

WAC 137-24-030 Hearing procedures. (1) Offenders accused of failing to complete or having been administratively terminated from an in-custody substance abuse program are entitled to a hearing prior to the revocation or to the imposition of sanctions by the department.

(2) The hearing shall be conducted by a hearing officer in the department's community corrections hearing unit, and shall be considered as an offender disciplinary proceeding and shall not be subject to chapter 34.05 RCW, the Administrative Procedure Act.

(3) Hearings shall be conducted within five working days, but not less than twenty-four hours, after service of the notice of allegations, hearing and rights, and waiver form.

(4) Prior to the commencement of a hearing, the hearing officer shall verify that proper notice of the hearing has been given and that the offender was properly served with the notice of allegations, hearing and rights, and waiver form, given a copy of the report of alleged violations, and provided with all supporting documentary evidence to be presented by the department.

(5) The hearing officer is authorized to find an inmate guilty of the lesser included offense, failure to program, WAC 137-25-030 #557, without issuing a new infraction report or conducting a new hearing.

(6) Hearings shall be electronically recorded and shall be retained in accordance with the department's retention schedule. An offender, who is the subject of the hearing, may request a copy of the recording of that hearing by submitting a request in writing.

(7) The offender may call witnesses to testify on his/her behalf at the hearing. The hearing officer may limit the number of witnesses and the scope of the testimony to matters relevant to the allegations and/or disposition.

(8) Confidential information will be considered in accordance with procedures of WAC 137-28-300(7).

(9) At the hearing, a treatment staff or facility member has the obligation of setting forth evidence supporting the allegations of violations and of offering recommendations of disposition.

(10) The department has the obligation of proving each of the allegations of violation by preponderance of the evidence.

(11) The hearing officer shall:

(a) Administer oaths and affirmation;

(b) Weigh the credibility of the witnesses;

(c) Rule on all procedural matters, objections and motions;

(d) Rule on offers of proof, and receive relevant evidence including hearsay evidence;

(e) Question witnesses called by the parties in an impartial manner to elicit any facts deemed necessary to fairly and adequately decide the matter;

(f) Render or defer a decision; and

(g) Take any other actions necessary and authorized by these rules and law.

(12) The hearing officer may grant a request for a continuance of the hearing as long as such continuation is granted for good cause and does not unduly delay the hearing.

[Statutory Authority: RCW 72.01.090, 72.65.100, and 72.09.130. WSR 06-21-054, § 137-24-030, filed 10/13/06, effective 11/13/06.]