

# Title 137 WAC

## CORRECTIONS, DEPARTMENT OF

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### Chapter 137-04 WAC INTRODUCTORY

#### WAC

137-04-020 Structure of the department.

#### **WAC 137-04-020 Structure of the department. (1)**

The executive head of the department is the secretary who is appointed by the governor with the consent of the senate, and serves at the pleasure of the governor. The secretary manages the department and is responsible for the administration of adult correctional programs, including but not limited to the operation of all state correctional institutions or facilities used for the confinement of convicted felons.

(2) The department is organized into three divisions and three subdepartments: The prisons division, the community corrections division, the administrative services division, the communications department, the health services department and the risk management department. Each division is headed by a deputy secretary who reports to the secretary. The responsibilities of each division are:

(a) The prisons division is responsible for the operation of all adult correctional facilities, including the Washington State Penitentiary; the Washington Corrections Center; the Monroe Correctional Complex; the McNeil Island Corrections Center; the Airway Heights Corrections Center; the Clallam Bay Corrections Center; the Stafford Creek Corrections Center; the Washington Corrections Center for Women; the Cedar Creek Corrections Center; the Coyote Ridge Corrections Center; the Larch Corrections Center; the Olympic Corrections Center; the Ahtanum View assisted living facil-

ity; the Pine Lodge Corrections Center for Women; the Mission Creek Corrections Center for Women; and such other state correctional institutions, camps or facilities as may hereafter be established. The division includes the correctional industries program.

(b) The community corrections division is responsible for the supervision of adult felony offenders within the community, including offenders in the work release program and other community residential programs.

(c) The administrative services division is responsible for providing a variety of services to the other divisions of the department including financial and management services; information technology; capital planning and development; rules, contracts, budget development and planning and research; and human resources.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-04-020, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 42.17.250. 01-03-079, § 137-04-020, filed 1/16/01, effective 2/16/01; 82-04-023 (Order 82-3), § 137-04-020, filed 1/26/82.]

### Chapter 137-08 WAC PUBLIC RECORDS—DISCLOSURE

#### WAC

137-08-010	Purpose.
137-08-060	Public records available.
137-08-150	Exemptions to public records disclosure.
137-08-160	Qualifications on nondisclosure.
137-08-180	Records index.

**WAC 137-08-010 Purpose.** The purpose of this chapter shall be to ensure compliance by the department of corrections with the provisions of the Public Records Act, chapter 42.56 RCW.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-08-010, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-010, filed 1/26/82.]

**WAC 137-08-060 Public records available. (1)** Requests for any identifiable public record may be initiated at any office of the department during normal business hours.

(2) The department shall at all times take the most timely possible action on requests for disclosure, and shall be required to respond in writing within five working days of receipt of the request for disclosure. The department's failure to so respond shall entitle the person seeking disclosure to petition the public disclosure officer pursuant to WAC 137-08-140.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-08-060, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 10.97.080 and 42.17.320. 86-10-010 (Order 86-05), § 137-08-060, filed 4/29/86. Statutory Authority: RCW 10.97.080, 42.17.250 and 72.01.090. 85-13-020 (Order 85-06), § 137-08-060, filed 6/10/85. Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-060, filed 1/26/82.]

**WAC 137-08-150 Exemptions to public records disclosure.** The department reserves the right to determine if a public record requested in accordance with the procedures outlined in WAC 137-08-090 is exempt or nondisclosable under RCW 42.56.210 through 42.56.480.

Nondisclosable records include, but are not limited to:

(1) Personal information in any files concerning a prisoner, probationer, or parolee to the extent required by RCW 42.56.230(1); however, disclosure may be made to that person or that person's representative, except as otherwise prohibited by these rules;

(2) Data (including information revealing the identity of persons who file complaints, except as the complainant may authorize) contained in intelligence, investigative, and other related files compiled by investigative, law enforcement or penology agencies, and state agencies vested with the responsibility to discipline members of any profession. This data is nondisclosable to the extent required by RCW 42.56.240, 10.97.080 and chapter 446-20 WAC;

(3) Certain juvenile justice or juvenile care records to the extent required by chapter 13.50 RCW;

(4) Personal information in files maintained for an employee of the department to the extent required by RCW 42.56.230;

(5) Deliberative material, as opposed to facts upon which a decision is based, contained in preliminary drafts, notes, recommendations, and intraagency memoranda in which opinions are expressed or policies formulated or recommended; except that a specific record shall be disclosable when publicly cited by the department in connection with any action to the extent required by RCW 42.56.290;

(6) Records which are relevant to a controversy to which the department is a party but which records would not be available to another party under the rules of pretrial discovery for causes pending in the superior courts, including records involving attorney-client communications between the department and the office of the attorney general privileged under RCW 5.60.060(2).

(7) Criminal history records information the disclosure of which is prohibited by chapter 10.97 RCW.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-08-150, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 10.97.080, 42.17.250 and 72.01.090. 85-13-020 (Order 85-06), § 137-08-150, filed 6/10/85. Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-150, filed 1/26/82.]

#### **WAC 137-08-160 Qualifications on nondisclosure.**

(1) To the extent that nondisclosable information can be deleted from the specific records sought, the remainder of the records shall be disclosable.

(2) No exemptions shall be construed to require nondisclosure of statistical information not descriptive of identifiable persons, as required by RCW 42.56.210(1).

(3) Inspection and copying of any specific records otherwise nondisclosable is permissible pursuant to an order of the superior court enforcing a subpoena in accordance with the provisions of RCW 42.56.210(2), or an order of the office of hearings enforcing a subpoena.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-08-160, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-160, filed 1/26/82.]

**WAC 137-08-180 Records index.** The record index may be accessed on the department's web site in the public disclosure section at: <http://www.doc.wa.gov/aboutdoc/publicdisclosure.asp>.

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[Statutory Authority: RCW 72.01.090. 08-01-026, § 137-08-180, filed 12/10/07, effective 1/10/08; 06-19-058, § 137-08-180, filed 9/18/06, effective 10/19/06. Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-08-180, filed 1/26/82.]

### **Chapter 137-10 WAC**

#### **PETITION FOR PROMULGATION, AMENDMENT, OR REPEAL OF RULE OR FOR DECLARATORY RULING**

##### **WAC**

137-10-005 Purpose.

**WAC 137-10-005 Purpose.** The purpose of this rule is to establish the procedures by which an interested party may petition the department of corrections for the promulgation, amendment, or repeal of a rule pursuant to RCW 34.05.330, or for a declaratory ruling pursuant to RCW 34.05.240.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-10-005, filed 6/5/07, effective 7/6/07. Statutory Authority: RCW 34.04.060 and 34.04.-080. 86-02-051 (Order 85-11), § 137-10-005, filed 12/31/85.]

### **Chapter 137-32 WAC**

#### **PRISONS—ADMINISTRATIVE SEGREGATION AND INTENSIVE MANAGEMENT**

##### **WAC**

137-32-002 Definitions.  
137-32-005 Initial placement.  
137-32-010 Initial review.  
137-32-015 Segregation meeting procedures.  
137-32-025 Intensive management status.  
137-32-035 Administrative release.

#### **DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER**

137-32-020 Intermediate informal review. [00-09-063, § 137-32-020, filed 4/17/00, effective 5/19/00. Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-020, filed 12/17/84.] Repealed by 07-08-063, filed 3/29/07, effective 4/29/07.

**WAC 137-32-002 Definitions.** For the purpose of this chapter the following words shall have the following meanings:

- (1) "Department" means the department of corrections.
- (2) "Adult correctional institution" and "institution" mean a facility identified in RCW 72.01.050(2) and any similar facility hereafter established.
- (3) "Secretary" means the secretary of the department of corrections.
- (4) "Deputy secretary" means the deputy secretary of the prisons division of the department, or the deputy secretary's designee.
- (5) "Superintendent" means the superintendent of an institution, or the superintendent's designees.
- (6) "Hearing officer" means the person named by a superintendent to act for the superintendent in reviewing the cases of inmates assigned to administrative segregation status.
- (7) "Inmate" means any person assigned to the custody of the department, including any person transferred to an institution from another state or the federal government.

(8) "Administrative segregation status" means segregation of an inmate of an institution for nondisciplinary reasons.

(9) "Intensive management status" means an assignment to administrative segregation for an extended period after other alternatives have been explored.

(10) "Classification meeting" means a meeting with an inmate held to:

(a) Determine whether the inmate should be placed on administrative segregation status, continued on administrative segregation status, placed on intensive management status, continued on intensive management status, released to the general inmate population, recommended for either an in-state or out-of-state transfer; and/or

(b) Develop an action plan, expectations and goals relative to the rehabilitation of the inmate.

(11) "Working days" means Monday through Friday excluding holidays.

[07-08-063, § 137-32-002, filed 3/29/07, effective 4/29/07. 00-09-063, § 137-32-002, filed 4/17/00, effective 5/19/00. Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-002, filed 12/17/84.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

**WAC 137-32-005 Initial placement.** (1) The superintendent/designee may segregate an inmate from the general inmate population and assign such inmate to a segregation or intensive management unit if, in the judgment of the superintendent, the inmate:

(a) Poses a threat to himself/herself, others, or the security of the institution;

(b) Requests protection or is deemed by staff to require protection;

(c) Is pending or in transit to a more secure institution; or

(d) Poses a serious escape risk.

(2) The authorizing department staff member must determine that placement in administrative segregation status is appropriate and document the facts supporting such reason.

[07-08-063, § 137-32-005, filed 3/29/07, effective 4/29/07. 00-09-063, § 137-32-005, filed 4/17/00, effective 5/19/00. Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-005, filed 12/17/84.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

**WAC 137-32-010 Initial review.** (1) Immediately after an inmate's initial placement in segregation, a department staff member will inform the inmate in writing of the reason for the inmate's segregation and the date, time and place of the initial review meeting.

(2) The hearing officer will meet with such inmate within two working days after initial placement for the initial review of the basis for the assignment of such inmate to administrative segregation status. During this initial review the inmate will be provided an opportunity to respond to the reasons for such inmate's placement in a segregation or intensive management unit.

(3) The hearing officer will prepare a written report of the initial review meeting with the inmate and deliver such report to the superintendent. This report will include the information provided to the inmate, the reason for initial placement in a segregation or intensive management unit, the inmate's response to the allegation resulting in the initial placement in a segregation or intensive management unit, the reasons supporting protective custody, special restrictions, including monitoring of special medications and/or diets, and the hearing officer's recommendation whether to continue the administrative segregation or to release the inmate to the general inmate population, together with the facts supporting such recommendation.

(4) The superintendent should review the hearing officer's report, and within one working day after receipt, will prepare a written decision accepting or rejecting the hearing officer's recommendations.

[07-08-063, § 137-32-010, filed 3/29/07, effective 4/29/07. 00-09-063, § 137-32-010, filed 4/17/00, effective 5/19/00. Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-010, filed 12/17/84.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

#### **WAC 137-32-015 Segregation meeting procedures.**

(1) The hearing officer will preside over segregation meetings of inmates assigned to administrative segregation status.

(2) Subsequent to the initial review a segregation review will occur every seven days for the first two months and at least every thirty days thereafter.

(3) Offenders will be provided advanced notice, of at least forty-eight hours, for any segregation review, to include:

(a) The date, time, purpose, and place of the classification meeting;

(b) Related criminal charges, if known, evolving from the incident for which the inmate is placed on administrative segregation status;

(c) That the inmate has the opportunity to provide the hearing officer with names of inmates or institution staff from whom witness statements should be obtained; and

(d) That only written statements will be considered during the course of the hearing unless the hearing officer requires oral testimony for clarification.

(4) The hearing officer will ensure that all witnesses named by the inmate are provided with witness statement forms as soon as practical, but not less than twenty-four hours prior to the classification meeting.

(5) The following procedures will be adhered to during all classification meetings:

(a) The inmate may be present at all stages of the meeting except during discussions involving information from confidential sources.

(b) The hearing officer will document the meeting setting forth the information presented, including all witness statements.

(c) The superintendent may designate an institution staff member, other than the hearing officer, to present evidence

either supporting continued administrative segregation or release therefrom.

(d) The hearing officer shall have the authority to schedule inmates, institution staff members, or other persons to appear and present or clarify information which may be relevant to the hearing officer's decision. To the extent possible, confidential information presented to the hearing officer shall be presented by the individual receiving the information. The source shall be identified to the hearing officer, except when the superintendent directs that the source is to remain confidential.

(e) The hearing officer will provide the inmate with an opportunity to present the inmate's views to the hearing officer to clarify information from the witness statements. The inmate may present a written statement in lieu of, or in addition to oral testimony. The written statement will be included in the record.

(f) If the inmate refuses to attend the hearing, this fact will be documented by the hearing officer.

(g) An inmate may select an institution staff member, approved by the superintendent, to assist and advise the inmate at the hearing. The advisor may be a staff member not ordinarily assigned responsibility for the inmate. The advisor shall not be an inmate. The advisor will be approved by the superintendent only if, in the superintendent's judgment, the inmate is unable to present his/her own case.

(6) The hearing officer should make a written report to the superintendent and the inmate within one working day after the classification meeting, which will include:

(a) A recommendation that the inmate be continued in administrative segregation, released back to the general population, or transferred to a more appropriate facility, in or out of state;

(b) An individual behavioral management plan which includes expectations for changes necessary in the inmate's behavior and appropriate program participation for the inmate's return to the general inmate population; provided, however, accomplishment of any such identified behavioral changes and/or program completions/referrals shall not necessarily require discharge from administrative segregation, but shall be considered along with all other circumstances; and

(c) A summary of the inmate's adjustment while in administrative segregation status.

(7) The inmate may appeal the report by submitting written objections and whatever other written information the inmate feels is relevant to the superintendent/designee. Such material shall be filed within twenty-four hours of the inmate's receipt of the report.

(8) The hearing officer should notify the inmate in writing within one working day after receiving the superintendent's decision regarding retention of the inmate in administrative segregation or the inmate's release therefrom, other action directed by the superintendent, and the date of the next classification meeting, if any.

(9) Inmates reviewed at the segregation review meeting will be considered for one or more of the following:

(a) Referral to the deputy secretary/designee with a recommendation that the inmate be placed on intensive management status;

(b) Return to the general inmate population with clear behavioral expectations for remaining there; or

(c) Transfer to a more appropriate facility or unit, within or outside the state.

[07-08-063, § 137-32-015, filed 3/29/07, effective 4/29/07. 00-09-063, § 137-32-015, filed 4/17/00, effective 5/19/00. Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-015, filed 12/17/84.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

**WAC 137-32-025 Intensive management status.** An inmate will be placed on intensive management status in accordance with the following procedures:

(1) The hearing officer may, after conducting a formal hearing, recommend to the superintendent that the inmate be placed on intensive management status stating the reasons therefore.

(2) The superintendent/designee will review the hearing officer's recommendation, and if approved will forward a copy thereof to the deputy secretary/designee for final approval.

(3) The cases of all inmates assigned to intensive management status will have an assessment completed within the first thirty days. Reviews by the hearing officer will be held at intervals not to exceed thirty days.

Formal classification meetings will be held at intervals not to exceed one hundred eighty days.

[07-08-063, § 137-32-025, filed 3/29/07, effective 4/29/07. 00-09-063, § 137-32-025, filed 4/17/00, effective 5/19/00. Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-025, filed 12/17/84.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

**WAC 137-32-035 Administrative release.** (1) The superintendent may release an inmate from administrative segregation status at any time after determining that, in the superintendent's judgment, the conditions or reasons which required the inmate's administrative segregation no longer exist. Recommendations for release may be submitted to the superintendent at any time by segregation unit staff or other staff familiar with the inmate's situation. An inmate who voluntarily requests segregation or protective custody in writing, on the security designation review form, may request to be returned to his or her housing unit at any time.

(2) Only the deputy secretary/designee has the authority to release an inmate from intensive management status.

[07-08-063, § 137-32-035, filed 3/29/07, effective 4/29/07. 00-09-063, § 137-32-035, filed 4/17/00, effective 5/19/00. Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-035, filed 12/17/84.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

**Chapter 137-52 WAC****RESIDENT OF ADULT CORRECTIONAL INSTITUTION ESCORTED LEAVE OF ABSENCE****WAC**

137-52-010 Definitions.

**WAC 137-52-010 Definitions.** (1) "Escorted leave" is an approved leave of absence by an inmate from a correctional facility under the continuous supervision of trained correctional staff.

(2) "Immediate family" includes an inmate's parents, stepparents, parent surrogates, grandparents, legal guardians, spouse, brothers, sisters, half or step-brothers or sisters, children, stepchildren, and dependents whether or not in direct lineal relationship to the inmate.

(3) "Indigent" shall be understood to mean an inmate who has not been credited with five dollars or more total from any source(s) for deposit to the inmate's trust fund account during the thirty days preceding the request for an escorted leave and has less than a five dollar balance in his/her trust fund account on the day the escorted leave is requested, or together with his/her immediate family cannot post a five hundred dollar bond to secure the repayment of the expenses of the escorted leave on the day the escorted leave is requested. A declaration of indigency shall be signed by the inmate and the inmate's family on forms provided by the department.

(4) "Director" means the deputy secretary of the prisons division or his/her designee(s).

(5) "Superintendent" means the superintendent of a state correctional institution, state honor camp, or other penal institutions as now or hereafter established under the jurisdiction of the department of corrections pursuant to law or his/her designee.

(6) "Department" means the department of corrections.

(7) "Secretary" means the secretary of the department of corrections or his/her designee(s).

(8) "Nonviolent offender" means any person convicted of a felony not classified as a violent offense under chapter 9.94A RCW.

[07-08-082, § 137-52-010, filed 4/2/07, effective 5/3/07. 01-04-001, § 137-52-010, filed 1/24/01, effective 2/22/01. Statutory Authority: RCW 72.01.-380. 85-07-042 (Order 85-07), § 137-52-010, filed 3/19/85. Formerly WAC 275-85-005.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

**Chapter 137-67 WAC****TRANSFER OF CITIZENS OF FOREIGN COUNTRIES****WAC**

137-67-015 Definitions.

**WAC 137-67-015 Definitions.** (1) "Department" is the department of corrections.

(2) "Adult correctional institution" and "institution" is a facility identified in RCW 72.01.050(2) and any similar facility hereafter established.

(3) "Secretary" is the secretary of the department of corrections or the secretary's designee.

(4) "Deputy secretary" is the deputy secretary, prisons division, of the Washington state department of corrections or his/her designee.

(5) "Superintendent" is a superintendent of an adult correctional institution or the superintendent's designee.

(6) "Treaty nation" is a country which has entered into a treaty with the United States on the execution of penal sentences.

(7) "Treaty" is a treaty under which an offender, sentenced in the courts of one country, may be transferred to the country of which the offender is a citizen or national, for the purpose of serving the sentence.

(8) "Country of origin or citizenship" is the country in which the inmate was born or in which the inmate has duly recognized citizenship.

(9) "OIA" is the Office of International Affairs, Criminal Division, United States Department of Justice.

(10) "United States" is the United States of America.

(11) "Detainer" is a hold or request for notification placed by any local, state, or federal law enforcement, penal, or prosecutorial agency based on untried charges, parole or probation violation, escape, unexpired sentence, bond-jumping, or any other fugitive matter.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-67-015, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-67-015, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-015, filed 9/3/85.]

**Chapter 137-68 WAC****ADULT PROBATION AND PAROLE—INTERSTATE COMPACT****WAC**

137-68-010 Definitions.

**WAC 137-68-010 Definitions.** (1) "Compact" is the interstate compact for supervision of probationers and parolees as codified in RCW 9.95.270.

(2) "Compact administrator" is the deputy secretary, prisons division, department of corrections, who is responsible for the administration of the interstate compact for the supervision of adult probationers and parolees.

(3) "Deputy compact administrator" is a person appointed by the compact administrator and delegated responsibility for the administration of the interstate compact.

(4) "Sending state" is the state in which the individual was granted probation or parole and in which the jurisdiction of the case is retained.

(5) "Receiving state" is the state providing supervision of the parolee or probationer under the interstate compact.

(6) "Probationer" is a person under jurisdiction of a state superior or circuit court who is being supervised under the compact.

(7) "Parolee" is a person under jurisdiction of a paroling authority who is being supervised under the interstate compact.

(8) "Parole officer" is a state community corrections officer (CCO) employed by the department of corrections.

(9) "Supervising community corrections officer" is a CCO assigned to supervise a probationer or parolee as required by the interstate compact and to act in regard to all matters connected with hearings conducted pursuant to the interstate compact rules.

(10) "Violations specified" are charges and/or allegations made against probationer or parolee by a parole officer in regard to violation of law or failure to comply with the general conditions of probation or parole or special instructions and conditions as set forth by the court of jurisdiction or the paroling authority.

(11) "Preliminary hearing" is a hearing conducted in accordance with RCW 10.88.290.

(12) "Hearing officer" is a person authorized by the compact administrator to hear cases involving alleged violations of conditions of parole or probation. Neither the person making the allegations of violation or his or her direct supervisor shall act as hearing officer.

[Statutory Authority: RCW 72.01.090, 07-12-073, § 137-68-010, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-68-010, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 9.95.270, 83-01-139 (Order 82-20), § 137-68-010, filed 12/22/82. Formerly WAC 275-102-475.]

### Chapter 137-70 WAC

#### REIMBURSEMENT FOR CRIMINAL JUSTICE COSTS AND CONTINGENCY PLAN EXPENSES

##### WAC

137-70-060 Billing procedure.  
137-70-070 Department review.

**WAC 137-70-060 Billing procedure.** (1) All requests for reimbursement under this chapter must be submitted on a standard Washington State Invoice Voucher Form, A-19, in triplicate, showing the total reimbursement requested, accompanied by a completed request for reimbursement form issued by the department. The vouchers and form should be mailed or delivered to the Department of Corrections, Contracts and Legal Affairs, P.O. Box 41114, Olympia, Washington 98504-1114.

(2) The department may require the requesting political subdivision to submit such other documentation and information the department deems necessary to further support or explain the request.

[Statutory Authority: RCW 72.01.090, 07-12-073, § 137-70-060, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-70-060, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.72.040, 85-07-017 (Order 85-04), § 137-70-060, filed 3/11/85; 84-11-033 (Order 84-06), § 137-70-060, filed 5/14/84; 82-17-044 (Order 82-10), § 137-70-060, filed 8/16/82.]

**WAC 137-70-070 Department review.** (1) All requests for reimbursement shall be reviewed by the administrator.

(2) The administrator shall approve or disapprove the requests for payment. If a request is disapproved in total or in part, the administrator shall notify the requesting political subdivision in writing, setting forth the reasons for disapproval.

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(3) The administrator's decision shall be final unless appealed to the department's impact appeals panel within twenty days after a political subdivision receives notice of disapproval. The impact appeals panel shall be composed of the deputy secretary, prisons division and the deputy secretary, administrative services division, or his/her designee.

(4) An appeal from the administrator's decision disapproving a political subdivision's request for reimbursement must be in writing and must set forth the reasons why the political subdivision believes its request should be approved. The appeal shall be addressed to the Impact Appeals Panel, Department of Corrections, P.O. Box 41114, Olympia, WA 98504-1114, attention: Contracts and Legal Affairs.

(5) The decision of the impact appeals panel shall be deemed to be the department's final administrative action with respect to the appeal.

[Statutory Authority: RCW 72.01.090, 07-12-073, § 137-70-070, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-70-070, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.72.040, 87-03-029 (Order 86-07), § 137-70-070, filed 1/14/87; 85-07-017 (Order 85-04), § 137-70-070, filed 3/11/85; 84-11-033 (Order 84-06), § 137-70-070, filed 5/14/84; 82-17-044 (Order 82-10), § 137-70-070, filed 8/16/82.]

### Chapter 137-75 WAC

#### JAIL AND MEDICAL COST REIMBURSEMENT TO CITIES AND COUNTIES

##### WAC

137-75-020 Definitions.

**WAC 137-75-020 Definitions.** As used in this chapter, the following words shall have the following meanings:

(1) "Secretary" shall mean the secretary of the department of corrections or the secretary's designee;

(2) "Department" shall mean the department of corrections;

(3) "Deputy secretary" shall mean the deputy secretary, prisons division or his/her designee.

(4) "Institution" shall mean a facility designated in RCW 72.01.050(2), any similar facility hereafter established, and a work release facility;

(5) "Work release facility" shall mean a community residence operated pursuant to chapter 72.65 RCW;

(6) "Jail" shall mean a city or county holding facility as defined in RCW 70.48.020(1);

(7) "Parole hold" shall mean a detention of a person pursuant to an order of parole suspension or revocation issued in accordance with RCW 9.95.120;

(8) All references to the singular shall include the plural, unless otherwise noted.

[Statutory Authority: RCW 72.01.090, 07-12-073, § 137-75-020, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-75-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.01.090 and 1984 c 235, 84-15-053 (Order 84-09), § 137-75-020, filed 7/17/84, effective 9/2/84.]

### Chapter 137-79 WAC

#### SEXUAL MISCONDUCT BY STATE EMPLOYEES, CONTRACTORS

##### WAC

137-79-010 Purpose.  
137-79-020 Definitions.  
137-79-030 Sexual contact prohibited.

137-79-040	Sanctions.
137-79-050	Release of records.
137-79-060	Hearing procedure.

**WAC 137-79-010 Purpose.** The purpose of this chapter is to specify penalties for contractors and employees of the department who engage in sexual intercourse or sexual contact with inmates.

[Statutory Authority: RCW 72.01.090 and 72.09.225. 07-21-142, § 137-79-010, filed 10/24/07, effective 11/24/07.]

**WAC 137-79-020 Definitions.** As used in this chapter, the following items shall have the following meanings:

(1) "Secretary" shall mean the secretary of the department of corrections.

(2) "Department" shall mean the department of corrections.

(3) "Inmate" shall mean a person committed to the custody or under the supervision of the department, including but not limited to persons residing in a correctional institution or facility and persons released on furlough, work release, or community custody, and persons received from another state, state agency, county, or federal jurisdiction.

(4) "Sexual intercourse":

(a) Has its ordinary meaning and occurs upon any penetration, however slight; and

(b) Also means any penetration of the vagina or anus however slight, by an object, when committed on one person by another, whether such persons are of the same or opposite sex, except when such penetration is accomplished for medically recognized treatment or diagnostic purposes; and

(c) Also means any act of sexual contact between persons involving the sex organs of one person and the mouth or anus of another whether such persons are of the same or opposite sex.

(5) "Sexual contact" means any touching of the sexual or other intimate parts of a person done for the purpose of gratifying sexual desire of either party or a third party.

(6) "Contractor" includes all subcontractors of a contractor.

(7) "Suspend" shall mean placing the employee on home assignment with pay.

[Statutory Authority: RCW 72.01.090 and 72.09.225. 07-21-142, § 137-79-020, filed 10/24/07, effective 11/24/07.]

**WAC 137-79-030 Sexual contact prohibited.** Sexual intercourse or sexual contact between an employee of the department or an employee of a department contractor and an inmate is strictly prohibited, provided that the termination provisions of this chapter shall not be invoked if the sexual intercourse or sexual contact is against the employed person's will.

[Statutory Authority: RCW 72.01.090 and 72.09.225. 07-21-142, § 137-79-030, filed 10/24/07, effective 11/24/07.]

**WAC 137-79-040 Sanctions.** (1) When the secretary has reasonable cause to believe that sexual intercourse or sexual contact between an employee and an inmate has occurred, notwithstanding any rule adopted under chapter 41.06 RCW the secretary shall immediately suspend the employee.

(2) The secretary shall immediately institute proceedings to terminate the employment of any person:

(a) Who is found by the department, based on a preponderance of the evidence, to have had sexual intercourse or sexual contact with the inmate; or

(b) Upon a guilty plea or conviction for any crime specified in chapter 9A.44 RCW when the victim was an inmate.

(3) When the secretary has reasonable cause to believe that sexual intercourse or sexual contact between the employee of a contractor and an inmate has occurred, the secretary shall require the employee of a contractor to be immediately removed from any employment position which would permit the employee to have any access to any inmate.

(4) The secretary shall disqualify for employment with a contractor in any position with access to an inmate, any person:

(a) Who is found by the department, based on a preponderance of the evidence, to have had sexual intercourse or sexual contact with the inmate; or

(b) Upon a guilty plea or conviction for any crime specified in chapter 9A.44 RCW when the victim was an inmate.

(5) The secretary, when considering the renewal of a contract with a contractor with whom the secretary has taken action under subsection (3) or (4) of this section, shall require the contractor to demonstrate that there has been significant progress made in reducing the likelihood that any of its employees will have sexual intercourse or sexual contact with an inmate. The secretary shall examine whether the contractor has taken steps to improve hiring, training, and monitoring practices and whether the employee remains with the contractor. The secretary shall not renew a contract unless he or she determines that significant progress has been made.

(6) For the purposes of RCW 50.20.060, a person terminated under this section shall be considered discharged for misconduct.

[Statutory Authority: RCW 72.01.090 and 72.09.225. 07-21-142, § 137-79-040, filed 10/24/07, effective 11/24/07.]

**WAC 137-79-050 Release of records.** (1) The department may, within its discretion or upon request of any member of the public, release information to an individual or to the public regarding any person or contract terminated under this section.

(2) An appointed or elected public official, public employee, or public agency as defined in RCW 4.24.470 is immune from civil liability for damages for any discretionary release of relevant and necessary information, unless it is shown that the official, employee, or agency acted with gross negligence or in bad faith. The immunity provided under this section applies to the release of relevant and necessary information to other public officials, public employees, or public agencies, and to the public.

(3) Except as provided in chapter 42.56 RCW, or elsewhere, nothing in this section shall impose any liability upon a public official, public employee, or public agency for failing to release information authorized under this section. Nothing in this section implies that information regarding persons designated in subsection (2) of this section is confidential except as may otherwise be provided by law.

[Statutory Authority: RCW 72.01.090 and 72.09.225. 07-21-142, § 137-79-050, filed 10/24/07, effective 11/24/07.]

**WAC 137-79-060 Hearing procedure.** Hearings under this chapter shall follow the disciplinary hearing processes referenced in the collective bargaining agreement (CBA) applicable to the employee or in Title 357 WAC if the employee is not represented.

[Statutory Authority: RCW 72.01.090 and 72.09.225. 07-21-142, § 137-79-060, filed 10/24/07, effective 11/24/07.]

### Chapter 137-80 WAC INSTITUTIONAL INDUSTRIES

**WAC**  
137-80-020 Definitions.

**WAC 137-80-020 Definitions.** (1) "Secretary" means the secretary of the department of corrections or his/her designee.

(2) "Program administrator" means the administrator of the institutional industries program appointed by the secretary.

(3) "Institutional industries board of directors" means the board established by the authority of the Corrections Reform Act of 1981, RCW 72.09.070.

(4) "Free venture industries" means any industry producing goods or services for sale to both the public and private sector which is operated and managed in total or in part by any profit or nonprofit organization pursuant to an agreement between the organization and the department. Inmates shall be paid a wage by the organization of not less than sixty percent of the approximate prevailing wage within the state for the occupation, as determined by the director, or minimum wage, whichever is greater.

(5) "Tax reduction industries" means any state-owned and operated enterprises designed to reduce the cost for services and goods for tax supported agencies and for nonprofit organizations which assist persons who are poor or infirm. Products of these enterprises may be sold to public agencies and to nonprofit organizations which assist persons who are poor or infirm. Inmates shall be paid for their work on a gratuity scale, approved by the director, which shall not exceed the federal minimum wage.

(6) "Institutional support industries" means any industry operated by the department of corrections designed and managed to provide basic work training and experience to the inmate. All able and eligible inmates who are assigned work and who are not working in other classes of industries are included in this class. Inmates shall be paid for their work in accordance with an inmate gratuity scale adopted by the secretary.

(7) "Community work industries" means any industry operated by the department of corrections designed and managed to provide services in the inmate's resident community at a reduced cost. Services shall be provided to public agencies, to persons who are poor or infirm, or to nonprofit organizations which assist the poor or infirm. Inmates shall receive a gratuity from a unit of local government which shall not exceed the minimum wage.

(8) "Community restitution programs" means any program operated by the state, local unit of government, or a nonprofit agency which assists persons who are poor or infirm which is subject to supervision by the department of

corrections which enables an offender, placed on probation, to work off all or part of a community service order as ordered by the sentencing court.

(9) "Department" means the department of corrections.

(10) "Institutional industries" means the program within the department of corrections charged with developing and managing comprehensive work programs to provide work skills, work experience and exposure to the work ethic for offenders under the jurisdiction of the department.

[Statutory Authority: RCW 72.01.090. 07-12-073, § 137-80-020, filed 6/5/07, effective 7/6/07; 03-21-088, § 137-80-020, filed 10/17/03, effective 11/17/03. Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-020, filed 8/27/82.]

### Chapter 137-96 WAC PRERELEASE PROGRAMS

**Reviser's note:** The following chapter has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed in the code reviser's office and was published in the Washington State Register. It is published in the Washington Administrative Code exactly as filed by the agency with history notes added by code reviser's office.

**WAC**  
137-96-020 Definitions.

**WAC 137-96-020 Definitions.** (1) "Secretary" is the secretary of the department of corrections.

(2) "Deputy secretary" is the deputy secretary, prisons division, department of corrections.

(3) "Assistant deputy secretary" is the assistant deputy secretary, prisons division.

(4) "Superintendent" is the individual responsible for the planning, organizing, and implementation of programs at a prerelease facility.

(5) "Contract staff" is the staff member(s) of an agency under contract to the department of corrections to provide programming for offenders at prerelease.

(6) "Prerelease offender" is an offender who has been approved and placed in prerelease.

(7) "Volunteer escort" is a responsible citizen who has been screened, trained, and assigned to escort and supervise offenders during official and approved activities outside of the facility or to participate in approved activities inside the facility.

(8) "Prerelease" is a total confinement facility approved for housing and supervision of offenders under the jurisdiction of the department of corrections. The program provides the transitional services necessary to assist offenders in their successful return into the community.

[07-08-082, § 137-96-020, filed 4/2/07, effective 5/3/07. 03-16-072, § 137-96-020, filed 8/4/03, effective 9/4/03. 95-22-059, § 137-96-020, filed 10/30/95, effective 12/1/95.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

## Chapter 137-104 WAC

## COMMUNITY CUSTODY VIOLATION HEARINGS

**Reviser's note:** The following chapter has not been adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was filed in the code reviser's office and was published in the Washington State Register. It is published in the Washington Administrative Code exactly as filed by the agency with history notes added by code reviser's office.

## WAC

137-104-020 Definitions.  
137-104-030 Hearing officers.

**WAC 137-104-020 Definitions.** For purposes of this chapter, the following words have the following meanings:

(1) "Appeals panel" means three reviewing officers designated by the secretary with the authority to review hearing officers' decisions, and to affirm, reverse, or modify decisions and sanctions in accordance with RCW 9.94A.737.

(2) "Community corrections officer" means an employee of the department responsible for carrying out specific duties concerning the supervision of sentenced offenders and monitoring of sentence conditions.

(3) "Community custody" means that portion of an offender's sentence of confinement in lieu of earned release time served in the community subject to controls placed on the offender's movement and activities by the department. Offenders supervised on community custody include those subject to community placement (as defined in RCW 9.94A.-030), drug offender sentencing alternative (as described in RCW 9.94A.505), community custody for a sex offense (as described in RCW 9.94A.505), community custody max, first-time offender waiver (as described in RCW 9.94A.505), or a work ethic camp program (as defined in RCW 9.94A.-030), and those sentenced to community custody by the court for crimes committed on or after July 1, 2000, whose sentence is less than one year of confinement. For purposes of this subsection, "community custody max" means a term of community custody for certain sex offenders who have completed their maximum sentences of confinement.

(4) "Department" means the Washington state department of corrections.

(5) "Deputy secretary" means the deputy secretary of the prisons division of the department, or the deputy secretary's designee.

(6) "Graduated sanction system" means structured incremental responses designed to reduce risk to the public, effectively intervene in noncompliant behavior, where possible, repair harm to the community, and make efficient use of limited state resources. Sanctions may include, but are not limited to, partial or total confinement; home detention with electronic monitoring; work crew; community service; inpatient treatment; daily reporting; curfew; educational or counseling sessions; supervisions enhanced through electronic monitoring; or any other sanctions available in the community.

(7) "Hearing officer" means an employee of the department authorized to conduct department hearings.

(8) "Hearings program manager" means the manager of the hearings unit of the department, or the hearings program manager's designee.

(9) "Offender" means any person in the custody of or subject to the jurisdiction of the department.

(10) "Partial confinement" means confinement in a facility or institution operated or utilized under contract by the state or by any other unit of government, to include, but not be limited to, work release, treatment center, residential facility, or home detention with electronic monitoring.

(11) "Probable cause" means a determination, made by a hearing officer, that there is cause to believe a violation has occurred.

(12) "Secretary" means the secretary of the department, or the secretary's designee.

(13) "Stipulated agreement" means an agreement between the offender and the department in which the offender admits violations and agrees to comply with intermediate sanctions. For the purposes of this subsection, "intermediate sanction" means department-imposed sanctions that are served in the community rather than total confinement.

(14) "Total confinement" means confinement inside the physical boundaries of a facility or institution operated or utilized under contract by the state or any other unit of government for twenty-four hours a day, to include, but not be limited to, adult correctional facilities, camp and prerelease facilities or a county or municipal jail.

(15) "Working day" means Monday through Friday, 8:00 a.m. to 5:00 p.m., Pacific Time, except for holidays observed by the state of Washington.

[07-08-082, § 137-104-020, filed 4/2/07, effective 5/3/07. 03-16-072, § 137-104-020, filed 8/4/03, effective 9/4/03. 01-04-044, § 137-104-020, filed 2/1/01, effective 3/1/01.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

**WAC 137-104-030 Hearing officers.** (1) Hearing officers will report to and be supervised by the hearings program manager, within the department's prisons division, through an independent chain of command.

(2) Hearing officers may not hear a case in which they have direct personal involvement in the incident under consideration and must formally disqualify themselves by notifying the hearings program manager. The hearings program manager will select a replacement hearing officer.

(3) Hearing officers shall disqualify themselves if they believe that they cannot render a fair judgment in the hearing. The hearings program manager may change the hearing officer assigned to hear a case upon a written request from an offender and a showing of good cause.

[07-08-082, § 137-104-030, filed 4/2/07, effective 5/3/07. 01-04-044, § 137-104-030, filed 2/1/01, effective 3/1/01.]

**Reviser's note:** Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not adopted under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.