

WAC 137-104-060 Rights specified. An offender subject to a department hearing has rights as specified in RCW 9.94A.737 and the right to:

(1) Receive written notice in accordance with WAC 137-104-040, including the opportunity to examine, no later than twenty-four hours before the hearing, all supporting documentary evidence which the department intends to present during the hearing.

(2) Have an electronically recorded, community custody hearing conducted within five business days of written notice; however, if the offender has not been placed in confinement, the hearing will be conducted within fifteen business days of written notice in accordance with RCW 9.9A.737.

(3) A neutral and detached hearing officer conduct the hearing.

(4) Admit to any or all of the allegations, which may result in limiting the scope of the hearing.

(5) Be present during the hearing. An offender may waive the right to be present at the hearing or because of disruptive behavior, an offender may be removed from the hearing at the hearing officer's discretion; in both cases, the department will conduct the hearing in the offender's absence and may impose sanctions.

(6) Present the case to the hearing officer. If there is a language or communication barrier, the hearing officer may continue the hearing until a qualified individual is identified to interpret or otherwise assist in person or by means of an approved language line.

(7) Request counsel as established by department policy. Counsel may be provided if the hearing officer determines that counsel is necessary due to the complexity of the case or the offender's ability to represent himself or herself.

(8) Cross-examine witnesses testifying at the hearing.

(9) Testify during the hearing or remain silent. Silence will not be held against the offender.

(10) Have witnesses provide written or oral testimony on the offender's behalf, unless the scope of testimony is limited or the witness is excluded by the hearing officer under WAC 137-104-050.

(11) Request a continuance of the hearing for good cause as per department policy.

(12) Receive a written hearing and decision summary including the evidence presented, the finding of guilty or not guilty, the reasons to support the findings of guilt, and the sanction imposed immediately following the hearing or, in the event of a deferred decision, within two business days. Offenders may waive the two business days' requirement.

(13) Obtain a copy of the electronic recording of the hearing upon written request.

(14) Appeal the hearing officer's decision pursuant to WAC 137-104-080.

(15) File a personal restraint petition.

(16) Waive any or all of the above rights in this section.

(17) Waive the hearing and recommend a negotiated sanction.

[Statutory Authority: RCW 72.01.090. WSR 19-19-044, § 137-104-060, filed 9/12/19, effective 10/13/19. WSR 01-04-044, § 137-104-060, filed 2/1/01, effective 3/1/01.]