

SECTION .0200 - MANUAL

10A NCAC 71U .0201 INTENTIONAL PROGRAM VIOLATION DISQUALIFICATION

- (a) An administrative disqualification hearing (ADH) or referral for prosecution shall be initiated by the public agency whenever there is clear and convincing evidence to substantiate that a currently participating household member has committed one or more acts of an intentional program violation as set forth in 7 CFR 273.16(c), which is hereby incorporated by reference, not including subsequent amendments and editions, and may be accessed at www.congress.gov at no charge. If a referral for prosecution is made, an ADH shall not be initiated unless the referral is declined or 180 days have passed and the public agency withdraws the referral.
- (b) The Hearing Officer for public ADH hearings is the public Agency Director. The Director may delegate this function to a designated impartial employee of the public agency. An impartial employee is one who is not a fraud Investigator, is not connected with the case, does not supervise an employee connected with the case, and has not discussed the facts of the case with any public agency staff outside of the hearing.
- (c) The public agency must provide the Food and Nutrition Services (FNS) unit with an Advance Notice of Your Disqualification Hearing Form DSS-8556 at least 30 days prior to the hearing date. The public agency must also provide the FNS unit with a notice of their right to waive the ADH. The public agency shall ensure that all letters and notices are in the primary language of the individual charged with an intentional program violation (IPV), and ensure that a qualified translator is present for an ADH when requested by an individual with limited English proficiency as defined in 7 CFR 273.16(c).
- (d) The public hearing officer shall render a decision within five business days of the hearing.
- (e) The FNS unit may appeal the public hearing officer's decision within 15 calendar days to a State Disqualification Hearing. The hearing shall be held before a state hearing officer on behalf of the Director of the Division of Social Services. The state hearing officer shall provide notice to the FNS unit and the public agency at least 10 calendar days before the hearing. The state hearing officer shall render a decision within 60 days of the State Disqualification Hearing.

History Note: Authority G.S. 108A-25; 108A-51; 108A-53; 143B-153; 7 CFR 273.16;
Eff. March 1, 1979;
Amended Eff. February 1, 1986;
Readopted Eff. October 1, 2021.