

CHASE RIVELAND
Secretary



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS

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FAX Number (206) 586-3678 SCAN 321-3676

March 8, 1994

Mr. Gary Reid
Chief Assistant Code Reviser
Office of the Code Reviser
Legislative Building
PO Box 40551
Olympia, WA 98504-0551

Dear Mr. Reid:

The following attached Department of Corrections WAC rules 137-56-010, 137-56-015, 137-56-030, 137-56-040, 137-56-050, 137-56-060, 137-56-070, 137-56-080, 137-56-090, 137-56-095, 137-56-100, 137-56-110, 137-56-120, 137-56-140, 137-56-150, 137-56-160, 137-56-170, 137-56-175, 137-56-180, 137-56-200, 137-56-210, 137-56-220, 137-56-230, 137-56-240, and 137-56-250 are submitted for publication in the Register and the Washington Administrative Code. WAC 137-56-190 is submitted for repeal. Pertinent information is as follows:

- a. Amended rules 137-56-010 through 250 were adopted on March 8, 1994.
- b. The effective date of these amended rules and repeal of 137-56-190 is May 1, 1994.
- c. I certify pursuant to RCW 34.05.030(c) that Rules 137-56-010 through 250 are exempt from the APA.
- d. The purpose is to establish guidelines for departmental policies and rules governing the work training release program.

Thank you for your assistance. Please contact me if you have questions or concerns.

Sincerely,


Chase Riveland
Secretary

CR:KK:ms
Attachments

CODE REVISER'S OFFICE
STATE OF WASHINGTON

MAR 18 1994

TIME: 2:40
WSR 94-07-065

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-010 Definitions. (1) "Secretary" is the secretary of the department of corrections or his/her designee.

(2) "Director" is the director, division of community services, department of corrections.

(3) "Assistant director" is the assistant director, division of community ~~((services))~~ corrections, department of corrections or his/her designee and is the staff member assigned by the director to administer and supervise the work/training release programs in a specific geographic area.

~~((4)) ("Community corrections regional administrator" is the staff member assigned by the assistant director to administer and supervise the work/training release programs in a specific geographic area.~~

~~((5))~~ "Department" is the department of corrections.

~~((6))~~ (5) "Work/training release facility supervisor" is a staff member assigned by the community corrections regional administrator to administer and supervise a specific work/training release facility and includes his/her designee.

~~((7))~~ (6) "Work/training release ~~((counselor))~~ community corrections officer" is a staff member assigned by the work/training release facility supervisor to supervise and counsel a caseload of work/training release ~~((inmates or))~~ residents at a specific work/training release facility.

~~((8))~~ (7) "Contract staff" is the staff member(s) of an agency under contract to the department of corrections to provide housing and ~~((supervision))~~ monitoring for work/training release ~~((inmates or))~~ residents.

~~((9))~~ (8) "Work/training release coordinator" is a staff member assigned by the superintendent of an adult correctional institution to act as liaison between the institution and work/training release facility personnel.

~~((10))~~ (9) "Work/training release ~~((inmate or))~~ resident" is ~~((an inmate of a major adult correctional institution))~~ any offender committed to or transferred to the department's custody pursuant to a valid criminal conviction who has been approved by the department for placement in a designated work/training release facility ((under a work/training release plan, or an offender recommended for placement by the courts or the board of prison terms and paroles in a work/training release facility)).

~~((11))~~ (10) "Sponsor-escort" is a responsible citizen assigned to escort and ~~((supervise an inmate or))~~ monitor a resident during official and social activities outside of the work/training release facility.

~~((12))~~ (11) "Work/training release facility" is an ~~((institution or other))~~ establishment approved for housing and ~~((supervision))~~ monitoring of work/training release ~~((inmates or))~~ residents during the ~~((inmate's or))~~ resident's stay in a work/training release program.

~~((13))~~ (12) "One working day" is a nine-hour day, 8:00 a.m. to 5:00 p.m. excluding weekends and holidays.

AMENDATORY SECTION (Amending Order 86-04, filed 3/3/86)

WAC 137-56-015 Disposition of earnings. Reasonable payment as determined by the department of board and room charges will be deducted from the work/training release ((inmates' or)) residents' earnings. For purposes of this section, earnings shall constitute all income and money received or possessed by the work/training release ((inmate or)) resident while under a work release plan. Nothing in this section shall prohibit the department's authority to obtain reimbursement for moneys advanced to a work/training release ((inmate or)) resident by the department.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-030 Reasons for which given. Work/training release may be authorized for one or more of the following:

(1) To take full-time or part-time employment or to make application to or be interviewed by a prospective employer;

(2) To take vocational training, including attendance at an accredited college.

(3) To make ((application to or be interviewed by prospective employers or to enroll in an academic or vocational training program (known as temporary work/training release)) use of transitional services.

(4) As a sanction for violating release conditions.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-040 Application--Who may apply. (1) An inmate may apply for work/training release provided that:

(a) He or she has a minimum security status;

(b) His or her minimum term has been fixed by the ((board of prison terms and paroles)) indeterminate sentence review board;

(c) He or she ((has less than two years to serve on the minimum term including anticipated good time credits)) is within the last one hundred eighty days of their confinement (SRA offenders only).

(2) Persons convicted of rape in the first degree shall not be eligible for work/training release at any time during the first three years of confinement.

(3) Persons convicted of murder first degree are not eligible for work/training release, without the written approval of the secretary.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-050 Application--Consideration. (1) The inmate shall submit his or her application for work/training release to his or her counselor on forms prescribed by the department.

(2) The classification committee shall make its recommendations to the superintendent, giving written documentation of the information which the committee relied on and giving reasons for the recommendation.

(3) ~~((Work/training release applications shall be evaluated without regard for color, national origin, or creed.~~

~~(4))~~ Probationers/parolees/SRA offenders may be referred by the superior court or ~~((board of prison terms and paroles))~~ indeterminate sentence review board.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-060 Application--Decision. (1) If the superintendent approves the work/training release application, he or she shall forward copies of the application and plan to the work/training release facility to which the inmate requests transfer ~~((; and to the assistant director, community resident programs))~~.

(2) If the superintendent disapproves the work/training release application, he or she shall return the application to the counselor, stating his or her reasons for denial and set a date when the inmate may reapply.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-070 Plan--Investigation. (1) Upon receipt of ~~((an approved work/training release application and plan from the superintendent))~~ a community release plan, the work/training release facility supervisor or his or her designee shall ~~((complete an investigation))~~ screen the information.

(2) The work/training release ~~((investigation))~~ screening process will ~~((verify the plan as it pertains to employment, financial resources, training, community reaction,))~~ be based on established criteria and any ~~((other))~~ additional factors which may affect the ~~((inmate's or))~~ resident's ability to successfully complete a work/training release program.

(3) The ~~((work/training release plan investigation))~~ screening decision will be forwarded by the work/training release facility supervisor to the ~~((assistant director, community residential programs, or his or her designee, with a recommendation for or against approval of the plan))~~ referral source indicating the action taken.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-080 Plan--Approval or denial. (1) The ((assistant)) division director, ((community residential programs,)) or his or her designee has the authority to approve or disapprove a plan.

(2) ((Upon approval of a plan, the on site representative, classification unit in headquarters, shall issue a transfer order.

~~(3))~~ If approved, the ((inmate or)) resident shall sign and agree under oath, to the standard rules of work/training release. (See WAC 137-56-100.)

~~((4))~~ (3) If the plan is disapproved, the ((assistant)) director, ((community residential programs,)) or his or her designee shall state the reasons for denial in writing with a copy to the superintendent and inmate and will set a date when the inmate can reapply.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-090 Plan--Restrictions. (1) ((An inmate or)) A resident ((will not)) may be permitted to travel outside the state for the purpose of employment, training, or treatment with prior written permission of the facility supervisor and agreement to waive extradition.

(2) The work or training site shall be within reasonable commuting distance (in most circumstances not more than fifty miles) of the work/training release facility or institution in which the ((inmate or)) resident is confined.

(3) If the ((inmate or)) resident has been placed in a work/training release facility for the purpose of developing a plan ((temporary work/training release)) and the plan is not secured within ((ten working days)) a reasonable period of time as determined by the department from the date of issuance of transfer orders, the ((inmate or)) resident may be returned to the institution without prejudice.

(4) ((The)) A purpose of work/training release is to provide a ((short adjustment)) transition period ((in a work/training release facility)) prior to ((parole)) release. Before a work/training release plan is approved, the staff will have a reasonable expectation that the ((inmate or)) resident will be ((paroled)) released in a period of time which will normally not exceed six months. If a ((parole)) release date is not fixed within six months of placement in a work/training release plan, the assistant director, ((community resident programs,)) or his or her designee will review the case on an individual basis and may return the ((inmate or)) resident to the institution if it appears that the ((inmate or)) resident will be on work/training release for an extended period of time.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-095 Notification. (1) Each work/training release (~~(inmate or)~~) resident shall be advised in writing of:

- (a) His/her rights and responsibilities;
- (b) Acts prohibited in the work release facility; and
- (c) Disciplinary action which may be taken in the event of a serious infraction or violation of local rules.

(2) Each (~~(inmate)~~) resident, upon entering the work release facility, shall be given a copy of the rules in this chapter and of all local rules of the work/training release facility to which he/she is assigned.

(3) All amendments or additions to this chapter and all amendments or additions to local disciplinary rules, policies, and procedures shall be posted at a specifically designated place or places in each work/training release facility in advance of their effective date if possible and for at least thirty days after their effective date. Work/training release (~~(inmates or)~~) residents shall be responsible for informing themselves of such postings. Complete and up-to-date copies of these rules and all local rules shall be available at each work/training release facility for (~~(inmate)~~) examination.

(4) The work/training release facility supervisor shall ensure that each work/training release (~~(inmate or)~~) resident has the opportunity to understand rules which relate to his/her conduct. If the (~~(inmate)~~) resident is unable to read or understand English, the rules shall be read to him/her promptly in his/her accustomed language.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-100 Standard rules. In consideration of being granted work/training release, the (~~(inmate or)~~) resident must agree to observe and abide by the following rules:

(1) Continue in the approved work or training release plan until it is officially changed. Any modification of the plan must be authorized in writing by the work/training release facility supervisor or designee.

(2) Comply with local work/training release facility rules, and any special restrictions imposed in writing by the work/training release facility supervisor or designee. The (~~(inmate or)~~) resident may appeal in writing to the (~~(community corrections regional administrator,)~~) area assistant director or designee if the (~~(inmate or)~~) resident considers any of the restrictions to be unwarranted or arbitrary.

(3) Comply with such other restrictions and/or conditions as may be imposed in the original work/training release plan by the (~~(community corrections regional administrator)~~) facility supervisor or his or her designee.

(4) Remain confined to the work/training release (~~(facility)~~) premises at all times other than the time necessary to implement the plan or when authorized under WAC 137-56-140. Any work/training release (~~(inmate or)~~) resident approved for placement

under a work/training release plan who willfully fails to report to his or her designated assignment or return to the designated place of confinement at the time specified (~~shall~~) may be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced in accordance with state law.

(5) Have employment or other resources in order to maintain himself or herself financially.

(6) Not consume, ingest, inject, or possess nonprescription narcotic or "dangerous" drugs or controlled substances or alcoholic beverages.

(7) Agree to disburse all earnings in accordance with the approved work/training release plan and report all income to the work/training facility supervisor or his or her designee. All income from any source shall be immediately placed in the resident's (~~trust fund~~) inmate banking account by the facility supervisor or his/her designee. A receipt will be issued (~~by the facility supervisor~~).

(8) Comply with all federal, state, and local laws and regulations.

(9) (~~Inmates or~~) Residents placed on work/training release are ordinarily approved with the understanding that they will be (~~paroled~~) released in a reasonable time, normally within six months. If it is not possible to (~~parole~~) release the (~~inmate or~~) resident within a reasonable period of time, he or she may be returned to the institution.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-110 Serious infractions. Any of the following acts or omissions of the work/training release (~~inmate or~~) resident described and codified in the form below shall constitute a serious infraction. (~~Disciplinary action may be taken against the work/training release inmate or resident in accordance with this chapter in the event of a serious infraction.~~)

Infraction

Code	Act/Omission
800	- Creating a risk to the orderly operation of the facility or the health and safety of its residents, staff, or visitors.
801	- Assaulting any person which results in the hospitalization of the person assaulted.
802	- Assaulting any person.
803	- Extortion, blackmail, demanding or receiving money or anything of value in return for protection against others, or under threat of informing.
804	- Engaging in sexual acts with others within the facility <u>boundaries</u> .
805	- Fighting with any person, provided, however, that self-defense may be a defense to a serious infraction for fighting.
806	- Threatening another with bodily harm or with any offense against his/her person.

- 810 - Intentionally failing to seek or maintain employment or training or to maintain oneself financially.
- 811 - Entering into an unauthorized contract.
- 812 - Failing to report or turn in all earnings or income.
- 813 - Modifying a work release plan by the releasee without authorization.
- 814 - Violating a special condition of work release plan.
- 815 - Failing to comply with all federal, state, and local laws, or court orders.
- 816 - Tampering with or blocking any locking device.
- 817 - Possessing or introducing into the facility an explosive or any ammunition or components of explosives or ammunitions.
- 818 - Possessing or introducing into the facility any unauthorized tool.
- 819 - Possessing or introducing into the facility any gun, firearm, weapon, sharpened instrument, knife, or components thereof.
- 821 - Holding a person hostage or restraining a person against his/her will.
- 825 - Violating conditions of furlough.
- 830 - Escaping/absconding (~~((from the facility))~~) with voluntary return within twenty-four hours.
- 831 - Failing to return to the facility from an authorized sign out.
- 832 - (~~((Escaping/absconding))~~) Escape from the facility.
- 833 - Using physical force in the act of escape.
- 834 - (~~((Escaping/absconding from the facility))~~) Escape and apprehension out-of-state.
- 843 - Possessing, introducing, or using alcohol.
- 844 - Possessing, introducing, or using marijuana or related paraphernalia.
- 845 - Possessing, introducing, transferring, or using any narcotics, controlled substance, or related paraphernalia unless authorized by the supervisor pursuant to a valid prescription or order issued in the course of professional treatment by a licensed medical practitioner.
- 846 - Refusing to submit to a urinalysis, breathalyzer, or other (~~((standard))~~) sobriety test.
- 851 - Lying to a hearing committee.
- 852 - Lying to a staff member which causes an innocent person to be penalized, disciplined, or proceeded against.
- 853 - Intentionally or recklessly setting a fire.
- 854 - Intentionally or recklessly destroying or damaging state property, or the property of another person.
- 855 - Stealing (theft) or knowingly possessing stolen property.
- 856 - Refusing to submit to a body search when lawfully ordered to do so by staff.
- 857 - Refusing and/or failing to work or attend regularly scheduled assignments.
- 858 - Intentionally interfering with a staff member in the performance of his/her duties.
- 859 - Gambling.
- 860 - Possessing money or other negotiable instruments (~~((of five dollars or more))~~) without prior authorization.

- 861 - Performing or participating in a marriage ceremony in the facility or on the facility grounds, except when such marriage was approved by the supervisor.
- 870 - Rioting.
- 871 - Inciting others to riot.
- 872 - Engaging in or inciting prohibited group demonstration.
- 873 - Intentionally interfering with the taking of count.
- 874 - Counterfeiting, forging, falsification, or unauthorized reproduction of any document, article of identification, money, security, or official paper.
- 875 - Making intoxicants, narcotics, or other controlled substances.
- 876 - Giving or offering any official staff member or volunteer a bribe or anything of value for ((a)) favor or unauthorized service.
- 877 - Committing four or more general infractions within a ((six-month)) ninety-day period all of which arise out of separate incidents and have been reported in writing.
- 878 - Intentionally failing to comply with an administrative or post-hearing sanction.
- 900 - Attempting to commit or aiding another person to commit a serious infraction as enumerated in this section. Such action shall be considered the same as commission of the offense itself.
- 901 - Operating a motor vehicle without permission.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-120 Provisions of supervision. In meeting its responsibilities for the care of ((inmates-or)) residents, a work/training release facility shall provide:

(1) A staff on twenty-four hour duty and an office within the facility so that the staff can monitor the activities of the ((inmates-or)) residents;

(2) A check-in and check-out system to ((insure)) ensure that the stated whereabouts of the ((inmate-or)) resident is known at all times, including checks on the ((inmate-or)) resident at school ((and)), work, furlough, sponsored outing, pass, etc.;

(3) Bed checks or head counts to account for the ((inmate's-or)) resident's whereabouts; a minimum of three ((bed-checks)) counts per shift shall be required ((between 12:00 midnight and 8:00 a.m.));

(4) Provide adequately for the ((inmate-or)) resident with respect to sleeping quarters, bathroom facilities, and accommodations for cooking, dining, lounging and leisure time activities;

(5) Comply with state and local fire codes and applicable building, safety, and sanitation codes.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-140 Limits of confinement. A work/training release (~~(inmate or)~~) resident shall be confined to the facility at all times except:

(1) When interviewing prospective employers or arranging for registration at a training facility;

(2) When working at paid employment or attending a training facility in a vocational or academic program;

(3) If enrolled in an on-campus training program and housed in an on-campus facility, when participating in customary and official on-campus activities or mandatory field trips;

(4) When authorized a point-to-point pass not to exceed two hours, excluding travel, for the purpose of transacting personal (~~(essential)~~) business including a treatment regimen, between the hours of 8:00 a.m. and 10:00 p.m. and/or outside that time frame with written permission of the facility supervisor or designee;

(5) When authorized to participate in social and recreational activities in company with a sponsor-escort between 8:00 a.m. and (~~12:00~~) midnight;

(6) When on furlough;

(7) When on authorized medical appointments or court appearances;

(8) When ordered to perform community service.

AMENDATORY SECTION (Amending Order 82-06, filed 4/5/82)

WAC 137-56-150 Sponsor-escort. (1) A sponsor-escort shall be a responsible citizen who shall accompany and (~~(retain custody of)~~) monitor a work/training release (~~(inmate or)~~) resident during a social or recreational activity. The sponsor-escort must be approved by the work/training release facility supervisor or designee; and the sponsor and (~~(the inmate or)~~) resident must sign an agreement with the department which describes his or her responsibilities.

(2) Persons who are on active/inactive felony probation or parole or under an active SRA sentence, shall not be approved as sponsor-escorts. Persons who have a past felony conviction and who have earned a discharge may be approved as sponsor-escorts on an individual basis by the assistant director, (~~(community resident programs)~~) or his or her designee.

(3) Sponsor-escorts must complete a sponsor orientation (~~(class)~~) provided by the work/training release facility before eligibility under this section.

WAC 137-56-160 Termination of plan. (1) At any time after approval has been granted to any work/training release (~~inmate~~ or) resident to participate in the work/training release program, such approval may be revoked, and if the work/training release (~~inmate~~ or) resident has been released from a state correctional institution on a work release plan, he/she may be returned to a state correctional institution, or the plan may be modified, in the sole discretion of the secretary.

(2) Without limiting the authority of the secretary under subsection (1) of this section, a work/training release plan may be terminated or disciplinary action taken by the (~~facility review~~) classification/disciplinary committee pursuant to this chapter:

(a) If requested in writing by the work/training release (~~inmate~~ or) resident;

(b) If the work/training release facility refuses to accept or continue to serve the work/training release (~~inmate~~ or) resident in accordance with its contract with the department;

(c) If the plan is discontinued or modified so that it no longer meets agency standards or if the work/training release (~~inmate~~ or) resident becomes unable to comply with the terms of the plan;

(d) If the work/training release (~~inmate~~ or) resident lacks aptitude for the assignment or is improperly placed; or

(e) If the work/training release (~~inmate~~ or) resident has been unable to adjust or adapt to the conditions of the work/training release facility; or

(f) If the work/training release (~~inmate~~ or) resident has demonstrated through his or her behavior an unwillingness to respond to counseling by staff; or

(g) If the work/training release (~~inmate's~~ or) resident's situation and circumstances have significantly changed; or

(h) If the work/training release (~~inmate~~ or) resident has failed to comply with federal or state laws or local ordinances; or

(i) If the work/training release (~~inmate~~ or) resident has failed to comply with standard work/training release rules as enumerated in WAC 137-56-100; or

(j) If the work/training release (~~inmate~~ or) resident has failed to comply with such other written facility rules as are promulgated by the facility supervisor; or

(k) If the work/training release (~~inmate~~ or) resident has failed to comply with such other specific restrictions or behavior expectations which have previously been called to the attention of the work/training release (~~inmate~~ or) resident by the work/training release facility supervisor and are documented in writing; or

(l) If the work/training release (~~inmate~~ or) resident has committed a serious infraction as enumerated in WAC 137-56-110.

WAC 137-56-170 Service of notice of proposed disciplinary action. (1) If disciplinary action is proposed, the work/training release facility supervisor or community corrections officer may suspend the work/training release plan and place the (~~inmate or~~) resident in custody pending a disciplinary hearing.

(2) The work/training release facility supervisor or designee shall advise the (~~inmate or~~) resident in writing of the factual allegations which provide the basis for the proposed disciplinary action within one working day after the suspension of the work/training release plan.

(3) The factual allegations may be amended and/or new allegations added at any time prior to the disciplinary hearing, provided that the work/training (~~inmate or~~) release resident shall have notice of such new and/or amended allegations at least twenty-four hours prior to the disciplinary hearing unless such notice shall be waived in writing by the resident.

NEW SECTION

WAC 137-56-175 Facility disciplinary hearing committee. (1) The disciplinary hearing committee shall consist of at least two members, including the work/training release facility supervisor, or his/her designee, and a member of the contractor's staff, if the facility is under contract with the department. No resident may be a member of this committee. The facility supervisor or designee shall serve as chairperson and shall have the authority to make the final decision. The facility supervisor or his or her designee shall inform the resident, in writing, of the disciplinary hearing committee's decision within three working days.

(2) At institutions, prerelease facilities, and noncontract work/release facilities, a single hearing officer or the classification committee may serve as the disciplinary hearing committee for work/training release residents housed at those facilities. If the hearing is conducted by a single hearing officer, the hearing must be taped and the tape kept for a minimum of one hundred twenty days after the date of the appeal decision or court action, whichever is later.

(3) No person making an allegation involved in the incident, or called as a witness, shall be a member of the disciplinary hearing committee. Persons called as witnesses must be approved by the disciplinary hearing committee chairperson and must have information or facts which are relative to the allegations being considered. In the event that an individual is disqualified, or disqualifies himself or herself, under this rule or for any other reason, a replacement may be designated by the facility supervisor.

WAC 137-56-180 Disciplinary hearing. (1) A work/training (~~inmate or~~) release resident served with allegations providing the basis for a proposed disciplinary action shall be notified in writing that a hearing has been set before a (~~review~~) disciplinary hearing committee/hearing officer. An allegation involving the commission by the (~~inmate or~~) resident of a serious infraction may be amended at anytime by the department, provided that twenty-four hours notice be given to the (~~inmate~~) resident or the resident agrees in writing to waive notice to respond to the (~~new~~) allegations. The hearing will be set within five working days of the suspension of the work/training release plan, unless a longer time is approved by the area assistant director (~~, community residential programs,~~) or his or her designee. The written notice of hearing shall be given to the (~~inmate or~~) resident at least twenty-four hours before the hearing unless notice is waived, in writing, and advise the (~~inmate or~~) resident of his or her rights, including the following:

(a) The (~~inmate or~~) resident shall be present at all stages of the hearing, except during deliberation in appropriate circumstances.

(b) The (~~inmate or~~) resident shall present his or her own case to the (~~review~~) disciplinary hearing committee/hearing officer. If there is a language or communications barrier, the (~~review~~) disciplinary hearing committee (~~chairman~~) chairperson/hearing officer shall appoint an advisor.

(c) The (~~inmate or~~) resident may have an attorney present at his/her expense, only when a felony has been alleged. Such representation is limited to advising the (~~inmate or~~) resident of his or her rights to remain silent, and does not include the right to act as an advocate throughout the hearing.

(d) The (~~inmate or~~) resident may testify during the hearing or remain silent, and his or her silence will not be held against him or her.

(e) The work/training release (~~inmate or~~) resident may, in preparation for the hearing, ask the (~~review~~) disciplinary hearing committee chairperson/hearing officer that certain department or contract staff members, other work/training release (~~inmates or~~) residents, and other persons be present as witnesses at the hearing. The (~~review~~) disciplinary hearing committee/hearing officer shall grant such request if it is determined by the (~~review~~) disciplinary hearing committee chairperson/hearing officer that to do so would not be unduly hazardous to the work/training release facility's safety or correctional goals: *Provided, however,* Limitations may be made by the (~~review~~) disciplinary committee if the information to be presented by the witnesses is deemed to be irrelevant, duplicative, or unnecessary to the adequate presentation of the work/training release (~~inmate or~~) resident's case.

(2) Attendance at the hearing shall be limited to parties directly concerned. The (~~review~~) disciplinary hearing committee (~~chairman~~) chairperson/hearing officer may exclude unauthorized persons.

(3) The (~~review~~) disciplinary hearing committee/hearing officer shall make an evaluation of the (~~inmate's or resident's~~) progress, attitudes, need for program modifications, work/training

~~alternatives, or institution programming,)) residents and ((shall))~~ may make a recommendation to the ~~((board of prison terms and paroles))~~ indeterminate sentence review board regarding good time credits and readiness for parole.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-200 Disciplinary hearing--Waiver. (1) At any time after having been served with an allegation providing the basis for a proposed disciplinary action, the ~~((inmate or))~~ resident may choose to waive his or her right to a hearing by signing an admission of the allegation and request that the hearing be dispensed with entirely or limited only to questions of disposition. Also, the resident may waive, in writing, the twenty-four hour notice.

(2) The ~~((inmate or))~~ resident may admit in writing to part of the allegations and thereby limit the scope of the hearing.

(3) In those cases where the allegation involves misbehavior or other culpability on the part of the ~~((inmate or))~~ resident, he or she shall be advised in writing that in admitting the violation and waiving the hearing, a report will be submitted ~~((to the board of prison terms and paroles))~~ which may result in the loss of work/training release status, good time credits and/or the extension of the minimum term.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-210 Disciplinary hearing--Rules of evidence. (1) All relevant and material evidence is admissible which, in the ~~((majority))~~ opinion of the ~~((review))~~ disciplinary hearing committee chairperson, is the best evidence reasonably obtainable having due regard for its necessity, availability, and trustworthiness.

(2) All evidence material to the issues raised in the hearing shall be offered into evidence. All evidence forming the basis for the department's decision in a matter shall be offered into evidence.

(3) The work/training release ~~((inmate or))~~ resident shall be allowed to call witnesses approved by the ~~((review))~~ disciplinary hearing committee chairperson pursuant to WAC 137-56-180 (1)(e) and to present documentary evidence in his/her defense at the hearing when permitting the work/training release ~~((inmate or))~~ resident to do so will not be unduly hazardous to the work/training release facility's safety or correctional goals unless the testimony to be presented by the witness and/or the information desired to be presented is deemed by the ~~((review))~~ disciplinary hearing committee chairperson to be irrelevant, immaterial, unnecessarily duplicative of other information and/or testimony before the ~~((review))~~ disciplinary hearing committee, or otherwise found to be

unnecessary to the adequate presentation of the work/training release (~~(inmate or)~~) resident's case. The testimony of all witnesses from outside the work/training release facility shall be considered in writing. In the event the (~~(review)~~) disciplinary hearing committee chairperson determines that the presence of a witness is appropriate, the (~~(review)~~) disciplinary hearing committee should call the witness, or in its discretion, may continue the hearing if the witness is unavailable, but will become available within a reasonable period of time: *Provided, however,* That if the witness is unavailable, the (~~(review)~~) disciplinary hearing committee may, in its discretion, consider the written testimony previously submitted.

(4) The work/training release (~~(inmate or)~~) resident may question witnesses against him/her at the discretion of the (~~(review)~~) disciplinary hearing committee chairperson. If the (~~(review)~~) disciplinary hearing committee chairperson determines that a work/training release (~~(inmate or)~~) resident witness would be subject to risk or harm if his/her identity were disclosed, testimony of the said witness may be introduced by the testimony of a department or contract staff member to whom the information was provided by and/or the affidavit of the witness. If the department or contract staff member to whom the work/training release (~~(inmate or)~~) resident witness provided information is, for good cause, unavailable, the written statement of the department or contract staff member may be used. The (~~(review)~~) disciplinary hearing committee shall, out of the presence of all work/training release (~~(inmates or)~~) residents, inquire as to the identity of any anonymous work/training release (~~(inmate or)~~) resident, and as to how the testifying department or contract staff member received such information. The refusal of the department or contract staff member presenting the testimony of the unidentified work/training release (~~(inmate or)~~) resident witness to identify the witness shall make the testimony inadmissible unless the refusal to identify the witness is approved by the (~~(community corrections regional administrator)~~) area assistant director based on his/her determination of good cause for nondisclosure and that the informant is reliable. The (~~(review)~~) disciplinary hearing committee must make an independent determination as to the reliability of the informant and the credibility of the information offered, except that the (~~(review)~~) disciplinary hearing committee may accept an assurance of credibility from the (~~(community corrections regional administrator)~~) assistant director who approves the nondisclosure of the identity of the work/training release (~~(inmate or)~~) resident. The (~~(inmate)~~) resident should be advised on the record, or subsequently provided with, a statement of good cause as to why the (~~(inmate)~~) resident was not allowed to call a witness or why the identity of (~~(an inmate)~~) a resident witness was not disclosed.

(5) Documentary evidence, including written statements submitted by interested parties on behalf of the (~~(inmate or)~~) resident, may be received. Such evidence may include copies of documents, excerpts from documents and incorporation of written material by reference, including depositions.

(6) The (~~(chairman)~~) chairperson of the (~~(review)~~) disciplinary hearing committee may exclude relevant evidence if the probative value is outweighed by the danger of unfair prejudice, confusion of the issues, misleading the committee or by

considerations of undue delay, waste of time, or needless presentation of cumulative evidence.

(7) The ((~~review~~)) disciplinary hearing committee should determine if the ((~~inmate~~)) resident is competent to understand the charges and proceedings or needs an interpreter to participate therein. If the ((~~inmate~~)) resident is not competent or needs an interpreter, the ((~~review~~)) disciplinary hearing committee should postpone the hearing to secure a report on the competency of the ((~~inmate~~)) resident, provide an interpreter, or take such other action as will assure the fairness and orderliness of the hearings.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-220 Disciplinary hearing--Findings and conclusions. (1) At the conclusion of the hearing, the ((~~review~~)) disciplinary hearing committee will make a finding of fact within one working day as to whether or not the allegations made against the ((~~inmate-or~~)) resident have been proven by a preponderance of the evidence presented at the hearing.

(2) If the ((~~review~~)) disciplinary hearing committee determines that the allegations have not been proven by a preponderance of the evidence presented at the hearing, the ((~~inmate-or~~)) resident shall be restored ((~~to~~)) continued on work/training release status.

(3) If the ((~~review~~)) disciplinary hearing committee determines that one or more of the allegations have been proven by a preponderance of the evidence presented at the hearing, the ((~~review~~)) disciplinary hearing committee will proceed to a disposition.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-230 Disciplinary hearing--Disposition. (1) The ((~~review~~)) disciplinary hearing committee will consider the ((~~inmate's-or~~)) resident's total background, adjustment on work/training release, attitude, recommendations of interested parties, and any other information relative to the ((~~inmate's-or~~)) resident's ability to continue in the program. The ((~~review~~)) disciplinary hearing committee shall make a determination as to whether or not the ((~~inmate-or~~)) resident has earned good time credits ((~~towards parole~~)) toward release, and whether the matter should be referred to the ((~~board of prison terms and paroles~~)) indeterminate sentence review board or the court for possible increase in the inmate's or resident's minimum term.

(2) The ((~~inmate-or~~)) resident shall be present at all stages of the hearing, except for deliberation and even during deliberation when appropriate, and shall have the opportunity to make argument in his or her own behalf.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-240 Disciplinary hearing--Decision. (1) The ((review)) disciplinary hearing committee may:

(a) Restore the work/training release ((inmate-or)) resident to his or her work/training release status under the same or modified conditions as the original plan; or

(b) Restrict the ((inmate-or)) resident to the work/training release facility for up to thirty days; or

(c) Require restitution be made by the work/training release ((inmate-or)) resident; or

(d) Require extra duty to be performed by the ((inmate-or)) resident; or

(e) Revoke approval of an approved sponsor; or

(f) Deny good conduct time; or

(g) Require additional time in ((Phase-II)) prerelease; or

(h) ((Revoke)) Terminate the work/training release plan and return the work/training release ((inmate-or)) resident to an institution/jail, or ((Phase-II)) facility; or

(i) ((Return)) Refer the offender to the court or the ((board of prison terms and paroles)) indeterminate sentence review board for final disposition.

(2) Nothing in this section shall preclude subsequent reclassification of the work/training release ((inmate-or)) resident or placement into administrative segregation.

(3) The facility supervisor or designee shall notify the ((inmate-or)) resident orally within one working day and confirm the decision in writing within ((three)) five working days. The written decision shall specify the evidence upon which the ((review)) disciplinary hearing committee relied and shall include a description of the circumstances surrounding the allegation(s) upon which the termination of the work/training release is based, the reasons for the decision, a discussion of the ((inmate's-or)) resident's personal culpability in the actions which have led to the termination, and an evaluation of the ((inmate's-or)) resident's progress, attitudes, need for further programs including work training alternatives and readiness for ((parole)) release.

AMENDATORY SECTION (Amending Order 86-02, filed 2/21/86)

WAC 137-56-250 Disciplinary hearing--Appeal. The ((inmate-or)) resident may appeal the decision of the facility ((review)) disciplinary hearing committee to the ((community corrections regional administrator)) assistant director, or his or her designee. Appeal requests must be in writing, must be specific and based on objection to the procedures used or the information available to the committee in making its decision. Appeals must be submitted within five working days of the committee's oral decision. The ((community corrections regional administrator)) assistant director, or his or her designee, upon receipt of an appeal, will review the findings and decision of the ((review)) disciplinary hearing committee and either:

(1) Affirm, or affirm and modify to a lesser sanction the decision of the facility ((review)) disciplinary hearing committee; or

(2) Reverse the decision of the facility ((review)) disciplinary hearing committee; or

(3) Remand the decision for additional findings or rehearing.

~~((The reviewer's decision will be made promptly, normally not to exceed five working days, and given to the inmate or resident and committee chairman in writing.))~~

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 137-56-190 Facility review committee.