

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

STATE OF NEW YORK, *et al.*,

Plaintiffs,

v.

ADMINISTRATION FOR CHILDREN AND
FAMILIES, *et al.*,

Defendants.

Case No. 1:26-cv-02726-JEB

JOINT NOTICE AND MOTION FOR BRIEFING SCHEDULE

1. After the Complaint in this action was filed, Plaintiffs became aware that the Administration for Children and Families (“ACF”) shared with the Department of Homeland Security (“DHS”) personal information of beneficiaries of Temporary Assistance for Needy Families (“TANF”) that Plaintiff States submitted to ACF.

2. In particular, Defendants have confirmed that in September 2025, ACF shared with DHS individual-level TANF data that the States submitted for Fiscal Year 2024 (the “September 2025 Data Transfer”). Defendants have told Plaintiff States that this information was shared for the purpose of program integrity—*i.e.*, to help ACF ensure that states are complying with the requirements of the Social Security Act, including performing the required alien status verifications with DHS.

3. Defendants’ position is that the September 2025 Data Transfer was authorized pursuant to Routine Use 7 in ACF’s System of Records Notice, which provides that “[i]nformation may be disclosed to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for HHS related to the

purposes of this system of records and who have a need to have access to the information in the performance of their duties or activities for HHS.” 89 Fed. Reg. 25,880, 25,882 (2024). That routine use remains unchanged in the SORN challenged in this lawsuit. *See* 91 Fed. Reg. 37,406 37408 (2026).

4. In addition, Defendants’ position is that while ACF has existing authority to make disclosures for compliance and program integrity purposes under Routine Use 7, publication of Routine Use 10—the new routine use added in the SORN challenged in this action—is intended to further clarify such permissible disclosures for ACF to carry out its responsibility under 42 U.S.C. § 609 regarding grantee compliance with program requirements, and which are compatible with the purpose of the data collection. As such, Defendants’ position is that even if the Court barred ACF from utilizing Routine Use 10, ACF could still utilize Routine Use 7 to transmit the same data because the SORN’s new routine use merely clarifies the agency’s prior routine uses.

5. Accordingly, on August 17, 2026, Plaintiffs will file an Amended Complaint that challenges the September 2025 Data Transfer and the policy underlying it, including Defendants’ interpretation of Routine Use 7, and that adds DHS and its Secretary as Defendants.

6. Defendants have agreed that, through September 30, 2026, ACF will not share with DHS the data in Plaintiffs States’ quarterly reports for Quarter 2 of Fiscal Year 2026, or any other data that the Plaintiffs States have submitted to ACF, including data that the States have submitted to ACF in other quarterly reports.

7. Defendants have also agreed to delay the September 1, 2026, effective date of Routine Use 10 in the TANF SORN (as provided by 91 Fed. Reg. 37,406; 91 Fed. Reg. 45,278; and 91 Fed. Reg. 51,174), to September 30, 2026.

8. In light of the foregoing, Plaintiffs submit that it would be in the best interest of all Parties and in the interest of judicial economy that requests for preliminary relief on Plaintiffs' original claims (regarding the SORN and the revision to the TANF System of Records it implements) and Plaintiffs' new claims (regarding the September 2025 Data Transfer and the policy underlying it) be briefed and adjudicated together prior to September 30, 2026. Defendants defer to the Court on the timing of a decision, but agree to the schedule set forth below and have no objection to completing briefing in time such that the Court may decide this matter before September 30, 2026, as Plaintiffs request.

9. Accordingly, the Parties have conferred regarding the briefing schedule and jointly request that the Court enter the following briefing schedule for this Motion:

- a. Plaintiffs' Motion for Preliminary Injunction and Section 705 Stay due August 25, 2026;
- b. Defendants' Opposition due September 11, 2026;
- c. Plaintiffs' Reply due September 18, 2026; and
- d. If necessary, any hearing on September 23, 24, or 25.

10. Upon entry of this schedule, Plaintiffs will withdraw their currently pending request for a Preliminary Injunction and Section 705 Stay. *See* ECF No. 31. Should the Court not enter this schedule or an alternative schedule that would allow adjudication of their pending request for preliminary relief by the new September 30 effective date of the SORN's new routine use, Plaintiffs maintain, and do not withdraw, that motion.

Dated: August 16, 2026

Respectfully submitted,

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