

State of Washington

DEPARTMENT OF CORRECTIONS

(agency name)

Administrative Order No. 84-16

(1) I, Amos E. Reed, director of the Department of Corrections

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

- ADOPT: WAC 137-28-055, Appeal to Hearing Officer
AMEND: WAC 137-28-105, Sanctions--Types

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

This action is taken pursuant to Notice No. 84-22-044 filed with the code reviser on November 6, 1984. These rules shall take effect: [X] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).

(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, 1984

By Amos E. Reed

Amos E. Reed, Secretary Title

STATE OF WASHINGTON FILED DEC 17 1984 CODE REVISER'S OFFICE WSR 85-01-0160

NEW SECTION

WAC 137-28-055 APPEAL TO HEARING OFFICER. (1) The decision of the supervisory employee or the unit team to take administrative action pursuant to WAC 137-28-050(2) may be appealed by the inmate to the hearing officer. Such appeal must be in writing and include the reason why the inmate believes the administrative action taken was improper or inappropriate. The appeal must be delivered to the hearing officer within forty-eight hours after the inmate receives notice of the administrative action taken by the supervisory employee or the unit team.

(2) Within five working days after receipt of the appeal, unless such time is extended by the superintendent, the hearing officer will decide either to:

(a) Schedule a hearing on the appeal in accordance with the rules contained in this chapter; or

(b) Affirm, modify downward, or reverse the administrative action without a hearing; provided, however, if the administrative action imposes a sanction described in WAC 137-28-105(1)(d), the hearing officer may not so affirm or modify without conducting a hearing.

(3) The inmate shall be notified orally of the decision of the hearing officer on the inmate's appeal within twenty-four hours after such decision, and in writing within seventy-two hours after such decision, unless such time periods are extended by the superintendent.

(4) All sanctions imposed by the administrative action of the supervisory employee or the unit team pursuant to WAC 137-28-050(2) shall be stayed pending the appeal under this section and any hearing scheduled by the hearing officer to consider such appeal.

AMENDATORY SECTION (Amending Order 84-13, filed 8/14/84, effective 10/10/84)

WAC 137-28-105 SANCTIONS--TYPES. (1) For general infractions enumerated in WAC 137-28-025 or classified as general infractions by supplementary local rules, one or more of the following sanctions may be imposed:

(a) Reprimand and/or warning;

(b) Loss of specified privileges for not more than ten days on a first offense, twenty days on a second offense, and thirty days on a third offense within a six-month period;

(c) Confinement to room or cell except for attendance at work or school assignment, religious service, or meals, not to exceed ten days;

(d) Interruption or termination of correspondence or visiting with specified individuals for a maximum of ninety days, when there has been an infraction of rules on visits or correspondence as stated in chapters 137-48 and 275-80 WAC or in local rules regarding correspondence and/or visitors; and

(e) Up to one hundred twenty hours of extra work duty.

(2) For serious infractions enumerated in WAC 137-28-030, one or more of the following sanctions may be imposed:

(a) Any of the sanctions enumerated in ((WAC--137-28-105)) this section;

(b) Loss of specified privileges for a period of time not to exceed twenty days except that an inmate shall not be deprived of an opportunity for daily exercise;

(c) Evening lockup or confinement to quarters for ten days;

(d) Weekend and/or holiday lockup or confinement to quarters for a thirty-day period. For purposes of this rule, a "weekend" shall be deemed to begin at the end of the Friday workday;

(e) Confinement to cell except for meals, or with meals in cell, with or without curtailment of job assignment for a period not to exceed ten days;

(f) Recommendation to the classification committee/classification officer for reconsideration of custody classification and/or, when the infraction committed is directly related to the inmate's program, recommendation of program change;

(g) Recommendations to the classification committee/classification officer for transfer to another institution only when, as a result of the infraction committed, the inmate is unable to function in the institution of present confinement, or if other disciplinary methods have been attempted and failed;

(h) Transfer to the maximum security or segregation section, for a period not to exceed thirty consecutive days;

(i) Confinement in an isolation cell for a period not to exceed ten consecutive days: PROVIDED, That where a serious infraction occurs during a period of isolation imposed under this rule, additional periods of isolation not to exceed ten days may be imposed: PROVIDED FURTHER, That in such situation when an inmate may be in isolation for more than ten consecutive days, the director's prior approval shall be required unless the inmate is released from isolation at least for seventy-two consecutive hours between the expiration of one isolation sentence and the imposition of another, where the combined time would exceed ten consecutive days;

(j) Restitution for damage done to any property or loss of any property assigned to the inmate. Funds may be withdrawn from the inmate's account to make restitution under this rule: PROVIDED, That an inmate's account shall not be reduced to less than five dollars under this subparagraph;

(k) Recommendation to the superintendent that he/she not certify good conduct time credit for an inmate to the board of prison terms and paroles, pursuant to RCW 9.95.070 or that he/she deny good conduct time credit for those inmates not under jurisdiction of the board. Such recommendation will be consistent with guidelines established by the secretary of the department of corrections. Any sanctions for loss of good-conduct credits in excess of the guidelines established by the secretary of the department of corrections must have final approval by the director, division of prisons. For inmates not under the board's jurisdiction, all awards of good conduct time shall be considered tentative and therefore all good conduct time credits earned or to be earned may be addressed under this rule;

(l) Recommendation to the board of prison terms and paroles for a disciplinary hearing or reconsideration of minimum term should occur only with infractions providing for actual time loss of twelve months or more and consistent with guidelines established by the department;

(m) The sanction for the following major infractions will not result in loss of good-time credit: 557; 559; 653; 657; 661; and 701.