VIA FAX, EMAIL, AND CERTIFIED MAIL

November 10, 2015

Secretary Suzy Sonnier
Louisiana Department of Children and Family Services
627 N. Fourth St.
Baton Rouge, LA 70802

Governor Bobby Jindal
PO Box 94004
Baton Rouge, LA 70804-9004

Secretary Thomas A. Perez
U.S. Department of Labor
200 Constitution Ave., NW
Washington, DC 20210

Secretary Tom Vilsak
U.S. Department of Agriculture
1400 Independence Ave., S.W.
Washington, DC 20250

Re: Administrative Complaint Requesting the State of Louisiana to Immediately Apply for a Waiver of Work Requirements in order to Prevent 64,000 Louisianans from Losing Food Stamps Benefits on January 1, 2016 and Requesting Investigation and Review of Policies Inconsistent with State, Federal, and International Law.
Dear Federal, State, and Local Authorities:

I. Introduction

Stand with Dignity challenges Louisiana’s decision to deny food assistance for 64,000 people who depend on food stamps to meet the basic needs for themselves and their families. Due to Louisiana’s high unemployment rate, the federal government allows Louisiana- at no cost to the state- to waive work requirements attached to vital food assistance benefits received by 64,000 unemployed people each month. Louisiana has applied for and received waivers of work requirements each year since the federal government introduced the requirement in 1996. This fall despite continued high unemployment in the State at the level of one job for every two people looking for work, the state refused to apply for the waiver.

The risks are significant. If Louisiana fails to renew its waiver application before the end of 2015, then up to 64,000 residents risk losing their food stamp benefits (up to $194 per month) if they are unable to meet the mandatory employment requirements because the required jobs do not exist in the Louisiana economy. In total, the state’s vulnerable residents stand to lose up to $12.5 million a month in vital food aid.

As a grassroots organization of low-income residents and workers in the New Orleans area, Stand with Dignity brings this complaint to challenge the refusal of Governor Jindal and Secretary Sonnier of the Department of Children and Family Service to apply for the waiver of work requirements. In refusing to apply for the waiver of work requirements, the state is insisting on unreasonably harsh work requirements for 64,000 adults to remain eligible for food stamps.

Stand with Dignity demands immediate action to reverse this policy and asks for a further investigation of actions and policies that are inconsistent with state, federal, and international law.

II. Relief Requested from Governor Jindal and Secretary Sonnier

3 This is calculated based on a maximum food stamp benefit of $194 per month. 64,000 people could lose benefits of $194 per month, resulting in a loss of $12.5 million in food stamp benefits per month.
To bring the State into compliance with minimum wage standards, due process requirements, Department of Agriculture guidance, and civil and human rights policies, Stand with Dignity urges the following immediate actions:

a) **Request a waiver of the work requirements from the U.S. Department of Agriculture.**

   Evidence of high rates of unemployment in Louisiana makes it evident that Louisiana would again qualify for a waiver of work requirements from the U.S. Department of Agriculture. Governor Jindal and Secretary Sonnier should apply for the waiver immediately to prevent 64,000 Louisianans from starting 2016 by going hungry.

b) **Refrain from applying heightened work requirements and cutting back food stamp recipients until a recertification can determine if they are able-bodied adults without dependents.**

   The Department of Children and Family Services mass mailed notices to food stamps recipients, informing them that they must complete 20 hours of work per week or will lose benefits on January 1st, 2016 without first doing a recertification to check if heightened work requirements applied to the individual. The state agency should apply the proper procedure and refrain from applying heightened work requirements until a recertification has occurred.

c) **Reduce the number of volunteer hours required to comply with work requirements.**

   The Department of Children and Family Services is requiring individuals to work 20 hours a week or participate in unpaid volunteer work for 20 hours a week to remain eligible for food stamps benefits. Requiring food stamp recipients to engage in 20 hours a week of unpaid work for monthly food stamps benefits of less than $200 is inconsistent with federal minimum wage laws. DCFS should institute a formal work-program and reduce the hours of volunteer work required of food stamps applicants.

d) **Grant exemptions for food stamps recipients facing heightened barriers to finding employment.**

   Local food stamps offices should use their discretionary powers to grant exemptions from work requirements to individuals who face heightened barriers to finding employment. This could include individuals with criminal records or low levels of formal education. Secretary Sonnier

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4 See Section V(a) of this administrative complaint for evidence of why Louisiana would qualify for a waiver based on 7 C.F.R. § 273.24.

5 Letter to Louisiana Food Stamps Recipients from Louisiana Department of Children and Family Services (Oct. 1, 2015).

6 See 7 U.S.C. § 2015(o)(6)(B) (providing that “a State agency may provide an exemption from the requirements” that able-bodied adults without dependents work).
should create clear criteria for the use of discretionary exemptions, and local offices should use their own discretion to exempt individuals they believe will be unable to find sufficient work to continue to qualify for food stamps.

e) Request federal money to create additional employment opportunities through the State of Louisiana’s Employment and Training program.

The U.S. Department of Agriculture encourages states to create Employment and Training programs and provides pledge funds to create these programs to help residents find work. Secretary Sonnier should request Employment and Training pledge funds from the federal government and create a robust workforce program to employ Louisiana’s residents.

f) Consult with community members and advocates to create a plan to review Louisiana’s unjust food stamps policies.

The Department of Children and Family Services should hold a meeting with affected individuates and advocates to review food stamp policies and create a plan to ensure the greatest access to food.

II. Relief Requested From the Federal Government

As described further herein, Louisiana’s decision not to apply for the waiver of work requirements and the state’s food stamps policies are inconsistent with federal law and guidance. The U.S. Department of Labor and the U.S. Department of Agriculture should open an expedited investigation and direct the State to comply with the letter and spirit of federal law.

III. Impact of the policy on Louisiana residents

Governor Jindal and Secretary Sonnier’s refusal to apply for a waiver of work requirements imposes new eligibility requirements for many adult food stamps recipients. The State is preparing to cut assistance to up to 64,000 Louisiana residents currently receiving food stamps on Jan. 1, 2016 if these individuals are not able to meet the new work requirement.

IV. Impact of the policy on Louisiana residents

a. Impact on individual Stand with Dignity members

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i. Sharika Evans

Sharika Evans worked for $2.96 an hour as a waitress at Waffle House. Although she worked 40 hours a week, her earnings substantially based on tips were unpredictable. She did not earn enough to be able to rent an apartment, so she lived at the homeless shelter for youth: the Covenant House. Sharika was recently found a job with Safelink Wireless selling cellphones for commission. Since she works on commission, her earnings again are highly uncertain.

It has been very difficult for Sharika to find reliable work that pays sufficiently to meet the most basic living expenses. Sharika sends at least 12 applications per month to try to find a job. Although she has worked before, even entry-level service-industry or retail jobs required specific work experience. Her food stamp caseworker has not helped her find work, even as this office imposes greater work requirements. Sharika’s experience is that finding employment has only become harder recently since so many people are suddenly looking for work or more hours to remain compliant with the new food stamps policy.

Sharika receives $194 in food stamps per month. She relies on this to buy food. Sharika states: “The government thinks they need to force us to work, but they don’t realize the effort we are putting in. It’s not like I’m not trying; there are just no jobs. And when you get a job, someone else is just losing because it meant they lost theirs. If I lose my food stamps, I’ll be broke and homeless.”

ii. Freddie Washington

Freddie Washington worked 6.5 hours a day at $7.25 an hour as a janitor at City Hall. He was recently fired with no warning or reason provided. He is worried about how long it will take to find another job. Freddie is a formerly incarcerated person and he knows how hard this makes it to secure employment. “I just need people to give me a chance.”

Freddie receives $184 in food stamps per month. These benefits support him, but also at times his fiancé, and their four children, who are not formally his dependents under the law but whom he helps out. Freddie knows how much his community relies on food stamps: “If we lose food stamps, we’ll still feed our kids. So you will do what you have to do.”

To Governor Jindal, Freddie asks: “Governor Jindal, we have to help our families and keep food in the house. Don’t you agree?”

iii. Tasha

Tasha was recently hired as a healthcare worker at a location that is three hours round trip by bus from her home. She is now working 32 hours per week for $7.25 per hour. It took
Tasha three years to find this job. She explains that it was so hard to find work because people asked why she had been unemployed for such a long time, which kept her unemployed for longer.

Tasha receives $230 in food stamps per month to support herself and her disabled mother. When asked what will happen if she loses her job, and loses her food stamps, she states: “We will have to beg. People will start to steal just to get something to eat. We rely on food stamps for food. Governor Jindal, how will my momma and I eat?”

iv. Alsando Dowell

Alsando Dowell has been unemployed for over four years. He has been looking for work without help. He has visited Job1 Business and Career Solutions, the City of New Orleans’ job center, and has not yet received any support. He has only been able to get temporary work holding posters for companies to attract new customers and is paid between $15 and $20 a day for his time. Since he cannot afford rent, he currently is living out of his car. When applying for jobs, applications routinely ask whether he has a criminal record. Alsando responds truthfully that he has a record and believes that as a result, employers discriminatorily refuse him employment.

Alsando receives $192 per month in food stamps. At the end of October he received a letter from the Louisiana Department of Children and Family Services stating the new work requirements he would have to comply with to remain eligible for food stamps. His caseworker did not inform him about the changes, nor help him find work.

Alsando is very worried about what will happen to children and the future generation with these new changes. He notes, “I feel really bad about the kids and the youth. To see our community lose food stamps, what will happen to our kids? Our communities will be forced to just take from each other and be violent. Governor Jindal, it’s not fair; kids need to eat.”

b. Impact on vulnerable populations

Based on Stand with Dignity community assessments, the following populations are likely to be significantly impacted:

- **Veterans** – Many veterans return home with serious mental health issues and lack skills to find civilian employment, creating barriers to finding work.
- **Homeless individuals** – Individuals without homes are disadvantaged when attempting to find work.
- **Seasonal workers** – Seasonal workers like farmers, fishermen, and some construction workers are only able to find work during certain months of the year. Even if an average of their work hours drawn across the year would meet work requirements, these individuals will lose access to food stamps as work requirements are measured monthly.
- **Individuals waiting on disability determinations** – Many individuals are physically or mentally disabled but lack formal disability determinations.
Others are still waiting on disability determinations. Disabled individuals face additional barriers when seeking employment.

- **Individuals with criminal records** – Individuals with criminal records face nearly insurmountable barriers to employment. The National Institute for Justice found that a criminal record reduces the likelihood of a job callback or offer by approximately 50%.⁸

- **Black individuals** – Although the Black population accounts for less than 14% of the U.S. population, they account for 28% of all arrests and 40% of those behind bars. This data is similarly reflected in Louisiana. Therefore Black individuals are disproportionately affected by the barriers to employment created by criminal records and face additional barriers related to racial discrimination.⁹

- **Individuals without licenses or access to reliable transportation**
- **Caregivers without acknowledged support of dependents** – Many individuals care for the young and old without formal acknowledgment of their support. Therefore, they remain classified as “able-bodied adults without dependents” and subject to work requirements even though they lack the time to complete these requirements.

- **Individuals with low levels of education**
- **Individuals with language or communication barriers**

### c. Aggregate Impact on Families and the Community

The loss of food stamps will have dire effects on already at-risk families and communities. Adults often use food stamps not only to support themselves but also others in their family and community. These include children and parents inside and outside the household, whether formally claimed as dependents or no.

Small businesses, including local grocers and corner stores, will also be affected as neighbors lose access to SNAP benefits and the ability to buy food at their stores.

Loss of benefits may lead families to homelessness. Most people affected by this policy change are eligible for few, if any, other public benefits that would bridge this gap.¹⁰ As David Super at the Center for Civil Justice describes, “past research on the effects of reductions in state general assistance programs indicates that many people in this group

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are extremely poor, with some being on the brink of homelessness."\textsuperscript{11} The decision not to apply for the waiver will result in the loss of over twelve million dollars of federal support a month—and over one hundred forty-nine million a year from already vulnerable communities.\textsuperscript{12}

The unemployment crisis in Louisiana, and especially in the city of New Orleans, add to existing poverty and inequality issues. 19.8\% of Louisiana residents live under the poverty line.\textsuperscript{13} The city of New Orleans has the second highest rate of income inequality in the country.\textsuperscript{14}

Food security is also a serious problem in Louisiana. Federal surveys show that 17.6\% of Louisianans lacked food security over the 2012-2014 period, higher than the national rate of 14.3\%.\textsuperscript{15} A change in food stamps policy will significantly increase the numbers of people facing food insecurity in the state.

d. Impact comparisons from other states

Research by the U.S. Department of Agriculture (USDA) on the impact of work requirements on eligibility for food stamps benefits found that people faced a range of significant difficulties after their food stamps benefits were ended. According to the study in Arizona, in 1999, 34\% of former food stamps recipients went hungry after benefits were terminated.\textsuperscript{16} Nearly 58\% experienced serious material hardship after the end of benefits, such as lack of stable housing or the inability to obtain needed health care.\textsuperscript{17} A study of adults in South Carolina found similarly deleterious effects. For these individuals, an end in the receipt of food stamps led to increased rates of evictions, utility

\textsuperscript{11} Id.
\textsuperscript{12} 64,000 residents of Louisiana previously were not required to meet working requirements because the state had applied and received the waiver of work requirements to qualify for SNAP benefits. If all 64,000 residents were to lose access to benefits, the state could lose close to $149,000,000 (based on an average of $194 in food stamps per individual per month).
\textsuperscript{17} Id., 87
shut-offs, and other serious hardship.\textsuperscript{18} In Illinois, 72\% of former food stamps recipients had experienced a serious hardship, and 44\% experienced two serious hardships – such as becoming homeless, experiencing hunger, becoming the victim of a violent crime – in the two years after their food stamps benefits were terminated.\textsuperscript{19}

Therefore, the state’s refusal to apply for the waiver will not only lead to 64,000 people losing access to food stamps, but also have adverse effects on their communities and the businesses that they support.

V. Violations of State, Federal, and International law

a. **Contrary to minimum wage:** Requiring individuals complete 20 hours of “volunteer” work every week for food stamps is inconsistent with the federal requirement that workers are paid at least minimum wage for their labor.

The State of Louisiana has informed food stamp recipients that where they are unable to find paid work to fulfill work requirements to maintain eligibility for food stamps, they may remain eligible by completing 20 hours per week of unpaid “volunteer” work. This required unpaid volunteer work is compensated with food stamp benefits. Requiring food stamp beneficiaries to do 20 hours of unpaid work every week to preserve their benefits is inconsistent with the federal requirement that workers are paid at least minimum wage for their labor.

The maximum benefit that one person can receive is $194 per month in food stamps.\textsuperscript{20} Since the state of Louisiana does not have sufficient employment opportunities for all food stamp applicants, the state is presently requiring recipients to perform 80 hours of “work” (20 hours per week for four weeks) to keep receiving that benefit. “Work” can be paid or unpaid to comply with USDA work requirements.\textsuperscript{21} The average food stamps recipient performing the required unpaid work is compensated a mere $2.43 in food


\textsuperscript{21} See 7 C.F.R. § 273.24(a)(2) (“Working means: Work in exchange for money; work in exchange for goods or services (“in kind” work); or unpaid work, verified under standards established by the state agency”).
stamps per hour. This is far below the federal minimum wage of $7.25 per hour of work.\textsuperscript{22}

Louisiana’s requirement of 20 hours of unpaid work per week is inconsistent with the nationwide commitment to compensating workers at minimum wage. Federal agencies have recognized that the minimum wage limits the hours of work that can be required by public benefits programs. In 1997, the Department of Labor (“DOL”) issued guidance interpreting federal workplace laws as applying to welfare recipients.\textsuperscript{23} The USDOL found that food stamps benefits can be an acceptable form of compensation for work, consistent with minimum wage requirement: “The number of hours that a food stamp recipient may be required to work is determined by dividing the value of the food stamp allotment by the state or federal minimum wage (whichever is high), up to a maximum of 30 hours per week.”\textsuperscript{24}

The Department of Agriculture has come to the same conclusion. Its guidance states: “State agencies determine the hourly requirement for workfare by dividing a household’s SNAP allotment by the higher of the applicable Federal or State minimum wage. This calculation produces the number of work hours required per month.”\textsuperscript{25}

To remedy this problem, Louisiana should create a workfare program that requires fewer than 20 hours of volunteer work per week.\textsuperscript{26} The maximum number of hours that should be required is equal to the value of the food stamp allotment divided by the federal minimum wage.\textsuperscript{27} The administrative requirements for a State-created workfare program are minimal.\textsuperscript{28}

\section*{b. Improper procedure by state agency: Louisiana’s implementation of the heightened work requirements violates federal law on the administration of food stamps and termination of benefits requires specific due process standards.}

\textsuperscript{22} See 29 U.S.C. § 206(a)(1)(C) (setting the minimum wage as $7.25 per hour).


\textsuperscript{24} Id. at 4.


\textsuperscript{26} See Section VI(c). Participating in a workfare program is an authorized way of complying with the ABAWD work requirements. 7 C.F.R. § 273.24(a)(1)(iv).

\textsuperscript{27} For an individual receiving maximum food stamps benefits, this would mean: $194 per month/$7.25, or approximately 26.7 hours per month or 6.6 hours per week.

\textsuperscript{28} See 7 C.F.R. § 273.7(m).
Louisiana has mass mailed notices to food stamps recipients, informing them that they must complete 20 hours of work per week or will lose benefits on January 1st, 2016. That was procedurally improper. The State cannot make the determination of which recipients are able-bodied adults without dependents (and so subject to the heightened work requirements) without more information from the recipients themselves. The State can lawfully only require specific information from food stamp recipients during recertification. Any termination of benefits — and any threat of termination — before a recipient’s next recertification is improper and beyond the State’s legal authority under federal law.

In addition, food stamps recipients are entitled to notice of a change in requirements for continued benefits. The Department of Children and Family Services must give this notice prior to waiver expiration. Federal USDA guidance states that state agencies should be informing food stamps recipients of the updated work requirements, how to fulfill those requirements, and exemption criteria. The guidance additionally “strongly encourages” agencies to provide notice at least 30-days prior to waiver expiration.

Stand with Dignity also reminds the Department of Children and Family Services that if an applicant requests a hearing prior to termination of benefits, the state agency is required to administer it. Any household that timely requests such a fair hearing should continue to receive benefits until the fair hearing is completed, unless the State agency receives a written statement from the household that requires a reduction or termination of the household’s benefits.

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29 The State may make “mass changes” to the entire caseload only in certain instances where they already have sufficient data to make the determination, such as “adjustments to the income eligibility standards.” 7 CFR § 273.12(e). The implementation of the work requirement for able-bodied adults without dependents is not one of the enumerated instances and is different in kind because it eliminates benefits based on a variable that the State has not previously tracked in its case files.

30 The information that a household must report to the State in between certifications is specifically enumerated in 7 C.F.R. § 273.12(a) and does not include the information that is needed to determine if a recipient is an able-bodied adult without dependents.


33 Id.

34 7 C.F.R. § 273.15.

35 Id.
c. **Lack of a state plan:** Louisiana state agencies failed to submit the required state plan and to include highly encouraged job creation in that state plan.

The State of Louisiana and Department of Children and Family Services is also in violation of state planning requirements under the federal Personal Responsibility and Work Opportunity Reconciliation Act. Every state must submit a state plan articulating the plans of the State agency for carrying out employment and training programs.\(^\text{36}\) This plan has not been made available to the public and it is therefore unclear if the state has complied with this requirement.

In addition, the State agency is required to implement an employment and training program designed by the state agency and approved by the Secretary for the purpose of assisting members of households participating in the food stamps program in gaining skills, training, work, or experience that will increase their ability to obtain regular employment.\(^\text{37}\)

d. **International human rights violations:** Denying individuals access to food stamps is inconsistent with individuals’ right to food, right to live a dignified life.

The right to food and a life with dignity is central to international human rights law. The right to food is derived from the International Covenant on Economic, Social, and Cultural Rights, which was signed by the United States and has 160 state parties as of May 2012.\(^\text{38}\) States that sign the covenant agree to take steps to the maximum of their available resources to achieve the full realization of the right to adequate food. Specifically, in Article 11, the covenant states that “Parties to the present Covenant recognize the right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions.”\(^\text{39}\) In addition, the United Nations Special Rapporteur on the Right to Food also defined the right to food as “the right to have regular, permanent and unrestricted access, either directly or by means of financial purchases, to quantitatively and qualitatively adequate and sufficient food corresponding to the cultural traditions of the people to which the consumer belongs, and which ensure a physical and mental, individual and collective, fulfilling and dignified life free of fear.”\(^\text{40}\)

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The right to live a dignified life is also central to international human rights law. Governments have an obligation under international human rights law to treat individuals with dignity and to promote adequate standards of living. The Article 25 of the Universal Declaration of Human Rights (UDHR) states that “everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services…” 

In addition, Article 3 of the UDHR states that “everyone has the right to life, liberty, and security of the person.”

The UDHR also states includes articles against slavery and servitude. Requiring working requirements that are impossible to abide with in order to receive essential food assistance amounts to slavery, degrading treatment and forced labor under human rights law.

**e. Arbitrary and capricious agency action:** The refusal to apply for a waiver is bad state policy because it is an arbitrary and unjust state position inconsistent with federal food stamps policy, disproportionately negatively impacting already marginalized populations in the state, and is in violation of the Louisiana government’s commitment to promote the general welfare of its population.

Secretary Sonnier’s refusal to request a waiver—despite high rates of unemployment, no cost to the state agency, and significant deleterious effects on Louisiana communities—constitutes an arbitrary and unjust agency decision. The decision by the Secretary of Louisiana’s Department of Children and Family Services is arbitrary and unjust for a number of reasons. First, the decision was based on an ideological belief that individuals should not receive benefits if they do not work for them. This is not a factor that

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41 UN General Assembly, *Universal Declaration of Human Rights: Article 25*, 10 December 1948, 217 A (III), available at: http://www.refworld.org/docid/3ae6b3712c.html; also see Id. Article 22 (“Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of his personality”).


43 *Id.* at Article 4 (“No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms”); *id.* at Article 5 (“No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”); *id.* at Article 23 (“Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection”).

44 See Secretary Sonnier’s statements to the press: “We believe that the more people work, the better for the state, the better for the individual and their families,” stated
Congress intended agencies to consider, as it specifically created a waiver to work requirements in states like Louisiana where it is impossible for all residents to find work due to high unemployment rates. The state agencies justifications therefore also run counter to the evidence before the agency. Second, the state agency failed to consider the fact that even if all food stamps recipients were able to seek employment, there are simply not enough jobs. There is currently only one job available for every two food stamps recipients seeking work.  

Louisiana’s state agency’s decision is ultimately arbitrary as it will cost the state agency no money and will create significantly expensive consequences for the state. The decision not to request the waiver will mean that up to $149,000,000 in food stamps benefits will not be received by Louisiana residents. The loss of food stamps income will lead to health effects that will put pressure on the state’s Medicaid programs, lead to increases in food insecurity and hunger putting pressure on state food banks and other social services agencies, and may even lead to an increase in crime as individuals are pushed to find alternative ways to find food.

In addition, this policy will have a disproportionate impact on Black communities in the state of Louisiana, especially in the greater New Orleans area. 83% of food stamps recipients in the 2nd Congressional District (where New Orleans is located) are Black. 28% of those households had no workers in their household in the last 12 months, and could therefore be impacted by the work requirements. In addition, 52% of Black men are out of work in New Orleans. Many of these people face multiple barriers to employment such as low education levels and criminal records.

The decision not to apply for the waiver is also in violation of the state government’s commitments as stated in the Louisiana constitution. Section 1 of the Constitution states “[government’s] only legitimate ends are to … promote the happiness and general welfare of the people.” Ultimately, the decision not to apply for a waiver of work

Department of Children and Family Services Secretary Suzy Sonnier, “it truly is a win-win… [She said the sole goal of the effort is] self-sufficiency.” Marsha Shuler, ‘Win-win’ or ‘heartless’? New State Food Stamp Policy means that 64,000 must find work or be booted from the program, THE ADVOCATE (Oct. 1, 2015), http://theadvocate.com/news/13596973-32/food-stamp-change-could-deny.

45 Louisiana added 51,000 jobs since January 2013, but the labor force grew by 102,000 job seekers (Steve Spires, “Time Limit for Food Assistance is Counterproductive, Louisiana Budget Project (Oct 14, 2015), http://www.labudget.org/lbp/2015/10/time-limit-for-food-assistance-is-counterproductive/).

46 64,000 residents of Louisiana previously were not required to meet working requirements because the state had applied and received the waiver of work requirements to qualify for SNAP benefits. If all 64,000 residents were to lose access to benefits, the state could lose close to $149,000,000 (based on an average of $194 in food stamps per individual per month).


requirements for a program intended to support the essential food needs of poor populations often unable to find work especially in contexts of high unemployment, is an unjust and unfair policy.

VI. Immediate Relief Requested

Stand with Dignity calls on Governor Jindal and Secretary Sonnier to apply for the waiver of work requirements, considering Louisiana’s high rates of unemployment, so 64,000 Louisianans will become re-eligible for food stamps. Stand with Dignity additionally requests investigation and a review of policies inconsistent with state, federal and international law. Stand with Dignity has identified state actions that are inconsistent with the Department of Labor’s minimum wage standards, due process requirements, Department of Agriculture guidance, and civil and human rights policies. Immediate action could remedy these inconsistencies and injustices.

a. Request a waiver of the work requirements from the Food and Nutrition Services of the U.S. Department of Agriculture.

At the request of a state agency, the Secretary of the U.S. Department of Agriculture may waive the applicability of work requirements upon a determination that the area is an area of high unemployment.49

Under the 1996 welfare reform act (“The Personal Responsibility and Work Opportunities Reconciliation Act of 1996”), many food stamps recipients are required to comply with stringent work requirements to remain eligible for benefits, unless they qualify for an exemption or their state waives out of the requirements due to high rates of unemployment in the state. Under federal food stamps law, able-bodied adults without dependents are subject to special work requirements. Up to 64,000 people in Louisiana fall under this category subject to heightened work requirements, specifically if they are: between the ages of 18 and 49, are not medically certified as physically or mentally unfit for employment, are not pregnant, and are considered “without dependents” since they are not responsible for a dependent child or resident in a household where a household member is under age 18.50

This category of adults (known as “able-bodied adults without dependents”) is not eligible to participate in the food stamps program if, during a 36-month period, they do not fulfill the following work requirements for all but a three-month period:51

51 See 7 U.S.C. § 2015 (d)(1)(C) (After the first violation, the individual remains ineligible until the later of the date the individual becomes eligible; 1 month after the date
a) “Work”\textsuperscript{52} 20 hours or more per week, averaged monthly;  
b) Participate and comply with the requirements of a work program for 20 hours or  
more per week, as determined by the state agency; or  
c) Participate in and comply with a program established by the State.

Food stamps recipients categorized as able-bodied adults without dependents who do not  
fulfill the work requirements may only receive food stamps if they fall under an  
exception\textsuperscript{53} or an exemption,\textsuperscript{54} or the state chooses to waive work requirements.\textsuperscript{55}

This summer, Governor Jindal and Secretary Sonnier decided not to reapply for the  
federal waiver of work requirements for able bodied adults without dependents.  
Louisiana has applied for the waiver of work requirements in the past, and conditions in  
the state mean that the state continues to qualify for the waiver. The waiver was  

\underline{they became ineligible; or a date determined by the State agency that is not later than 3  
months after the date the individual became ineligible. Subsequent violations increase the  
waiting period to 3 and 6 months. A state agency can choose to permanently make an  
applicant ineligible for food stamps after the third violation}; 7 U.S.C. § 2015 (o)(5)  
(Individuals who have become ineligible for food stamps must, during a 30-day period: a)  
work 80 or more hours; b) participate in and comply with the requirements of a work  
program for 80 or more hours as determined by the state agency; or c) participate in and  
comply with the requirements of a program established by the state. There is no limit on  
how many times an ABAWD may regain eligibility. The individual will remain eligible  
as long as the individual meets the above requirements, but at least for a \textit{consecutive} 3-
month period. However, an individual will not receive any benefits for more than a single  
3-month period (in addition to the original 3-month grace) in any 36-month period); \textit{See}  
“Guide to Serving ABAWDS Subject to Time-Limited Participation,” U.S. Department of  
Agriculture (2015),  
http://www.fns.usda.gov/sites/default/files/Guide_to_Serving_ABAWDS_Subject_to_Ti-

time_Limit.pdf.

\textsuperscript{52} The U.S. Department of Agriculture considers unpaid work verified under standards  
established by the state agency as qualifying for the purposes of meeting the work  
requirements. Job search programs or a job search training programs do not qualify as  
“work” for the purposes of meeting work requirements, unless they are a part of a  
program established by the state and then can only make up 50% of the required work  
hours (7 C.F.R. § 273.24(a)(2)).

\textsuperscript{53} ABAWD exceptions apply to individuals who are: 1) under 18 or 50 years of age or  
over, 2) medically certified as physically or mentally unfit for employment, 3)  
responsible for a dependent child or resident in a household where a household member  
is under age 18, 4) exempt from SNAP work requirements, or 5) pregnant. “Guide to  
Serving ABAWDS Subject to Time-Limited Participation,” U.S. Department of  
Agriculture (2015),  
http://www.fns.usda.gov/sites/default/files/Guide_to_Serving_ABAWDS_Subject_to_Ti-

time_Limit.pdf.

\textsuperscript{54} 7 U.S. Code § 2015(o)(6).

\textsuperscript{55} 7 U.S. Code § 2015(o)(4).
specifically created in the food stamps act for situations (like those that exist in Louisiana) where a state has such high rates of unemployment that it would be impossible and unfair to require individuals to find work in order to qualify for food stamps.\(^{56}\)

Louisiana qualifies for the waiver. A state must qualify for a waiver by showing\(^{57}\) that the state (a) has an unemployment rate of over 10%; or (b) does not have a sufficient number of jobs to provide employment for the individuals.\(^{58}\) A state can also qualify for a waiver if the U.S. Department of Labor Unemployment Insurance Service determines that residents in the state qualify for extended unemployment benefits.\(^{59}\) Thirty-seven states with high unemployment rates qualified for a federal waiver in FY 2015.\(^{60}\)

Louisiana qualifies for a statewide waiver of work requirements because of the state’s high unemployment rate. Louisiana has an unemployment rate of 6%,\(^{61}\) compared to a national unemployment rate of 5.1%.\(^{62}\) That is a state rate 18% higher than the national rate.\(^{63}\) Though new jobs are being created, the number of people looking for jobs is

\(^{56}\) Id.

\(^{57}\) The basis for a waiver must be reported to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate (7 U.S. Code § 2015(o)(4)(B)). A state may submit any data it deems appropriate, such as average unemployment rates in a recent 12-month period, evidence of a historical season unemployment rate, evidence that an area has been designated a Labor Surplus Area or qualified for extended unemployment benefits for the current fiscal year by the Department of Labor, evidence that the State has a low and declining employment to population ratio, data that shows that in a 24-month period the state has an unemployment rate 20% above the national average (“Guide to Serving ABAWDs Subject to Time-Limited Participation,” U.S. Department of Agriculture (2015), http://www.fns.usda.gov/sites/default/files/Guide_to_Serving_ABAWDs_Subject_to_Time_Limit.pdf).

\(^{58}\) 7 U.S. Code § 2015(o)(4); \textit{see also} regulations for how this determination is made (7 C.F.R. § 273.24).

\(^{59}\) 7 C.F.R. § 273.24.


Louisiana added 51,000 jobs since January 2013, but the labor force grew by 102,000 job seekers. For every two people receiving food stamps looking for a job, only one job is available. The New Orleans region itself has a stated unemployment rate of 6.1%, but the rate is much higher when structural unemployment is taken into account. For example, in New Orleans specifically, 52% of Black men are unable to find work.

Louisiana qualifies for the waiver of the work requirements because there are not a sufficient number of jobs and Governor Jindal and Secretary Sonnier should apply for it immediately to prevent 64,000 Louisianans from starting 2016 by going hungry.

b. **Refrain from applying heightened work requirements and cutting back food stamp recipients until a recertification can determine if recipients are able-bodied adults without dependents.**

The Department of Children and Family Services mass mailed notices to food stamps recipients, informing them that they must complete 20 hours of work per week or will lose benefits on January 1st, 2016 without first doing a recertification to check if heightened work requirements applied to the individual. The state agency should apply the proper procedure and refrain from applying heightened work requirements until a recertification has occurred. A recertification must ask individuals questions to determine whether they can properly be categorized as able-bodied adults without dependents and do not fall under any other exceptions to the heightened work requirements.

c. **Reduce the number of volunteer hours required to comply with work requirements through the creation of a workfare program with decreased work requirements.**

The Department of Children and Family Services (“DCFS”) is requiring individuals to work 20 hours a week paid or unpaid or participate in a work program for 20 hours a week, averaged monthly, to maintain food stamps benefits. Federal regulations state

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65 Louisiana added 51,000 jobs since January 2013, but the labor force grew by 102,000 job seekers (Id.).


68 7 C.F.R. § 273.24(a)(1).
that unpaid work qualifies as “work” for the purposes of the work requirements. The Department has informed food stamps recipients that they may satisfy the work requirements by completing 20 hours a week of unpaid volunteer work.

However, there are a number of problems with requiring food stamps recipients to engage in 20 hours a week of unpaid work for monthly food stamps benefits.

First it is inconsistent with federal minimum wage laws. Stand with Dignity therefore urges the Department of Children and Family Services create a workfare program to support food stamps recipients in finding work, and to provide the agency authority to reduce the hours of volunteer work required within this workfare program to comply with federal law. For example, a food stamps recipient who qualifies for the maximum benefit of $194 per month may not be required to work unpaid for more than 6.7 hours a week as part of a state workfare program. The workfare program should provide guidance on how recipients can comply with requirements, support recipients in this process, and include community input in the development of the program.

Second, requiring people to volunteer for 20 hours a week takes people away from other important activities. This is time when people could be getting training to improve their employability, supporting others with child or elder care responsibilities, or looking for paid jobs.

Third, people who are on food stamps face barriers to working unpaid. Transportation is a serious barrier, as people working without income cannot afford to pay to travel to and from work, and additionally may not have public transportation methods to get to work. Individuals required to volunteer may also not be able to find volunteer opportunities as non-profits do not have the capacity to facilitate work for tens of thousands of new volunteers. Some individuals may also not be legally mentally or physically unfit to work, but may still be unable to work 20 hours a week.

Governor Jindal and Secretary Sonnier should therefore support employment through a workfare program and reduce the number of volunteer hours required of food stamps recipients to comply with federal law.

d. Grant exemptions for food stamps recipients facing heightened barriers to finding employment.

69 7 C.F.R. § 273.24(a)(2).

Local food stamps offices are allotted a certain number of discretionary exemptions that may be used to exempt food stamps recipients from work requirements. These exemptions are tracked and no more than 15% of able-bodied adults without dependents may be exempted from work requirements through “discretionary exemptions.” Exemptions are determined on a case-by-case basis with State Office approval, however, the state may also develop criteria for administering discretionary exemptions. Exemptions could be used on recipients with barriers to employment, such as individuals with criminal records or low levels of education.

Secretary Sonnier should create clear criteria for the use of discretionary exemptions to remove work requirements for individuals facing significant barriers to employment. In the absence of leadership from the state-level, local offices should feel empowered to use their own discretion to exempt individuals they believe will be unable to find sufficient work to continue to qualify for food stamps.

**e. Use federal money to create additional employment opportunities through the State of Louisiana’s Employment and Training program.**

The USDA encourages state agencies to “consider what qualifying education, training, or work activities they might add to their Employment & Training (‘E&T’) programs to support [food stamps recipients] who are subject to work requirements”. States are not required to operate E&T programs or make participation in an E&T program mandatory.

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71 A maximum of 15% of ABAWDs may be exempted (see 7 U.S. Code § 2015 (o)(6)). Current categories for exempting individuals include: a) they are currently subject to and complying with a work registration requirement under Title IV of the Social Security Act or the federal-state unemployment compensation system; b) a parent or member of a household with responsibility for the care of a dependent child under 6 or an incapacitated person; c) a bona fide student enrolled at least half time in a recognized school, training program, or institution of higher education; d) a regular participant in a drug addiction or alcoholic treatment and rehabilitation program; or e) employed a minimum of 30 hours a week or receiving weekly earnings which equal the minimum hourly rate under FLSA multiplied by 30 hours (see 42 U.S.C. 602); B-1470-SNAP Time-Limited Benefits for Able-Bodied Adults Without Dependents (ABAWDs), Office of Family Support (November 1, 2015): https://stellent.dss.state.la.us/LADSS/getContent?id=115665&docName=098397&rendition=web&mimeType=application/pdf&noSaveAs=true.  
72 Id.
74 Id.
Employment and Training funding (“E&T pledge funds”) is available as additional funding to states to create programs to help residents find work. These grants are 100% funded by the federal government and do not require a state match. States are also eligible for supplemental funds under a 50% reimbursement program if they invest additional state dollars. E&T pledge funds can be used to cover the costs of operating education and training programs, including basic skills instruction. Federal reimbursements can also cover expenses related to participation in an E&T program, such as costs for dependent care, transportation, uniforms, and safety equipment necessary in the workforce.

Secretary Sonnier should request Employment and Training pledge funds from the federal government and create a robust workforce program to employ Louisiana’s residents.

f. The Department of Labor and the U.S. Department of Agriculture should investigate Louisiana policies inconsistent with federal law and departmental guidance.

Louisiana’s decision not to apply for the waiver of work requirements and the state’s food stamps policies are inconsistent with federal law and guidance (see above). The Department of Labor and Department of Agriculture should investigate Louisiana’s food stamps policies to bring them in compliance with the letter and spirit of federal law.

g. Hold a meeting with community members and advocates to create a plan to review Louisiana’s unjust food stamps policies.

The Department of Children and Family Services and Governor Jindal do not understand the impact of their policy change. They should therefore hold a meeting with affected individuates and advocates to review food stamp police and create a plan to ensure the greatest access to food. This meeting should also provide the space for the community to be involved in the creation of a state workfare program in line with community needs.

VII. Conclusion

For many, food stamps stand between subsistence and starvation. Denying communities’ access to food stamps in a context where individuals face significant barriers to finding employment and where there simply are not enough jobs will have serious consequences. Stand with Dignity hopes that its state government will stand with the people of this state and ensure that communities continue to have access to the most basic human need – food. Stand with Dignity urges the government to understand that taking food out of people’s mouths will neither promote self-sufficiency nor create jobs, but rather only leave entire communities hungry.

Stand with Dignity urges Governor Jindal and Secretary Sonnier of the Department of Children and Family Services to take immediate action to remedy this situation. We request a response to this administrative complaint with a proposed course of action by November 20th 2015.

Please contact Sima Atri at 504-264-4209 or satri@nowcrj.org, on behalf of Stand with Dignity for further information or follow up.

Signed,

Sima Atri 
(504) 264-4209
satri@nowcrj.org

Bill Quigley
Loyola University School of Law

Legal Counsel for Stand with Dignity
New Orleans Workers’ Center for Racial Justice
217 N. Prieur St.
New Orleans, LA 70112

Toya Lewis
Alfred Marshall
Colette Tippy

Organizers for Stand with Dignity
217 N. Prieur St.
New Orleans, LA 70112
(504) 881-6550
stand@nowcrj.org