



# **COMMONWEALTH of VIRGINIA**

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## **MEMORANDUM**

**TO:** L. RICHARD MARTIN, JR.  
Virginia Department of Social Services

**FROM:** ALLEN T. WILSON  
Assistant Attorney General

**DATE:** June 16, 2006

**SUBJECT:** Proposed Regulation 22 VAC 40-601-10 et seq.  
Food Stamp Program

I have reviewed the attached proposed regulation to determine if the State Board of Social Services ("State Board") has the statutory authority to promulgate the proposed regulation and if this action by the State Board comports with applicable state law. This regulatory action also was reviewed to determine if the State Board has the statutory authority to repeal three regulations, 22 VAC 40-20 Food Stamp Program – Income Conversion Method; 22 VAC 40-540 Allowance of Telephone Costs in the Food Stamp Program; 22 VAC 40-600 Food Stamp Program – Administrative Disqualification Hearings. The repealed regulations will be replaced by the proposed regulation.

Virginia Code § 63.2-217 mandates that the State Board promulgate regulations that are necessary to carry out the provisions of Title 63.2. Virginia Code § 63.2-524 specifically authorizes the State Board to promulgate regulations governing the conduct of administrative hearings for food stamp fraud. It appears that the State Board has the authority to repeal the existing regulations and promulgate the proposed replacement regulation, subject to compliance with the provisions of Article 2 of the Administrative Process Act and Executive Order 21 (2002) ), and has not exceeded that authority.

If you have any questions, please feel free to call me at 786-0095.

