

WAC 381-100-150 Rights and privileges relating to violation hearings. (1) An alleged community custody violator shall be entitled to a fair and impartial hearing of the charges of the community custody violation within thirty working days, but not less than two working days, after notice of service of violations specified.

(2) The board shall notify the offender of the right to:

(a) Be present during the fact finding and disposition phases of the hearing. If the offender refuses to participate in the hearing, the board may conduct the hearing in the absence of the offender and may impose sanctions that could include loss of liberty of the offender;

(b) Have the assistance of an interpreter if the offender has a language or communications barrier;

(c) Testify or remain silent;

(d) Call witnesses and present documentary evidence, provided, however:

(i) At an in-custody hearing, outside witnesses may be excluded due to institutional or community concerns; or

(ii) The presiding officer may exclude persons from the hearing upon a finding of good cause; or

(iii) The presiding officer may allow a witness to testify outside of the offender's presence when there is substantial likelihood that the witness will not be able to give effective, truthful testimony in the presence of the offender during the hearing. The offender may submit a list of questions to ask such witness and testimony may be limited to evidence relevant to the issues under consideration;

(iv) The presiding officer may allow telephonic testimony of witnesses.

(e) Question witnesses who testify;

(f) Be represented by counsel if revocation of the release to community custody is a probable sanction for the violation;

(g) Receive a copy of the findings and conclusions. This includes the evidence relied upon, a finding of guilty or not guilty, the reasons to support the findings, and any sanction(s) imposed;

(h) Receive notice of the right to appeal the sanction to the board; and

(i) Receive notice of the right to file a personal restraint petition under court rules after the final decision of the board.

(3) The board may not revoke the release to community custody of any offender who was not represented by counsel at the hearing, unless the offender has:

(a) Waived the right to counsel; and/or

(b) Waived their right to appear; and/or

(c) Refused to participate in the hearing.

[Statutory Authority: RCW 34.05.220 (1)(b). WSR 09-08-109, § 381-100-150, filed 3/31/09, effective 5/1/09.]