



DATE: December 20, 2024

POLICY NO: FD-160: The Emergency Food Assistance Program (TEFAP)

SUBJECT: Confidentiality Protections in TEFAP

TO: Regional Directors
Supplemental Nutrition Programs
MARO, MPRO, MWRO, NERO, SERO, SWRO, and WRO

State Directors
All TEFAP State Agencies

This policy memorandum provides guidance for TEFAP State agencies on requirements related to protecting the confidentiality of TEFAP applicant and participant information and the identity of individuals making a complaint or allegation against an individual participating in or administering the program. All State agency and eligible recipient agency (ERA) staff and volunteers who will have access to confidential applicant and participant information should be made aware of and must follow these requirements.

Confidential Applicant and Participant Information Defined

TEFAP regulations at 7 CFR 251.10(c)(1) define confidential applicant and participant information as any information about an applicant or participant, whether it is obtained from the applicant or participant, another source, or generated as a result of a TEFAP application, certification, or participation, that individually identifies an applicant, participant, and/or their family members. Confidential applicant and participation information includes information provided during the intake process for TEFAP eligibility purposes (e.g., name, number of persons in the household, household income) in addition to information collected from TEFAP applicants and participants for purposes unrelated to TEFAP eligibility (e.g., date of birth, occupation, education level, household address). Applicant and participant

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information is confidential regardless of the original source and exclusive of previously applicable confidentiality provided in accordance with other Federal, State, or local law.

Confidential applicant and participant information does not include anonymous, de-identified information obtained from TEFAP applicants or participants. De-identification of information involves removing links between data and the individuals or households with whom the data is associated. Prior to allowing the sharing of de-identified information obtained from or about TEFAP applicants and participants, State agencies and ERAs must ensure that the information or data has been de-identified to an extent that there is no reasonable basis to believe that the information can be used to identify a TEFAP applicant or participant, and the information being shared allows for anonymity of such individuals.

Limits on the Disclosure of Information Obtained from Applicants or Participants

TEFAP regulations at 7 CFR 251.10(c)(2) outline that State agencies and ERAs must restrict the use and disclosure of information obtained from TEFAP applicants or participants to persons directly connected with administration or enforcement of TEFAP. This could include State agency staff conducting management evaluations and ERA staff and volunteers who process TEFAP intake forms. With the consent of the participant, State agencies and ERAs may share information obtained from TEFAP applicants and participants with other health and welfare programs for use in determining eligibility in those programs, or for program outreach. However, the State agency must sign an agreement with the administering agencies of those health and welfare programs to ensure that the information will be used only for the specified purpose, and that the agencies receiving the information will not further share it. These requirements are not intended to limit the use of data sharing for eligibility purposes; they are intended to safeguard confidential information and protect the identity of TEFAP applicants and participants.

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Obtaining TEFAP applicant and participant consent for information sharing purposes

State agencies and ERAs should explicitly obtain consent from TEFAP applicants and participants to share information with other health and welfare programs for program eligibility purposes or for program outreach purposes. Applicant and participant consent can be achieved by incorporating a written consent question or form into the intake or sign-in process at the ERA. The consent question/form must clearly list the other health and welfare programs that will receive the applicant or participant information, the specific applicant and participant information that will be shared, and should allow the applicant or participant to easily agree to or opt out of the data sharing. The consent question/form must also clearly indicate that the receipt of USDA Foods is not contingent upon a participant's or applicant's consent to share their information. For example:

“Your information (name, number of people in the household, household income information, and e-mail address) may be shared with the Community Veggie Program – a Statewide program that provides nutrition assistance to individuals in need - for purposes of determining eligibility and program outreach for that program. **By selecting “agree” below, you consent to the use of your information for this purpose.** Your eligibility to receive USDA Foods through The Emergency Food Assistance Program (TEFAP) is not dependent on providing consent to share your information. **You can still receive food today if you disagree with the information sharing.”**

Data sharing agreements

If State agencies want to share confidential applicant and participant information with other health and welfare programs for use in determining eligibility in those programs, they must sign agreements with those entities receiving the information to ensure that the information is only used for specified purposes and will not be shared further. These data sharing agreements should explicitly reference TEFAP confidentiality regulations at 7 CFR 251.10(c)(1)

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and (c)(2) and must outline how the other program(s) will protect the confidential applicant and participant information from being further shared. This should encompass both accidental and purposeful disclosure of the information. An agreement must be in place prior to sharing any applicant or participant information with another program.

Sign-in Sheets and Electronic Intake Systems

Confidentiality requirements in TEFAP are not intended to require ERAs to have a separate sign-in sheet for each TEFAP participant who visits a distribution site. Such a practice would be costly and time consuming for ERA staff. If applicable, TEFAP State agencies are encouraged to work with ERAs to devise policies or procedures to allow for the maintenance of one sign-in sheet while upholding TEFAP applicant and participant confidentiality. For example, in accordance with applicable State agency policies and procedures, ERA staff and volunteers overseeing the TEFAP intake process could cover up the name of all previous participants who signed in with an additional sheet of paper, leaving only the blank sign-in rows visible.

TEFAP confidentiality requirements are also not intended to prevent the use of electronic intake platforms. The use of electronic systems in TEFAP, including electronic intake platforms, is permitted as long as the systems are able to properly ensure the protection of applicant and participant information (both information used for TEFAP eligibility purposes and voluntarily provided information used for other purposes) and other program requirements at [7 CFR 251](#), such as record keeping. State agencies should ensure that any systems used by ERAs in their State or Territory comply with confidentiality requirements prior to allowing/continuing to allow use of the system in the program. A review of the privacy policy associated with the system is critical in ensuring compliance with confidentiality requirements. State agencies should also ensure that electronic systems contain adequate safeguards to protect confidential applicant and participant information from accidental or purposeful disclosure. Developers or contractors who work on electronic intake systems may be given access to confidential TEFAP applicant and participant information for purposes of

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resolving system issues or errors, as those individuals may be considered persons directly connected with the administration or enforcement of the program. As with State agency and ERA staff, the developers and contractors should be made aware of and must follow all TEFAP confidentiality requirements.

The Identity of Persons Making Complaints or Allegations Against Individuals Participating in or Administering the Program

TEFAP regulations at 7 CFR 251.10(c)(3) require State agencies and ERAs to limit the disclosure of the identity of persons making a complaint or allegation against an individual participating in or administering TEFAP. State agencies and ERAs must protect the confidentiality, and other rights, of any person making allegations or complaints against another individual participating in, or administering TEFAP, except as necessary to conduct an investigation, hearing, or judicial proceeding, as applicable.

State agencies should contact their respective FNS regional office with any questions about this memorandum.

/ Original signature on file /

Sara Olson

Director

Policy Division

Supplemental Nutrition and Safety Programs

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