used to enforce the Department’s policy.

240. Because the Department’s Memoranda violate the Tenth Amendment, they are unlawful and should be “set aside.” 5 U.S.C. § 706(2).

COUNT XIV
USDA Final Rule Is
Agency Action That Violates the Tenth Amendment and the Anticommandeering Doctrine
5 U.S.C. § 706, U.S. Const. amend. X

241. The allegations in all preceding Paragraphs are reincorporated herein.

242. The USDA’s Final Rule is “not in accordance with law,” “contrary to constitutional right, power, privilege, or immunity,” and “in excess of statutory jurisdiction, authority, or limitations,” 5 U.S.C. § 706(2)(A)-(C), because it violates the Tenth Amendment to the U.S. Constitution, *see* U.S. Const. amend. X (“The powers not delegated to the United States

by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people.”); *Rice*, 331 U.S. at 230 (explaining that Congress must make “clear and manifest” its purpose to supersede powers historically reserved to the States).

243. The Tenth Amendment and structure of the Constitution also deprive Congress of “the power to issue direct orders to the governments of the States,” *Murphy*, 138 S. Ct. at 1476, and forbid the federal government from commandeering State officers “into administering federal law,” *Printz*, 521 U.S. at 928.

244. The Final Rule commandeers Plaintiffs and their employees into enforcing federal policy by threatening Plaintiff States’ SNAP funding and funding for entities subject to Title IX. If the Final Rule is left in effect, Plaintiff States have no real choice but to allow their employees to be commandeered and used to enforce the Department’s policy.

245. Because the Department’s Final Rule violates the Tenth Amendment and the Anticommandeering Doctrine, it is unlawful and should be “set aside.” 5 U.S.C. § 706(2).

COUNT XV
USDA Memoranda Are
Agency Action That Violates the Separation of Powers and the Non-Delegation Doctrine
5 U.S.C. § 706, U.S. Const. art. I, § 1

246. The allegations in all preceding Paragraphs are reincorporated herein.

247. The USDA’s Memoranda are “not in accordance with law,” “contrary to constitutional right, power, privilege, or immunity,” and “in excess of statutory jurisdiction, authority, or limitations,” 5 U.S.C. § 706(2)(A)-(C), because they are so removed from any reasonable reading of Title IX and the Food and Nutrition Act that they amount to an unconstitutional exercise of legislative power, *see* U.S. Const. art. I, § 1 (“All legislative Powers herein granted shall be vested in . . . Congress.”).

248. Under U.S. Supreme Court precedent, “a statutory delegation is constitutional as long as Congress lays down by legislative act an intelligible principle to which the person or body authorized to exercise the delegated authority is directed to conform.” *Gundy v. United States*, 139 S. Ct. 2116, 2123 (2019). Congress must offer “specific restrictions” that “meaningfully constrain[]” the agency’s exercise of authority. *Touby v. United States*, 500 U.S. 160, 166-67 (1991).

249. Moreover, Congress must “speak clearly when authorizing an agency to exercise powers of vast economic and political significance.” *Ala. Ass’n of Realtors v. Dep’t of Health & Hum. Servs.*, 141 S. Ct. 2485, 2489 (2021) (quotation omitted); *see West Virginia v. EPA*, 142 S. Ct. 2587, 2607-10 (2022). Both the “separation of powers principles and a practical understanding of legislative intent” require that a federal agency “must point to clear congressional authorization for the authority it claims.” *Id.* at 2609 (quotation omitted).

250. Congress did not clearly delegate to the Department the authority to resolve this major question or to rewrite Title IX or the Food and Nutrition Act as the Memoranda have attempted to do here, *see id.* at 2609-10, and any such delegation would be unconstitutional.

251. Because the Memoranda exceed the Department’s authority and violate separation-of-powers principles and the non-delegation doctrine, they are unlawful and should be “set aside.” 5 U.S.C. § 706(2).

COUNT XVI
USDA Final Rule Is
Agency Action That Violates the Separation of Powers and the Non-Delegation Doctrine
5 U.S.C. § 706, U.S. Const. art. I, § 1

252. The allegations in all preceding Paragraphs are reincorporated herein.

253. The USDA’s Final Rule is “not in accordance with law,” “contrary to constitutional right, power, privilege, or immunity,” and “in excess of statutory jurisdiction,

authority, or limitations,” 5 U.S.C. § 706(2)(A)-(C), because it is so removed from any reasonable reading of Title IX and the Food and Nutrition Act that it amounts to an unconstitutional exercise of legislative power, *see* U.S. Const. art. I, § 1 (“All legislative Powers herein granted shall be vested in . . . Congress.”).

254. Under U.S. Supreme Court precedent, “a statutory delegation is constitutional as long as Congress lays down by legislative act an intelligible principle to which the person or body authorized to exercise the delegated authority is directed to conform.” *Gundy*, 139 S. Ct. at 2123. Congress must offer “specific restrictions” that “meaningfully constrain[]” the agency’s exercise of authority. *Touby*, 500 U.S. at 166-67.

255. Moreover, Congress must “speak clearly when authorizing an agency to exercise powers of vast economic and political significance.” *Ala. Ass’n of Realtors*, 141 S. Ct. at 2489 (quotation omitted); *see West Virginia*, 142 S. Ct. at 2607-10. Both the “separation of powers principles and a practical understanding of legislative intent” require that a federal agency “must point to clear congressional authorization for the authority it claims.” *Id.* at 2609 (quotation omitted).

256. Congress did not clearly delegate to the Department the authority to resolve this major question or to rewrite Title IX or the Food and Nutrition Act as the Final Rule has attempted to do here, *see id.* at 2609-10, and any such delegation would be unconstitutional.

257. Because the Final Rule exceeds the Department’s authority and violates separation-of-powers principles and the non-delegation doctrine, it is unlawful and should be “set aside.” 5 U.S.C. § 706(2).

COUNT XVII
USDA Memoranda and Final Rule
Declaratory Judgment
5 U.S.C. § 706, 28 U.S.C. § 2201

258. The allegations in all preceding Paragraphs are reincorporated herein.

259. The USDA's Memoranda are unlawful because they are legislative rules that did not undergo notice and comment.

260. The USDA's Memoranda are unlawful because they are arbitrary and capricious.

261. The USDA's Memoranda are contrary to law because they violate Title IX, the Food and Nutrition Act, and the Constitution.

262. The Memoranda exceed the USDA's statutory authorization.

263. Plaintiffs are entitled to a declaration that the USDA's Memoranda are invalid and cannot be enforced against Plaintiffs.

264. The USDA's Final Rule is unlawful because the Department failed to provide adequate notice and a fair opportunity for comment as required by the APA.

265. The USDA's Final Rule is unlawful because it is arbitrary and capricious.

266. The USDA's Final Rule is contrary to law because it violates Title IX, the Food and Nutrition Act, and the Constitution.

267. The Final Rule exceeds the USDA's statutory authorization.

268. Accordingly, Plaintiffs are entitled to a declaration that the USDA's Final Rule is invalid and cannot be enforced against Plaintiffs.

REQUEST FOR RELIEF AND DEMAND FOR JUDGMENT

A. A declaratory judgment holding unlawful the Department's Memoranda and Final Rule.

B. A declaratory judgment holding that Plaintiffs are not bound by the Department's Memoranda and Final Rule.

C. A declaratory judgment affirming that the Department may neither penalize nor withdraw federal funding from Plaintiffs and Title IX and Food and Nutrition Act recipients located in the Plaintiff States that continue to separate students by biological sex in appropriate circumstances.

D. A declaratory judgment that the Department may neither penalize nor withdraw federal funding from Plaintiffs and Title IX and Food and Nutrition Act recipients located in Plaintiff States that maintain showers, locker rooms, bathrooms, residential facilities, and other living facilities separated by biological sex or regulate each individual's access to those facilities based on the individual's biological sex.

E. A declaratory judgment that the Department may neither penalize nor withdraw federal funding from Plaintiffs and Title IX and Food and Nutrition Act recipients located in Plaintiff States that do not require employees or students to use a transgender individual's preferred pronouns.

F. A declaratory judgment that the Department may neither penalize nor withdraw federal funding from Plaintiffs and Title IX and Food and Nutrition Act recipients located in Plaintiff States that maintain athletic teams separated by biological sex or from assigning an individual to a team based on the individual's biological sex.

G. A declaratory judgment holding that the Department lacked authority to issue the Memoranda and Final Rule.

H. A judgment setting aside the Memoranda and Final Rule.

I. A preliminary and permanent injunction prohibiting Defendants and their officers, agents, servants, employees, attorneys, and any other persons who are in active concert or participation with those individuals from enforcing the Memoranda and Final Rule.

J. All other relief to which Plaintiffs are entitled.

Dated: July 26, 2022

Respectfully Submitted,

/s/ Brandon J. Smith (BPR # 037272)

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***Application for Pro Hac Admission Forthcoming**

EXHIBIT A



Food and
Nutrition
Service

DATE: May 5, 2022

MEMO CODE: CRD 01-2022

Braddock
Metro Center

SUBJECT: Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update

1320
Braddock
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Alexandria
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TO: Regional Directors
All Food and Nutrition Service Programs
All Regions

State Directors
All Food and Nutrition Service Programs
All States

Issuing Agency/Office:	FNS/Civil Rights Division
Title of Document:	Application of <i>Bostock v. Clayton County</i> in Program Discrimination Complaint Processing – Policy Update
Document ID:	
Z-RIN:	
Date of Issuance:	May 5, 2022
Replaces:	
Summary:	<p>This memorandum clarifies prohibitions against discrimination based on sex in all FNS programs found in Title IX of the Education Amendments of 1972; the Food and Nutrition Act of 2008, as amended, Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp Program (7 USC § 2011 et seq.); and related implementing regulations that prohibit discrimination on the basis of gender identity and sexual orientation.</p> <p>USDA/FNS issues this memorandum regarding processing discrimination complaints.</p>

The United States Department of Agriculture's (USDA) Food and Nutrition Service (FNS) Civil Rights Division issues this memorandum to provide direction to State agencies and program operators regarding processing program complaints that allege discrimination on the basis of gender identity and sexual orientation in programs or activities receiving Federal financial assistance from FNS.

Background

FNS enforces prohibitions on sex discrimination found in Title IX of the Education Amendments of 1972 (Title IX); the Food and Nutrition Act of 2008 (Food and Nutrition Act), as amended, Supplemental Nutrition Assistance Program (SNAP), formerly the Food Stamp Program 7 USC § 2011 et seq.; and related regulations. In June 2020, the U.S. Supreme Court held in *Bostock v. Clayton County*, 140 S. Ct. 1731, 590 U.S. ____ (2020), that employment discrimination based on gender identity or sexual orientation constitutes prohibited discrimination based on sex under Title VII of the Civil Rights Act of 1964. In *Bostock*, the Court explained that when an employer

fires an employee for being gay or transgender, the employer fires that person “for traits or actions [the employer] would not have questioned in members of a different sex.” 140 S. Ct. at 1737. This means that “[s]ex plays a necessary and undisguisable role in the decision, exactly what Title VII forbids.” *Id.* In other words, being gay or transgender is “inextricably bound up with sex.” *Id.* at 1742.

On January 20, 2021, President Biden issued Executive Order (EO) 13988, “Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation.” 86 Fed. Reg. 7023. The EO set out the Administration’s policy that all persons are entitled to dignity, respect, and equal treatment under the law, no matter their gender identity or sexual orientation. EO 13988 references the Supreme Court’s holding in *Bostock* and states that *Bostock*’s reasoning applies with equal force to other laws that prohibit sex discrimination “so long as the laws do not contain sufficient indications to the contrary.” EO 13988 directs Federal agencies to review laws and regulations that prohibit sex discrimination to determine whether they prohibit discrimination on the basis of gender identity and sexual orientation.

Processing Discrimination Complaints

USDA/FNS is committed to ensuring consistent and robust enforcement of Title IX and the Food and Nutrition Act, in furtherance of the commitment that every person should be treated with respect and dignity. In light of *Bostock*, FNS has evaluated the statutes it enforces and determined that discrimination based on gender identity and sexual orientation can constitute prohibited sex discrimination under Title IX and the Food and Nutrition Act. This interpretation is based on the Agency’s legal analysis of the statutory text of Title IX, the Title IX *Bostock* interpretations of the Departments of Justice and Education, the statutory text of the Food and Nutrition Act, and the reasoning set forth in *Bostock* and related caselaw.

As to Title IX, FNS concurs with and adopts the Department of Justice’s and Department of Education’s analyses concluding that Title IX’s prohibition on sex discrimination includes a prohibition on discrimination on the basis of gender identity and sexual orientation. *See* Pamela S. Karlan, Memorandum to Federal Agency Civil Rights Directors and General Counsels, *Application of Bostock v. Clayton County to Title IX of the Education Amendments of 1972* (March 26, 2021); Enforcement of Title IX of the Education Amendments of 1972 with Respect to Discrimination Based on Sexual Orientation and Gender Identity in Light of *Bostock v. Clayton County*, 86 Fed. Reg. 32,637 (June 22, 2021).

Regarding the Food and Nutrition Act, the text of the Act’s nondiscrimination provision is sufficiently similar to the language in Title VII that the *Bostock* court relied on in reaching its holding. First, the Act provides that “there shall be no discrimination by reason of . . . sex.” 7 U.S.C. § 2020(c)(1). Title VII of the Civil Rights Act of 1964 prohibits discrimination “because of” an individual’s sex. 42 U.S.C. § 2000e-2(a). The phrases “because of” and “by reason of” are used synonymously. *See, e.g., Bostock*, 140 S. Ct. at 1739 (“And, as this Court has previously explained, the ordinary meaning of ‘because of’ is ‘by reason of’ or ‘on account of.’”) (cleaned up); *cf. Merriam-Webster*, <https://www.merriam-webster.com/dictionary/by%20reason%20of> (last visited Feb. 24, 2022) (defining “by reason of” to mean “because of” or “due to”). Furthermore, in his *Bostock* dissent, Justice Alito listed the Food and Nutrition Act nondiscrimination provision, 7 U.S.C. § 2020(c)(1), among a list of “[o]ver 100 federal statutes [that] prohibit discrimination because of sex” which he anticipated being impacted by the majority decision in *Bostock*. 140 S. Ct. at 1778, 1791 (Alito J. dissenting).

Second, the Food and Nutrition Act, like Title VII, focuses on protecting individuals from discrimination. Title VII expressly protects “any individual” from discrimination. The Food and Nutrition Act also focuses on individual households (“applicant households”), as opposed to program applicants as a whole (“In the certification of applicant households for the supplemental nutrition assistance program, there

shall be no discrimination by reason of . . . sex.”) 7 U.S.C. § 2020(c)(1). As the *Bostock* Court observed, this focus on individuals is significant because it is not a “defense for the employer to note that, while he treated that individual woman worse than he would have treated a man, he gives preferential treatment to female employees overall.” *Id.* at 1741. Similarly, it would not be a defense for a provider to argue that they should not be liable for discriminating against an individual applicant household based on sex because there is data showing that applicants as a whole receive assistance free of sex discrimination.

Thus, FNS concludes the focus on individual households and the prohibition of discrimination “by reason of” sex under the Food and Nutrition Act is sufficiently similar to Title VII such that the *Bostock* analysis applies to the Food and Nutrition Act. This means that the certification of applicant households for SNAP shall be conducted without discrimination on the basis of gender identity and sexual orientation.

State agencies and program operators should expeditiously review their program discrimination complaint procedures and make any changes necessary to ensure complaints alleging discrimination on the basis of gender identity and sexual orientation are processed and evaluated as complaints of discrimination on the basis of sex. State agencies and program operators are advised that the interpretation outlined in this memo does not determine the outcome in any particular case, which will depend on the specific facts and circumstances of that case. Any action taken by USDA in a specific case will take account of all relevant facts and legal requirements, including, where applicable, Title IX’s religious exemption, the Religious Freedom Restoration Act, 42 U.S.C. 2000bb et seq., and any other applicable exemptions.

State agencies are reminded to distribute this memorandum to local agencies, Program Operators and Sponsors, and all other subrecipients of Federal financial assistance. Local agencies, Program Operators and Sponsors, and all other subrecipients should direct questions concerning this memorandum to their State agency. State agencies with questions should contact the appropriate FNS Regional Civil Rights Officer. The FNS Civil Rights Division is available to provide technical assistance as you ensure compliance with Title IX’s and the Food and Nutrition Act’s protections against sex discrimination.

Roberto Contreras
Director
Civil Rights Division
Food and Nutrition Service

ROBERTO CONTRERAS Digitally signed
by ROBERTO CONTRERAS

Attachments

- 1/ Bostock Cover Letter
- 2/ Questions and Answers Related to CRD 01-2022 Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update

cc: Deputy Administrators
Regional Administrators
Regional Civil Rights Officers

EXHIBIT B



Food and
Nutrition
Service

Braddock
Metro Center

1320
Braddock
Place
Alexandria
VA 22314

TO: Regional Program Directors and State Agencies

The attached memorandum¹ includes the Food and Nutrition Service's (FNS) complaint processing policy update related to program complaints alleging discrimination on the basis of gender identity or sexual orientation in programs or activities receiving Federal financial assistance. In short, discrimination on the basis of sex in programs or activities receiving Federal financial assistance includes discrimination on the basis of sexual orientation and discrimination on the basis of gender identity. This policy update is consistent with the Supreme Court's decision in *Bostock v. Clayton County*, 140 S. Ct. 1731, 590 U.S. ____ (2020), and applies to prohibitions against discrimination based on sex in all FNS programs.

This memorandum will impact the processing of program discrimination complaints, effective immediately. In addition, FNS's Civil Rights Division will update the Non-discrimination Statement and the *And Justice for All* posters to include gender identity and sexual orientation as protected bases. We understand these changes may impact your operations and we will be available to provide you with technical assistance to make the necessary changes. Additional information regarding the Nondiscrimination Statement and the *And Justice for All* posters is forthcoming. State agencies are reminded to distribute this memorandum to local agencies, program operators and sponsors, and all other subrecipients of Federal financial assistance. Local agencies, program operators and sponsors, and all other subrecipients should direct questions concerning this memorandum to their State agency.

¹ Memorandum titled Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update

The attached memorandum is effective immediately. If you have any questions or comments, please send an email to the Civil Rights Division to FNSCivilRightsPolicy@usda.gov.

Sincerely,

Roberto Contreras
Director
Civil Rights Division
Food and Nutrition Service

ROBERTO
CONTRERAS



Digitally signed
by ROBERTO
CONTRERAS

EXHIBIT C



Food and
Nutrition
Service

DATE: May 5, 2022

MEMO CODE: CRD 02-2022

Braddock
Metro Center

SUBJECT: Questions and Answers Related to CRD 01-2022 Application of *Bostock v. Clayton County* to Program Discrimination Complaint Processing – Policy Update

1320
Braddock
Place
Alexandria
VA 22314

TO: Regional Directors
All Food and Nutrition Service Programs
All Regions

State Directors
All Food and Nutrition Service Programs
All State Agencies

Issuing Agency/Office:	FNS/Civil Rights Division
Title of Document:	Questions and Answers Related to Application of <i>Bostock v. Clayton County</i> to Program Discrimination Complaint Processing – Policy Update
Document ID:	Not Applicable
Z-RIN:	Not Applicable
Date of Issuance:	May 5, 2022
Replaces:	Not Applicable
Summary:	This memorandum provides clarification on questions related to the prohibitions against discrimination based on sex in all FNS programs found in Title IX of the Education Amendments of 1972; the Food and Nutrition Act of 2008, as amended, Supplemental Nutrition Assistance Program (SNAP) (7 USC § 2011 et seq.); and related implementing regulations prohibiting discrimination on the basis of gender identity and sexual orientation.

The Food and Nutrition Service (FNS), Civil Rights Division (CRD) is issuing this memorandum to provide clarification on questions related to CRD 01-2022 *Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update*, published on May 5, 2022.

FNS's interpretation of discrimination on the basis of sex in programs or activities receiving Federal financial assistance includes discrimination on the basis of sexual orientation and discrimination on the basis of gender identity. The following questions and answers were developed to assist State Agencies and program operators with the implementation of this Policy Update.

Questions and Answers

I. General

1. What next steps must be taken by State Agencies and program operators?

State Agencies and program operators will have to update their program discrimination complaint processing procedures for allegations related to services and activities receiving federal financial assistance from the USDA to ensure discrimination complaints alleging sexual orientation and gender identity discrimination are processed as complaints of prohibited sex discrimination. Additionally, State Agencies and program operators will need to update their Nondiscrimination Statements and order new *And Justice for All* posters that reference gender identity and sexual orientation discrimination. The updated FNS Nondiscrimination Statement will be available in multiple languages at <https://www.fns.usda.gov/cr/fns-nondiscrimination-statement>. Additional guidance will be issued by FNS CRD specifically addressing these two topics.

2. When should program operators and State Agencies update the Nondiscrimination Statement and the *And Justice for All* posters?

Although CRD 01-2022 *Application of Bostock v. Clayton County to Program Discrimination Complaint Processing – Policy Update* is effective immediately, additional guidance is forthcoming. We will work with State Agencies and program operators on the timing for updating documents and materials to include the updated Nondiscrimination Statement. Items that can be changed without further guidance should be updated as soon as possible (websites for example). Additional guidance for timelines and implementation will be provided in a separate memorandum.

3. What should program operators and State Agencies do with old *And Justice for All* posters?

Currently, updated *And Justice for All* posters are in production and will be available in the coming months. State Agencies and program operators must continue to display the applicable version of the poster dated September 2019, until updated *And Justice for All* posters are ordered and received. Guidance on poster ordering and display is forthcoming.

4. What if a State Agency or program operator does not currently have an *And Justice For All* poster displayed?

Contact your Regional Civil Rights Officer for additional information and guidance.

5. Who is my Regional Civil Rights Officer?

See regional contact list at <https://www.fns.usda.gov/fns-regional-offices>

6. How do you request a religious exemption with the U.S. Department of Agriculture?

Under U.S. Department of Agriculture (USDA) regulation [7 CFR 15a.205](#), educational institutions and other entities may claim an exemption from the provisions of Title IX by submitting a written declaration to the Secretary of Agriculture identifying the provisions that conflict with a specific tenet of the religious organization.

USDA's Postal Service mailing address is:
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

7. Will a finding be issued for non-compliance with the updated *And Justice for All* poster and Nondiscrimination Statement?

During the grace period, findings will not be issued if the State Agency is unable to display the updated *And Justice for All* poster and incorporate the Nondiscrimination Statement on documents and materials. Once the grace period(s) have expired for ordering and displaying posters and reprinting documents, a State agency or program operator must demonstrate efforts taken to comply with the guidance provided before a determination is made to issue a finding of noncompliance. Additional guidance on timelines and implementation will be provided in a separate memorandum.

Please note there will not be a grace period for accepting and processing discrimination complaints based on sexual orientation and gender identity in FNS programs.

USDA is an Equal Opportunity Provider, Employer, and Lender.

EXHIBIT D



Food and
Nutrition
Service

1320 Braddock Place
Alexandria, VA
22314-1649

To: Regional Directors
All Child Nutrition (CN) and Supplemental Nutrition and Safety Programs¹ (SNAS)
State Directors
CN and SNAS
All State Agencies

Subject: Revised Nondiscrimination Statement and “And Justice for All” Posters; Timelines and Guidance for Implementation

On May 5, 2022, the Food and Nutrition Service’s (FNS), Civil Rights Division, issued a memorandum on *Bostock v. Clayton County* and its application to USDA FNS Programs. The memorandum informed FNS program recipients that the prohibition of discrimination based on sex in Title IX and the Food and Nutrition Act includes gender identity and sexual orientation. The changes impact the USDA Nondiscrimination Statement (NDS) and the *And Justice for All* (AJFA) posters. Additional guidance is outlined below.

The revised USDA NDS includes updated language for all other FNS programs. New *And Justice for All* posters are in the design/printing phase and guidance on poster ordering is forthcoming. A timeline for distribution cannot be determined until printing commences.

Nondiscrimination Statement

All documents, pamphlets, websites, etc. should be updated with the 2022 NDS as follows:

1. Websites must be updated within 90 days of the date of this memorandum.
2. Documents, pamphlets, brochures, etc., using 2015 NDS language must be updated when current supply on hand is exhausted or by September 30, 2023.
3. All new printing must use the 2022 NDS.

And Justice for All Posters

Until the new posters are received, additional guidance is outlined below.

¹ All other FNS nutrition assistance programs (Child and Adult Care Food Program, Commodity Supplemental Food Program, Food Distribution Programs, National School Lunch Program, School Breakfast Program, Summer Food Service Program, Seniors Farmers' Market Nutrition Program, Special Milk Program, Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), and WIC Farmers Market Nutrition Program). The Supplemental Nutrition Assistance Program and Food Distribution Program on Indian Reservations guidance is distributed in a separate memorandum.

USDA is an equal opportunity provider, employer and lender.

1. State and local agencies may request the 2019 AJFA posters from their Regional Civil Rights Officer until their supply is exhausted. State agencies may distribute AJFA posters currently on hand to local agencies and subrecipients until new posters are received.
2. AJFA posters currently posted must not be removed until replaced with the new poster.
3. The 2019 AJFA poster(s) language should be updated on websites, training presentations and any pending printing of brochures, pamphlets and materials and replaced with the appropriate 2022 version.
4. State agencies must provide their poster order request using the attached Excel Spreadsheet to their Regional Civil Rights Officer by June 27, 2022. The request must include the number ordered, the poster number (AD-475A or AD-475B), contact person and telephone number, and where the posters will be delivered (street addresses only; no PO Box).

Posters will be ordered and shipped as quickly as possible. In the interim, please contact your Regional Civil Rights Officer (see regional contact list at: <https://www.fns.usdagov/fns-regional-offices>) if you have questions.

Please contact Crystal Tolar, Chief, Compliance Branch, at: Crystal.Tolar@usda.gov or your Regional Civil Rights Officer, if you have additional questions that are not addressed above or in the FAQs.

Roberto Contreras
Director
Civil Rights Division
Food and Nutrition Service

ROBERTO CONTRERAS Digitally signed
by ROBERTO CONTRERAS

Attachments

- 1/ NDS All Other Nutrition Assistance Programs
- 2/ AJFA Poster Order Spreadsheet

cc: Associate Administrators
Deputy Administrators
Regional Administrators
Regional Civil Rights Officers

EXHIBIT E

Rules and Regulations

Federal Register

Vol. 87, No. 114

Tuesday, June 14, 2022

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

[FNS–2016–0078]

RIN 0584–AE56

Supplemental Nutrition Assistance Program: Civil Rights Update to the Federal-State Agreement

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Final rule.

SUMMARY: This final rule updates the Supplemental Nutrition Assistance Program (SNAP) civil rights assurance template language for the Federal-State Agreement. These updates do not contain any new requirements and would codify protections already required by Federal law and existing policy.

DATES: This rule is effective August 15, 2022.

FOR FURTHER INFORMATION CONTACT: Certification Policy Branch, Program Development Division, FNS, 1320 Braddock Place, Alexandria, Virginia 22314. SNAPCPBRules@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

This final rule updates the SNAP Federal-State Agreement (FSA) civil rights assurance language to reflect protections already required by Federal law. The FSA is the legal agreement between the Department of Agriculture (the Department) and the State agency by which the State elects to operate SNAP, doing so in accordance with the Food and Nutrition Act of 2008 (the Act), SNAP regulations, the State Plan of Operation (State Plan), civil rights laws, and civil rights regulations. The Act requires that each State operating SNAP have a State Plan specifying details as to how the State conducts the program. The State Plan contains forms,

plans, agreements, policy descriptions, and policy options required by Federal regulation and is cleared under OMB No. 0584–0083, Expiration date 08/31/2023. Program requirements at 7 CFR 272.2(a)(2) include the FSA as one such required component of the State Plan.

Although the State agency may propose alternative language that both the Department and the State agency may mutually agree to modify or supplement, requirements at 7 CFR 272.2(b)(1) contain standard FSA language for State agencies operating SNAP. As a Federal program, civil rights protections for SNAP applicants and recipients are important and essential. Codifying civil rights protections is vital to the success of SNAP because it supports the Department in providing equitable and superior customer service to all SNAP applicants and recipients. The protections included in this rule will prevent discrimination and systemic racism in the SNAP program that could negatively impact program access and outcomes. Integrating additional civil rights language into the FSA ensures a consistent application of these practices across the program. On November 17, 2016, at (81 FR 81015) the Department proposed a revision to the standard FSA language at 7 CFR 272.2(b)(1) in order to update this critical language to codify protections already required by Federal law and existing policy. The Department received five comments on the proposed rule. Two comments were outside the scope of this rulemaking and the remaining three were strongly supportive of the proposed changes. The supportive comments agreed with FNS' actions to strengthen civil rights protections in SNAP.

Since standard FSA language was first established in SNAP regulations, Congress has passed additional civil rights legislation and more uniform administrative procedures have been established to support effective enforcement of the civil rights protections. Further, the U.S. Department of Justice (DOJ) recommended the addition of updated references in the Department's civil rights-related materials. The Department understands that similar language has been incorporated into agreements in other Federal agencies and has incorporated similar language in agreements in the Department's Child

Nutrition Program and Women, Infants and Children (WIC) program, and Food Distribution programs. The Department also notes, by way of background, that the FSA in SNAP is unique within the Department's programs in that most other comparable agreements are not contained in the Federal regulations but in forms formally approved by the Office of Management and Budget (OMB).

This final rule incorporates references to additional civil rights legislation into the standard FSA language at section 272.2. Those references include Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), Title II and Title III of the Americans with Disabilities Act of 1990 (ADA), as amended by the ADA Amendments Act of 2008 (42 U.S.C. 12131–12189), and Executive Order 13166, "Improving Access to Persons with Limited English Proficiency." This final rule will incorporate those provisions into the regulations at 7 CFR 272.2(b)(1). The Department received no adverse comments on these revisions and is finalizing as proposed.

The Department also proposed to include language that would require States to comply with Department instructions, policy guidance, and other written directions. Departmental instructions, policy guidance, and written directions derive from statutory and regulatory authority and clarify existing legal requirements. Referencing those materials in the regulation is unnecessary, therefore the Department is removing such language. Therefore, the Department is not including reference to Department instructions, policy guidance, and other written directions in 7 CFR 272.2(b)(1).

In addition to updating the template language with references to additional civil rights legislation, the proposed rule identified additional language for inclusion based upon DOJ's recommendations. This includes denoting the Department's ability to track, analyze, and enforce the civil rights protections denoted in the FSA. Within these changes, the Department proposed to add that the State agency agreeing to follow civil rights requirements in the FSA is made in consideration of and for the purposes of obtaining Federal financial assistance. Next, the rule proposed to incorporate

the State agency's existing obligation to compile data, maintain records, and submit records and reports as required to allow for effective enforcement of the civil rights provisions. This would include an assurance to allow Department personnel to review and access records, access facilities and interview personnel to ascertain compliance with nondiscrimination laws. Finally, the rule proposed to codify procedures to support enforcement of the nondiscrimination protections by updating the FSA to include a provision that the Department may seek judicial enforcement for violations of the FSA, adding assurances that the State agency and its successors are bound by the FSA. Again, these provisions would not only be responsive to DOJ's suggestions regarding nondiscrimination compliance language but also mirror language in other USDA programs. The Department received no adverse comments on these revisions and is finalizing as proposed.

FSAs, once signed by the chief executive officer of a State or authorized designee, are valid under 7 CFR 272.2(e)(1) until they are terminated. The Department will now refer to the "chief executive officer of a State" as the FSA signatory in 7 CFR 272.2(b)(1), in lieu of the term "Governor." While not originally included in the proposed rule, the Department is making this technical change to SNAP regulations in this final rule to account for the District of Columbia's governance structure. Section 272.2(e)(1) also provides that the FSA must be signed and submitted to FNS within 120 days after the publication of the regulations in final form and shall remain in effect until terminated. Although initially included in the regulations with other regulatory FSA requirements, the same procedure would apply to this update. Given the publication date of this final rule, all State agencies will update this language in the FSA at the time of their next State Plan submission and provide a copy of the same to the Department within 120 days of the effective date. Although State agencies are already required to abide by the new civil rights language as stated above, the Department believes it is important to incorporate the updated language at section 272.2(b)(1) in the FSA itself.

Procedural Matters

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is

necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This final rule has been determined to be not significant and was not reviewed by the Office of Management and Budget (OMB) in conformance with Executive Order 12866.

Regulatory Impact Analysis

This rule has been designated as not significant by the Office of Management and Budget (OMB), therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities. This final rule would not have an impact on small entities because the changes required by the regulations are primarily directed toward State agencies operating SNAP programs.

Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 *et seq.*), the Office of Information and Regulatory Affairs designated this rule as not a 'major rule' as defined by 5 U.S.C. 804(2).

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with "Federal mandates" that may result in expenditures by State, local or tribal governments, in the aggregate, or the private sector, of \$100 million or more in any one year. When such a statement is needed for a rule, section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This final rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and tribal governments or the private sector of \$100 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

State administrative matching grants for SNAP are listed in the Catalog of Federal Domestic Assistance Programs under 10.561. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related Notice (48 FR 29114, June 24, 1983), this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. The Department issued guidance in June 2016 to State agencies, and continues to do so annually, as part of a larger effort to help States ensure their State Plans are complete and up to date, which in part included direction to State agencies to incorporate updated civil rights provisions as an addendum to existing FSAs.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under section (6)(b)(2)(B) of Executive Order 13132.

The Department has considered the impact of this rule on State and local governments and has determined that this rule does not have significant federalism implications. State agencies will be required to update the standard language contained in FSAs once if they have not already incorporated updated civil rights provisions through an addendum to their existing FSA. Therefore, under section 6(b) of the Executive Order, a federalism summary is not required.

Executive Order 12988, Civil Justice Reform

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies that conflict with its provisions or that would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect.

Civil Rights Impact Analysis

FNS has reviewed the final rule, in accordance with Department Regulation 4300–004, Civil Rights Impact Analysis, to identify and address any major civil rights impacts the final rule might have on minorities, women, and persons with disabilities. The changes to SNAP regulations in this final rule are to incorporate references to additional civil rights legislation into the standard FSA language. After careful review of the rule's intent and provisions, FNS believes that the promulgation of this final rule will incorporate the State agency's existing obligation within FSAs. Additionally, the rule will likely result in improved, equitable, and superior customer service to all SNAP applicants and recipients.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes.

The Department notes that the regulatory changes finalized in this rule impact program applicants and participants equally regardless of Tribal status or residence. The Department is unaware of any current Tribal laws that could be in conflict with the final rule.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires the Office of Management and Budget (OMB) approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

The provisions in this final rule do not contain new, revised or altered information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1995. The Department anticipates that this rule would have no to minimal time and cost impacts on the Federal Government and State agencies. State agencies are already required to follow the requirements contained in the added nondiscrimination references. Any existing time and cost burden would be

related to administrative obligations to sign an updated Federal-State Agreement and to ensure appropriate recordkeeping to support enforcement of the nondiscrimination provisions as cleared under OMB Control Number 0584–0083; Expiration Date: 08/2023. FNS provides 50 percent of SNAP's administrative cost reimbursement and so a portion of any minimal administrative costs would be offset by federal funding.

Since State agencies are already required to have these agreements, the impact of this provision is insignificant to the reporting or recordkeeping burden activities required under the Paperwork Reduction Act and therefore will not change the burden estimates already approved under OMB Number 0584–0083; Expiration Date: 08/2023. If FNS determines estimates have increased significantly, the Agency will publish a 60-day **Federal Register** Notice to seek OMB approval. Other minimal burdens imposed on State agencies by implementation of this final rule are usual and customary within the course of their normal business activities.

E-Government Act Compliance

The Department is committed to complying with the E-Government Act of 2002, to promote the use of the internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects in 7 CFR Part 272

Alaska, Civil rights, Supplemental Nutrition Assistance Program, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 272 is amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

■ 1. The authority citation for part 272 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

■ 2. Amend § 272.2 by revising paragraph (b)(1) to read as follows

§ 272.2 Plan of Operation.

* * * * *

(b) * * *

(1) The wording of the Federal/State Agreement is as follows:

The SNAP State agency of _____ and the Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA), hereby agree to act in accordance with

the provisions of the Food and Nutrition Act of 2008, as amended, implementing regulations and the FNS approved State Plan of Operation. The State agency and FNS USDA further agree to fully comply with any changes in Federal law and regulations. This agreement may be modified with the mutual written consent of both parties.

Provisions

The State agrees to:

1. Administer the program in accordance with the provisions contained in the Food and Nutrition Act of 2008, as amended, and in the manner prescribed by regulations issued pursuant to the Act; and to implement the FNS-approved State Plan of Operation.

2. Assurance of Civil Rights Compliance: Comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), section 11(c) of the Food and Nutrition Act of 2008, as amended (7 U.S.C. 2020), Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendments Act of 2008 (42 U.S.C. 12131–12189) as implemented by Department of Justice regulations at 28 CFR part 35 and 36, Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency” (August 11, 2000), and all requirements imposed by the regulations issued by the Department of Agriculture to the effect that, no person in the United States shall, on the grounds of sex, including gender identity and sexual orientation, race, color, age, political belief, religious creed, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under SNAP. This includes program-specific requirements found at 7 CFR part 15 *et seq.* and 7 CFR 272.6.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal assistance extended to the State by USDA under the authority of the Food and Nutrition Act of 2008, as amended. Federal financial assistance includes grants, and loans of Federal funds; reimbursable expenditures, grants, or donations of Federal property and interest in property; the detail of Federal personnel; the sale, lease of, or permission to use Federal property or interest in such property; the furnishing of services without consideration, or at

a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient; or any improvements made with Federal financial assistance extended to the State by USDA. This assistance also includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

By accepting this assurance, the State agency agrees to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, USDA, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the State agency, its successors, transferees and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the State agency.

3. (For States with Indian Reservations only). Implement the Program in a manner that is responsive to the special needs of American Indians on reservations and consult in good faith with tribal organizations about that portion of the State's Plan of Operation pertaining to the implementation of the Program for members of the tribe on reservations.

4. FNS agrees to: 1. Pay administrative costs in accordance with the Food and Nutrition Act of 2008, implementing regulations, and an approved Cost Allocation Plan.

2. Carry out any other responsibilities delegated by the Secretary in the Food and Nutrition Act of 2008, as amended.

Date _____
Signature _____

(Chief Executive Officer of a State or Authorized Designee)

Date _____
Signature _____

(Regional Administrator, FNS)

* * * * *

Cynthia Long,

Administrator, Food and Nutrition Service.

[FR Doc. 2022-12748 Filed 6-13-22; 8:45 am]

BILLING CODE 3410-30-P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 72

[NRC-2022-0049]

RIN 3150-AK76

List of Approved Spent Fuel Storage Casks: NAC International NAC-UMS Universal Storage System, Certificate of Compliance No. 1015, Amendment No. 9

AGENCY: Nuclear Regulatory Commission.

ACTION: Direct final rule.

SUMMARY: The U.S. Nuclear Regulatory Commission (NRC) is amending its spent fuel storage regulations by revising the NAC International NAC-UMS Universal Storage System listing within the "List of approved spent fuel storage casks" to include Amendment No. 9 to Certificate of Compliance No. 1015. Amendment No. 9 revises the certificate of compliance to correct the effective thermal properties for pressurized-water reactor fuel assemblies used in the certification basis ANSYS thermal models and to update modeling assumptions. In addition, this direct final rule makes editorial corrections to Amendment No. 8.

DATES: This direct final rule is effective August 29, 2022, unless significant adverse comments are received by July 14, 2022. If this direct final rule is withdrawn as a result of such comments, timely notice of the withdrawal will be published in the **Federal Register**. Comments received after this date will be considered if it is practical to do so, but the NRC is able to ensure consideration only for comments received on or before this date. Comments received on this direct final rule will also be considered to be comments on a companion proposed rule published in the Proposed Rules section of this issue of the **Federal Register**.

ADDRESSES: Submit your comments, identified by Docket ID NRC-2022-0049, at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the individuals listed in the **FOR**

FURTHER INFORMATION CONTACT section of this document for alternate instructions.

For additional direction on obtaining information and submitting comments, see "Obtaining Information and Submitting Comments" in the **SUPPLEMENTARY INFORMATION** section of this document.

FOR FURTHER INFORMATION CONTACT:

Bernard White, Office of Nuclear Material Safety and Safeguards; telephone: 301-415-6577, email: Bernard.White@nrc.gov and Vanessa Cox, Office of Nuclear Material Safety and Safeguards, telephone: 301-415-8342, email: Vanessa.Cox@nrc.gov. Both are staff of the U.S. Nuclear Regulatory Commission, Washington, DC 20555-0001.

SUPPLEMENTARY INFORMATION:

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- X. Regulatory Flexibility Certification
- XI. Regulatory Analysis
- XII. Backfitting and Issue Finality
- XIII. Congressional Review Act
- XIV. Availability of Documents

I. Obtaining Information and Submitting Comments

A. Obtaining Information

Please refer to Docket ID NRC-2022-0049 when contacting the NRC about the availability of information for this action. You may obtain publicly available information related to this action by any of the following methods:

- **Federal Rulemaking Website:** Go to <https://www.regulations.gov> and search for Docket ID NRC-2022-0049. Address questions about NRC dockets to Dawn Forder, telephone: 301-415-3407, email: Dawn.Forder@nrc.gov. For technical questions contact the individuals listed in the **FOR FURTHER INFORMATION CONTACT** section of this document.

- **NRC's Agencywide Documents Access and Management System (ADAMS):** You may obtain publicly available documents online in the ADAMS Public Documents collection at <https://www.nrc.gov/reading-rm/adams.html>. To begin the search, select "Begin Web-based ADAMS Search." For problems with ADAMS, please contact the NRC's Public Document Room (PDR) reference staff at 1-800-397-4209, 301-

EXHIBIT F

Proposed Rules

Federal Register

Vol. 81, No. 222

Thursday, November 17, 2016

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Food and Nutrition Service

7 CFR Part 272

RIN 0584-AE51

Supplemental Nutrition Assistance Program: Civil Rights Update to the Federal-State Agreement

AGENCY: Food and Nutrition Service (FNS), USDA.

ACTION: Proposed rule.

SUMMARY: The proposed action would update civil rights assurance language contained in Supplemental Nutrition Assistance Program (SNAP) regulations on the Federal-State Agreement (FSA). The rule does not contain any new requirements and would codify protections already required by Federal law and existing policy.

DATES: Written comments must be received on or before January 17, 2017 to be assured of consideration.

ADDRESSES: The Food and Nutrition Service, USDA, invites interested persons to submit written comments on this proposed rule. Comments may be submitted in writing by one of the following methods:

- **Preferred Method:** Federal eRulemaking Portal: Go to <http://www.regulations.gov>. Follow the online instructions for submitting comments.
- **Mail:** Send comments to Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, FNS, 3101 Park Center Drive, Alexandria, Virginia 22302, 703-305-2507.

All written comments submitted in response to this proposed rule will be included in the record and made available to the public. Please be advised that the substance of comments and the identity of individuals or entities submitting the comments will be subject to public disclosure. FNS will make written comments publicly available online at <http://www.regulations.gov>.

FOR FURTHER INFORMATION CONTACT:

Sasha Gersten-Paal, Branch Chief, Certification Policy Branch, Program Development Division, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, Virginia 22302, 703-305-2507.

SUPPLEMENTARY INFORMATION: The Food and Nutrition Act of 2008, as amended (the Act), requires that each State operating SNAP have a State Plan of Operation (State Plan) specifying details as to how the State conducts the program. The State Plan contains forms, plans, agreements and policy descriptions required by Federal regulation and is cleared under OMB No. 0584-0083, Expiration date 4/30/2017. Current SNAP regulations at 7 CFR 272.2(a)(2) include the FSA as one such required component of the State Plan. The FSA is the legal agreement between the Department of Agriculture (Department) and the State agency through which the State elects to operate SNAP and to administer the program in accordance with the Act, SNAP regulations and the State Plan. Although both the Department and the State agency may mutually agree to modify or supplement the language, the regulations at 7 CFR 272.2(b)(1) contain standard FSA language for State agencies operating SNAP.

As a Federal program, civil rights protections for SNAP applicants and recipients are important and essential. The standard FSA language contained in the regulations at 7 CFR 272.2(b)(1) already requires State agencies administering SNAP to agree to assure compliance with civil rights requirements, including Title VI of the Civil Rights Act of 1964, section 11(c) of the Food Stamp Act of 1977 (now the Food and Nutrition Act of 2008, as amended), and the Department's regulatory nondiscrimination requirements.

Since the publication of the final rule establishing the standard FSA language, additional civil rights legislation has been passed and more uniform administrative procedures have been established to support effective enforcement of the civil rights protections. Further, the U.S. Department of Justice (DOJ) recommended the addition of updated references in the Department's civil rights-related materials. The Department understands that similar language has

been incorporated into agreements in other Federal agencies, and has incorporated very similar language in agreements in the Department's Child Nutrition Program and Women, Infants and Children programs. We note, by way of background, that the FSA in SNAP is unique within the Department's programs in that most other comparable agreements are not contained in the Federal regulations but in forms formally approved by the Office of Management and Budget (OMB).

This proposed rule would incorporate references to additional civil rights legislation into the standard FSA language at section 272.2. Those references include Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), Title II and Title III of the Americans with Disabilities Act (ADA), and Executive Order 13166, "Improving Access to Persons with Limited English Proficiency." This proposed rule would incorporate those provisions into the regulations at 7 CFR 272.2(b)(1). The rule would also require States to comply with Department instructions, policy guidance, and other written directions as well as current regulatory nondiscrimination regulations located at 7 CFR part 15 *et seq.* and 7 CFR 272.6 (Nondiscrimination Compliance for participating State agencies). Again, these additions would codify protections already required by Federal law, regulations and existing policy.

FSAs, once signed by a State's Governor or authorized designee, are valid indefinitely under 7 CFR 272.2(e)(1) until they are terminated. Section 272.2(e)(1) also provides that the FSA must be signed and submitted to FNS within 120 days after the publication of the regulations in final form and shall remain in effect until terminated. Although initially included in the regulations with other regulatory FSA requirements, the same procedure would apply to this update. That is, upon publication of this proposed rule as final, all State agencies administering SNAP would be required to sign a new FSA with the updated language and provide a copy of the same to the Department within 120 days after publication of the regulations in final form. Although State agencies are already required to abide by the new

civil rights language as stated above, the Department believes it is important to incorporate the updated language at section 272.2(b)(1) in the FSA itself.

The rule also proposes additional items be added to the FSA standard language. The other items allow for the Department to track, analyze and enforce the civil rights protections in the FSA. First, this proposed rule would add that the State agency's agreement to follow civil rights requirements in the FSA is made in consideration of and for the purposes of obtaining Federal financial assistance. Second, the rule would incorporate into the FSA the State agency's obligation to compile data, maintain records, and submit records and reports as required to allow for effective enforcement of the civil rights provisions. This would include an assurance to allow Department personnel to review and access records, access facilities and interview personnel to ascertain compliance with nondiscrimination laws. The rule would also codify procedures to support enforcement of the nondiscrimination protections by updating the FSA to include a provision that the Department may seek judicial enforcement for violations of the FSA, and add assurances that the State agency and its successors are bound by the FSA. Again, these provisions would not only be responsive to DOJ's suggestions regarding nondiscrimination compliance language but also mirror language in other USDA programs.

Procedural Matters

Executive Order 12866 and 13563

Executive Orders 12866 and 13563 direct agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). Executive Order 13563 emphasizes the importance of quantifying both costs and benefits, of reducing costs, of harmonizing rules, and of promoting flexibility.

This proposed rule has been determined to be not significant and was not reviewed by the OMB in conformance with Executive Order 12866.

Regulatory Impact Analysis

This rule has been designated as not significant by the Office of Management and Budget, therefore, no Regulatory Impact Analysis is required.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601–612) requires Agencies to analyze the impact of rulemaking on small entities and consider alternatives that would minimize any significant impacts on a substantial number of small entities. Pursuant to that review, it has been certified that this rule would not have a significant impact on a substantial number of small entities.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local and Tribal governments and the private sector. Under section 202 of the UMRA, the Department generally must prepare a written statement, including a cost benefit analysis, for proposed and final rules with “Federal mandates” that may result in expenditures by State, local or Tribal governments, in the aggregate, or the private sector, of \$146 million or more (when adjusted for inflation; GDP deflator source: Table 1.1.9 at <http://www.bea.gov/iTable>) in any one year. When such a statement is needed for a rule, Section 205 of the UMRA generally requires the Department to identify and consider a reasonable number of regulatory alternatives and adopt the most cost effective or least burdensome alternative that achieves the objectives of the rule.

This proposed rule does not contain Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local and Tribal governments or the private sector of \$146 million or more in any one year. Thus, the rule is not subject to the requirements of sections 202 and 205 of the UMRA.

Executive Order 12372

State administrative matching grants for SNAP are listed in the Catalog of Federal Domestic Assistance Programs under 10.561. For the reasons set forth in the final rule in 7 CFR part 3015, subpart V, and related Notice (48 FR 29114, June 24, 1983), this program is included in the scope of Executive Order 12372, which requires intergovernmental consultation with State and local officials. The Department issued guidance in June 2016 to State agencies as part of a larger effort to help States ensure their State Plans are complete and up to date, which in part included direction to State agencies to incorporate updated civil rights provisions as an addendum to existing FSAs. The Department's Food and Nutrition Service SNAP

Regional Offices individually discussed these issues directly with State agencies during policy calls and meetings.

Federalism Summary Impact Statement

Executive Order 13132 requires Federal agencies to consider the impact of their regulatory actions on State and local governments. Where such actions have federalism implications, agencies are directed to provide a statement for inclusion in the preamble to the regulations describing the agency's considerations in terms of the three categories called for under Section (6)(b)(2)(B) of Executive Order 13121. The Department has considered the impact of this rule on State and local governments and has determined that this rule does not have significant federalism implications. State agencies will be required to update the standard language contained in FSAs once. This agreement will then be binding until otherwise terminated. Therefore, under section 6(b) of the Executive Order, a federalism summary is not required.

Executive Order 12988, Civil Justice Reform

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is intended to have preemptive effect with respect to any State or local laws, regulations or policies that conflict with its provisions or that would otherwise impede its full and timely implementation. This rule is not intended to have retroactive effect unless so specified in the **EFFECTIVE DATES** section of the final rule. Prior to any judicial challenge to the provisions of the final rule, all applicable administrative procedures must be exhausted.

Civil Rights Impact Analysis

The changes to SNAP regulations in this proposed rule are to incorporate references to additional civil rights legislation into the standard FSA language.

Impact on State agencies: State agencies would be required to submit to the Department an updated FSA within 120 days upon publication of this proposed rule as final. The FSA would include the updated language, signed by a State's Governor or authorized designee. State agencies would also have to agree to certain administrative procedures that ensure effective enforcement of the added protections, such as maintaining data and complying with Federal reviews.

Impact on Households: The updated FSA language would emphasize existing nondiscrimination protections for SNAP households to the effect that no person

in the United States shall, on the grounds of sex, race, color, age, political belief, religious creed, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject of discrimination under SNAP.

Training and Outreach: The proposed rule highlights protections that already exist and are required by Federal law, regulations, and existing policy. The Department issued guidance in June 2016 to State agencies as part of a larger effort to help States ensure their State Plans are complete and up to date. It included direction to State agencies to incorporate the updated civil rights provisions as an addendum to existing FSAs to guarantee they were highlighted immediately.

FNS also maintains a public Web site that provides basic information on each program, including SNAP. Interested persons, including potential applicants, applicants, and participants can find information about their right to be treated fairly and the protections they are guaranteed. The Web site also includes information on how to report when an individual feels his or her rights were violated and not treated in accordance with this provision.

Finding and Conclusion: After careful review of the rule's intent and provisions, and the characteristics of SNAP households and individual participants, the Department has determined that this proposed rule will not have a disparate impact on any group or class of persons.

Executive Order 13175

Executive Order 13175 requires Federal agencies to consult and coordinate with Tribes on a government-to-government basis on policies that have Tribal implications, including regulations, legislative comments or proposed legislation, and other policy statements or actions that have substantial direct effects on one or more Indian Tribes, on the relationship between the Federal Government and Indian Tribes, or on the distribution of power and responsibilities between the Federal Government and Indian Tribes. The Department notes that the regulatory changes proposed in this rule impact program applicants and participants equally regardless of tribal status or residence. We are unaware of any current Tribal laws that could be in conflict with the final rule.

To share information on the proposed rule with Indian Tribes, FNS discussed the proposed rule at a tribal consultation meeting on August 17, 2016.

Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (44 U.S.C. Chap. 35; 5 CFR 1320) requires OMB to approve all collections of information by a Federal agency before they can be implemented. Respondents are not required to respond to any collection of information unless it displays a current valid OMB control number.

The provisions in this proposed rule do not contain new information collection requirements subject to approval by OMB under the Paperwork Reduction Act of 1994. The Department anticipates that this rule would have no to minimal time and cost impacts on the Federal government and State agencies. State agencies are already required to follow the requirements contained in the added nondiscrimination references. Any time and cost burden would be related to administrative obligations to sign an updated Federal-State Agreement and ensure appropriate recordkeeping to support enforcement of the nondiscrimination provisions as cleared under OMB Number 0584-0083. FNS provides 50 percent of SNAP's administrative cost reimbursement and so a portion of any minimal administrative costs would be offset by federal funding.

Since State agencies are already required to have these agreements, the impact of this provision is negligible. Other minimal burdens imposed on State agencies by this proposed rule are usual and customary within the course of their normal business activities.

E-Government Act Compliance

The Department is committed to complying with the E-Government Act of 2002, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

List of Subjects

7 CFR Part 272

Alaska, Civil rights, Supplemental Nutrition Assistance Program, Grant programs—social programs, Penalties, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 272 is proposed to be amended as follows:

PART 272—REQUIREMENTS FOR PARTICIPATING STATE AGENCIES

■ 1. The authority citation for Part 272 continues to read as follows:

Authority: 7 U.S.C. 2011–2036.

■ 2. Revise § 272.2(b)(1) to read as follows:

§ 272.2 Plan of operation.

* * * * *

(b) * * *

(1) The wording of the Federal/State Agreement is as follows:

The State of _____ and the Food and Nutrition Service (FNS), U.S. Department of Agriculture (USDA), hereby agree to act in accordance with the provisions of the Food and Nutrition Act of 2008, as amended, implementing regulations, instructions, policy guidance, and other written directions interpreting Federal law and regulations applicable to this program, and the FNS-approved State Plan of Operation. The State and FNS USDA further agree to fully comply with any changes in Federal law and regulations. This agreement may be modified with the mutual written consent of both parties.

Provisions

The State agrees to:

1. Administer the program in accordance with the provisions contained in the Food and Nutrition Act of 2008, as amended, and in the manner prescribed by regulations issued pursuant to the Act; and to implement the FNS-approved State Plan of Operation.

2. Assurance of Civil Rights Compliance: Comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d *et seq.*), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 *et seq.*), the Age Discrimination Act of 1975 (42 U.S.C. 6101 *et seq.*), section 11(c) of the Food and Nutrition Act of 2008, as amended (7 U.S.C. 2020), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Title II and Title III of the Americans with Disabilities Act (ADA) of 1990 as amended by the ADA Amendment Act of 2008 (42 U.S.C. 12131–12189) as implemented by Department of Justice regulations at 28 CFR part 35 and 36, Executive Order 13166, “Improving Access to Services for Persons with Limited English Proficiency” (August 11, 2000), and all requirements imposed by the regulations, instructions, policy guidance, and other written directions issued by the Department of Agriculture to the effect that, no person in the United States shall, on the grounds of sex, race, color, age, political belief, religious creed, disability, or national origin, be excluded from participation in, be denied the benefits of, or be otherwise subject to discrimination under SNAP. This includes program-specific requirements found at 7 CFR part 15 *et seq.* and 7 CFR 272.6.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal assistance extended to the State by USDA under the authority of the Food and Nutrition Act of 2008, as amended. Federal financial assistance includes grants, and loans of Federal funds; reimbursable expenditures, grants, or donations of Federal property and interest in property; the detail of Federal personnel; the sale, lease of, or permission to use Federal property or interest in such property; the furnishing of services without consideration, or at a nominal consideration, or at a consideration that is reduced for the purpose of assisting the recipient or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient; or any improvements made with Federal financial assistance extended to the State by USDA. This assistance also includes any Federal agreement, arrangement, or other contract that has as one of its purposes the provision of cash assistance for the purchase of food, cash assistance for purchase or rental of food service equipment or any other financial assistance extended in reliance on the representations and agreements made in this assurance.

By accepting this assurance, the State agency agrees to compile data, maintain records, and submit records and reports as required, to permit effective enforcement of nondiscrimination laws and permit authorized USDA personnel during hours of program operation to review and copy such records, books, and accounts, access such facilities and interview such personnel as needed to ascertain compliance with the nondiscrimination laws. If there are any violations of this assurance, USDA, FNS, shall have the right to seek judicial enforcement of this assurance. This assurance is binding on the State agency, its successors, transferees and assignees as long as it receives assistance or retains possession of any assistance from USDA. The person or persons whose signatures appear below are authorized to sign this assurance on behalf of the State agency.

3. (For States with Indian Reservations only). Implement the Program in a manner that is responsive to the special needs of American Indians on reservations and consult in good faith with tribal organizations about that portion of the State's Plan of Operation pertaining to the implementation of the Program for members of the tribe on reservations.

4. FNS agrees to: 1. Pay administrative costs in accordance with the Food and Nutrition Act of 2008, implementing

regulations, and an approved Cost Allocation Plan.

2. Carry out any other responsibilities delegated by the Secretary in the Food and Nutrition Act of 2008, as amended.

Date _____
Signature _____
(Governor or Authorized Designee)
Date _____
Signature _____
(Regional Administrator, FNS)

Dated: November 7, 2016.

Audrey Rowe,

Administrator, Food and Nutrition Service.

[FR Doc. 2016-27604 Filed 11-16-16; 8:45 am]

CODE 3410-30-P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA-2016-9389; Directorate Identifier 2014-NM-153-AD]

RIN 2120-AA64

Airworthiness Directives; Fokker Services B.V. Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new Airworthiness Directive (AD) for all Fokker Services B.V. Model F28 Mark 0100 series airplanes. This proposed AD was prompted by an evaluation by the design approval holder (DAH) indicating that certain wing fuel tank access panels are subject to widespread fatigue damage (WFD). This proposed AD would require replacement of affected access panels and modification of the coamings of the associated access holes. We are proposing this AD to prevent the unsafe condition on these products.

DATES: We must receive comments on this proposed AD by January 3, 2017.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to <http://www.regulations.gov>. Follow the instructions for submitting comments.
- *Fax:* 202-493-2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M-30, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5

p.m., Monday through Friday, except Federal holidays.

For service information identified in this NPRM, contact Fokker Services B.V., Technical Services Dept., P.O. Box 1357, 2130 EL Hoofddorp, the Netherlands; telephone: +31 (0)88-6280-350; fax: +31 (0)88-6280-111; email: technicalservices@fokker.com; Internet: <http://www.myfokkerfleet.com>. You may view this referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, WA. For information on the availability of this material at the FAA, call 425-227-1221.

Examining the AD Docket

You may examine the AD docket on the Internet at <http://www.regulations.gov> by searching for and locating Docket No. FAA-2016-9389; or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone: 800-647-5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM-116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, WA 98057-3356; telephone: 425-227-1137; fax: 425-227-1149.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include "Docket No. FAA-2016-9389; Directorate Identifier 2014-NM-153-AD" at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD based on those comments.

We will post all comments we receive, without change, to <http://www.regulations.gov>, including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

Fatigue damage can occur locally, in small areas or structural design details,

EXHIBIT G



Supplemental Nutrition Assistance Program

State Activity Report

Fiscal Year 2020

Food and Nutrition Service
Supplemental Nutrition Assistance Program

March 2022

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INTRODUCTION

This is a report of State activity in the Supplemental Nutrition Assistance Program (SNAP). The data contained herein is State reported data or data calculated from State reported data.

On March 18, 2020, the Families First Coronavirus Response Act of 2020 was signed into law. This legislation provides for the issuance of emergency allotments (supplements) based on a public health emergency declaration by the Secretary of Health and Human Services under section of the Public Health Service Act related to an outbreak of COVID-19 when a State has also issued an emergency or disaster declaration.

This report includes data on emergency allotments; however, it does not include Pandemic Electronic Benefit Transfer (P-EBT) data. The tables are based on data for all of Fiscal Year (FY) 2020. FY 2020 data in this report reflect National Data Bank totals as of July 2021.

As may be expected in a report of this size, which consolidates information taken from multiple data sources, there may be discrepancies in reported data. States report nearly all of the data in this report on a quarterly or yearly basis. Differences between State reporting methods and timeframes may lead to minor discrepancies between some similar data elements in this report. In addition, some data may still be revised after the publication of this report due to the specific reporting challenges faced during the public health emergency.

To assist the reader, end notes are provided at the conclusion of the report identifying the data sources and other pertinent information for each individual section. All data, except Treasury offset collection data, was compiled from the National Data Bank, the official repository of SNAP data. Treasury offset collection data is derived from administrative offset weekly statistical reports prepared by the U.S. Department of the Treasury.

This report was prepared by the Program Accountability and Administration Division. Some of the data highlighted in this report are:

Recipient Claims Table: Reports on the methods used by State agencies to collect claims against recipient households. Some of the data included in the recipient claims table is derived from administrative offset weekly statistical reports prepared by the U.S. Department of the Treasury.

Ranking Section: Tables that rank participation and issuance data, from high to low, for each State.

This entire report is available on the SNAP web page at: www.fns.usda.gov/pd/snap-state-activity-reports.

If there are any questions concerning the data in this publication, contact the State Administration Branch at SM.FN.SNAPSAB@usda.gov.

Supplemental Nutrition Assistance Program (SNAP) Activity - FY 2019-2020
National Summary Tables

Table 1: Participation and Issuance	FY 2019	FY 2020	Percent Change
Persons Participating (monthly average, in millions)	35.7	39.9	11.65%
Households Participating (monthly average, in millions)	18.0	20.5	14.04%
Total Issuance (in millions)	\$55,622	\$74,136	33.28%
Average Monthly Benefit per Person	\$129.83	\$160.73	23.80%
Average Monthly Benefit per Household	\$258.03	\$303.14	17.48%

- Total issuance for FY20 includes regular ongoing SNAP and Emergency Allotments (Supplements)

Table 2: State Agency Administrative Costs (in millions)	FY 2019	FY 2020	Percent Change
Total Costs	\$8,504	\$8,602	1.16%
Federal Share of Certification Costs	\$2,665	\$2,751	3.24%
Federal Share of Issuance Costs	\$111	\$113	1.53%
Federal Share of Fraud Control Costs	\$167	\$151	-9.39%
Total Federal Share	\$4,128	\$4,174	1.11%

- Totals may not add due to rounding.

I.

**State
Participation
and Issuance**

NOTABLE TRENDS

PARTICIPATION AND ISSUANCE

In FY 2020 State agencies issued approximately \$55.6 billion in regular ongoing Supplemental Nutrition Assistance Program (SNAP) benefits. These benefits were issued to a monthly average of 20.6 million households or 39.9 million people participating in the Program.

The Families First Coronavirus Response Act authorized emergency allotments to SNAP households to help address temporary food needs during the pandemic. USDA granted waivers to States, allowing for the issuance of emergency allotments (supplements) based on a public health emergency declaration by the Secretary of Health and Human Services under section 319 of the Public Health Service Act related to an outbreak of COVID-19 when a State has also issued an emergency or disaster declaration. For more information on emergency allotments, visit: <https://www.fns.usda.gov/snap/covid-19-emergency-allotments-guidance>.

State agencies issued approximately \$14.5 billion in emergency allotments (supplements). These benefits were issued to a monthly average of 6.7 million households or 13.8 million people participating in the Program. Emergency allotment participation is a subset of regular ongoing SNAP participation.

Combined, regular ongoing SNAP benefits and supplements totaled approximately \$73.8 billion in FY 2020.

The average monthly benefit was \$160.73 per person or \$303.14 per household. The Food and Nutrition Act of 2008 requires that EBT cards be the sole method of benefit delivery. EBT systems issue and redeem benefits using cards, electronic funds transfer networks, and point-of-sale technology in authorized retail food stores. The Federal Government pays 100 percent of the benefits issued.

CASH-OUT

Cash-out projects are limited to certain pilot projects authorized in the Food and Nutrition Act that have either continued to operate since 1981 or were approved prior to August 1996. While technically not considered part of the EBT system for issuance, redemption, and reporting purposes, States with the Food and Nutrition Service (FNS) -approved cash-out issuance systems (for wage supplementation, welfare reform, or other approved demonstration projects) may issue cash-out benefits electronically via either direct deposit or debit cards, which can be used at automatic teller machines to draw the funds. In FY 2020, approximately \$127 million in cash-out benefits were issued to 81,600 households in 5 States.

TABLE 3: SNAP Average Monthly Benefit - FY 2020

STATE	Average Monthly Benefit Per Person	Average Monthly Benefit Per Household
Alabama	\$161.74	\$328.02
Alaska	\$211.99	\$451.94
Arizona	\$154.80	\$315.72
Arkansas	\$151.20	\$327.41
California	\$165.88	\$295.72
Colorado	\$161.08	\$314.76
Connecticut	\$173.94	\$292.73
Delaware	\$154.19	\$295.38
District of Columbia	\$169.94	\$279.41
Florida	\$165.89	\$291.15
Georgia	\$162.07	\$338.08
Guam	\$216.76	\$609.52
Hawaii	\$287.21	\$534.08
Idaho	\$142.51	\$315.37
Illinois	\$145.02	\$283.42
Indiana	\$142.82	\$292.69
Iowa	\$156.59	\$305.99
Kansas	\$171.84	\$359.21
Kentucky	\$164.02	\$322.79
Louisiana	\$163.85	\$343.53
Maine	\$146.68	\$261.73
Maryland	\$162.95	\$298.66
Massachusetts	\$145.71	\$243.17
Michigan	\$140.47	\$220.60
Minnesota	\$156.34	\$303.42
Mississippi	\$157.84	\$322.12
Missouri	\$159.12	\$332.08
Montana	\$162.09	\$321.64
Nebraska	\$141.35	\$305.22
Nevada	\$161.60	\$301.63
New Hampshire	\$139.49	\$260.59
New Jersey	\$167.87	\$314.85
New Mexico	\$163.18	\$311.40
New York	\$175.85	\$298.13
North Carolina	\$155.51	\$302.92
North Dakota	\$154.75	\$316.21
Ohio	\$188.41	\$371.82
Oklahoma	\$142.32	\$254.15
Oregon	\$167.53	\$281.74
Pennsylvania	\$160.34	\$291.86
Rhode Island	\$143.21	\$225.28
South Carolina	\$165.77	\$335.86
South Dakota	\$160.95	\$338.37
Tennessee	\$168.33	\$326.49
Texas	\$156.49	\$351.45
Utah	\$150.89	\$343.55
Vermont	\$153.78	\$265.67
Virginia	\$156.65	\$317.21
Virgin Islands	\$202.64	\$393.26
Washington	\$152.10	\$265.01
West Virginia	\$147.02	\$269.27
Wisconsin	\$132.89	\$253.69
Wyoming	\$153.33	\$316.87
U.S.	\$160.73	\$303.14

TABLE 4: SNAP Participation by Benefit Type-Persons (Monthly Average) - FY 2020

STATE	EBT	Cash	Emergency Allotment (Supplements)
Alabama	730,708	N/A	291,265
Alaska	83,194	N/A	73,078
Arizona	833,448	N/A	486,024
Arkansas	393,091	N/A	263,301
California	4,312,002	N/A	2,569,589
Colorado	483,097	N/A	305,811
Connecticut	372,305	N/A	218,332
Delaware	120,416	N/A	79,238
District of Columbia	116,406	N/A	75,864
Florida	3,177,286	N/A	1,275,584
Georgia	1,565,935	N/A	1,005,620
Guam	44,041	N/A	28,109
Hawaii	165,418	N/A	137,717
Idaho	146,497	N/A	92,728
Illinois	1,869,977	N/A	850,233
Indiana	601,417	N/A	409,418
Iowa	305,045	N/A	182,737
Kansas	200,443	N/A	71,080
Kentucky	555,425	N/A	411,002
Louisiana	820,192	N/A	564,462
Maine	159,995	N/A	93,847
Maryland	700,979	N/A	479,153
Massachusetts	821,254	N/A	407,823
Michigan	1,254,475	N/A	517,518
Minnesota	409,275	20,907	332,806
Mississippi	429,568	N/A	304,817
Missouri	715,447	N/A	456,588
Montana	104,391	N/A	68,274
Nebraska	157,091	N/A	104,448
Nevada	448,688	N/A	287,669
New Hampshire	72,505	N/A	52,075
New Jersey	700,538	N/A	477,252
New Mexico	468,745	N/A	305,862
New York	2,658,439	N/A	1,540,027
North Carolina	1,317,566	N/A	702,614
North Dakota	46,092	N/A	27,143
Ohio	1,396,860	10,511	996,887
Oklahoma	596,705	N/A	358,330
Oregon	635,485	38,005	379,337
Pennsylvania	1,794,613	N/A	1,132,997
Rhode Island	146,183	N/A	50,959
South Carolina	596,161	N/A	409,531
South Dakota	78,245	N/A	47,346
Tennessee	868,550	N/A	591,672
Texas	3,551,011	N/A	2,625,402
Utah	164,041	1,389	104,117
Vermont	68,568	16,356	39,499
Virginia	730,370	N/A	491,245
Virgin Islands	22,520	N/A	14,838
Washington	870,997	N/A	571,372
West Virginia	306,218	N/A	100,505
Wisconsin	647,376	N/A	396,305
Wyoming	26,928	N/A	19,275
U.S.	39,862,221	87,168	13,873,932

TABLE 5: SNAP Participation by Benefit Type-Households (Monthly Average) - FY 2020

STATE	EBT	Cash	Emergency Allotment (Supplements)
Alabama	349,654	N/A	140,765
Alaska	38,338	N/A	11,102
Arizona	396,269	N/A	203,590
Arkansas	171,565	N/A	116,493
California	2,327,686	N/A	1,401,713
Colorado	246,560	N/A	147,280
Connecticut	217,866	N/A	111,163
Delaware	59,751	N/A	36,530
District of Columbia	70,264	N/A	38,239
Florida	1,766,635	N/A	676,250
Georgia	744,556	N/A	519,430
Guam	15,662	N/A	9,086
Hawaii	87,792	N/A	70,297
Idaho	67,486	N/A	42,796
Illinois	975,887	N/A	470,643
Indiana	273,747	N/A	184,644
Iowa	150,436	N/A	84,379
Kansas	95,362	N/A	31,967
Kentucky	250,622	N/A	185,239
Louisiana	387,279	N/A	245,639
Maine	89,341	N/A	59,265
Maryland	382,887	N/A	247,569
Massachusetts	491,010	N/A	231,504
Michigan	678,640	N/A	266,270
Minnesota	207,739	19,737	155,575
Mississippi	205,069	N/A	147,155
Missouri	340,865	N/A	230,215
Montana	52,092	N/A	32,561
Nebraska	72,171	N/A	46,659
Nevada	238,246	N/A	135,124
New Hampshire	38,479	N/A	26,545
New Jersey	356,251	N/A	220,021
New Mexico	234,865	N/A	139,244
New York	1,529,454	N/A	713,061
North Carolina	643,639	N/A	344,086
North Dakota	22,254	N/A	12,837
Ohio	698,099	10,059	465,197
Oklahoma	282,339	N/A	165,136
Oregon	377,502	35,267	201,943
Pennsylvania	974,107	N/A	573,037
Rhode Island	88,844	N/A	28,314
South Carolina	280,609	N/A	194,234
South Dakota	37,043	N/A	20,700
Tennessee	422,329	N/A	268,137
Texas	1,553,446	N/A	1,131,212
Utah	71,719	1,329	45,722
Vermont	39,418	15,207	20,432
Virginia	360,337	N/A	243,384
Virgin Islands	11,013	N/A	6,882
Washington	502,277	N/A	296,724
West Virginia	162,782	N/A	53,101
Wisconsin	336,071	N/A	198,185
Wyoming	12,049	N/A	8,538
U.S.	20,486,401	81,600	6,773,263

TABLE 6: SNAP Issuance by Benefit Type - FY 2020

STATE	Issuance by EBT	Issuance by Cash	Issuance by Emergency Allotment	Total Issuance
Alabama	\$1,051,386,851	\$0	\$296,451,118	\$1,347,837,969
Alaska	\$185,898,632	\$0	\$12,400,361	\$198,298,993
Arizona	\$1,222,401,093	\$0	\$246,886,795	\$1,469,287,888
Arkansas	\$502,916,740	\$0	\$158,658,289	\$661,575,029
California	\$6,344,523,915	\$0	\$1,477,629,417	\$7,822,153,332
Colorado	\$718,614,960	\$0	\$187,181,917	\$905,796,877
Connecticut	\$593,026,304	\$0	\$119,215,135	\$712,241,439
Delaware	\$165,887,895	\$0	\$49,212,014	\$215,099,909
District of Columbia	\$182,345,847	\$0	\$42,926,097	\$225,271,944
Florida	\$4,690,047,039	\$0	\$1,311,694,066	\$6,001,741,105
Georgia	\$2,341,955,586	\$0	\$565,514,758	\$2,907,470,344
Guam	\$99,735,853	\$0	\$14,894,663	\$114,630,516
Hawaii	\$479,441,879	\$0	\$84,700,424	\$564,142,303
Idaho	\$194,607,711	\$0	\$47,012,550	\$241,620,261
Illinois	\$2,838,068,995	\$0	\$554,617,177	\$3,392,686,172
Indiana	\$963,004,442	\$0	\$207,737,024	\$1,170,741,466
Iowa	\$414,825,903	\$0	\$115,413,540	\$530,239,443
Kansas	\$326,043,240	\$0	\$69,362,732	\$395,405,972
Kentucky	\$775,154,396	\$0	\$225,871,252	\$1,001,025,648
Louisiana	\$1,235,902,901	\$0	\$300,262,465	\$1,536,165,366
Maine	\$212,191,091	\$0	\$64,830,648	\$277,021,739
Maryland	\$998,451,155	\$0	\$272,416,777	\$1,270,867,932
Massachusetts	\$1,222,124,701	\$0	\$251,364,481	\$1,473,489,182
Michigan	\$1,794,337,676	\$0	\$510,837,080	\$2,305,174,756
Minnesota	\$498,331,359	\$23,006,138	\$203,470,568	\$724,808,065
Mississippi	\$576,093,013	\$0	\$198,340,873	\$774,433,886
Missouri	\$1,063,963,886	\$0	\$278,808,778	\$1,342,772,664
Montana	\$150,613,830	\$0	\$34,571,118	\$185,184,948
Nebraska	\$212,123,225	\$0	\$43,611,968	\$255,735,193
Nevada	\$616,973,906	\$0	\$189,817,320	\$806,791,226
New Hampshire	\$87,947,649	\$0	\$29,307,639	\$117,255,288
New Jersey	\$1,029,903,753	\$0	\$258,834,535	\$1,288,738,288
New Mexico	\$675,139,157	\$0	\$175,436,165	\$850,575,322
New York	\$4,396,867,256	\$0	\$721,821,193	\$5,118,688,449
North Carolina	\$1,843,625,169	\$0	\$552,772,480	\$2,396,397,649
North Dakota	\$66,977,254	\$0	\$17,982,733	\$84,959,987
Ohio	\$2,174,652,442	\$17,410,068	\$559,786,711	\$2,751,849,221
Oklahoma	\$850,361,224	\$0	\$205,894,042	\$1,056,255,266
Oregon	\$1,038,266,526	\$56,817,283	\$200,886,350	\$1,295,970,159
Pennsylvania	\$2,569,235,614	\$0	\$679,934,847	\$3,249,170,461
Rhode Island	\$232,705,220	\$0	\$48,013,158	\$280,718,378
South Carolina	\$860,266,201	\$0	\$241,559,292	\$1,101,825,493
South Dakota	\$119,558,206	\$0	\$24,297,656	\$143,855,862
Tennessee	\$1,689,759,715	\$0	\$274,727,580	\$1,964,487,295
Texas	\$5,022,997,299	\$0	\$1,259,105,525	\$6,282,102,824
Utah	\$227,022,758	\$1,529,150	\$52,708,737	\$281,260,645
Vermont	\$99,127,546	\$28,247,964	\$18,978,416	\$146,353,926
Virginia	\$1,034,719,157	\$0	\$296,303,829	\$1,331,022,986
Virgin Islands	\$45,561,173	\$0	\$8,013,368	\$53,574,541
Washington	\$1,234,761,758	\$0	\$363,663,881	\$1,598,425,639
West Virginia	\$397,244,911	\$0	\$119,709,601	\$516,954,512
Wisconsin	\$839,656,896	\$0	\$268,961,363	\$1,108,618,259
Wyoming	\$36,349,649	\$0	\$9,538,079	\$45,887,728
U.S.	\$59,243,700,557	\$127,010,603	\$14,523,948,585	\$73,894,659,745

II.

Administrative Costs

NOTABLE TRENDS

ADMINISTRATIVE COSTS

State agency administrative costs are affected by a number of factors including participation levels, the number and salary level of State staff, inflation, the location of State agency offices, type of issuance system, worker training costs, degree of automation, level of fraud control activity, etc. FNS pays approximately 50 percent of State agency administrative costs to operate the program.

In FY 2020, the total State agency administrative costs prior to Federal cost sharing were \$8.6 billion, a 1 percent increase from \$8.5 billion in FY 2019. In FY 2020, the Federal government reimbursed \$4.1 billion in State agency administrative costs. The Federal share of administrative cost per case (i.e., perhousehold) per month increased by 18 percent to \$19.15.

The total Federal spending on State agency certification costs was approximately \$2.7 billion. The Federal share of the certification costs per case (i.e., per household) per month was approximately \$11.15.

TABLE 7: State Agency SNAP Administrative Costs - FY 2020

STATE	State Share of Administrative Costs	Federal Share of Administrative Costs	Total Administrative Costs
Alabama	\$46,533,815	\$45,561,682	\$92,095,497
Alaska	\$13,952,647	\$13,654,454	\$27,607,101
Arizona	\$63,014,266	\$58,410,921	\$121,425,187
Arkansas	\$33,020,451	\$34,222,874	\$67,243,325
California	\$1,018,001,489	\$911,242,114	\$1,929,243,603
Colorado	\$56,816,487	\$54,480,142	\$111,296,629
Connecticut	\$58,902,665	\$57,069,254	\$115,971,919
Delaware	\$14,753,445	\$13,949,077	\$28,702,522
District of Columbia	\$30,048,298	\$27,182,766	\$57,231,064
Florida	\$91,855,306	\$86,229,901	\$178,085,207
Georgia	\$83,086,024	\$84,293,886	\$167,379,910
Guam	\$1,666,295	\$1,769,029	\$3,435,324
Hawaii	\$25,494,683	\$25,553,613	\$51,048,296
Idaho	\$11,350,391	\$10,616,835	\$21,967,226
Illinois	\$120,325,983	\$112,325,398	\$232,651,381
Indiana	\$75,395,065	\$74,534,112	\$149,929,177
Iowa	\$22,355,466	\$20,810,912	\$43,166,378
Kansas	\$28,695,775	\$25,989,588	\$54,685,363
Kentucky	\$72,146,653	\$68,465,974	\$140,612,627
Louisiana	\$66,299,680	\$66,945,009	\$133,244,689
Maine	\$14,656,053	\$13,700,827	\$28,356,880
Maryland	\$88,766,915	\$87,390,738	\$176,157,653
Massachusetts	\$71,926,191	\$70,676,163	\$142,602,354
Michigan	\$143,059,807	\$145,681,829	\$288,741,636
Minnesota	\$69,905,413	\$68,041,680	\$137,947,093
Mississippi	\$26,615,818	\$26,772,286	\$53,388,104
Missouri	\$37,470,663	\$39,374,051	\$76,844,714
Montana	\$10,127,993	\$10,411,562	\$20,539,555
Nebraska	\$17,022,676	\$16,859,970	\$33,882,646
Nevada	\$27,680,629	\$26,489,332	\$54,169,961
New Hampshire	\$9,552,643	\$8,734,917	\$18,287,560
New Jersey	\$171,652,729	\$155,111,588	\$326,764,317
New Mexico	\$24,576,887	\$21,911,747	\$46,488,634
New York	\$485,399,307	\$384,123,971	\$869,523,278
North Carolina	\$121,245,532	\$122,659,801	\$243,905,333
North Dakota	\$10,710,512	\$10,585,927	\$21,296,439
Ohio	\$121,841,108	\$116,592,716	\$238,433,824
Oklahoma	\$30,540,471	\$30,406,062	\$60,946,533
Oregon	\$103,411,544	\$102,919,667	\$206,331,211
Pennsylvania	\$174,802,847	\$179,282,985	\$354,085,832
Rhode Island	\$19,872,294	\$19,909,161	\$39,781,455
South Carolina	\$25,668,930	\$24,394,099	\$50,063,029
South Dakota	\$6,887,656	\$8,311,743	\$15,199,399
Tennessee	\$83,087,823	\$83,065,744	\$166,153,567
Texas	\$189,191,858	\$200,861,997	\$390,053,855
Utah	\$18,409,509	\$16,792,475	\$35,201,984
Vermont	\$9,769,132	\$9,697,413	\$19,466,545
Virginia	\$114,566,560	\$116,373,006	\$230,939,566
Virgin Islands	\$3,275,278	\$3,696,251	\$6,971,529
Washington	\$108,899,872	\$107,364,488	\$216,264,360
West Virginia	\$16,972,776	\$17,609,933	\$34,582,709
Wisconsin	\$78,165,576	\$82,584,714	\$160,750,290
Wyoming	\$6,169,691	\$6,287,856	\$12,457,547
U.S.	\$4,375,617,577	\$4,127,984,240	\$8,503,601,817

TABLE 8: State Agency SNAP Administrative Costs Per Case -FY 2020

112006	Households Participating (Monthly Average)	Total Administrative Costs	Total Admin. Costs Per Case Per Month
Alabama	349,654	\$95,199,859	\$22.69
Alaska	38,338	\$26,865,242	\$58.40
Arizona	396,269	\$114,535,722	\$24.09
Arkansas	171,565	\$79,072,889	\$38.41
California	2,327,686	\$2,024,186,344	\$72.47
Colorado	246,560	\$125,343,210	\$42.36
Connecticut	217,866	\$116,066,223	\$44.40
Delaware	59,751	\$31,687,427	\$44.19
District of Columbia	70,264	\$63,188,806	\$74.94
Florida	1,766,635	\$191,932,386	\$9.05
Georgia	744,556	\$177,856,232	\$19.91
Guam	15,662	\$3,242,662	\$17.25
Hawaii	87,792	\$43,125,003	\$40.93
Idaho	67,486	\$21,956,855	\$27.11
Illinois	975,887	\$272,123,649	\$23.24
Indiana	273,747	\$159,480,172	\$48.55
Iowa	150,436	\$50,251,687	\$27.84
Kansas	95,362	\$53,350,296	\$46.62
Kentucky	250,622	\$156,501,360	\$52.04
Louisiana	387,279	\$174,780,867	\$37.61
Maine	89,341	\$29,191,257	\$27.23
Maryland	382,887	\$195,629,920	\$42.58
Massachusetts	491,010	\$145,662,383	\$24.72
Michigan	678,640	\$330,875,378	\$40.63
Minnesota	227,476	\$142,475,008	\$52.19
Mississippi	205,069	\$58,344,291	\$23.71
Missouri	340,865	\$87,586,621	\$21.41
Montana	52,092	\$19,948,406	\$31.91
Nebraska	72,171	\$34,747,653	\$40.12
Nevada	238,246	\$43,617,608	\$15.26
New Hampshire	38,479	\$19,549,500	\$42.34
New Jersey	356,251	\$328,306,715	\$76.80
New Mexico	234,865	\$50,118,189	\$17.78
New York	1,529,454	\$598,688,207	\$32.62
North Carolina	643,639	\$243,468,351	\$31.52
North Dakota	22,254	\$22,678,217	\$84.92
Ohio	708,158	\$223,846,472	\$26.34
Oklahoma	282,339	\$77,713,479	\$22.94
Oregon	412,769	\$226,672,652	\$45.76
Pennsylvania	974,107	\$352,592,941	\$30.16
Rhode Island	88,844	\$41,731,874	\$39.14
South Carolina	280,609	\$51,636,753	\$15.33
South Dakota	37,043	\$16,034,068	\$36.07
Tennessee	422,329	\$179,179,709	\$35.36
Texas	1,553,446	\$370,842,804	\$19.89
Utah	73,048	\$38,234,972	\$43.62
Vermont	54,625	\$21,594,343	\$32.94
Virginia	360,337	\$263,284,220	\$60.89
Virgin Islands	11,013	\$7,772,088	\$58.81
Washington	502,277	\$218,847,336	\$36.31
West Virginia	162,782	\$35,613,795	\$18.23
Wisconsin	336,071	\$131,210,589	\$32.54
Wyoming	12,049	\$13,908,669	\$96.19
U.S.	20,568,000	\$8,602,351,359	\$34.85

TABLE 9: Federal Share of State Agency SNAPAdministrative Costs Per Case - FY 2020

STATE	Households Participating (Monthly Average)	Federal Share ofTotal Costs	Federal Admin. Costs Per Case Per Month
Alabama	349,654	\$47,337,991	\$11.28
Alaska	38,338	\$13,345,899	\$29.01
Arizona	396,269	\$58,031,052	\$12.20
Arkansas	171,565	\$39,336,098	\$19.11
California	2,327,686	\$959,016,339	\$34.33
Colorado	246,560	\$61,326,323	\$20.73
Connecticut	217,866	\$57,103,617	\$21.84
Delaware	59,751	\$15,364,872	\$21.43
District of Columbia	70,264	\$29,864,709	\$35.42
Florida	1,766,635	\$92,470,650	\$4.36
Georgia	744,556	\$90,698,316	\$10.15
Guam	15,662	\$1,679,617	\$8.94
Hawaii	87,792	\$21,459,334	\$20.37
Idaho	67,486	\$10,460,594	\$12.92
Illinois	975,887	\$132,132,552	\$11.28
Indiana	273,747	\$79,411,873	\$24.17
Iowa	150,436	\$24,495,036	\$13.57
Kansas	95,362	\$25,587,046	\$22.36
Kentucky	250,622	\$76,501,615	\$25.44
Louisiana	387,279	\$87,500,284	\$18.83
Maine	89,341	\$14,150,157	\$13.20
Maryland	382,887	\$96,824,449	\$21.07
Massachusetts	491,010	\$72,251,966	\$12.26
Michigan	678,640	\$166,374,554	\$20.43
Minnesota	227,476	\$69,920,679	\$25.61
Mississippi	205,069	\$29,122,963	\$11.83
Missouri	340,865	\$44,151,097	\$10.79
Montana	52,092	\$10,058,229	\$16.09
Nebraska	72,171	\$17,398,250	\$20.09
Nevada	238,246	\$21,201,089	\$7.42
New Hampshire	38,479	\$9,399,097	\$20.36
New Jersey	356,251	\$155,793,986	\$36.44
New Mexico	234,865	\$23,717,737	\$8.42
New York	1,529,454	\$245,643,013	\$13.38
North Carolina	643,639	\$122,850,172	\$15.91
North Dakota	22,254	\$11,149,811	\$41.75
Ohio	708,158	\$109,535,380	\$12.89
Oklahoma	282,339	\$38,371,124	\$11.33
Oregon	412,769	\$111,658,111	\$22.54
Pennsylvania	974,107	\$178,611,794	\$15.28
Rhode Island	88,844	\$20,805,698	\$19.52
South Carolina	280,609	\$25,134,779	\$7.46
South Dakota	37,043	\$8,680,299	\$19.53
Tennessee	422,329	\$88,829,240	\$17.53
Texas	1,553,446	\$190,795,456	\$10.24
Utah	73,048	\$18,276,109	\$20.85
Vermont	54,625	\$10,720,228	\$16.35
Virginia	360,337	\$132,493,620	\$30.64
Virgin Islands	11,013	\$4,086,046	\$30.92
Washington	502,277	\$110,112,584	\$18.27
West Virginia	162,782	\$18,185,984	\$9.31
Wisconsin	336,071	\$67,214,920	\$16.67
Wyoming	12,049	\$7,052,340	\$48.77
U.S.	20,568,000	\$4,173,694,778	\$16.91

TABLE 10: Federal Share of Selected State Agency SNAP Administrative Costs - FY 2020

STATE	Federal Share of Certification Cost	Federal Share of Issuance Costs	Federal Share of Fraud Control Costs
Alabama	\$32,492,555	\$922,430	\$1,242,862
Alaska	\$8,656,894	\$161,113	\$599,988
Arizona	\$36,514,382	\$1,434,649	\$1,316,371
Arkansas	\$27,882,515	\$1,116,356	\$1,139,819
California	\$686,472,708	\$14,334,887	\$41,792,518
Colorado	\$39,537,700	\$963,621	\$3,061,561
Connecticut	\$26,537,566	\$553,815	\$3,786,457
Delaware	\$10,408,616	\$262,616	\$1,130,929
District of Columbia	\$14,392,747	\$822,821	\$1,543,333
Florida	\$60,003,474	\$8,950,313	\$2,762,151
Georgia	\$59,988,961	\$3,774,443	\$3,284,397
Guam	\$754,065	\$44,037	\$168,083
Hawaii	\$13,608,683	\$215,792	\$1,616,693
Idaho	\$5,833,876	\$1,263,148	\$231,298
Illinois	\$89,793,280	\$4,605,431	\$1,870,654
Indiana	\$44,728,614	\$2,637,964	\$1,400,954
Iowa	\$17,139,988	\$1,150,850	\$881,178
Kansas	\$13,350,988	\$604,443	\$53,783
Kentucky	\$59,580,161	\$3,540,366	\$1,223,177
Louisiana	\$58,672,114	\$1,605,269	\$1,822,443
Maine	\$5,666,326	\$508,147	\$857,252
Maryland	\$69,407,085	\$2,209,706	\$1,490,925
Massachusetts	\$58,283,963	\$1,179,218	\$1,283,226
Michigan	\$126,001,402	\$2,382,236	\$6,532,445
Minnesota	\$43,863,311	\$3,792,970	\$2,642,909
Mississippi	\$21,489,060	\$1,367,123	\$644,073
Missouri	\$33,213,253	\$1,153,083	\$942,040
Montana	\$6,037,790	\$627,295	\$1,167
Nebraska	\$11,256,827	\$412,469	\$457,733
Nevada	\$12,103,875	\$538,026	\$1,841,850
New Hampshire	\$1,325,619	\$183,433	\$227,747
New Jersey	\$113,209,260	\$2,152,297	\$14,191,512
New Mexico	\$16,930,066	\$949,063	\$126,274
New York	\$137,660,470	\$2,675,866	\$15,611,412
North Carolina	\$89,152,279	\$2,414,328	\$7,568,313
North Dakota	\$5,932,295	\$251,560	\$0
Ohio	\$43,618,182	\$4,142,336	\$450,366
Oklahoma	\$28,967,432	\$1,373,216	\$1,305,104
Oregon	\$71,802,836	\$5,799,384	\$334,734
Pennsylvania	\$126,924,065	\$10,314,469	\$3,456,586
Rhode Island	\$7,816,952	\$296,584	\$542,587
South Carolina	\$14,628,205	\$1,431,108	\$1,611,944
South Dakota	\$5,329,922	\$136,588	\$323,623
Tennessee	\$70,934,453	\$1,456,674	\$2,262,820
Texas	\$117,179,153	\$4,562,103	\$4,850,182
Utah	\$12,594,741	\$489,140	\$1,376,171
Vermont	\$5,557,196	\$151,305	\$500,800
Virginia	\$88,848,052	\$5,526,823	\$4,090,062
Virgin Islands	\$2,146,952	\$124,709	\$218,839
Washington	\$57,502,814	\$2,243,393	\$2,160,857
West Virginia	\$13,026,404	\$1,171,739	\$459,986
Wisconsin	\$22,085,778	\$1,742,637	\$1,687,393
Wyoming	\$4,332,852	\$43,041	\$324,382
U.S.	\$2,751,178,757	\$112,766,433	\$151,303,963

TABLE 11: Federal Share of Selected State Agency SNAP Administrative Costs, Automated Data Processing (ADP) - FY 2020

STATE	Federal Share of ADP Development Costs	Federal Share of ADP Operations Costs
Alabama	\$147,669	\$1,001,591
Alaska	\$0	\$852,804
Arizona	\$2,306,382	\$4,738,865
Arkansas	\$4,572,287	\$2,195,319
California	\$18,815,661	\$33,857,752
Colorado	\$1,141,814	\$7,367,963
Connecticut	\$710,503	\$6,065,481
Delaware	\$0	\$2,410,989
District of Columbia	\$2,312,772	\$5,415,438
Florida	\$109,270	\$4,498,540
Georgia	\$0	\$13,616,149
Guam	\$0	\$112,275
Hawaii	\$1,410,632	\$2,442,102
Idaho	\$0	\$1,878,562
Illinois	\$7,002,094	\$10,176
Indiana	\$18,773,886	\$4,041,082
Iowa	\$1,025,834	\$1,905,922
Kansas	\$736,051	\$7,030,057
Kentucky	\$0	\$6,197,904
Louisiana	\$18,324,732	\$0
Maine	\$36,825	\$2,974,586
Maryland	\$13,778,306	\$3,914,716
Massachusetts	\$0	\$238,217
Michigan	\$0	\$25,809,882
Minnesota	\$2,206,929	\$7,353,632
Mississippi	\$0	\$1,761,929
Missouri	\$64,303	\$2,461,483
Montana	\$0	\$1,321
Nebraska	\$0	\$2,824,507
Nevada	\$0	\$3,620,253
New Hampshire	\$50,870	\$2,457,852
New Jersey	\$87,023	\$9,848,883
New Mexico	\$0	\$4,659,377
New York	\$1,043,576	\$12,589,811
North Carolina	\$2,742,057	\$9,814,045
North Dakota	\$0	\$3,416,080
Ohio	\$0	\$17,435,802
Oklahoma	\$1,772,951	\$1,864,432
Oregon	\$9,461,047	\$2,984,846
Pennsylvania	\$3,893,399	\$21,403,151
Rhode Island	\$753,540	\$3,111,593
South Carolina	\$0	\$2,861,921
South Dakota	\$0	\$381,469
Tennessee	\$2,074,824	\$5,419,281
Texas	\$0	\$45,227,453
Utah	\$387,663	\$2,573,103
Vermont	\$0	\$618,066
Virginia	\$0	\$28,017,623
Virgin Islands	\$0	\$838,596
Washington	\$1,391,544	\$15,280,540
West Virginia	\$0	\$1,845,176
Wisconsin	\$4,423,537	\$9,206,196
Wyoming	\$0	\$581,382
U.S.	\$121,557,981	\$359,036,175

TABLE 12: Federal Share of SNAP Certification Costs Per Case -FY 2020

STATE	Households Participating (Monthly Average)	Federal Share of Certification Costs	Federal Costs Per Case Per Month for Certification
Alabama	349,654	\$32,492,555	\$7.74
Alaska	38,338	\$8,656,894	\$18.82
Arizona	396,269	\$36,514,382	\$7.68
Arkansas	171,565	\$27,882,515	\$13.54
California	2,327,686	\$686,472,708	\$24.58
Colorado	246,560	\$39,537,700	\$13.36
Connecticut	217,866	\$26,537,566	\$10.15
Delaware	59,751	\$10,408,616	\$14.52
District of Columbia	70,264	\$14,392,747	\$17.07
Florida	1,766,635	\$60,003,474	\$2.83
Georgia	744,556	\$59,988,961	\$6.71
Guam	15,662	\$754,065	\$4.01
Hawaii	87,792	\$13,608,683	\$12.92
Idaho	67,486	\$5,833,876	\$7.20
Illinois	975,887	\$89,793,280	\$7.67
Indiana	273,747	\$44,728,614	\$13.62
Iowa	150,436	\$17,139,988	\$9.49
Kansas	95,362	\$13,350,988	\$11.67
Kentucky	250,622	\$59,580,161	\$19.81
Louisiana	387,279	\$58,672,114	\$12.62
Maine	89,341	\$5,666,326	\$5.29
Maryland	382,887	\$69,407,085	\$15.11
Massachusetts	491,010	\$58,283,963	\$9.89
Michigan	678,640	\$126,001,402	\$15.47
Minnesota	227,476	\$43,863,311	\$16.07
Mississippi	205,069	\$21,489,060	\$8.73
Missouri	340,865	\$33,213,253	\$8.12
Montana	52,092	\$6,037,790	\$9.66
Nebraska	72,171	\$11,256,827	\$13.00
Nevada	238,246	\$12,103,875	\$4.23
New Hampshire	38,479	\$1,325,619	\$2.87
New Jersey	356,251	\$113,209,260	\$26.48
New Mexico	234,865	\$16,930,066	\$6.01
New York	1,529,454	\$137,660,470	\$7.50
North Carolina	643,639	\$89,152,279	\$11.54
North Dakota	22,254	\$5,932,295	\$22.21
Ohio	708,158	\$43,618,182	\$5.13
Oklahoma	282,339	\$28,967,432	\$8.55
Oregon	412,769	\$71,802,836	\$14.50
Pennsylvania	974,107	\$126,924,065	\$10.86
Rhode Island	88,844	\$7,816,952	\$7.33
South Carolina	280,609	\$14,628,205	\$4.34
South Dakota	37,043	\$5,329,922	\$11.99
Tennessee	422,329	\$70,934,453	\$14.00
Texas	1,553,446	\$117,179,153	\$6.29
Utah	73,048	\$12,594,741	\$14.37
Vermont	54,625	\$5,557,196	\$8.48
Virginia	360,337	\$88,848,052	\$20.55
Virgin Islands	11,013	\$2,146,952	\$16.25
Washington	502,277	\$57,502,814	\$9.54
West Virginia	162,782	\$13,026,404	\$6.67
Wisconsin	336,071	\$22,085,778	\$5.48
Wyoming	12,049	\$4,332,852	\$29.97
U.S.	20,568,000	\$2,751,178,757	\$11.15

III.

Fair Hearings

NOTABLE TRENDS

FAIR HEARINGS

SNAP regulations provide recourse to households that are denied benefits or have their allotment reduced, suspended or cancelled as a result of an adverse decision by the State agency. This recourse is called the fair hearing process. The number of fair hearings conducted by States is reported quarterly on Form FNS- 366B, the Program Activity Statement.

In response to the COVID-19 outbreak, FNS is allowing States flexibility regarding fair hearing timeframes. As needed, State agencies may extend the fair hearings process up to 120 days from receipt of the request for fair hearings that were already in process or for which requests are received during the waiver period. In addition, the time frame for sending notices confirming oral withdrawal requests may be extended up to 30 days from receipt of the request for such requests received during this same time period. More information on this waiver option is available at: <https://www.fns.usda.gov/disaster/pandemic/covid-19/snap-fair-hearing-waivers>.

In FY 2020, the number of fair hearings held increased by 3.2 percent to 70,464. The State's decision was upheld in 58 percent of fair hearings in FY 2020.

TABLE 13: SNAP Fair Hearings Upheld and Reversed - FY

STATE	Fair Hearings Upheld	Fair Hearings Reversed	Percent Upheld
Alabama	62	11	84.93%
Alaska	11	0	100.00%
Arizona	735	585	55.68%
Arkansas	197	37	84.19%
California	3,116	2,919	51.63%
Colorado	91	9	91.00%
Connecticut	615	103	85.65%
Delaware	24	16	60.00%
District of Columbia	6	8	42.86%
Florida	219	66	76.84%
Georgia	41	35	53.95%
Guam	-	0	-
Hawaii	32	3	91.43%
Idaho	42	0	100.00%
Illinois	179	67	72.76%
Indiana	722	24	96.78%
Iowa	149	14	91.41%
Kansas	5	0	100.00%
Kentucky	127	14	90.07%
Louisiana	228	2	99.13%
Maine	7	2	77.78%
Maryland	73	16	82.02%
Massachusetts	996	432	69.75%
Michigan	542	295	64.76%
Minnesota	227	40	85.02%
Mississippi	263	28	90.38%
Missouri	350	46	88.38%
Montana	27	10	72.97%
Nebraska	148	29	83.62%
Nevada	35	3	92.11%
New Hampshire	7	3	70.00%
New Jersey	103	15	87.29%
New Mexico	54	20	72.97%
New York	2,829	5,909	32.38%
North Carolina	499	96	83.87%
North Dakota	11	3	78.57%
Ohio	6,993	4,724	59.68%
Oklahoma	28	12	70.00%
Oregon	66	1	98.51%
Pennsylvania	285	114	71.43%
Rhode Island	1	0	100.00%
South Carolina	167	73	69.58%
South Dakota	6	0	100.00%
Tennessee	5,140	2,105	70.95%
Texas	402	526	43.32%
Utah	8	2	80.00%
Vermont	11	0	100.00%
Virginia	248	86	74.25%
Virgin Islands	8	5	61.54%
Washington	407	47	89.65%
West Virginia	17	5	77.27%
Wisconsin	152	40	79.17%
Wyoming	7	0	100.00%
U.S.	26,718	18,600	58.96%

IV.

Fraud Investigations, Judicial Prosecutions, and Administrative Disqualification Hearings

NOTABLE TRENDS

FRAUD CONTROL

In response to the COVID-19 outbreak, FNS is allowing State agencies to extend the timeframe for the full administrative disqualification hearings (ADH) process to a maximum of 180 days. More information on this waiver option is available at:

<https://www.fns.usda.gov/disaster/pandemic/covid-19/snap-other-waivers>

In FY 2020, State agency investigators referred 27,356 fraud investigations to hearing officials for ADH or to prosecutors for prosecution through the court system. Fraud investigations fall into two categories: eligibility fraud investigations and trafficking investigations.

Eligibility fraud investigations involve individuals suspected of intentionally making a false or misleading statement, or misrepresenting, concealing or withholding facts at application, required reporting, or recertification period with the intent to influence a SNAP eligibility determination. Trafficking investigations involve individuals suspected of trafficking benefits, as defined in 7 CFR §271.2.

In both types of investigations, investigators determine whether sufficient documentary evidence of SNAP fraud or abuse exists to warrant civil, criminal, or administrative legal action against an individual.

Once a case is referred for an ADH, an administrative law judge determines whether the accused individual will receive a SNAP disqualification. The individual may also sign an ADH waiver, which results in a disqualification.

Cases referred for prosecution are handled by local prosecutors who pursue SNAP disqualifications through the court system. Prosecutors may also use disqualification consent agreements (DCAs), where accused individuals consent to a SNAP disqualification in cases of deferred adjudication.

TABLE 14: SNAP Administrative Disqualification Hearings (ADHs) - FY 2020

STATE	ADH- Intentional program violation found	ADH WaiversSigned	ADH- No intentionalprogram violation found
Alabama	183	78	18
Alaska	15	28	0
Arizona	121	16	48
Arkansas	176	68	6
California	604	608	286
Colorado	171	322	4
Connecticut	32	58	4
Delaware	388	65	11
District of Columbia	0	41	0
Florida	984	716	74
Georgia	834	434	23
Guam	5	8	0
Hawaii	0	88	-
Idaho	33	37	0
Illinois	21	195	4
Indiana	235	65	40
Iowa	322	0	26
Kansas	107	176	0
Kentucky	1,127	512	70
Louisiana	176	241	8
Maine	13	7	0
Maryland	69	79	8
Massachusetts	500	67	105
Michigan	631	699	103
Minnesota	166	464	65
Mississippi	504	13	8
Missouri	1,133	116	76
Montana	118	148	5
Nebraska	71	48	1
Nevada	250	54	8
New Hampshire	12	40	389
New Jersey	50	110	6
New Mexico	19	13	3
New York	355	128	36
North Carolina	1,838	287	60
North Dakota	43	42	1
Ohio	315	611	182
Oklahoma	90	355	9
Oregon	26	345	1
Pennsylvania	8	46	0
Rhode Island	13	36	1
South Carolina	323	205	43
South Dakota	125	80	10
Tennessee	351	575	8
Texas	578	1,360	141
Utah	91	104	11
Vermont	42	108	0
Virginia	297	427	27
Virgin Islands	63	5	10
Washington	235	70	5
West Virginia	16	116	6
Wisconsin	199	424	8
Wyoming	32	20	0
U.S.	14,110	10,958	1,958

TABLE 15: SNAP Recipient Fraud Investigations Referred for ADH or Prosecution - FY 2020

STATE	Eligibility Fraud Investigations Ref. for ADH or Prosecution	Trafficking Investigations Referred for ADH or Prosecution	Total Fraud Investigations Ref. for ADH or Prosecution
Alabama	267	60	327
Alaska	34	1	35
Arizona	52	43	95
Arkansas	311	0	311
California	2,279	50	2,329
Colorado	437	14	451
Connecticut	68	6	74
Delaware	41	346	387
District of Columbia	20	1	21
Florida	415	399	814
Georgia	527	398	925
Guam	6	8	14
Hawaii	7	24	31
Idaho	38	3	41
Illinois	132	2	134
Indiana	151	216	367
Iowa	719	150	869
Kansas	244	14	258
Kentucky	133	4	137
Louisiana	12	394	406
Maine	40	0	40
Maryland	268	32	300
Massachusetts	1,255	233	1,488
Michigan	1,798	852	2,650
Minnesota	258	5	263
Mississippi	911	5	916
Missouri	1,223	21	1,244
Montana	129	0	129
Nebraska	139	12	151
Nevada	6	0	6
New Hampshire	9	0	9
New Jersey	231	15	246
New Mexico	13	2	15
New York	1,137	58	1,195
North Carolina	1,732	426	2,158
North Dakota	46	0	46
Ohio	710	121	831
Oklahoma	375	92	467
Oregon	119	0	119
Pennsylvania	504	11	515
Rhode Island	61	3	64
South Carolina	521	0	521
South Dakota	129	119	248
Tennessee	1,251	39	1,290
Texas	985	220	1,205
Utah	382	14	396
Vermont	222	0	222
Virginia	1,012	89	1,101
Virgin Islands	1	82	83
Washington	120	194	314
West Virginia	254	21	275
Wisconsin	609	149	758
Wyoming	63	2	65
U.S.	22,406	4,950	27,356

TABLE 16: SNAP Recipient Fraud Prosecution Activity- FY 2020

STATE	Prosecution Convictions	Disqualification Consent Agreements Signed	Prosecution Acquittals
Alabama	10	4	1
Alaska	7	2	2
Arizona	29	0	0
Arkansas	8	98	13
California	593	313	857
Colorado	32	3	0
Connecticut	4	1	0
Delaware	0	0	0
District of Columbia	0	1	0
Florida	91	326	54
Georgia	2	15	2
Guam	1	0	0
Hawaii	4	8	0
Idaho	8	0	0
Illinois	0	0	0
Indiana	7	1	1
Iowa	4	0	0
Kansas	1	0	0
Kentucky	42	0	8
Louisiana	11	12	1
Maine	2	0	0
Maryland	12	5	0
Massachusetts	3	62	1
Michigan	126	68	0
Minnesota	11	3	0
Mississippi	2	1	2
Missouri	40	4	4
Montana	1	0	0
Nebraska	14	0	0
Nevada	11	0	0
New Hampshire	10	0	141
New Jersey	0	6	18
New Mexico	2	0	0
New York	205	349	3
North Carolina	41	5	3
North Dakota	0	0	0
Ohio	83	49	23
Oklahoma	3	7	2
Oregon	3	2	1
Pennsylvania	44	292	20
Rhode Island	9	0	39
South Carolina	0	0	0
South Dakota	0	0	0
Tennessee	0	0	0
Texas	4	53	42
Utah	21	0	0
Vermont	0	0	0
Virginia	75	0	18
Virgin Islands	0	0	0
Washington	30	12	8
West Virginia	4	1	0
Wisconsin	10	77	9
Wyoming	5	0	0
U.S.	1,625	1,780	1,273

TABLE 17: SNAP Disqualification Determinations- FY 2020

STATE	Disqualifications from ADH	Disqualifications from Prosecution	Total Disqualifications
Alabama	261	14	275
Alaska	43	9	52
Arizona	137	29	166
Arkansas	244	106	350
California	1,212	906	2,118
Colorado	493	35	528
Connecticut	90	5	95
Delaware	453	0	453
District of Columbia	41	1	42
Florida	1,700	417	2,117
Georgia	1,268	17	1,285
Guam	13	1	14
Hawaii	88	12	100
Idaho	70	8	78
Illinois	216	0	216
Indiana	300	8	308
Iowa	322	4	326
Kansas	283	1	284
Kentucky	1,639	42	1,681
Louisiana	417	23	440
Maine	20	2	22
Maryland	148	17	165
Massachusetts	567	65	632
Michigan	1,330	194	1,524
Minnesota	630	14	644
Mississippi	517	3	520
Missouri	1,249	44	1,293
Montana	266	1	267
Nebraska	119	14	133
Nevada	304	11	315
New Hampshire	52	10	62
New Jersey	160	6	166
New Mexico	32	2	34
New York	483	554	1,037
North Carolina	2,125	46	2,171
North Dakota	85	0	85
Ohio	926	132	1,058
Oklahoma	445	10	455
Oregon	371	5	376
Pennsylvania	54	336	390
Rhode Island	49	9	58
South Carolina	528	0	528
South Dakota	205	0	205
Tennessee	926	0	926
Texas	1,938	57	1,995
Utah	195	21	216
Vermont	150	0	150
Virginia	724	75	799
Virgin Islands	68	0	68
Washington	305	42	347
West Virginia	132	5	137
Wisconsin	623	87	710
Wyoming	52	5	57
U.S.	25,068	3,405	28,473

V.

Recipient Claims

RECIPIENT CLAIM COLLECTIONS

Recipient claims are established against households that receive more SNAP benefits than they are entitled to receive or households that have trafficked benefits (exchanged for cash). Claims fall into three categories: intentional program violation (eligibility fraud and trafficking), inadvertent household error, or agency error. State agencies are entitled to retain 35 percent of the amount they collect on fraud claims and certain inadvertent household error claims; and retain 20 percent of the amount they collect on the remaining inadvertent household error claims.

In response to the COVID-19 outbreak, FNS is allowing flexibility in the time frame for establishing or disposing of new claims. States are also permitted to suspend collection of active recoupment of SNAP overpayments, delaying collection on newly established overpayments, and not considering any payments delayed due to this suspension to be delinquent. More information on this waiver option is available at: <https://www.fns.usda.gov/snap/temporary-suspension-claims-collections>.

In FY 2020, State agencies established over \$477.4 million in new claims against households and collected over \$364.3 million. The average claim established was approximately \$978. Collections via recoupment, whereby the State agency reduces a portion of the households benefit allotment to pay an outstanding claim was approximately \$120.2 million.

During FY 2020, the Federal Government, through the Treasury Offset Program (TOP), collected \$174.9 million. As participating partners in this program, State agencies notify the household and then send the delinquent claims through FNS to the U.S. Department of Treasury for possible collection.

This Federal program offsets amounts from any eligible Federal payment otherwise due a household and uses those funds to pay outstanding claims. The collections are made by Treasury on behalf of SNAP.

TABLE 18: Newly Established SNAP Recipient Claim Dollars - FY 2020

STATE	Fraud Claim Established	Household Error Claims Established	Agency Error Claims Established	Total Claims Established
Alabama	\$104,920	\$3,067,610	\$1,442,787	\$4,615,316
Alaska	\$184,173	\$137,961	\$467,505	\$789,639
Arizona	\$418,283	\$2,389,708	\$978,003	\$3,785,994
Arkansas	\$307,286	\$1,052,663	\$144,134	\$1,504,083
California	\$180,836	\$85,830,657	\$47,776,111	\$133,787,604
Colorado	\$1,200,114	\$5,026,603	\$2,760,751	\$8,987,468
Connecticut	\$150,889	\$378,613	\$533,556	\$1,063,058
Delaware	\$1,490,286	\$610,567	\$75,901	\$2,176,753
District of Columbia	--	--	--	--
Florida	\$13,800,435	\$27,983,916	\$1,023,157	\$42,807,508
Georgia	\$482,376	\$389,444	\$441,040	\$1,312,859
Guam	\$0	\$32,678	\$61,745	\$94,423
Hawaii	\$675,608	\$1,048,505	\$169,529	\$1,893,642
Idaho	\$286,338	\$793,230	\$163,740	\$1,243,308
Illinois	\$20,912	\$17,736,188	\$3,781,809	\$21,538,909
Indiana	\$1,647,848	\$4,075,247	\$1,875,184	\$7,598,279
Iowa	\$1,236,215	\$741,811	\$143,665	\$2,121,691
Kansas	\$355,037	\$1,156,443	\$99,530	\$1,611,010
Kentucky	\$1,420,814	\$5,568,032	\$2,161,859	\$9,150,705
Louisiana	\$730,226	\$1,155,466	\$213,017	\$2,098,709
Maine	\$121,573	\$2,244,572	\$863,246	\$3,229,391
Maryland	\$741,232	\$522,894	\$309,106	\$1,573,232
Massachusetts	\$2,361,306	\$1,765,441	\$290,179	\$4,416,926
Michigan	\$3,272,443	\$5,096,752	\$2,333,946	\$10,703,140
Minnesota	\$457,411	\$4,442,624	\$655,093	\$5,555,128
Mississippi	\$50,693	\$1,707,768	\$178,511	\$1,936,972
Missouri	\$2,017,539	\$2,271,579	\$474,977	\$4,764,094
Montana	\$39,548	\$672,980	\$489,134	\$1,201,662
Nebraska	\$0	\$1,670,921	\$1,291,281	\$2,962,202
Nevada	\$209,839	\$3,015,766	\$126,372	\$3,351,976
New Hampshire	\$298,387	\$98,699	\$63,722	\$460,808
New Jersey	\$125,233	\$7,123,074	\$570,334	\$7,818,641
New Mexico	\$381,949	\$410,185	\$346,043	\$1,138,177
New York	\$3,096,487	\$14,991,915	\$3,306,938	\$21,395,341
North Carolina	\$9,930,863	\$8,286,075	\$4,488,800	\$22,705,738
North Dakota	\$7,296	\$114,152	\$49,968	\$171,416
Ohio	\$1,267,524	\$5,207,543	\$1,896,432	\$8,371,498
Oklahoma	\$1,705,700	\$1,670,508	\$558,482	\$3,934,690
Oregon	\$884,951	\$5,660,068	\$188,878	\$6,733,898
Pennsylvania	\$28,625	\$8,973,981	\$992,455	\$9,995,061
Rhode Island	\$354,751	\$70,546	\$9,934	\$435,231
South Carolina	\$4,181	\$5,159,414	\$897,429	\$6,061,025
South Dakota	\$57,597	\$518,146	\$69,940	\$645,683
Tennessee	\$439,884	\$8,059,936	\$367,375	\$8,867,195
Texas	\$8,341,814	\$46,041,802	\$2,687,813	\$57,071,429
Utah	\$48,280	\$2,116,968	\$514,513	\$2,679,761
Vermont	\$368,225	\$465,982	\$136,503	\$970,710
Virginia	\$1,575,074	\$3,490,448	\$591,150	\$5,656,672
Virgin Islands	\$67,623	\$27,459	\$13,302	\$108,384
Washington	\$1,291,800	\$9,612,820	\$1,307,009	\$12,211,629
West Virginia	\$478,817	\$1,404,476	\$369,181	\$2,252,474
Wisconsin	\$710,567	\$8,527,098	\$366,622	\$9,604,287
Wyoming	\$151	\$204,360	\$67,136	\$271,647

• Some States establish all non-agency error claims as household error claims initially and then transfer the claim from household error to fraud after the prosecution or ADH.

• Missing recipient claims establishment data for the District of Columbia.

TABLE 19: Newly Established SNAP Recipient Claims - FY 2020

STATE	Fraud Claims Established	Household Error Claims Established	Agency Error Claims Established	Total Claims Established
Alabama	63	2,489	1,179	3,731
Alaska	40	142	691	873
Arizona	63	2,315	1,284	3,662
Arkansas	218	430	283	931
California	52	121,368	147,291	268,711
Colorado	259	2,377	4,459	7,095
Connecticut	90	488	817	1,395
Delaware	373	343	45	761
District of Columbia	--	--	--	-
Florida	2,193	12,333	1,095	15,621
Georgia	115	348	839	1,302
Guam	0	18	31	49
Hawaii	81	566	233	880
Idaho	54	664	291	1,009
Illinois	50	20,888	5,099	26,037
Indiana	525	2,094	1,459	4,078
Iowa	249	561	343	1,153
Kansas	95	494	229	818
Kentucky	880	3,582	4,750	9,212
Louisiana	445	312	629	1,386
Maine	34	1,863	828	2,725
Maryland	158	812	565	1,535
Massachusetts	546	2,696	421	3,663
Michigan	1,611	3,737	1,821	7,169
Minnesota	245	4,580	1,409	6,234
Mississippi	35	1,339	206	1,580
Missouri	675	1,095	485	2,255
Montana	14	687	846	1,547
Nebraska	0	1,367	2,650	4,017
Nevada	36	1,649	120	1,805
New Hampshire	61	118	61	240
New Jersey	35	6,066	670	6,771
New Mexico	59	773	869	1,701
New York	1,038	10,328	3,440	14,806
North Carolina	2,863	4,935	3,525	11,323
North Dakota	7	173	190	370
Ohio	389	3,088	1,737	5,214
Oklahoma	394	775	611	1,780
Oregon	134	3,723	219	4,076
Pennsylvania	27	7,991	1,327	9,345
Rhode Island	126	57	10	193
South Carolina	1	1,734	1,174	2,909
South Dakota	65	565	80	710
Tennessee	106	4,176	317	4,599
Texas	813	8,521	1,281	10,615
Utah	20	1,300	563	1,883
Vermont	157	546	139	842
Virginia	552	2,367	539	3,458
Virgin Islands	47	21	17	85
Washington	442	13,474	2,969	16,885
West Virginia	201	1,216	611	2,028
Wisconsin	576	6,090	637	7,303
Wyoming	1	172	247	420

- Some States establish all non-agency error claims as household error claims initially and then transfer the claim from household error to fraud after the prosecution or ADH.
- Missing recipient claims establishment data for District of Columbia.

TABLE 20: SNAP Recipient Claims Collected by Type - FY 2020

STATE	Fraud Claims Collected	Household Error Claims Collected	Agency Error Claims Collected	Total Claims Collected
Alabama	\$831,806	\$2,888,006	\$1,426,743	\$5,146,554
Alaska	\$182,803	\$190,733	\$372,950	\$746,486
Arizona	\$382,048	\$1,911,664	\$1,051,163	\$3,344,874
Arkansas	\$865,903	\$292,183	\$273,874	\$1,431,960
California	\$5,688,231	\$58,602,566	\$34,476,910	\$98,767,707
Colorado	\$1,898,615	\$1,451,752	\$1,681,775	\$5,032,141
Connecticut	\$279,060	\$290,340	\$346,673	\$916,073
Delaware	\$1,183,094	\$1,206,067	\$151,076	\$2,540,237
District of Columbia	\$8,080	\$170,763	\$11,822	\$190,665
Florida	\$8,607,873	\$23,142,735	\$1,487,968	\$33,238,577
Georgia	\$3,954,456	\$573,578	\$971,702	\$5,499,736
Guam	\$83,521	\$15,017	\$41,618	\$140,156
Hawaii	\$637,871	\$753,802	\$219,160	\$1,610,833
Idaho	\$427,675	\$384,705	\$202,536	\$1,014,916
Illinois	\$1,996,743	\$22,514,256	\$2,579,329	\$27,090,328
Indiana	\$1,486,082	\$1,280,804	\$1,138,293	\$3,905,179
Iowa	\$396,193	\$800,294	\$75,580	\$1,272,067
Kansas	\$1,043,404	\$380,723	\$185,508	\$1,609,635
Kentucky	\$3,721,996	\$2,284,998	\$2,615,512	\$8,622,506
Louisiana	\$1,877,013	\$365,805	\$206,404	\$2,449,222
Maine	\$481,108	\$1,539,191	\$1,044,968	\$3,065,268
Maryland	\$388,789	\$722,953	\$337,930	\$1,449,673
Massachusetts	\$1,711,687	\$2,081,774	\$141,372	\$3,934,833
Michigan	\$4,913,174	\$2,678,135	\$1,393,407	\$8,984,716
Minnesota	\$997,071	\$3,383,666	\$843,066	\$5,223,802
Mississippi	\$1,602,708	\$524,608	\$200,075	\$2,327,391
Missouri	\$1,522,535	\$577,778	\$430,637	\$2,530,950
Montana	\$442,385	\$264,739	\$419,820	\$1,126,943
Nebraska	\$240,119	\$1,023,611	\$815,636	\$2,079,366
Nevada	\$960,758	\$1,292,333	\$118,824	\$2,371,915
New Hampshire	\$266,684	\$178,624	\$41,750	\$487,058
New Jersey	\$901,229	\$5,136,013	\$504,528	\$6,541,769
New Mexico	\$198,481	\$406,585	\$364,364	\$969,430
New York	\$2,838,507	\$8,796,747	\$3,215,025	\$14,850,278
North Carolina	\$3,445,425	\$3,159,170	\$2,199,726	\$8,804,321
North Dakota	\$50,062	\$264,755	\$125,692	\$440,510
Ohio	\$1,243,143	\$3,704,818	\$1,316,027	\$6,263,988
Oklahoma	\$784,254	\$363,443	\$313,944	\$1,461,640
Oregon	\$2,653,465	\$5,182,886	\$209,888	\$8,046,238
Pennsylvania	\$1,617,258	\$4,982,003	\$1,002,552	\$7,601,812
Rhode Island	\$25,336	\$16,929	\$8,585	\$50,850
South Carolina	\$3,259,018	\$3,040,207	\$1,324,238	\$7,623,463
South Dakota	\$275,763	\$374,817	\$80,583	\$731,163
Tennessee	\$4,885,557	\$2,874,705	\$396,640	\$8,156,902
Texas	\$13,338,622	\$14,624,182	\$4,008,423	\$31,971,227
Utah	\$978,114	\$784,071	\$394,436	\$2,156,621
Vermont	\$264,782	\$378,328	\$48,077	\$691,187
Virginia	\$2,021,024	\$1,742,854	\$540,082	\$4,303,960
Virgin Islands	\$91,972	\$49,054	\$19,141	\$160,166
Washington	\$495,300	\$3,748,783	\$1,143,150	\$5,387,233
West Virginia	\$592,105	\$1,137,566	\$337,666	\$2,067,336
Wisconsin	\$1,624,110	\$5,525,772	\$538,691	\$7,688,573
Wyoming	\$87,464	\$41,809	\$49,203	\$178,476

TABLE 21: SNAP Recipient Claims Collected by Collection Method - FY 2020

STATE	Claims Recouped	Treasury Offset Program	Other Collection Methods & Refunds	Total Claims Collected
Alabama	\$2,047,759	\$2,625,636	\$473,160	\$5,146,554
Alaska	\$197,194	\$222,045	\$327,246	\$746,486
Arizona	\$1,088,046	\$1,256,256	\$1,000,572	\$3,344,874
Arkansas	\$674,223	\$869,892	-\$112,154	\$1,431,960
California	\$47,721,359	\$35,014,562	\$16,031,786	\$98,767,707
Colorado	\$1,267,889	\$1,240,060	\$2,524,193	\$5,032,141
Connecticut	\$379,696	\$416,696	\$119,681	\$916,073
Delaware	\$779,766	\$1,382,064	\$378,406	\$2,540,237
District of Columbia	\$79,029	\$202,927	-\$91,290	\$190,665
Florida	\$0	\$16,771,023	-\$15,403,401	\$33,238,577
Georgia	\$2,386,106	\$3,128,480	-\$14,850	\$5,499,736
Guam	\$92,626	\$9,650	\$37,880	\$140,156
Hawaii	\$763,334	\$370,502	\$476,997	\$1,610,833
Idaho	\$332,536	\$448,057	\$234,324	\$1,014,916
Illinois	\$10,084,243	\$13,991,926	\$3,014,159	\$27,090,328
Indiana	\$968,597	\$4,391,557	-\$1,454,976	\$3,905,179
Iowa	\$144,070	\$826,613	\$301,384	\$1,272,067
Kansas	\$327,404	\$976,754	\$305,477	\$1,609,635
Kentucky	\$2,791,903	\$4,336,874	\$1,493,729	\$8,622,506
Louisiana	\$817,074	\$1,309,951	\$322,196	\$2,449,222
Maine	\$1,022,130	\$1,279,398	\$763,740	\$3,065,268
Maryland	\$294,752	\$707,450	\$447,471	\$1,449,673
Massachusetts	\$1,189,858	\$2,050,948	\$694,027	\$3,934,833
Michigan	\$2,748,997	\$4,604,852	\$1,630,867	\$8,984,716
Minnesota	\$1,760,445	\$2,247,752	\$1,215,606	\$5,223,802
Mississippi	\$931,926	\$1,234,946	\$160,519	\$2,327,391
Missouri	\$816,141	\$1,406,048	\$308,761	\$2,530,950
Montana	\$526,836	\$196,066	\$404,042	\$1,126,943
Nebraska	\$801,157	\$888,574	\$389,636	\$2,079,366
Nevada	\$592,844	\$1,298,117	\$480,954	\$2,371,915
New Hampshire	\$84,152	\$237,464	\$165,443	\$487,058
New Jersey	\$2,653,502	\$2,683,254	\$1,205,013	\$6,541,769
New Mexico	\$502,161	\$431,083	\$36,186	\$969,430
New York	\$4,929,036	\$7,014,068	\$2,907,175	\$14,850,278
North Carolina	\$39	\$8,351,831	\$452,451	\$8,804,321
North Dakota	\$112,208	\$271,006	\$57,296	\$440,510
Ohio	\$4,252,228	\$6,098,039	-\$4,086,279	\$6,263,988
Oklahoma	\$640,610	\$655,470	\$165,560	\$1,461,640
Oregon	\$1,536,698	\$1,929,605	\$4,579,935	\$8,046,238
Pennsylvania	\$1,724,724	\$4,479,032	\$1,398,056	\$7,601,812
Rhode Island	\$41,883	\$0	\$8,968	\$50,850
South Carolina	\$1,536,204	\$5,909,618	\$177,641	\$7,623,463
South Dakota	\$241,141	\$380,079	\$109,942	\$731,163
Tennessee	\$2,432,827	\$3,873,532	\$1,850,543	\$8,156,902
Texas	\$8,477,496	\$18,087,317	\$5,406,414	\$31,971,227
Utah	\$369,339	\$1,064,880	\$722,402	\$2,156,621
Vermont	\$251,174	\$277,044	\$162,969	\$691,187
Virginia	\$1,359,417	\$69,601	\$2,874,942	\$4,303,960
Virgin Islands	\$73,843	\$1,574,153	-\$1,487,830	\$160,166
Washington	\$2,468,284	\$1,207,773	\$1,711,176	\$5,387,233
West Virginia	\$857,510	\$909,147	\$300,679	\$2,067,336
Wisconsin	\$2,029,879	\$3,674,950	\$1,983,744	\$7,688,573
Wyoming	\$35,765	\$60,193	\$82,518	\$178,476

• States also collect other forms of claim payments and refund recipients that have overpaid. Depending on the amount of refunds issued during the fiscal year, this column can be negative.

VI.

Participation and Issuance Ranking

TABLE 22: SNAP Participation and Issuance (Ranked by Persons) - FY 2020

Rank	STATE	Persons Participating (Monthly Average)	Households Participating (Monthly Average)	Total Issuance- Includes Regular ongoing SNAP and Emergency Allotments
1	California	4,312,002	2,327,686	\$7,822,153,332
2	Texas	3,551,011	1,553,446	\$6,282,102,824
3	Florida	3,177,286	1,766,635	\$6,001,741,105
4	New York	2,658,439	1,529,454	\$5,118,688,449
5	Illinois	1,869,977	975,887	\$3,392,686,172
6	Pennsylvania	1,794,613	974,107	\$3,249,170,461
7	Georgia	1,565,935	744,556	\$2,907,470,344
8	Ohio	1,407,371	708,158	\$2,751,849,221
9	North Carolina	1,317,566	643,639	\$2,396,397,649
10	Michigan	1,254,475	678,640	\$2,305,174,756
11	Washington	870,997	502,277	\$1,598,425,639
12	Tennessee	868,550	422,329	\$1,964,487,295
13	Arizona	833,448	396,269	\$1,469,287,888
14	Massachusetts	821,254	491,010	\$1,473,489,182
15	Louisiana	820,192	387,279	\$1,536,165,366
16	Alabama	730,708	349,654	\$1,347,837,969
17	Virgin Islands	730,370	360,337	\$1,331,022,986
18	Missouri	715,447	340,865	\$1,342,772,664
19	Maryland	700,979	382,887	\$1,270,867,932
20	New Jersey	700,538	356,251	\$1,288,738,288
21	Oregon	673,489	412,769	\$1,295,970,159
22	Wisconsin	647,376	336,071	\$1,108,618,259
23	Indiana	601,417	273,747	\$1,170,741,466
24	Oklahoma	596,705	282,339	\$1,056,255,266
25	South Carolina	596,161	280,609	\$1,101,825,493
26	Kentucky	555,425	250,622	\$1,001,025,648
27	Colorado	483,097	246,560	\$905,796,877
28	New Mexico	468,745	234,865	\$850,575,322
29	Nevada	448,688	238,246	\$806,791,226
30	Minnesota	430,182	227,476	\$724,808,065
31	Mississippi	429,568	205,069	\$774,433,886
32	Arkansas	393,091	171,565	\$661,575,029
33	Connecticut	372,305	217,866	\$712,241,439
34	West Virginia	306,218	162,782	\$516,954,512
35	Iowa	305,045	150,436	\$530,239,443
36	Kansas	200,443	95,362	\$395,405,972
37	Utah	165,430	73,048	\$281,260,645
38	Hawaii	165,418	87,792	\$564,142,303
39	Maine	159,995	89,341	\$277,021,739
40	Nebraska	157,091	72,171	\$255,735,193
41	Idaho	146,497	67,486	\$241,620,261
42	Rhode Island	146,183	88,844	\$280,718,378
43	Delaware	120,416	59,751	\$215,099,909
44	District of Columbia	116,406	70,264	\$225,271,944
45	Montana	104,391	52,092	\$185,184,948
46	Vermont	84,924	54,625	\$146,353,926
47	Alaska	83,194	38,338	\$198,298,993
48	South Dakota	78,245	37,043	\$143,855,862
49	New Hampshire	72,505	38,479	\$117,255,288
50	North Dakota	46,092	22,254	\$84,959,987
51	Guam	44,041	15,662	\$114,630,516
52	Wyoming	26,928	12,049	\$45,887,728
53	Virginia	22,520	11,013	\$53,574,541
	U.S.	39,949,389	20,568,000	\$73,894,659,745

TABLE 23: SNAP Participation and Issuance (Ranked by Households) - FY 2020

Rank	STATE	Persons Participating (Monthly Average)	Households Participating (Monthly Average)	Total Issuance- Includes Regular ongoing SNAP and Emergency Allotments
1	California	4,312,002	2,327,686	\$7,822,153,332
2	Florida	3,177,286	1,766,635	\$6,001,741,105
3	Texas	3,551,011	1,553,446	\$6,282,102,824
4	New York	2,658,439	1,529,454	\$5,118,688,449
5	Illinois	1,869,977	975,887	\$3,392,686,172
6	Pennsylvania	1,794,613	974,107	\$3,249,170,461
7	Georgia	1,565,935	744,556	\$2,907,470,344
8	Ohio	1,407,371	708,158	\$2,751,849,221
9	Michigan	1,254,475	678,640	\$2,305,174,756
10	North Carolina	1,317,566	643,639	\$2,396,397,649
11	Washington	870,997	502,277	\$1,598,425,639
12	Massachusetts	821,254	491,010	\$1,473,489,182
13	Tennessee	868,550	422,329	\$1,964,487,295
14	Oregon	673,489	412,769	\$1,295,970,159
15	Arizona	833,448	396,269	\$1,469,287,888
16	Louisiana	820,192	387,279	\$1,536,165,366
17	Maryland	700,979	382,887	\$1,270,867,932
18	Virgin Islands	730,370	360,337	\$1,331,022,986
19	New Jersey	700,538	356,251	\$1,288,738,288
20	Alabama	730,708	349,654	\$1,347,837,969
21	Missouri	715,447	340,865	\$1,342,772,664
22	Wisconsin	647,376	336,071	\$1,108,618,259
23	Oklahoma	596,705	282,339	\$1,056,255,266
24	South Carolina	596,161	280,609	\$1,101,825,493
25	Indiana	601,417	273,747	\$1,170,741,466
26	Kentucky	555,425	250,622	\$1,001,025,648
27	Colorado	483,097	246,560	\$905,796,877
28	Nevada	448,688	238,246	\$806,791,226
29	New Mexico	468,745	234,865	\$850,575,322
30	Minnesota	430,182	227,476	\$724,808,065
31	Connecticut	372,305	217,866	\$712,241,439
32	Mississippi	429,568	205,069	\$774,433,886
33	Arkansas	393,091	171,565	\$661,575,029
34	West Virginia	306,218	162,782	\$516,954,512
35	Iowa	305,045	150,436	\$530,239,443
36	Kansas	200,443	95,362	\$395,405,972
37	Maine	159,995	89,341	\$277,021,739
38	Rhode Island	146,183	88,844	\$280,718,378
39	Hawaii	165,418	87,792	\$564,142,303
40	Utah	165,430	73,048	\$281,260,645
41	Nebraska	157,091	72,171	\$255,735,193
42	District of Columbia	116,406	70,264	\$225,271,944
43	Idaho	146,497	67,486	\$241,620,261
44	Delaware	120,416	59,751	\$215,099,909
45	Vermont	84,924	54,625	\$146,353,926
46	Montana	104,391	52,092	\$185,184,948
47	New Hampshire	72,505	38,479	\$117,255,288
48	Alaska	83,194	38,338	\$198,298,993
49	South Dakota	78,245	37,043	\$143,855,862
50	North Dakota	46,092	22,254	\$84,959,987
51	Guam	44,041	15,662	\$114,630,516
52	Wyoming	26,928	12,049	\$45,887,728
53	Virginia	22,520	11,013	\$53,574,541
	U.S.	39,949,389	20,568,000	\$73,894,659,745

TABLE 24: SNAP Participation and Issuance (Ranked by Issuance) - FY 2020

Rank	STATE	Persons Participating (Monthly Average)	Households Participating (Monthly Average)	Total Issuance- Includes Regular ongoing SNAP and Emergency Allotments
1	California	4,312,002	2,327,686	\$7,822,153,332
2	Texas	3,551,011	1,553,446	\$6,282,102,824
3	Florida	3,177,286	1,766,635	\$6,001,741,105
4	New York	2,658,439	1,529,454	\$5,118,688,449
5	Illinois	1,869,977	975,887	\$3,392,686,172
6	Pennsylvania	1,794,613	974,107	\$3,249,170,461
7	Georgia	1,565,935	744,556	\$2,907,470,344
8	Ohio	1,407,371	708,158	\$2,751,849,221
9	North Carolina	1,317,566	643,639	\$2,396,397,649
10	Michigan	1,254,475	678,640	\$2,305,174,756
11	Tennessee	868,550	422,329	\$1,964,487,295
12	Washington	870,997	502,277	\$1,598,425,639
13	Louisiana	820,192	387,279	\$1,536,165,366
14	Massachusetts	821,254	491,010	\$1,473,489,182
15	Arizona	833,448	396,269	\$1,469,287,888
16	Alabama	730,708	349,654	\$1,347,837,969
17	Missouri	715,447	340,865	\$1,342,772,664
18	Virgin Islands	730,370	360,337	\$1,331,022,986
19	Oregon	673,489	412,769	\$1,295,970,159
20	New Jersey	700,538	356,251	\$1,288,738,288
21	Maryland	700,979	382,887	\$1,270,867,932
22	Indiana	601,417	273,747	\$1,170,741,466
23	Wisconsin	647,376	336,071	\$1,108,618,259
24	South Carolina	596,161	280,609	\$1,101,825,493
25	Oklahoma	596,705	282,339	\$1,056,255,266
26	Kentucky	555,425	250,622	\$1,001,025,648
27	Colorado	483,097	246,560	\$905,796,877
28	New Mexico	468,745	234,865	\$850,575,322
29	Nevada	448,688	238,246	\$806,791,226
30	Mississippi	429,568	205,069	\$774,433,886
31	Minnesota	430,182	227,476	\$724,808,065
32	Connecticut	372,305	217,866	\$712,241,439
33	Arkansas	393,091	171,565	\$661,575,029
34	Hawaii	165,418	87,792	\$564,142,303
35	Iowa	305,045	150,436	\$530,239,443
36	West Virginia	306,218	162,782	\$516,954,512
37	Kansas	200,443	95,362	\$395,405,972
38	Utah	165,430	73,048	\$281,260,645
39	Rhode Island	146,183	88,844	\$280,718,378
40	Maine	159,995	89,341	\$277,021,739
41	Nebraska	157,091	72,171	\$255,735,193
42	Idaho	146,497	67,486	\$241,620,261
43	District of Columbia	116,406	70,264	\$225,271,944
44	Delaware	120,416	59,751	\$215,099,909
45	Alaska	83,194	38,338	\$198,298,993
46	Montana	104,391	52,092	\$185,184,948
47	Vermont	84,924	54,625	\$146,353,926
48	South Dakota	78,245	37,043	\$143,855,862
49	New Hampshire	72,505	38,479	\$117,255,288
50	Guam	44,041	15,662	\$114,630,516
51	North Dakota	46,092	22,254	\$84,959,987
52	Virginia	22,520	11,013	\$53,574,541
53	Wyoming	26,928	12,049	\$45,887,728
	U.S.	39,949,389	20,568,000	\$73,894,659,745

TABLE 25: SNAP Average Monthly Benefit (Ranked per Person) - FY 2020

Rank	STATE	Average Monthly Benefit Per Person	Average Monthly Benefit Per Household
1	Hawaii	\$257.86	\$534.08
2	Guam	\$203.90	\$609.52
3	Alaska	\$180.63	\$451.94
4	Virginia	\$175.95	\$393.26
5	Rhode Island	\$144.10	\$225.28
6	Connecticut	\$143.13	\$292.73
7	District of Columbia	\$141.66	\$279.41
8	California	\$141.13	\$295.72
9	New York	\$135.87	\$298.13
10	South Dakota	\$135.51	\$338.37
11	Louisiana	\$135.04	\$343.53
12	Illinois	\$134.50	\$283.42
13	Massachusetts	\$133.99	\$243.17
14	Oregon	\$132.78	\$281.74
15	Georgia	\$132.27	\$338.08
16	Ohio	\$132.24	\$371.82
17	Tennessee	\$130.91	\$326.49
18	Missouri	\$129.85	\$332.08
19	Arizona	\$129.68	\$315.72
20	Alabama	\$128.94	\$328.02
21	Indiana	\$128.78	\$292.69
22	Pennsylvania	\$128.70	\$291.86
23	Oklahoma	\$128.44	\$254.15
24	Maryland	\$128.36	\$298.66
25	Colorado	\$128.22	\$314.76
26	Virgin Islands	\$127.55	\$317.21
27	South Carolina	\$127.47	\$335.86
28	New Mexico	\$127.04	\$311.40
29	Florida	\$126.91	\$291.15
30	North Carolina	\$126.43	\$302.92
31	North Dakota	\$125.95	\$316.21
32	Nevada	\$125.13	\$301.63
33	Texas	\$124.64	\$351.45
34	Wyoming	\$124.36	\$316.87
35	Nebraska	\$124.33	\$305.22
36	Delaware	\$123.93	\$295.38
37	Montana	\$123.23	\$321.64
38	Kentucky	\$122.67	\$322.79
39	New Jersey	\$122.42	\$314.85
40	Vermont	\$122.36	\$265.67
41	Utah	\$121.53	\$343.55
42	Iowa	\$121.00	\$305.99
43	Michigan	\$119.96	\$220.60
44	Mississippi	\$119.95	\$322.12
45	Kansas	\$119.30	\$359.21
46	Washington	\$119.27	\$265.01
47	Idaho	\$118.28	\$315.37
48	Maine	\$117.49	\$261.73
49	West Virginia	\$117.31	\$269.27
50	Wisconsin	\$113.34	\$253.69
51	Minnesota	\$111.20	\$303.42
52	New Hampshire	\$109.94	\$260.59
53	Arkansas	\$108.08	\$327.41
	U.S.	\$160.73	\$303.14

TABLE 26: SNAP Average Monthly Benefit (Ranked per Household) - FY 2020

Rank	STATE	Average Monthly Benefit Per Person	Average Monthly Benefit Per Household
1	Guam	\$216.76	\$609.52
2	Hawaii	\$287.21	\$534.08
3	Alaska	\$211.99	\$451.94
4	Virginia	\$202.64	\$393.26
5	Ohio	\$188.41	\$371.82
6	Kansas	\$171.84	\$359.21
7	Texas	\$156.49	\$351.45
8	Utah	\$150.89	\$343.55
9	Louisiana	\$163.85	\$343.53
10	South Dakota	\$160.95	\$338.37
11	Georgia	\$162.07	\$338.08
12	South Carolina	\$165.77	\$335.86
13	Missouri	\$159.12	\$332.08
14	Alabama	\$161.74	\$328.02
15	Arkansas	\$151.20	\$327.41
16	Tennessee	\$168.33	\$326.49
17	Kentucky	\$164.02	\$322.79
18	Mississippi	\$157.84	\$322.12
19	Montana	\$162.09	\$321.64
20	Virgin Islands	\$156.65	\$317.21
21	Wyoming	\$153.33	\$316.87
22	North Dakota	\$154.75	\$316.21
23	Arizona	\$154.80	\$315.72
24	Idaho	\$142.51	\$315.37
25	New Jersey	\$167.87	\$314.85
26	Colorado	\$161.08	\$314.76
27	New Mexico	\$163.18	\$311.40
28	Iowa	\$156.59	\$305.99
29	Nebraska	\$141.35	\$305.22
30	Minnesota	\$156.34	\$303.42
31	North Carolina	\$155.51	\$302.92
32	Nevada	\$161.60	\$301.63
33	Maryland	\$162.95	\$298.66
34	New York	\$175.85	\$298.13
35	California	\$165.88	\$295.72
36	Delaware	\$154.19	\$295.38
37	Connecticut	\$173.94	\$292.73
38	Indiana	\$142.82	\$292.69
39	Pennsylvania	\$160.34	\$291.86
40	Florida	\$165.89	\$291.15
41	Illinois	\$145.02	\$283.42
42	Oregon	\$167.53	\$281.74
43	District of Columbia	\$169.94	\$279.41
44	West Virginia	\$147.02	\$269.27
45	Vermont	\$153.78	\$265.67
46	Washington	\$152.10	\$265.01
47	Maine	\$146.68	\$261.73
48	New Hampshire	\$139.49	\$260.59
49	Oklahoma	\$142.32	\$254.15
50	Wisconsin	\$132.89	\$253.69
51	Massachusetts	\$145.71	\$243.17
52	Rhode Island	\$143.21	\$225.28
53	Michigan	\$140.47	\$220.60
	U.S.	\$160.73	\$303.14

VII.

Multi-Year Comparisons

TABLE 27: SNAP Persons Participating (Monthly Average) - FY 2018 - FY 2020

STATE	Households Participating FY 2018	Households Participating FY 2019	Households Participating FY 2020	Percent Change FY 2019 - FY 2020
Alabama	766,681	667,043	730,708	9.54%
Alaska	91,995	78,932	83,194	5.40%
Arizona	845,733	736,883	833,448	13.10%
Arkansas	372,451	354,917	393,091	10.76%
California	3,949,512	3,529,470	4,312,002	22.17%
Colorado	449,824	415,289	483,097	16.33%
Connecticut	387,329	340,447	372,305	9.36%
Delaware	140,298	119,787	120,416	0.53%
District of Columbia	112,282	101,230	116,406	14.99%
Florida	3,347,518	2,649,741	3,177,286	19.91%
Georgia	1,556,452	1,332,536	1,565,935	17.52%
Guam	44,974	40,930	44,041	7.60%
Hawaii	163,618	144,922	165,418	14.14%
Idaho	157,858	135,922	146,497	7.78%
Illinois	1,826,011	1,639,396	1,869,977	14.06%
Indiana	617,032	530,384	601,417	13.39%
Iowa	345,406	295,682	305,045	3.17%
Kansas	217,865	185,329	200,443	8.16%
Kentucky	615,305	502,241	555,425	10.59%
Louisiana	867,342	749,560	820,192	9.42%
Maine	167,858	144,433	159,995	10.78%
Maryland	646,483	570,444	700,979	22.88%
Massachusetts	770,566	703,516	821,254	16.74%
Michigan	1,281,862	1,181,972	1,254,475	6.13%
Minnesota	428,986	381,779	430,182	12.68%
Mississippi	505,308	420,873	429,568	2.07%
Missouri	736,590	639,338	715,447	11.90%
Montana	115,223	99,368	104,391	5.05%
Nebraska	169,811	148,768	157,091	5.60%
Nevada	439,941	391,569	448,688	14.59%
New Hampshire	86,502	70,412	72,505	2.97%
New Jersey	760,303	649,128	700,538	7.92%
New Mexico	456,251	415,161	468,745	12.91%
New York	2,796,620	2,661,700	2,658,439	-0.12%
North Carolina	1,344,485	1,228,424	1,317,566	7.26%
North Dakota	52,621	45,312	46,092	1.72%
Ohio	1,421,366	1,273,257	1,407,371	10.53%
Oklahoma	585,064	531,728	596,705	12.22%
Oregon	633,970	554,927	673,489	21.37%
Pennsylvania	1,818,589	1,627,640	1,794,613	10.26%
Rhode Island	158,986	141,232	146,183	3.51%
South Carolina	658,119	558,722	596,161	6.70%
South Dakota	87,410	75,020	78,245	4.30%
Tennessee	970,875	832,130	868,550	4.38%
Texas	3,895,207	3,187,238	3,551,011	11.41%
Utah	189,093	160,829	165,430	2.86%
Vermont	73,312	68,277	84,924	24.38%
Virginia	736,221	654,882	730,370	11.53%
Virgin Islands	32,833	21,331	22,520	5.57%
Washington	877,244	833,128	870,997	4.55%
West Virginia	321,009	282,662	306,218	8.33%
Wisconsin	652,885	572,323	647,376	13.11%
Wyoming	29,330	24,309	26,928	10.77%
U.S.	40,752,140	35,702,472	39,949,389	11.90%

TABLE 28: SNAP Households Participating (Monthly Average) - FY 2018 - FY 2020

STATE	Households Participating FY 2018	Households Participating FY 2019	Households Participating FY 2020	Percent Change FY 2019 - FY 2020
Alabama	360,067	315,551	349,654	10.81%
Alaska	40,516	35,493	38,338	8.01%
Arizona	387,657	345,106	396,269	14.83%
Arkansas	164,761	159,231	171,565	7.75%
California	1,945,990	1,803,402	2,327,686	29.07%
Colorado	221,726	207,748	246,560	18.68%
Connecticut	223,244	197,761	217,866	10.17%
Delaware	68,554	58,622	59,751	1.93%
District of Columbia	68,855	60,156	70,264	16.80%
Florida	1,747,853	1,429,884	1,766,635	23.55%
Georgia	721,491	614,750	744,556	21.12%
Guam	15,362	14,317	15,662	9.40%
Hawaii	83,819	74,820	87,792	17.34%
Idaho	70,062	61,390	67,486	9.93%
Illinois	920,271	816,044	975,887	19.59%
Indiana	275,368	238,303	273,747	14.87%
Iowa	165,116	142,502	150,436	5.57%
Kansas	101,652	87,158	95,362	9.41%
Kentucky	285,763	226,832	250,622	10.49%
Louisiana	403,388	348,643	387,279	11.08%
Maine	89,089	78,862	89,341	13.29%
Maryland	343,933	308,167	382,887	24.25%
Massachusetts	451,072	416,128	491,010	17.99%
Michigan	684,001	631,699	678,640	7.43%
Minnesota	212,453	193,684	227,476	17.45%
Mississippi	231,847	195,903	205,069	4.68%
Missouri	342,323	299,268	340,865	13.90%
Montana	56,025	48,974	52,092	6.37%
Nebraska	76,451	67,643	72,171	6.69%
Nevada	228,290	206,100	238,246	15.60%
New Hampshire	43,489	36,685	38,479	4.89%
New Jersey	379,343	325,992	356,251	9.28%
New Mexico	220,341	204,245	234,865	14.99%
New York	1,565,541	1,512,387	1,529,454	1.13%
North Carolina	643,153	590,075	643,639	9.08%
North Dakota	25,072	21,864	22,254	1.78%
Ohio	710,024	632,171	708,158	12.02%
Oklahoma	268,711	247,673	282,339	14.00%
Oregon	365,382	324,903	412,769	27.04%
Pennsylvania	956,435	872,822	974,107	11.60%
Rhode Island	94,205	84,445	88,844	5.21%
South Carolina	307,859	259,707	280,609	8.05%
South Dakota	39,968	35,168	37,043	5.33%
Tennessee	471,342	398,958	422,329	5.86%
Texas	1,636,052	1,364,935	1,553,446	13.81%
Utah	77,795	67,803	73,048	7.74%
Vermont	41,035	38,423	54,625	42.17%
Virginia	352,313	318,522	360,337	13.13%
Virgin Islands	15,064	10,395	11,013	5.95%
Washington	501,868	482,025	502,277	4.20%
West Virginia	165,378	148,108	162,782	9.91%
Wisconsin	329,203	291,721	336,071	15.20%
Wyoming	12,989	10,912	12,049	10.42%
U.S.	20,197,671	17,964,076	20,568,000	14.50%

TABLE 29: SNAP Issuance - FY 2018 - FY 2020

STATE	Issuance FY 2018	Issuance FY 2019	Issuance FY 2020	Percent Change FY 2019 - FY 2020
Alabama	\$1,084,563,290	\$1,032,064,886	\$1,347,837,969	30.60%
Alaska	\$187,357,117	\$171,091,672	\$198,298,993	15.90%
Arizona	\$1,210,429,898	\$1,146,712,214	\$1,469,287,888	28.13%
Arkansas	\$480,472,657	\$460,333,605	\$661,575,029	43.72%
California	\$6,334,018,899	\$5,977,281,299	\$7,822,153,332	30.86%
Colorado	\$668,610,833	\$639,000,457	\$905,796,877	41.75%
Connecticut	\$614,967,955	\$584,718,600	\$712,241,439	21.81%
Delaware	\$196,899,033	\$178,138,585	\$215,099,909	20.75%
District of Columbia	\$188,433,398	\$172,078,913	\$225,271,944	30.91%
Florida	\$5,763,762,595	\$4,035,386,245	\$6,001,741,105	48.73%
Georgia	\$2,336,788,286	\$2,115,101,241	\$2,907,470,344	37.46%
Guam	\$106,449,158	\$100,147,900	\$114,630,516	14.46%
Hawaii	\$469,433,045	\$448,431,408	\$564,142,303	25.80%
Idaho	\$199,514,037	\$192,918,233	\$241,620,261	25.24%
Illinois	\$2,777,948,512	\$2,646,035,880	\$3,392,686,172	28.22%
Indiana	\$867,533,147	\$819,644,875	\$1,170,741,466	42.84%
Iowa	\$446,259,982	\$429,315,218	\$530,239,443	23.51%
Kansas	\$293,539,988	\$265,322,548	\$395,405,972	49.03%
Kentucky	\$853,986,982	\$739,297,747	\$1,001,025,648	35.40%
Louisiana	\$1,297,321,641	\$1,214,657,938	\$1,536,165,366	26.47%
Maine	\$218,217,647	\$203,630,527	\$277,021,739	36.04%
Maryland	\$910,098,604	\$878,649,666	\$1,270,867,932	44.64%
Massachusetts	\$1,159,118,509	\$1,131,148,466	\$1,473,489,182	30.26%
Michigan	\$1,894,038,446	\$1,701,430,344	\$2,305,174,756	35.48%
Minnesota	\$544,420,005	\$509,464,759	\$724,808,065	42.27%
Mississippi	\$679,722,657	\$605,780,127	\$774,433,886	27.84%
Missouri	\$1,061,334,229	\$996,212,141	\$1,342,772,664	34.79%
Montana	\$158,389,738	\$146,944,184	\$185,184,948	26.02%
Nebraska	\$229,206,174	\$221,960,791	\$255,735,193	15.22%
Nevada	\$614,241,940	\$587,953,503	\$806,791,226	37.22%
New Hampshire	\$101,469,828	\$92,889,191	\$117,255,288	26.23%
New Jersey	\$1,012,654,300	\$953,558,696	\$1,288,738,288	35.15%
New Mexico	\$638,421,821	\$632,907,856	\$850,575,322	34.39%
New York	\$4,526,970,965	\$4,339,617,966	\$5,118,688,449	17.95%
North Carolina	\$1,919,051,873	\$1,863,656,810	\$2,396,397,649	28.59%
North Dakota	\$75,391,175	\$68,485,818	\$84,959,987	24.05%
Ohio	\$2,078,237,006	\$2,020,497,444	\$2,751,849,221	36.20%
Oklahoma	\$832,653,493	\$819,546,294	\$1,056,255,266	28.88%
Oregon	\$937,798,988	\$884,189,650	\$1,295,970,159	46.57%
Pennsylvania	\$2,592,183,684	\$2,513,696,584	\$3,249,170,461	29.26%
Rhode Island	\$259,191,919	\$244,223,564	\$280,718,378	14.94%
South Carolina	\$943,922,431	\$854,652,751	\$1,101,825,493	28.92%
South Dakota	\$131,112,641	\$121,995,672	\$143,855,862	17.92%
Tennessee	\$1,424,890,904	\$1,307,248,122	\$1,964,487,295	50.28%
Texas	\$5,525,177,455	\$4,767,112,796	\$6,282,102,824	31.78%
Utah	\$258,536,027	\$234,552,832	\$281,260,645	19.91%
Vermont	\$106,782,062	\$100,248,674	\$146,353,926	45.99%
Virginia	\$1,051,800,978	\$1,002,380,166	\$1,331,022,986	32.79%
Virgin Islands	\$86,935,571	\$45,039,243	\$53,574,541	18.95%
Washington	\$1,268,734,555	\$1,192,380,309	\$1,598,425,639	34.05%
West Virginia	\$440,298,715	\$397,899,950	\$516,954,512	29.92%
Wisconsin	\$816,882,114	\$778,373,061	\$1,108,618,259	42.43%
Wyoming	\$40,676,283	\$36,277,115	\$45,887,728	26.49%
U.S.	\$60,916,853,190	\$55,622,284,536	\$73,894,659,745	32.85%

TABLE 30: Federal Share of State Agency SNAP Administrative Costs - FY 2019 - FY 2020

STATE	Federal Share of Costs – FY 2019	Federal Share of Costs – FY 2020	Percent Change
Alabama	\$45,561,682	\$47,337,991	3.90%
Alaska	\$13,654,454	\$13,345,899	-2.26%
Arizona	\$58,410,921	\$58,031,052	-0.65%
Arkansas	\$34,222,874	\$39,336,098	14.94%
California	\$911,242,114	\$959,016,339	5.24%
Colorado	\$54,480,142	\$61,326,323	12.57%
Connecticut	\$57,069,254	\$57,103,617	0.06%
Delaware	\$13,949,077	\$15,364,872	10.15%
District of Columbia	\$27,182,766	\$29,864,709	9.87%
Florida	\$86,229,901	\$92,470,650	7.24%
Georgia	\$84,293,886	\$90,698,316	7.60%
Guam	\$1,769,029	\$1,679,617	-5.05%
Hawaii	\$25,553,613	\$21,459,334	-16.02%
Idaho	\$10,616,835	\$10,460,594	-1.47%
Illinois	\$112,325,398	\$132,132,552	17.63%
Indiana	\$74,534,112	\$79,411,873	6.54%
Iowa	\$20,810,912	\$24,495,036	17.70%
Kansas	\$25,989,588	\$25,587,046	-1.55%
Kentucky	\$68,465,974	\$76,501,615	11.74%
Louisiana	\$66,945,009	\$87,500,284	30.70%
Maine	\$13,700,827	\$14,150,157	3.28%
Maryland	\$87,390,738	\$96,824,449	10.79%
Massachusetts	\$70,676,163	\$72,251,966	2.23%
Michigan	\$145,681,829	\$166,374,554	14.20%
Minnesota	\$68,041,680	\$69,920,679	2.76%
Mississippi	\$26,772,286	\$29,122,963	8.78%
Missouri	\$39,374,051	\$44,151,097	12.13%
Montana	\$10,411,562	\$10,058,229	-3.39%
Nebraska	\$16,859,970	\$17,398,250	3.19%
Nevada	\$26,489,332	\$21,201,089	-19.96%
New Hampshire	\$8,734,917	\$9,399,097	7.60%
New Jersey	\$155,111,588	\$155,793,986	0.44%
New Mexico	\$21,911,747	\$23,717,737	8.24%
New York	\$384,123,971	\$245,643,013	-36.05%
North Carolina	\$122,659,801	\$122,850,172	0.16%
North Dakota	\$10,585,927	\$11,149,811	5.33%
Ohio	\$116,592,716	\$109,535,380	-6.05%
Oklahoma	\$30,406,062	\$38,371,124	26.20%
Oregon	\$102,919,667	\$111,658,111	8.49%
Pennsylvania	\$179,282,985	\$178,611,794	-0.37%
Rhode Island	\$19,909,161	\$20,805,698	4.50%
South Carolina	\$24,394,099	\$25,134,779	3.04%
South Dakota	\$8,311,743	\$8,680,299	4.43%
Tennessee	\$83,065,744	\$88,829,240	6.94%
Texas	\$200,861,997	\$190,795,456	-5.01%
Utah	\$16,792,475	\$18,276,109	8.84%
Vermont	\$9,697,413	\$10,720,228	10.55%
Virginia	\$116,373,006	\$132,493,620	13.85%
Virgin Islands	\$3,696,251	\$4,086,046	10.55%
Washington	\$107,364,488	\$110,112,584	2.56%
West Virginia	\$17,609,933	\$18,185,984	3.27%
Wisconsin	\$82,584,714	\$67,214,920	-18.61%
Wyoming	\$6,287,856	\$7,052,340	12.16%
U.S.	\$4,127,984,240	\$4,173,694,778	1.11%

**TABLE 31: Federal Share of State Agency SNAP Admin. Costs per Case
FY 2019 - FY 2020**

STATE	Federal Share of Costs per Case per Month - FY 2019	Federal Share of Costs perCase per Month – FY 2020	Percent Change
Alabama	\$12.03	\$11.28	-6.24%
Alaska	\$32.06	\$29.01	-9.51%
Arizona	\$14.10	\$12.20	-13.48%
Arkansas	\$17.91	\$19.11	6.68%
California	\$42.11	\$34.33	-18.46%
Colorado	\$21.85	\$20.73	-5.15%
Connecticut	\$24.05	\$21.84	-9.17%
Delaware	\$19.83	\$21.43	8.07%
District of Columbia	\$37.66	\$35.42	-5.94%
Florida	\$5.03	\$4.36	-13.20%
Georgia	\$11.43	\$10.15	-11.16%
Guam	\$10.30	\$8.94	-13.21%
Hawaii	\$28.46	\$20.37	-28.43%
Idaho	\$14.41	\$12.92	-10.37%
Illinois	\$11.47	\$11.28	-1.63%
Indiana	\$26.06	\$24.17	-7.25%
Iowa	\$12.17	\$13.57	11.49%
Kansas	\$24.85	\$22.36	-10.02%
Kentucky	\$25.15	\$25.44	1.13%
Louisiana	\$16.00	\$18.83	17.67%
Maine	\$14.48	\$13.20	-8.83%
Maryland	\$23.63	\$21.07	-10.83%
Massachusetts	\$14.15	\$12.26	-13.36%
Michigan	\$19.22	\$20.43	6.30%
Minnesota	\$29.28	\$25.61	-12.50%
Mississippi	\$11.39	\$11.83	3.92%
Missouri	\$10.96	\$10.79	-1.55%
Montana	\$17.72	\$16.09	-9.18%
Nebraska	\$20.77	\$20.09	-3.28%
Nevada	\$10.71	\$7.42	-30.76%
New Hampshire	\$19.84	\$20.36	2.59%
New Jersey	\$39.65	\$36.44	-8.09%
New Mexico	\$8.94	\$8.42	-5.87%
New York	\$21.17	\$13.38	-36.76%
North Carolina	\$17.32	\$15.91	-8.18%
North Dakota	\$40.35	\$41.75	3.48%
Ohio	\$15.37	\$12.89	-16.13%
Oklahoma	\$10.23	\$11.33	10.70%
Oregon	\$26.40	\$22.54	-14.60%
Pennsylvania	\$17.12	\$15.28	-10.73%
Rhode Island	\$19.65	\$19.52	-0.67%
South Carolina	\$7.83	\$7.46	-4.64%
South Dakota	\$19.70	\$19.53	-0.85%
Tennessee	\$17.35	\$17.53	1.02%
Texas	\$12.26	\$10.24	-16.54%
Utah	\$20.64	\$20.85	1.02%
Vermont	\$21.03	\$16.35	-22.24%
Virginia	\$30.45	\$30.64	0.64%
Virgin Islands	\$29.63	\$30.92	4.34%
Washington	\$18.56	\$18.27	-1.58%
West Virginia	\$9.91	\$9.31	-6.04%
Wisconsin	\$23.59	\$16.67	-29.35%
Wyoming	\$48.02	\$48.77	1.57%
U.S.	\$19.15	\$16.91	-11.69%

TABLE 32: Federal Share of SNAP Certification Costs - FY 2019 - FY 2020

STATE	Federal Share of Certification Costs – FY 2019	Federal Share of Certification Costs – FY 2020	Percent Change
Alabama	\$30,991,852	\$32,492,555	4.84%
Alaska	\$8,226,349	\$8,656,894	5.23%
Arizona	\$38,270,872	\$36,514,382	-4.59%
Arkansas	\$27,279,789	\$27,882,515	2.21%
California	\$593,250,550	\$686,472,708	15.71%
Colorado	\$38,090,201	\$39,537,700	3.80%
Connecticut	\$25,911,674	\$26,537,566	2.42%
Delaware	\$9,205,239	\$10,408,616	13.07%
District of Columbia	\$11,460,964	\$14,392,747	25.58%
Florida	\$56,692,151	\$60,003,474	5.84%
Georgia	\$58,284,375	\$59,988,961	2.92%
Guam	\$759,379	\$754,065	-0.70%
Hawaii	\$17,137,276	\$13,608,683	-20.59%
Idaho	\$5,251,251	\$5,833,876	11.09%
Illinois	\$76,100,515	\$89,793,280	17.99%
Indiana	\$42,503,051	\$44,728,614	5.24%
Iowa	\$15,211,709	\$17,139,988	12.68%
Kansas	\$13,339,576	\$13,350,988	0.09%
Kentucky	\$55,268,771	\$59,580,161	7.80%
Louisiana	\$54,648,607	\$58,672,114	7.36%
Maine	\$5,125,347	\$5,666,326	10.55%
Maryland	\$64,296,642	\$69,407,085	7.95%
Massachusetts	\$55,757,075	\$58,283,963	4.53%
Michigan	\$113,620,882	\$126,001,402	10.90%
Minnesota	\$42,263,954	\$43,863,311	3.78%
Mississippi	\$17,784,820	\$21,489,060	20.83%
Missouri	\$29,880,411	\$33,213,253	11.15%
Montana	\$6,421,633	\$6,037,790	-5.98%
Nebraska	\$10,288,837	\$11,256,827	9.41%
Nevada	\$18,432,353	\$12,103,875	-34.33%
New Hampshire	\$1,290,544	\$1,325,619	2.72%
New Jersey	\$106,151,025	\$113,209,260	6.65%
New Mexico	\$15,949,416	\$16,930,066	6.15%
New York	\$203,567,942	\$137,660,470	-32.38%
North Carolina	\$89,699,881	\$89,152,279	-0.61%
North Dakota	\$6,028,791	\$5,932,295	-1.60%
Ohio	\$44,068,474	\$43,618,182	-1.02%
Oklahoma	\$23,552,480	\$28,967,432	22.99%
Oregon	\$68,054,044	\$71,802,836	5.51%
Pennsylvania	\$127,224,376	\$126,924,065	-0.24%
Rhode Island	\$8,638,686	\$7,816,952	-9.51%
South Carolina	\$13,580,850	\$14,628,205	7.71%
South Dakota	\$4,904,989	\$5,329,922	8.66%
Tennessee	\$72,086,691	\$70,934,453	-1.60%
Texas	\$130,471,588	\$117,179,153	-10.19%
Utah	\$11,537,791	\$12,594,741	9.16%
Vermont	\$5,779,179	\$5,557,196	-3.84%
Virginia	\$79,242,582	\$88,848,052	12.12%
Virgin Islands	\$2,329,872	\$2,146,952	-7.85%
Washington	\$61,423,343	\$57,502,814	-6.38%
West Virginia	\$12,547,173	\$13,026,404	3.82%
Wisconsin	\$31,293,794	\$22,085,778	-29.42%
Wyoming	\$3,552,144	\$4,332,852	21.98%
U.S.	\$2,664,731,760	\$2,751,178,757	3.24%

TABLE 33: Federal Share of SNAP Certification Costs per Case - FY 2019- FY 2020

STATE	Federal Share of Cert. Costs per Case per Month - FY 2019	Federal Share of Cert. Costs per Case per Month - FY 2020	Percent Change
Alabama	\$8.18	\$7.74	-5.38%
Alaska	\$19.31	\$18.82	-2.57%
Arizona	\$9.24	\$7.68	-16.91%
Arkansas	\$14.28	\$13.54	-5.14%
California	\$27.41	\$24.58	-10.35%
Colorado	\$15.28	\$13.36	-12.54%
Connecticut	\$10.92	\$10.15	-7.04%
Delaware	\$13.09	\$14.52	10.94%
District of Columbia	\$15.88	\$17.07	7.52%
Florida	\$3.30	\$2.83	-14.33%
Georgia	\$7.90	\$6.71	-15.02%
Guam	\$4.42	\$4.01	-9.23%
Hawaii	\$19.09	\$12.92	-32.32%
Idaho	\$7.13	\$7.20	1.06%
Illinois	\$7.77	\$7.67	-1.33%
Indiana	\$14.86	\$13.62	-8.39%
Iowa	\$8.90	\$9.49	6.73%
Kansas	\$12.75	\$11.67	-8.52%
Kentucky	\$20.30	\$19.81	-2.43%
Louisiana	\$13.06	\$12.62	-3.35%
Maine	\$5.42	\$5.29	-2.41%
Maryland	\$17.39	\$15.11	-13.12%
Massachusetts	\$11.17	\$9.89	-11.41%
Michigan	\$14.99	\$15.47	3.23%
Minnesota	\$18.18	\$16.07	-11.63%
Mississippi	\$7.57	\$8.73	15.43%
Missouri	\$8.32	\$8.12	-2.41%
Montana	\$10.93	\$9.66	-11.61%
Nebraska	\$12.68	\$13.00	2.54%
Nevada	\$7.45	\$4.23	-43.19%
New Hampshire	\$2.93	\$2.87	-2.07%
New Jersey	\$27.14	\$26.48	-2.41%
New Mexico	\$6.51	\$6.01	-7.69%
New York	\$11.22	\$7.50	-33.13%
North Carolina	\$12.67	\$11.54	-8.88%
North Dakota	\$22.98	\$22.21	-3.32%
Ohio	\$5.81	\$5.13	-11.64%
Oklahoma	\$7.92	\$8.55	7.89%
Oregon	\$17.45	\$14.50	-16.95%
Pennsylvania	\$12.15	\$10.86	-10.61%
Rhode Island	\$8.52	\$7.33	-13.99%
South Carolina	\$4.36	\$4.34	-0.31%
South Dakota	\$11.62	\$11.99	3.16%
Tennessee	\$15.06	\$14.00	-7.04%
Texas	\$7.97	\$6.29	-21.09%
Utah	\$14.18	\$14.37	1.32%
Vermont	\$12.53	\$8.48	-32.36%
Virginia	\$20.73	\$20.55	-0.89%
Virgin Islands	\$18.68	\$16.25	-13.03%
Washington	\$10.62	\$9.54	-10.16%
West Virginia	\$7.06	\$6.67	-5.54%
Wisconsin	\$8.94	\$5.48	-38.74%
Wyoming	\$27.13	\$29.97	10.47%
U.S.	\$12.36	\$11.15	-9.83%

TABLE 34: SNAP Completed Fair Hearings - FY 2019- FY 2020

STATE	Total Fair Hearings FY 2019	Total Fair Hearings FY 2020	Percent Change
Alabama	52	73	40.38%
Alaska	32	41	28.13%
Arizona	1,157	1,283	10.89%
Arkansas	328	234	-28.66%
California	3,698	5,346	44.56%
Colorado	262	152	-41.98%
Connecticut	543	718	32.23%
Delaware	470	288	-38.72%
District of Columbia	371	428	15.36%
Florida	214	235	9.81%
Georgia	76	76	0.00%
Guam	0	0	0.00%
Hawaii	42	40	-4.76%
Idaho	74	80	8.11%
Illinois	283	362	27.92%
Indiana	795	738	-7.17%
Iowa	161	254	57.76%
Kansas	209	10	-95.22%
Kentucky	466	411	-11.80%
Louisiana	222	230	3.60%
Maine	14	11	-21.43%
Maryland	118	90	-23.73%
Massachusetts	1,791	1,808	0.95%
Michigan	1,012	756	-25.30%
Minnesota	489	470	-3.89%
Mississippi	122	291	138.52%
Missouri	1,066	1,590	49.16%
Montana	66	28	-57.58%
Nebraska	239	177	-25.94%
Nevada	64	46	-28.13%
New Hampshire	13	10	-23.08%
New Jersey	170	132	-22.35%
New Mexico	89	75	-15.73%
New York	13,895	11,588	-16.60%
North Carolina	538	595	10.59%
North Dakota	18	20	11.11%
Ohio	6,501	10,403	60.02%
Oklahoma	56	40	-28.57%
Oregon	119	86	-27.73%
Pennsylvania	22,931	21,646	-5.60%
Rhode Island	56	1	-98.21%
South Carolina	395	278	-29.62%
South Dakota	12	5	-58.33%
Tennessee	6,719	7,245	7.83%
Texas	1,063	928	-12.70%
Utah	22	10	-54.55%
Vermont	10	16	60.00%
Virginia	333	334	0.30%
Virgin Islands	1	13	1200.00%
Washington	538	546	1.49%
West Virginia	33	21	-36.36%
Wisconsin	271	192	-29.15%
Wyoming	9	14	55.56%
U.S.	68,228	70,464	3.28%

TABLE 35: SNAP Total Disqualifications - FY 2019 - FY 2020

STATE	Total Disqualifications FY 2019	Total Disqualifications FY 2020	Percent Change
Alabama	265	275	3.77%
Alaska	77	52	-32.47%
Arizona	101	166	64.36%
Arkansas	376	350	-6.91%
California	2,939	2,118	-27.93%
Colorado	738	528	-28.46%
Connecticut	170	95	-44.12%
Delaware	916	453	-50.55%
District of Columbia	61	42	-31.15%
Florida	3,019	2,117	-29.88%
Georgia	2,245	1,285	-42.76%
Guam	63	14	-77.78%
Hawaii	108	100	-7.41%
Idaho	158	78	-50.63%
Illinois	886	216	-75.62%
Indiana	362	308	-14.92%
Iowa	315	326	3.49%
Kansas	171	284	66.08%
Kentucky	1,744	1,681	-3.61%
Louisiana	694	440	-36.60%
Maine	108	22	-79.63%
Maryland	174	165	-5.17%
Massachusetts	1,039	632	-39.17%
Michigan	2,802	1,524	-45.61%
Minnesota	723	644	-10.93%
Mississippi	424	520	22.64%
Missouri	1,411	1,293	-8.36%
Montana	150	267	78.00%
Nebraska	155	133	-14.19%
Nevada	474	315	-33.54%
New Hampshire	94	62	-34.04%
New Jersey	455	166	-63.52%
New Mexico	48	34	-29.17%
New York	1,817	1,037	-42.93%
North Carolina	2,538	2,171	-14.46%
North Dakota	193	85	-55.96%
Ohio	1,509	1,058	-29.89%
Oklahoma	494	455	-7.89%
Oregon	504	376	-25.40%
Pennsylvania	722	390	-45.98%
Rhode Island	135	58	-57.04%
South Carolina	1,523	528	-65.33%
South Dakota	203	205	0.99%
Tennessee	1,153	926	-19.69%
Texas	1,921	1,995	3.85%
Utah	308	216	-29.87%
Vermont	139	150	7.91%
Virginia	1,074	799	-25.61%
Virgin Islands	74	68	-8.11%
Washington	353	347	-1.70%
West Virginia	196	137	-30.10%
Wisconsin	743	710	-4.44%
Wyoming	33	57	72.73%
U.S.	39,097	28,473	-27.17%

TABLE 36: Newly Established SNAP Recipient Claim Dollars - FY 2019 - FY 2020

STATE	Total Claims Established FY 2019	Total Claims Established FY 2020	Percent Change
Alabama	\$5,397,546	\$4,615,316	-14.49%
Alaska	\$898,397	\$789,639	-12.11%
Arizona	\$4,518,716	\$3,785,994	-16.22%
Arkansas	\$1,860,722	\$1,504,083	-19.17%
California	\$149,750,288	\$133,787,604	-10.66%
Colorado	\$9,424,741	\$8,987,468	-4.64%
Connecticut	\$1,864,936	\$1,063,058	-43.00%
Delaware	\$4,512,559	\$2,176,753	-51.76%
District of Columbia	-	-	-
Florida	-	\$42,807,508	-
Georgia	\$2,149,589	\$1,312,859	-38.93%
Guam	\$284,245	\$94,423	-66.78%
Hawaii	\$2,360,917	\$1,893,642	-19.79%
Idaho	\$1,331,028	\$1,243,308	-6.59%
Illinois	\$28,943,009	\$21,538,909	-25.58%
Indiana	\$9,142,416	\$7,598,279	-16.89%
Iowa	\$1,983,336	\$2,121,691	6.98%
Kansas	\$2,263,349	\$1,611,010	-28.82%
Kentucky	\$8,587,173	\$9,150,705	6.56%
Louisiana	\$2,902,865	\$2,098,709	-27.70%
Maine	\$2,716,647	\$3,229,391	18.87%
Maryland	\$1,904,963	\$1,573,232	-17.41%
Massachusetts	\$6,811,187	\$4,416,926	-35.15%
Michigan	\$14,663,417	\$10,703,140	-27.01%
Minnesota	\$5,887,693	\$5,555,128	-5.65%
Mississippi	\$1,598,536	\$1,936,972	21.17%
Missouri	\$4,049,492	\$4,764,094	17.65%
Montana	\$1,489,568	\$1,201,662	-19.33%
Nebraska	\$2,305,895	\$2,962,202	28.46%
Nevada	\$4,196,158	\$3,351,976	-20.12%
New Hampshire	\$511,461	\$460,808	-9.90%
New Jersey	\$11,762,438	\$7,818,641	-33.53%
New Mexico	\$1,401,489	\$1,138,177	-18.79%
New York	\$22,059,127	\$21,395,341	-3.01%
North Carolina	\$24,288,833	\$22,705,738	-6.52%
North Dakota	\$448,186	\$171,416	-61.75%
Ohio	\$14,233,989	\$8,371,498	-41.19%
Oklahoma	\$3,418,874	\$3,934,690	15.09%
Oregon	\$9,992,784	\$6,733,898	-32.61%
Pennsylvania	\$10,852,919	\$9,995,061	-7.90%
Rhode Island	\$325,845	\$435,231	33.57%
South Carolina	\$13,004,243	\$6,061,025	-53.39%
South Dakota	\$703,220	\$645,683	-8.18%
Tennessee	\$10,685,375	\$8,867,195	-17.02%
Texas	\$41,990,759	\$57,071,429	35.91%
Utah	\$3,664,538	\$2,679,761	-26.87%
Vermont	\$962,168	\$970,710	0.89%
Virginia	\$4,820,561	\$5,656,672	17.34%
Virgin Islands	\$27,500	\$108,384	294.12%
Washington	\$9,826,800	\$12,211,629	24.27%
West Virginia	\$2,478,277	\$2,252,474	-9.11%
Wisconsin	\$10,994,361	\$9,604,287	-12.64%
Wyoming	\$179,373	\$271,647	51.44%

- Missing recipient claims establishment data for the District of Columbia and Florida

TABLE 37: SNAP Recipient Claims Collected - FY 2019 - FY 2020

STATE	Total Claims Collected FY 2019	Total Claims Collected FY 2020	Percent Change
Alabama	\$5,655,640	\$5,146,554	-9.00%
Alaska	\$892,545	\$746,486	-16.36%
Arizona	\$2,951,498	\$3,344,874	13.33%
Arkansas	\$1,925,693	\$1,431,960	-25.64%
California	\$109,565,209	\$98,767,707	-9.85%
Colorado	\$6,159,153	\$5,032,141	-18.30%
Connecticut	\$1,231,416	\$916,073	-25.61%
Delaware	\$3,016,419	\$2,540,237	-15.79%
District of Columbia	\$338,080	\$190,665	-43.60%
Florida	-	\$33,238,577	-
Georgia	\$7,418,357	\$5,499,736	-25.86%
Guam	\$190,749	\$140,156	-26.52%
Hawaii	\$1,671,859	\$1,610,833	-3.65%
Idaho	\$1,163,606	\$1,014,916	-12.78%
Illinois	\$30,000,497	\$27,090,328	-9.70%
Indiana	\$6,441,749	\$3,905,179	-39.38%
Iowa	\$1,607,819	\$1,272,067	-20.88%
Kansas	\$1,666,027	\$1,609,635	-3.38%
Kentucky	\$7,916,313	\$8,622,506	8.92%
Louisiana	\$2,357,143	\$2,449,222	3.91%
Maine	\$3,484,773	\$3,065,268	-12.04%
Maryland	\$1,919,469	\$1,449,673	-24.48%
Massachusetts	\$6,372,146	\$3,934,833	-38.25%
Michigan	\$11,141,960	\$8,984,716	-19.36%
Minnesota	\$5,896,224	\$5,223,802	-11.40%
Mississippi	\$3,898,095	\$2,327,391	-40.29%
Missouri	\$2,422,657	\$2,530,950	4.47%
Montana	\$1,138,854	\$1,126,943	-1.05%
Nebraska	\$2,153,890	\$2,079,366	-3.46%
Nevada	\$2,077,270	\$2,371,915	14.18%
New Hampshire	\$621,127	\$487,058	-21.58%
New Jersey	\$8,395,056	\$6,541,769	-22.08%
New Mexico	\$1,564,644	\$969,430	-38.04%
New York	\$15,819,495	\$14,850,278	-6.13%
North Carolina	\$13,134,100	\$8,804,321	-32.97%
North Dakota	\$420,413	\$440,510	4.78%
Ohio	\$7,034,271	\$6,263,988	-10.95%
Oklahoma	\$1,486,036	\$1,461,640	-1.64%
Oregon	\$6,460,922	\$8,046,238	24.54%
Pennsylvania	\$11,071,871	\$7,601,812	-31.34%
Rhode Island	\$92,264	\$50,850	-44.89%
South Carolina	\$13,595,312	\$7,623,463	-43.93%
South Dakota	\$930,999	\$731,163	-21.46%
Tennessee	\$9,720,428	\$8,156,902	-16.08%
Texas	\$29,329,201	\$31,971,227	9.01%
Utah	\$2,673,126	\$2,156,621	-19.32%
Vermont	\$624,525	\$691,187	10.67%
Virginia	\$5,291,636	\$4,303,960	-18.66%
Virgin Islands	\$201,162	\$160,166	-20.38%
Washington	\$5,046,838	\$5,387,233	6.74%
West Virginia	\$2,594,985	\$2,067,336	-20.33%
Wisconsin	\$7,626,123	\$7,688,573	0.82%
Wyoming	\$179,259	\$178,476	-0.44%

TABLE 38: SNAP Total Participation and Issuance - FY 2014 - 2020

Fiscal Year	Persons Participating (monthly average, in millions)	Households Participating (monthly average, in millions)	Total Issuance (in millions)	Average Monthly Benefit per Person	Average Monthly Benefit per Household
2014	46.5	22.7	\$70,000	\$125.35	\$256.98
2015	45.8	22.5	\$69,655	\$127	\$258
2016	44.2	21.8	\$66,539	\$125	\$255
2017	42.2	20.9	\$63,711	\$126	\$254
2018	40.8	20.2	\$60,917	\$125	\$251
2019	35.7	18	\$55,622	\$130	\$258
2020	39.9	20.6	\$73,895	\$161	\$303

TABLE 39: SNAP Newly Established Recipient Claims - FY 2014 - 2020

Fiscal Year	Fraud Claims Established (in millions)	Household Error Claims Established (in millions)	Agency Error Claims Established (in millions)	Total Claims Established (in millions)	Average New Fraud Claim Amount	Average New Household Error Claim Amount	Average New Agency Error Claim Amount	Average New Claim Amount (all types)
2014	\$59.50	\$381.00	\$134.50	\$575.00	\$2,705.70	\$1,010.50	\$402.80	\$784.40
2015	\$58.60	\$397.20	\$191.30	\$647.10	\$2,488.10	\$1,041.80	\$398.80	\$731.60
2016	\$73.40	\$421.90	\$188.90	\$684.20	\$2,424.60	\$1,068.50	\$411.30	\$773.70
2017	\$81.30	\$363.00	\$141.80	\$586.00	\$2,670.60	\$1,055.50	\$410.00	\$813.90
2018	\$65.10	\$330.80	\$125.00	\$520.90	\$2,773.30	\$1,108.40	\$426.20	\$846.80
2019	\$59.80	\$322.90	\$99.80	\$482.40	\$3,101.00	\$1,143.00	\$386.80	\$861.80
2020	\$65.40	\$320.80	\$91.20	\$477.40	\$3,779.20	\$1,188.90	\$452.20	\$976.80

TABLE 40: SNAP Collected Recipient Claims (in millions) - FY 2014 – 2020

Fiscal Year	Fraud Claims Collected	Household Error Claims Collected	Agency Error Claims Collected	Total Claims Collected	State Share of Collected Claims	Federal Share of Collected Claims	Recouped Claims	Treasury Offset Program	Other Collection Methods and Refunds
2014	\$77.70	\$178.80	\$83.50	\$340.00	\$62.90	\$277.00	\$145.60	\$136.40	\$57.90
2015	\$86.00	\$194.40	\$86.10	\$366.50	\$69.00	\$297.50	\$143.60	\$156.40	\$66.50
2016	\$89.60	\$210.80	\$101.60	\$402.00	\$73.50	\$328.50	\$155.30	\$166.00	\$80.60
2017	\$97.10	\$214.60	\$99.10	\$410.80	\$76.90	\$333.90	\$154.70	\$181.60	\$74.50
2018	\$98.70	\$206.00	\$92.30	\$397.00	\$75.70	\$321.30	\$133.90	\$210.80	\$52.30
2019	\$96.60	\$195.30	\$84.70	\$376.60	\$72.90	\$303.70	\$120.20	\$210.00	\$46.30

- Totals may not add due to rounding.
- Some states establish all non-agency error claims as household error claims initially and then transfer the claim from household error to fraud after the prosecution or ADH. Therefore, the sum of the fraud associated with disqualifications is a better measure of the ultimate amount of fraud claims than the newly established amount.

NOTES ON SOURCES

STATE PARTICIPATION AND ISSUANCE

States report participation data on the FNS-388 reports and issuance data on the FNS-46. Average monthly participation and household participation in this report may not add up to the

national total due to rounding. The total participation data in this report is the average monthly participation from all States for the year (12-month average).

ADMINISTRATIVE COSTS

Administrative Cost data cited in this section is derived from the SF-425;

FAIR HEARINGS

Fair Hearings data cited in this section is derived from the FNS-366B.

FRAUD INVESTIGATIONS, PROSECUTIONS, AND ADMINISTRATIVE DISQUALIFICATION HEARINGS

Fraud Investigations, Prosecutions, and Administrative Disqualification Hearings data

cited in this section is derived from the FNS-366B.

RECIPIENT CLAIMS

Claims data cited in this section is derived from the FNS-209; Federal debt collection data is derived from the FNS Federal Debt Collection Biweekly Collection Report. All recoupment amounts are included in collections data.

Data on new claims established is included in Tables 18 and 19. When referring to data in these tables it should be noted that some States

show no or low fraud claims newly established because they establish such claims as inadvertent household error and subsequently transfer the claim to fraud after the court or hearing officer's determination.

Data included in Table 21 (Recipient Claims Collected - by Method) includes total claims collected through various means including fiscal Federal Debt.

Calculations for other means of collection employed by State agencies include all State methods except for recoupment and Federal

collections from the Treasury Offset Program minus all refunds and negative adjustments.

Calculations for Federal Debt Collection amounts include Treasury Offset Program

collections but not voluntary payments and offset fees paid by the client. Some offsets are subject to refunds.

RANKINGS OF PARTICIPATION AND ISSUANCE

Please refer to the explanations above for the sources of various data cited in this section. Note that totals for persons and households may not add up due to rounding.

COMPARISON TO PRIOR YEARS

Please refer to the explanations above for the sources of various data cited in this section

