

FORM OF ORDER AND TRANSMITTAL BY AGENCY -AVING SINGLE HEAD

State of Washington

DEPARTMENT OF CORRECTIONS

(agency name)

Administrative Order No. 84-15

(1) I, Amos E. Reed, director of

Department of Corrections

Olympia, Washington

(place)

do promulgate and adopt at

the annexed rules relating to:

Adopt: Chapter 137-32 WAC, Prisons--Administrative Segregation and Intensive Management

Renewal: Chapter 275-82 WAC, Adult Correctional Institutions--Classification of Residents--Administrative Segregation
Chapter 137-66 WAC, Out-of-State Transfer of Inmates--Procedure

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. 84-22-002 filed with the code reviser on October 25, 1984. These rules shall take effect:
[X] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
[ ] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that this order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting the emergency is:

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04.026 that every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules fill in statement (a), (b), or (c) as appropriate:

- (a) This rule is promulgated pursuant to RCW and is intended to administratively implement that statute.
(b) This rule is promulgated pursuant to RCW which directs that the

has authority to implement the provisions of (agency)

(name of act or RCW citation)

(c) This rule is promulgated under the general rule-making authority of the

DEPARTMENT OF CORRECTIONS

(agency)

as authorized in RCW 72.01.090

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(5) This order, after being first recorded in the order register of this agency, is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED

December 17,

19 84

DEC 17 1984

By

Amos E. Reed, Secretary

Title

CODE REVISER'S OFFICE: WSR 85-01-059

## Chapter 137-32 WAC

## PRISONS--ADMINISTRATIVE SEGREGATION AND INTENSIVE MANAGEMENT

NEW SECTION

WAC 137-32-001 PURPOSE. The rules in this chapter define the reasons and establish the process for classifying inmates of adult correctional institutions to administrative segregation status, assigning such inmates to a segregation or intensive management facility or unit and continuing such classification status.

NEW SECTION

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) "Director" means the director of the division of prisons of the department, or the director's designees.
- (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.
- (12) "Intermediate informal review" means an informal review of the inmate's adjustment in administrative segregation by the hearing officer which is documented and may consist of, but not be limited to, discussions with the inmate involved, interviews with staff supervising the inmate and review of any documents relating to the inmate.

NEW SECTION

WAC 137-32-005 INITIAL PLACEMENT. (1) The superintendent 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 presence of such inmate in the general inmate population would constitute a serious threat:

- (a) To the safety of institution staff, visitors or other inmates;
  - (b) To such inmate's safety;
  - (c) Of an escape by such inmate; or
  - (d) To the orderly operation of the institution.
- (2) The superintendent must verify the reason for placing the inmate in a segregation or intensive management unit and document the facts supporting such reason.

NEW SECTION

WAC 137-32-010 INITIAL REVIEW. (1) Immediately after an inmate's initial placement in segregation the hearing officer 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 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 will review the hearing officer's report, and within three working days after the inmate's initial placement in segregation will prepare a written decision accepting or rejecting the hearing officer's recommendations. A copy of the superintendent's decision will be forwarded to the inmate and the hearing officer.

NEW SECTION

WAC 137-32-015 CLASSIFICATION MEETING PROCEDURES. (1) The hearing officer will preside over classification meetings of inmates assigned to administrative segregation status.

(2) A classification meeting will be held not more than ten working days after the initial review meeting decision.

(3) If an inmate is kept in administrative segregation status following the first classification meeting and intermediate informal review, the status will be reviewed in a second classification meeting which will be held twenty working days after the superintendent's intermediate informal review decision. Subsequent classification meetings shall be held at intervals not exceeding one hundred eighty days.

(4) Not less than forty-eight hours prior to each classification meeting the hearing officer, or the hearing officer's designee, will advise the inmate in writing:

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

(b) Of the specific allegations supporting placement or retention in administrative segregation;

(c) Of related criminal charges, if any, evolving from the incident for which the inmate is placed on administrative segregation status;

(d) 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

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

(5) 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.

(6) 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 maintain a record of the meeting setting forth the information presented, including all witness statements.

(c) The superintendent shall 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 request inmates, institution staff members, or other persons to appear and present or clarify information which may be relevant to the hearing officer's decision. If practical, information presented to the hearing officer from confidential sources shall be presented by the individual receiving information from the source. 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 and 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 along with all pertinent facts and actions taken 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 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.

(7) The hearing officer shall make a written report to the superintendent and the inmate within three working days 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) Changes necessary in the inmate's behavior for the inmate's return to the general inmate population; provided, however, accomplishment of any such identified behavioral changes 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.

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

(9) The superintendent shall notify the inmate in writing within five working days after receiving the hearing officer's recommendation of 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.

(10) Inmates reviewed at the second classification meeting will be considered for one or more of the following:

(a) Referral to the director 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, within or without the state.

#### NEW SECTION

WAC 137-32-020 INTERMEDIATE INFORMAL REVIEW. (1) Twenty working days after the superintendent's decision to retain an inmate on administrative segregation status following the first classification meeting, the hearing officer will conduct an informal review of the administrative segregation status with the inmate. In this process the hearing officer will discuss the continued need for administrative segregation with the inmate, review any written material submitted by the inmate, review the inmate's behavior and attitude while in segregation, and such other information as appears relevant. The hearing officer may review any institution records and may discuss the inmate's case with staff as part of this review process.

(2) The hearing officer shall prepare a written summary of the meeting with recommendations for the superintendent who may either release the inmate from or retain the inmate on segregation.

(3) Decisions and recommendations made in this process shall not be appealable, nor shall they be subject to review through the grievance process.

#### NEW SECTION

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 recommend to the superintendent that the inmate be placed on intensive management status stating the reasons therefor.

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

(3) The cases of all inmates assigned to intensive management status will be reviewed by the hearing officer at intervals not to exceed one hundred eighty days; provided, however, if an inmate is assigned to intensive management status sooner than ninety days after the inmate's placement in administrative segregation, the review period shall be consistent with those set forth in WAC 137-32-015 and 137-32-020.

(4) Inmates not approved for intensive management status by the director will be retained on administrative segregation status pending implementation of the action ordered by the director in lieu of assignment to intensive management. The cases of such inmates will be reviewed by the hearing officer at intervals not to exceed one hundred eighty days.

NEW SECTION

WAC 137-32-030 CONDITIONS OF CONFINEMENT. (1) An inmate placed on administrative segregation shall be:

(a) Confined in a reasonably lighted and ventilated environment at a reasonably comfortable temperature;

(b) Provided meals of the same quality and quantity as provided to the general inmate population, unless specific security reasons dictate otherwise;

(c) Provided access to personal hygiene items and facilities in a manner similar to the general inmate population;

(d) Afforded rights to correspondence, reading, legal representation and recreation consistent with reasonable custody and security precautions;

(e) Provided an opportunity for daily exercise for no less than one hour outside of the inmate's cell;

(f) Afforded an opportunity to be visited by a physician, nurse or designated health care person in a manner similar to the general inmate population; and

(g) Provided access to educational programs when available.

(2) The rights of an inmate in administrative segregation confinement with respect to meals, personal hygiene, correspondence, reading, legal representation and recreation may be limited when the provision of such rights will result in danger to the inmate, or to institution staff, or present a threat to the maintenance of reasonable order and security within the institution. Decisions to limit the rights of an inmate in administrative segregation confinement in other than emergency situations must be approved in advance by the superintendent or duty officer. Limitations of rights imposed in emergency situations by other members of the institution staff shall be reviewed as soon as possible by the superintendent.

NEW SECTION

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.

(2) Only the director has the authority to release an inmate from intensive management status.

NEW SECTION

WAC 137-32-040 INTERPRETERS. An interpreter will be provided at the initial review meeting or any classification meeting for those inmates who do not speak or understand English or who are hearing impaired.

NEW SECTION

WAC 137-32-045 OTHER PROCEDURES. The superintendent of each institution shall develop and implement specific procedures governing

the administrative segregation of inmates, which procedures shall be consistent with the provisions of this chapter. No such procedures shall become effective until approved by the director.

NEW SECTION

WAC 137-32-050 TIME LIMITATIONS. The time limitations expressed in this chapter shall not be deemed to be jurisdictional, and failure to adhere to any particular time limitation shall not be grounds for automatic reversal or dismissal of an administrative segregation or intensive management proceeding.

NEW SECTION

WAC 137-32-060 OUT-OF-STATE TRANSFERS. Recommendations for out-of-state transfer may be made by the superintendent to the secretary as specified in these rules, as well as anytime the superintendent believes the transfer to be in the best interests of the state or the welfare of the inmate. Transfer recommendations shall be in writing and shall specify reasons for the recommendations.

REPEALER

The following chapter of the Washington Administrative Code is repealed:

WAC 275-82-005	DEFINITIONS.
WAC 275-82-010	ADMINISTRATIVE SEGREGATION.
WAC 275-82-015	NOTICE OF MEETING.
WAC 275-82-020	REPRESENTATION OF RESIDENT.
WAC 275-82-025	CONDUCT OF MEETING.
WAC 275-82-030	DECISION.
WAC 275-82-035	SEGREGATION STATUS--RIGHTS RETAINED.
WAC 275-82-040	APPEAL.
WAC 275-82-045	REVIEW OF ADMINISTRATIVE SEGREGATION STATUS.
WAC 275-82-050	TRANSFER OF RESIDENT.



REPEALER

The following chapter of the Washington Administrative Code is repealed:

- WAC 137-66-010 PURPOSE.
- WAC 137-66-015 DEFINITIONS.
- WAC 137-66-020 SCOPE OF THIS CHAPTER.
- WAC 137-66-030 REFERRAL FOR TRANSFER.
- WAC 137-66-040 TRANSFER COMMITTEE--COMPOSITION.
- WAC 137-66-050 BASIS FOR TRANSFER.
- WAC 137-66-060 TRANSFER COMMITTEE--PROCEDURES.
- WAC 137-66-070 REPRESENTATION OF INMATE.
- WAC 137-66-080 CONDUCT OF HEARING.
- WAC 137-66-090 PROPOSED TRANSFERS.
- WAC 137-66-100 DECISION OF TRANSFER COMMITTEE.
- WAC 137-66-110 APPEAL.
- WAC 137-66-120 TIME LIMITS.
- WAC 137-66-130 EMERGENCY TRANSFER.