



Virginia  
Regulatory  
Town Hall

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## Periodic Review / Retain Regulation Agency Background Document

<b>Agency name</b>	Department of Social Services
<b>Virginia Administrative Code (VAC) citation</b>	22 VAC 40-600-10 et seq.
<b>Regulation title</b>	Food Stamp Program – Administrative Disqualification Hearings
<b>Document preparation date</b>	August 20, 2003

This form is used when the agency has done a periodic review of a regulation and plans to retain that regulation without change. This information is required pursuant to Executive Orders 21 (2002) and 58 (1999) ([governor.state.va.us/Press\\_Policy/Executive\\_Orders/EOHome.html](http://governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html)).

### Legal basis

*Please identify the state and/or federal source of legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., the agency, board, or person. State that the Office of the Attorney General has certified that the entity continues to have the proper authority to promulgate this regulation.*

Regulations at Title 7 of the Code of Federal Regulations §273.16 require states to determine whether intentional program violations have occurred in the Food Stamp Program either through referral to a court of appropriate jurisdiction or through an administrative disqualification hearing. §63.1-124 of the Code of Virginia allows the State to determine whether intentional program violations have occurred either through an appropriate court referral or through an administrative disqualification hearing. §63.1-116, §63.1-117, and §63.1-119 of the Code of Virginia establish the role of the Commissioner of Social Services or the designee in the appeal process.

The regulation does not exceed federal minimal requirements.

The Office of the Attorney General has certified that the Department continues to have the authority to promulgate this regulation.

## Alternatives

*Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.*

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The Administrative Disqualification Hearings process is itself an alternative to local social services agencies pursuing action through courts to determine whether individuals have committed intentional actions against the Food Stamp Program. The agency has attempted to minimize the activities required through the hearing process so that the administrative process will be a reasonable alternative to local social services agencies instead of pursuing actions through the court system.

## Public comment

*Please summarize all public comment received in response to the Notice of Periodic Review and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.*

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No comments were received during the public comment period.

## Effectiveness

*Please indicate whether the regulation meets the criteria set out in Executive Order 21, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.*

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This regulation does not protect public health or safety. Federal policies require states to determine whether individuals receive the correct amount of food stamp benefits and to refer to the court or through an administrative channel to determine when individuals commit intentional acts that violate the program's policies. This regulation establishes procedures for hearings to determine if individuals have committed acts against the Food Stamp Program. The provisions also seek to protect the rights of individuals and recipient households by requiring agencies to follow outlined procedures and to require hearing officers to examine presented evidence to determine that it is clear and convincing that regarding its intentionality.

Staff members of the Division of Benefit Programs and of the Office of the Attorney General have reviewed the regulation for clarity and understandability.

**Result**

*Please state that the agency is recommending that the regulation should stay in effect without change.*

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The agency recommends that the regulation stay in effect without change.

**Family impact**

*Please provide an analysis of the regulation's impact on the institution of the family and family stability.*

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The regulation does not strengthen or erode relationships between parents and their children with regard to education or supervision nor does it alter the relationship between spouses. The regulation does not encourage or discourage economic self-sufficiency, self-pride or alter the responsibility for self or the family. The regulation does require an acceptance of responsibility for one's actions to receive only the food stamp benefits to which the household is entitled rather than to attempt to receive benefits or or to receive additional benefits by intentionally providing misleading or incorrect information on which the eligibility is based.