

Title 137 WAC

CORRECTIONS, DEPARTMENT OF

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- 137-12-010 Definitions. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-010, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040. Later promulgation, see chapter 137-12A WAC.
- 137-12-020 Purpose. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-020, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040.
- 137-12-030 Eligible political subdivisions. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-030, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040.
- 137-12-040 Period of funding. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-040, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040.
- 137-12-050 Funding priority. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-050, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040.
- 137-12-060 Billing procedure. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-060, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040.
- 137-12-070 Cutoff date. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-070, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040.
- 137-12-080 Review committee. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-080, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040.
- 137-12-090 Special authorizations. [Statutory Authority: RCW 72.01.090. 81-19-001 (Order 2), § 137-12-090, filed 9/3/81.] Repealed by 84-06-009 (Order 84-03), filed 2/27/84. Statutory Authority: RCW 72.02.040 and 72.72.040.

Chapter 137-66 OUT-OF-STATE TRANSFER OF INMATES—PROCEDURE

- 137-66-010 Purpose. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-010, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090. Later promulgation, see WAC 137-32-060
- 137-66-015 Definitions. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-015, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-020 Scope of this chapter. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-020, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-030 Referral for transfer. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138

- 137-66-040 (Order 82-17), § 137-66-030, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090. Transfer committee—Composition. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-040, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-050 Basis for transfer. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-050, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-060 Transfer committee—Procedures. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-060, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-070 Representation of inmate. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-070, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-080 Conduct of hearing. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-080, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-090 Proposed transfers. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-090, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-100 Decision of transfer committee. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-100, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-110 Appeal. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-110, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-120 Time limits. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-120, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.
- 137-66-130 Emergency transfer. [Statutory Authority: RCW 72.09.050, chapters 72.68 and 72.70 RCW. 83-01-138 (Order 82-17), § 137-66-130, filed 12/22/82.] Repealed by 85-01-059 (Order 84-15), filed 12/17/84. Statutory Authority: RCW 72.01.090.

**Chapter 137-04 WAC
INTRODUCTORY**

WAC

- 137-04-010 Definitions.
- 137-04-015 Establishment of department.
- 137-04-020 Structure of the department.
- 137-04-030 Use of gender and number.

WAC 137-04-010 Definitions. As used in this title:

- (1) "Secretary" means the secretary of the department of corrections.
- (2) "Department" means the department of corrections.
- (3) "Inmate" means any person committed to the custody of the department, including but not limited to persons residing in a correctional institution or facility and persons released on furlough or work release.

(4) The term "resident," as well as inmate, is used to designate a person on parole or probation status residing at a community residential facility.

[Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-04-010, filed 1/26/82.]

WAC 137-04-015 Establishment of department.

The department of corrections was established effective July 1, 1981, by chapter 136, Laws of 1981, 47th legislature. Previously, functions delegated to the department of corrections were assigned to the adult corrections division, department of social and health services.

[Statutory Authority: RCW 42.17.250. 82-04-023 (Order 82-3), § 137-04-015, filed 1/26/82.]

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 four divisions which are headed by directors who report to the secretary. The responsibilities of these divisions are:

(a) The division of prisons is responsible for the operation of all state correctional facilities, including the Washington state penitentiary; the Washington corrections center; the Washington state reformatory; the McNeil Island penitentiary; the Purdy treatment center for women; the Cedar Creek corrections center; the Clearwater corrections center; the Firland correctional center; the Indian Ridge treatment center; the Larch corrections center; the Olympic correctional center; the Pine Lodge correctional center; the special offender center; and such other state correctional institutions, camps or facilities as may hereafter be established pursuant to law under the jurisdiction of the department for the confinement of convicted felons.

(b) The division of community services is responsible for community based services such as probation and parole and work/training release.

(c) The division of management and budget is responsible for providing a variety of services to the other divisions and offices of the department including budget and accounting, management information systems, research and analysis, management services, internal audit, and contracts and regulations.

(d) The division of institutional industries is responsible for providing a comprehensive work program for inmates, including free venture industries, tax reduction industries, institutional support industries, community work industries, and community service programs. All inmates working in prison industries are paid a wage and contribute to the cost of corrections. Inmates are assigned to these programs based on skills, aptitude, and experience.

(3) Also reporting to the secretary are the chiefs of personnel services, legal services, public information, special investigations, assistant secretary for program development, and legislative liaison and supervisor of internal audits.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-04-020, filed 1/26/82.]

WAC 137-04-030 Use of gender and number. As used in this title, words importing the singular number may extend and be applied to several persons or things and vice versa. Words importing the masculine gender may be applied to females or organizations.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-04-030, filed 1/26/82.]

Chapter 137-08 WAC PUBLIC RECORDS—DISCLOSURE

WAC

137-08-010	Purpose.
137-08-020	Definitions.
137-08-060	Public records available.
137-08-070	Public disclosure officer.
137-08-080	Public disclosure coordinator.
137-08-090	Request for public records.
137-08-100	Disclosure to client's representative.
137-08-105	Correction of erroneous information.
137-08-110	Fees—Inspection and copying.
137-08-120	Protection of public records.
137-08-130	Disclosure procedure.
137-08-140	Review of denial of disclosure.
137-08-150	Exemptions to public records disclosure.
137-08-160	Qualifications on nondisclosure.
137-08-170	Interagency disclosure.
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 Disclosure Act, RCW 42.17.250 through 42.17.340.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-010, filed 1/26/82.]

WAC 137-08-020 Definitions. (1) "Public records" include any writing containing information relating to the conduct of government or the performance of any governmental or proprietary function prepared, owned, used or retained by the department regardless of physical form or characteristics.

(2) "Writing" means handwriting, typewriting, printing, photostating, photographing, and every other means of recording any form of communication or representation, including letters, words, pictures, sounds, or symbols, or combination thereof; and all papers, maps, magnetic or paper tapes, photographic films and prints, magnetic or punched cards, discs, drums, and other documents.

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

(4) "Client" means any person or organization about whom the department has a record.

(5) "Disclosure" means inspection and/or copying.

(6) "Denial of disclosure" denotes any exempting from disclosure of any public record.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-020, 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 ten 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 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 137-08-070 Public disclosure officer. The department shall designate a public disclosure officer, located in the state administrative office, who shall be responsible for implementing the department's rules regarding disclosure of public records, coordination of staff in this regard, and generally insuring compliance by the staff with public records disclosure requirements.

[Statutory Authority: RCW 10.97.080 and 42.17.320, 86-10-010 (Order 86-05), § 137-08-070, filed 4/29/86. Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-070, filed 1/26/82.]

WAC 137-08-080 Public disclosure coordinator. Each departmental administrative unit, for example, each institution, shall designate from among its employees at least one public disclosure coordinator, who shall:

(1) Have responsibility to respond to written requests for disclosure of the department's nonexempt public records located in that office; and

(2) Refer the person requesting disclosure to any other office where the record is located, and assist further in the disclosure process; and

(3) Verify, if necessary, the identity of any person requesting information.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-080, filed 1/26/82.]

WAC 137-08-090 Request for public records. (1) Unless waived by a public disclosure coordinator, all requests for the disclosure of a public record must be in writing identifying the record sought with reasonable certainty. The written request may include:

(a) The name of the person requesting the record;

(b) The time of day and calendar date on which the request is made, and;

(c) The nature of the request.

(2) A request for disclosure shall be made during customary business hours.

(3) If the public record contains material exempt from disclosure pursuant to law, including those laws cited in WAC 137-08-150, the department must provide the person requesting disclosure with a written explanation for the nondisclosure, pursuant to WAC 137-08-130.

(4) Any person continuing to seek disclosure, after having received a written explanation for nondisclosure pursuant to WAC 137-08-130, may request a review under the provisions of WAC 137-08-140.

(5) When a person's identity is relevant to an exemption, that person may be required to provide personal identification.

(6) Nothing in this section or elsewhere in this chapter shall be construed to require the department to compile statistics or other information from material contained in public records, where doing so would unduly interfere with other essential functions of the department and is not required for litigation by rules of pretrial discovery.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-090, filed 1/26/82.]

WAC 137-08-100 Disclosure to client's representative. (1) If a client requests disclosure to a representative, that request must be accompanied by a written release signed by the client, except that, as an accommodation to the client and if the legislator or attorney representing the client can provide assurance that the client has authorized disclosure, the client's record may be briefly discussed with that legislator or attorney so long as there is neither physical inspection nor copying of client records by that representative. A written release must include:

(a) The identity of the person(s) or organization(s) to whom disclosure is to be made;

(b) An identification of the record, or portion thereof, to be disclosed;

(c) A statement of when the authorization for disclosure expires.

(2) Disclosures of information to a representative shall be made to the same extent as to the client.

(3) The legal guardian of a client has any and all rights accorded to a client by this section.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-100, filed 1/26/82.]

WAC 137-08-105 Correction of erroneous information. (1) A client may challenge the accuracy or completeness of criminal history record information, as defined in chapter 10.97 RCW, pertaining to the client and maintained in the department's files. Such challenge shall be effected in accordance with chapter 446-20 WAC.

(2) A client may challenge the accuracy and completeness of information in the department's files pertaining to the client other than criminal history record information. Such challenge shall be effected in accordance with department policies and procedures.

[Statutory Authority: RCW 10.97.080, 42.17.250 and 72.01.090, 85-13-020 (Order 85-06), § 137-08-105, filed 6/10/85.]

WAC 137-08-110 Fees—Inspection and copying. (1) No fee shall be charged for the inspection of public records.

(2) The department shall collect a fee of twenty cents per page plus postage to reimburse itself for the cost of providing copies of public records.

(3) Nothing contained in this section shall preclude the department from agreeing to exchange or provide copies of manuals or other public records with other state or federal agencies, whenever doing so is in the best interest of the department.

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(4) The secretary of the department or his designee is authorized to waive any of the foregoing copying costs.

[Statutory Authority: RCW 10.97.080, 42.17.250 and 72.01.090, 85-13-020 (Order 85-06), § 137-08-110, filed 6/10/85. Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-110, filed 1/26/82.]

WAC 137-08-120 Protection of public records. Public records shall be disclosed only in the presence of a public disclosure coordinator or his or her designee, who shall withdraw the records if the person requesting disclosure acts in a manner which will damage or substantially disorganize the records or interfere excessively with other essential functions of the department. This section shall not be construed to prevent the department from accommodating a client by use of the mails in the disclosure process.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-120, filed 1/26/82.]

WAC 137-08-130 Disclosure procedure. (1) The public disclosure coordinator shall review file materials prior to disclosure.

(2) If the file does not contain materials exempt from disclosure, the public disclosure coordinator shall ensure full disclosure.

(3) If the file does contain materials exempt from disclosure, the public disclosure coordinator shall deny disclosure of those exempt portions of the file, and shall, at the time of the denial, in writing, clearly specify the reasons for the denial of disclosure, including a statement of the specific exemptions or reasons authorizing the withholding of the record and a brief explanation of how the exemption or reason applies. The remaining, nonexempt materials shall be fully disclosed.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-130, filed 1/26/82.]

WAC 137-08-140 Review of denial of disclosure. (1) If the person requesting disclosure disagrees with the decision of a public disclosure coordinator denying disclosure of a public record, such person may petition the department's public disclosure officer for review of the decision denying disclosure. The form used by the public disclosure coordinator to deny disclosure of a public record shall clearly indicate this right of review.

(2) Within ten working days after receipt of a petition for review of a decision denying disclosure, the public disclosure officer shall review the decision denying disclosure, and advise the petitioner, in writing, of the public disclosure officer's decision on the petition. Such review shall be deemed completed at the end of the second business day following denial of disclosure, and shall constitute final agency action for the purposes of judicial review.

[Statutory Authority: RCW 10.97.080 and 42.17.320, 86-10-010 (Order 86-05), § 137-08-140, filed 4/29/86. Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-140, 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 42.17.250 through 42.17.340.

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 42.17.310 (1)(a); 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 42.17.310 (1)(d) and (e), 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 42.17.310 (1)(b);

(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 42.17.310 (1)(i);

(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 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 42.17.310(2).

(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 42.17.310(3), or an order of the office of hearings enforcing a subpoena.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-160, filed 1/26/82.]

WAC 137-08-170 Interagency disclosure. (1) Unless prohibited by law, information may be disclosed by the department to outside agencies, including other state of Washington agencies, or agencies of other states.

(2) Outside agencies receiving information pursuant to subsection (1) of this section shall be thereby subject to the same standards of disclosure as are required of the department.

[Statutory Authority: RCW 42.17.250, 82-04-023 (Order 82-3), § 137-08-170, filed 1/26/82.]

WAC 137-08-180 Records index. (1) The department finds that it would be unduly burdensome and would interfere with agency operations to maintain an index of records because of the complexity and diversity of its operations and the resulting volume of manuals, correspondence, reports, surveys, staff studies, and other materials.

(2) The department will make available for public disclosure all indices which may at a future time be developed for agency use.

[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.
137-10-010	Definitions.
137-10-015	Qualifications and filing.
137-10-020	Form of petition.
137-10-025	Consideration and disposition.

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 34.04.060, or for a declaratory ruling pursuant to RCW 34.04.080.

[Statutory Authority: RCW 34.04.060 and 34.04.080. 86-02-051 (Order 85-11), § 137-10-005, filed 12/31/85.]

WAC 137-10-010 Definitions. (1) "Department" means the department of corrections.

(2) "Secretary" means the secretary of the department of corrections or the secretary's designee.

[Statutory Authority: RCW 34.04.060 and 34.04.080. 86-02-051 (Order 85-11), § 137-10-010, filed 12/31/85.]

WAC 137-10-015 Qualifications and filing. (1) Any interested person may petition the department for the promulgation of a new department rule, the amendment or repeal of an existing department rule, or for a declaratory ruling with respect to the applicability to any person, property, or state of facts of any rule or statute enforced by the department.

(2) All such petitions shall be delivered or mailed to the Office of the Secretary, Department of Corrections, P.O. Box 9699, Olympia, Washington 98504.

[Statutory Authority: RCW 34.04.060 and 34.04.080. 86-02-051 (Order 85-11), § 137-10-015, filed 12/31/85.]

WAC 137-10-020 Form of petition. (1) A petition filed under this chapter shall be typewritten or prepared in other legible form on 8 1/2" by 11" white paper.

(2) If such petition is for the promulgation, amendment, or repeal of a department rule, it shall be captioned as follows:

In the matter of the petition of (name of the petitioning party). } Petition for (state whether for promulgation, amendment, or repeal) of rule(s).

(3) If such petition is for a declaratory ruling it shall be captioned as follows:

In the matter of the petition of (name of petitioning party) } Petition for Declaratory Ruling

(4) The text of such petitions shall be set out in consecutively numbered paragraphs, the first of which shall contain the name and mailing address of the petitioning party. All petitions shall be dated and signed by the petitioning party.

(5) A petition for the promulgation, amendment, or repeal of a department rule shall set forth:

(a) A statement of whether the petition is for the promulgation of a new rule, or the amendment or repeal of an existing rule;

(b) The full text of any desired new rule, or the citation and full text of any existing rule and the full text of the amendment sought, or the citation and full text of any rule sought to be repealed;

(c) The reason for the requested promulgation, amendment, or repeal;

(d) The facts, allegations, and arguments on which the petitioning party relies in support of the requested promulgation, amendment, or repeal; and

(e) The nature of the interest of the petitioning party in the subject matter of the rule.

(6) A petition for a declaratory ruling of the department shall set forth:

(a) The full text and citation of the rule or statute upon which the declaratory ruling is sought;

(b) The nature of the declaratory ruling sought;

(c) The reasons why the declaratory ruling is sought;

(d) The facts, allegations, and arguments on which the petitioning party relies in support of the issuance of the declaratory ruling; and

(e) The nature of the interest of the petitioning party in the subject matter of the petition.

[Statutory Authority: RCW 34.04.060 and 34.04.080. 86-02-051 (Order 85-11), § 137-10-020, filed 12/31/85.]

WAC 137-10-025 Consideration and disposition.

(1) Within thirty days after its receipt, a petition filed pursuant to this chapter will be considered by a member(s) of the department's staff appointed by the secretary for that purpose. Such staff member(s) may conduct a hearing on the petition, in which event the petitioning party will be given twenty days notice of the date, time, and place for such hearing. Upon completion of its consideration, the department staff will submit its recommendation with respect to the petition to the secretary.

(2) Within thirty days after receipt of the staff's recommendations the secretary will consider the petition and the

recommendations and decide either to deny the petition or, as the case may be, to direct rule-making proceedings consistent with the petition be commenced; or decide that a declaratory ruling be issued.

(3) The petitioning party will be notified of the secretary's decision in writing. If the petition is denied, the reason for such denial will be set forth in the notice. If a declaratory ruling is issued, a copy will be mailed to the petitioning party.

[Statutory Authority: RCW 34.04.060 and 34.04.080. 86-02-051 (Order 85-11), § 137-10-025, filed 12/31/85.]

Chapter 137-12A WAC

ONE-TIME IMPACT FUNDS AVAILABLE TO QUALIFYING POLITICAL SUBDIVISIONS

WAC

137-12A-010	Purpose.
137-12A-020	Definitions.
137-12A-030	Eligibility.
137-12A-040	Funding priority.
137-12A-050	Application procedure.
137-12A-060	Department review committee.
137-12A-070	Contracts.
137-12A-080	Implied consent to audit.
137-12A-090	Limitation of funding.

WAC 137-12A-010 Purpose. The purpose of this chapter is to implement the distribution of funds appropriated by the legislature to mitigate the one-time cost impact associated with locating additional state correctional facilities within their boundaries; with the cost of criminal justice and social/human services associated with inmate families within their boundaries; or the costs associated with the one-time impact of adding beds or increasing population capacity at correctional facilities.

[Statutory Authority: RCW 72.01.090. 91-10-018, § 137-12A-010, filed 4/23/91, effective 5/24/91. Statutory Authority: RCW 72.01.090 and 1984 c 246 § 2. 84-14-077 (Order 84-10), § 137-12A-010, filed 7/2/84. Statutory Authority: RCW 72.02.040 and 72.72.040. 84-06-009 (Order 84-03), § 137-12A-010, filed 2/27/84. Formerly chapter 137-12 WAC.]

WAC 137-12A-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 an individual sentenced to the custody of the department under state law and an individual transferred from another state or the federal government.

(4) "Institution" shall mean a facility described in RCW 72.01.050(2), such other similar facility hereafter established and a community residence operated pursuant to chapter 72.65 RCW.

(5) "Political subdivision" shall mean any city, town, county or other unit of local government.

(6) "Additional correctional facility" shall mean (a) a new building constructed at a new location for use in housing or servicing inmates; (b) a new building constructed on the grounds of an existing institution for use in housing

or servicing inmates; and/or (c) a preexisting building heretofore not used by the department as a correctional facility which is reopened for use in housing or servicing inmates.

(7) "One-time cost impact" shall mean an economic impact experienced by a political subdivision associated with locating an additional correctional facility within its boundaries or associated with such other event specifically designated by the legislature.

(8) "Inmate family" shall mean the inmate's dependent children, the inmate's spouse or parent and their dependents, or the legal guardian of the inmate's dependent children who were not residents of the local county where the inmate is incarcerated prior to the incarceration of the inmate.

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

[Statutory Authority: RCW 72.01.090, 91-10-018, § 137-12A-020, filed 4/23/91, effective 5/24/91. Statutory Authority: RCW 72.01.090 and 1984 c 246 § 2, 84-14-077 (Order 84-10), § 137-12A-020, filed 7/2/84. Statutory Authority: RCW 72.02.040 and 72.72.040, 84-06-009 (Order 84-03), § 137-12A-020, filed 2/27/84.]

WAC 137-12A-030 Eligibility. (1) A political subdivision is eligible to apply for mitigating funds under this chapter if it experiences a demonstrable one-time cost impact; or demonstrable costs for criminal justice and social/human services related to inmate families. Provided, however, application must be made prior to the last day of the state fiscal biennium in which the one-time cost impact occurred. Applications made after that date will be considered only if funds appropriated by the legislature are available.

(2) A political subdivision which has been reimbursed for a one-time cost impact is thereafter not eligible to apply for additional funding under this chapter based on the same event which gave rise to the one-time impact for which reimbursement has been received.

[Statutory Authority: RCW 72.01.090, 91-10-018, § 137-12A-030, filed 4/23/91, effective 5/24/91. Statutory Authority: RCW 72.01.090 and 1984 c 246 § 2, 84-14-077 (Order 84-10), § 137-12A-030, filed 7/2/84. Statutory Authority: RCW 72.02.040 and 72.72.040, 84-06-009 (Order 84-03), § 137-12A-030, filed 2/27/84.]

WAC 137-12A-040 Funding priority. The impact committee established herein shall establish a priority of funding under this chapter.

[Statutory Authority: RCW 72.01.090 and 1984 c 246 § 2, 84-14-077 (Order 84-10), § 137-12A-040, filed 7/2/84. Statutory Authority: RCW 72.02.040 and 72.72.040, 84-06-009 (Order 84-03), § 137-12A-040, filed 2/27/84.]

WAC 137-12A-050 Application procedure. (1) A political subdivision must request funding under this chapter by submitting a written request to:

Department of Corrections
Office of Contracts and Regulations
P.O. Box 9699
Olympia, WA 98504

(2) Requests must document the one-time cost impact for which reimbursement is requested. Such documentation may include reference to:

- (a) Criminal justice costs.
- (b) Social service or human service costs.
- (c) Transportation, roads and utility costs.
- (d) Other similar costs.

(3) Requests for reimbursement of costs related to inmate families shall be documented by the political subdivision and take into account offsetting revenues from federal, state, or charitable sources. Such documentation shall include, but not be limited to:

(a) Social service or human service costs within the community related to inmate families.

(b) Criminal justice costs.

(c) The relationship of those costs to the offender population.

(d) An affidavit that such costs are not funded or offset from other sources or subject to reimbursement by the recipient of such services.

(4) The burden of demonstrating the impact shall be on the requesting political subdivision. The department may provide technical assistance to the political subdivision and verification of impact requests.

[Statutory Authority: RCW 72.01.090, 91-10-018, § 137-12A-050, filed 4/23/91, effective 5/24/91. Statutory Authority: RCW 72.01.090 and 1984 c 246 § 2, 84-14-077 (Order 84-10), § 137-12A-050, filed 7/2/84. Statutory Authority: RCW 72.02.040 and 72.72.040, 84-06-009 (Order 84-03), § 137-12A-050, filed 2/27/84.]

WAC 137-12A-060 Department review committee.

(1) All requests shall be reviewed by a department committee composed of the following individuals or their designees:

(a) The assistant director, siting;

(b) Director, division of management and budget;

(c) Director, division of prisons;

(d) Contracts and regulations administrator;

(e) Chief, facilities management and administrative services;

(f) Director, division of community corrections; and the

(g) Senior assistant attorney general assigned to the department.

(2) The review committee shall approve or disapprove the requests. If a request is disapproved in total or in part, the committee shall send a letter to the requesting political subdivision with the reasons for disapproval.

(3) The committee decision shall be final unless appealed to the secretary within twenty days after a political subdivision receives notice of disapproval.

[Statutory Authority: RCW 72.01.090, 91-10-018, § 137-12A-060, filed 4/23/91, effective 5/24/91; 87-06-045 (Order 87-01), § 137-12A-060, filed 3/4/87. Statutory Authority: RCW 72.02.040 and 72.72.040, 84-06-009 (Order 84-03), § 137-12A-060, filed 2/27/84.]

WAC 137-12A-070 Contracts. Requests approved for funding under this chapter shall be evidenced in a written contract document processed through the office of contracts and regulations and approved by the secretary and submitting jurisdiction. Funding shall be limited to actual costs incurred during the term of the contract.

[Statutory Authority: RCW 72.01.090, 91-10-018, § 137-12A-070, filed 4/23/91, effective 5/24/91. Statutory Authority: RCW 72.02.040 and 72.72.040, 84-06-009 (Order 84-03), § 137-12A-070, filed 2/27/84.]

WAC 137-12A-080 Implied consent to audit. (1) By submitting requests the requesting political subdivision agrees to maintain records which would support the request made for a period five years after the date of such request.

(2) If requested by the secretary, or his/her designee, the political subdivision shall make these records available for review and/or audit by the department.

[Statutory Authority: RCW 72.02.040 and 72.72.040. 84-06-009 (Order 84-03), § 137-12A-080, filed 2/27/84.]

WAC 137-12A-090 Limitation of funding. Funding under this chapter shall be available only to the maximum appropriated by the legislature for that purpose.

[Statutory Authority: RCW 72.01.090. 91-10-018, § 137-12A-090, filed 4/23/91, effective 5/24/91. Statutory Authority: RCW 72.02.040 and 72.72.040. 84-06-009 (Order 84-03), § 137-12A-090, filed 2/27/84.]

Chapter 137-20 WAC

SALE OF PRODUCTS AND SERVICES OF VOCATIONAL EDUCATION STUDENTS

WAC

137-20-005	Definitions.
137-20-010	Sale of products and services.
137-20-015	Proceeds of sales.

WAC 137-20-005 Definitions. As used in this chapter the following words shall have the following meanings:

(1) "Vocational education" shall have the same meaning as set forth in RCW 72.62.020.

(2) "Students" means inmates of adult correctional institutions or facilities enrolled in a vocational education program.

(3) "Products" means goods, wares, articles, or merchandise produced by students as part of a vocational education program.

(4) "Services" means work performed for others by students as part of a vocational education program not related to the production of products.

[Statutory Authority: RCW 72.01.090. 86-02-052 (Order 85-12), § 137-20-005, filed 12/31/85. Formerly chapter 275-53 WAC.]

WAC 137-20-010 Sale of products and services. Superintendents and administrators of adult correctional institutions and facilities, or their designees, may adopt procedures for the sale of products and services on the open market. The prices for products sold on the open market may be established at levels sufficient to recover the cost of production, including the cost of materials used and the value of depreciation of equipment used to produce the products. The prices for services sold on the open market may be established at levels sufficient to recover the cost of performing the service.

[Statutory Authority: RCW 72.01.090. 86-02-052 (Order 85-12), § 137-20-010, filed 12/31/85. Formerly chapter 275-53 WAC.]

WAC 137-20-015 Proceeds of sales. The proceeds from the sale of products shall be credited to the institution or facility where the products were produced, deposited in a

revolving fund, and expended for the purchase of supplies, materials, and equipment for use in vocational education programs. The proceeds from the sale of services shall be credited to the institution or facility where the services were performed, and may be expended for the purchase of supplies, materials, and equipment for use in vocational education programs, and for the payment of wages earned by students in performing services.

[Statutory Authority: RCW 72.01.090. 86-02-052 (Order 85-12), § 137-20-015, filed 12/31/85. Formerly WAC 275-53-065.]

Chapter 137-28 WAC PRISONS—DISCIPLINE

WAC

137-28-005	Purpose.
137-28-006	Definitions.
137-28-010	Supplementary rules.
137-28-015	Notification.
137-28-020	Definition of misconduct.
137-28-025	General infractions.
137-28-030	Serious infractions.
137-28-031	Cell tag.
137-28-032	Earned time, granting and denial.
137-28-035	Reporting to law enforcement authorities.
137-28-040	Infractions—On-site adjustment.
137-28-045	Infractions—Report on.
137-28-050	General infraction report—Action on report.
137-28-055	Appeal to hearing officer.
137-28-065	Appointment and disqualification of hearing officer.
137-28-072	Out-of-state inmates.
137-28-075	Prehearing procedures—Rights of inmates.
137-28-080	Temporary prehearing confinement.
137-28-085	Hearing officer—Preparation for hearing.
137-28-090	Conduct of hearing.
137-28-093	Decision of hearing officer.
137-28-094	Lesser included and related infractions.
137-28-095	Finding of no infraction.
137-28-097	Staff advisors.
137-28-100	Sanctions—Authority to impose.
137-28-105	Sanctions—Types.
137-28-107	Sanctions and mental status.
137-28-110	Sanctions—Limitations.
137-28-115	Appeal to superintendent.
137-28-120	Reports to the board of prison terms and paroles.
137-28-130	Time limitations.

WAC 137-28-005 Purpose. (1) The rules in this chapter shall provide a standardized system consistent with constitutional due process for ascertaining whether misconduct by an inmate of an adult correctional institution has occurred.

(2) The rules in this chapter shall not apply to proceedings of the board of prison terms and paroles.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-005, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-005.]

WAC 137-28-006 Definitions. For the purposes of this chapter the following words shall have the following meanings:

(1) "Promptly" means to act as soon as reasonably possible, consistent with institutional goals of safety, security, and rehabilitation.

(2) "Working days" means normal Monday through Friday work days, excluding weekends and holidays.

(3) "Director" means the director of the division of prisons of the Washington state department of corrections or his/her designee.

(4) "Superintendent" means a superintendent of an adult correctional institution or his/her designee.

(5) "Earned time" means that portion of the inmate's available sentence reduction which, by department of corrections' policy is earned specifically for program participation.

(6) "Good-conduct time credits" means that portion of an inmate's potential reduction to his/her minimum term which is authorized by RCW 9.95.070 and 72.09.130 and which is gained by not receiving serious infractions as listed in WAC 137-28-030.

(7) "Earned-early release" means that combined earned time and good-conduct time credits which, together, allow an inmate to earn up to one-third reduction off the minimum term established by the board of prison terms and paroles or sentencing court.

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

(9) "Hearing officer" means a correctional staff member designated by a superintendent to conduct disciplinary hearings.

[Statutory Authority: RCW 72.01.010 and 72.09.010. 89-04-032 (Order 88-02), § 137-28-006, filed 1/27/89, effective 3/1/89. Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-006, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-006.]

WAC 137-28-010 Supplementary rules. The superintendent of an adult correctional institution may promulgate local supplementary rules, policies, and procedures including the creation of new general and/or serious infractions, the reclassification of general and/or serious infractions set out in these rules, and the creation of new sanctions. All such new or reclassified infractions and sanctions shall be approved in writing by the director before being put into effect.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-010, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-010.]

WAC 137-28-015 Notification. (1) Each inmate of an adult correctional institution shall be advised in writing of:

- (a) His/her rights and responsibilities;
- (b) Acts prohibited in the institution; and
- (c) Disciplinary action which may be taken in the event of misconduct.

(2) Each inmate upon entering the custody of the department of corrections shall be given a copy of the rules in this chapter and of all local disciplinary rules of the institution 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 institution in advance of their effective date if possible and for at least thirty days after their effective date. Inmates 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 institution for inmate examination.

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

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-015, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-015.]

WAC 137-28-020 Definition of misconduct. Misconduct shall consist of:

(1) Any act described in WAC 137-28-025 as a general infraction;

(2) Any act described in WAC 137-28-030 as a serious infraction; or

(3) Any act proscribed by a rule adopted by an institution pursuant to WAC 137-28-010.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-020, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-020.]

WAC 137-28-025 General infractions. Any of the following types of behavior shall constitute a general infraction:

- 051 - Unauthorized possession of money or other negotiable instruments totaling less than five dollars;
- 052 - Loaning of property for profit;
- 053 - Possession of anything not authorized for retention or receipt by an inmate and/or not issued to him/her by regular institutional channels;
- 055 - Mutilating, altering, defacing or destroying items issued by the state the value of which is less than five dollars;
- 103 - Refusing to obey a lawful order of any staff member;
- 104 - Unexcused absence from work or any assignment;
- 110 - Theft of food;
- 202 - Abusive language directed to a staff member;
- 203 - Lying to a staff member;
- 205 - Participating in a meeting or gathering that has been disapproved in advance, in writing, by the institution administrative staff;
- 210 - Being in an area identified by an institution as an area where the presence of inmates is unauthorized;
- 211 - Failure to follow published safety or sanitary regulations;
- 212 - Using any equipment or machinery which is not specifically authorized;
- 213 - Using any equipment or machinery contrary to instructions or posted safety standards;
- 214 - Failure to stand count;
- 251 - Smoking where prohibited;
- 301 - Failure to keep one's person and one's quarters in accordance with published and posted standards, rules, or regulations;
- 302 - Tattooing or self-mutilation;
- 303 - Unauthorized use of mail or telephone;

- 305 - Correspondence or conduct with a visitor in violation of published and posted regulations;
- 351 - Giving, selling, or trading money or anything of value to, or accepting or purchasing money or anything of value from another inmate, a member of his/her family, or his/her friend, except when authorized; or
- 400 - Attempting to commit any of the above offenses, or aiding another person to commit any of the above offenses shall be considered the same as the commission of the offense itself.

[Statutory Authority: RCW 72.01.010 and 72.09.010. 89-04-032 (Order 88-02), § 137-28-025, filed 1/27/89, effective 3/1/89. Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-025, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-025.]

WAC 137-28-030 Serious infractions. Any of the following types of behavior shall constitute a serious infraction:

- 501 - Committing homicide;
- 502 - Assaulting any person which results in the hospitalization of the person assaulted;
- 503 - Extortion, blackmail, demanding or receiving money or anything of value in return for protection against others, or under threat of informing;
- 504 - Engaging in sexual acts with others, with the exception of conjugal visits authorized by the superintendent;
- 505 - Fighting with any person except in self-defense;
- 506 - Threatening another with bodily harm or with any offense against his/her person;
- 507 - Committing an act not otherwise proscribed by these regulations which constitutes a felony or misdemeanor under state or federal law;
- 508 - Throwing objects or material at staff members, institution visitors, or other inmates;
- 521 - Holding a person hostage;
- 525 - Violation of conditions of furlough;
- 550 - Escape or attempted escape;
- 551 - Lying to the disciplinary hearing committee or hearing officer;
- 552 - Attempting or causing an innocent person to be penalized or proceeded against by lying to a staff member;
- 553 - Setting a fire;
- 554 - Destroying or damaging state property, or the property of another person in excess of five dollars;
- 555 - Stealing (theft)/possession of stolen property;
- 556 - Refusing to submit to a body search when lawfully ordered to do so by a staff member;
- 557 - Refusing and/or failing to work or attend other regularly scheduled assignments;
- 558 - Interfering with a staff member in the performance of his/her duties;
- 559 - Gambling;
- 600 - Tampering with or blocking any locking device or seal;
- 601 - Possession or introduction of an explosive or any ammunition or components thereof;
- 602 - Possession or introduction of any gun, firearm, weapon, sharpened instrument, knife, or poison or components thereof;
- 603 - Possession, introduction, transfer, or use of any narcotics, controlled substance; possession of more than 15 grams of marijuana; possession, transfer, or use of any intoxicant or drug not prescribed or authorized for the inmate or for the inmate to whom transferred, if applicable, by the medical staff;
- 605 - Unauthorized possession of any officer's or staff's clothing;
- 607 - Refusing to submit to a urinalysis when ordered to do so by an authorized staff member;
- 608 - Refusing to submit to a breathalyzer or other standard sobriety test;
- 650 - Rioting;
- 651 - Inciting others to riot;
- 652 - Engaging in or inciting a prohibited group demonstration or developing an unauthorized club or organization;
- 653 - Interfering with the taking of count;
- 654 - Counterfeiting, forging or unauthorized reproduction of any document, article of identification, money, security, or official paper;
- 655 - Making intoxicants, controlled substances, narcotics;
- 656 - Giving or offering any official or staff member or a volunteer a bribe or anything of value for a favor or unauthorized service;
- 657 - Four or more general infractions arising out of separate incidents, all of which occur within the previous six-month period, and which have been reported in writing;
- 658 - Failure to perform according to an administrative action taken pursuant to WAC 137-28-050(2), or resisting posthearing sanctions as provided for in WAC 137-28-105;
- 660 - Unauthorized possession of money or other negotiable instruments of five dollars or more;
- 661 - Performing or taking part in performing a marriage in the institution buildings or on the institutional grounds, except when such marriage was approved by the superintendent of the institution, which may, in appropriate cases, also be deemed a violation of a visiting rule that can subject an inmate to the sanction contained in WAC 137-28-105 (1)(d), as well as other sanctions available for serious infractions;
- 662 - Solicitation of goods and/or services for which the provider would expect payment when the inmate knows or should have known he/she has no funds available to pay for such goods or services;
- 663 - Strongarming; use of physical force or coercion for personal gain against any inmate or staff member;

- 700 - Attempting to commit or aiding another person to commit a serious infraction as enumerated in this rule, and such action shall be considered the same as commission of the offense itself;
- 701 - Commission of any general infraction as enumerated in WAC 137-28-025 or any local rule denominated as a general infraction in such a manner as likely to result in danger to life or limb or to create a risk to the orderly operation of the institution or the health and safety of its inmates, staff, or visitors shall be considered a serious infraction, provided there is substantial evidence which establishes there was such a danger;
- 702 - Possession of an unauthorized tool;
- 703 - Being under the influence of intoxicants, or possession of less than 15 grams of marijuana, or under the influence of an unauthorized drug, narcotic, controlled substance, or other intoxicant; or
- 704 - Assaulting any person which does not result in the hospitalization of the person assaulted.

[Statutory Authority: RCW 72.01.010 and 72.09.010. 89-04-032 (Order 88-02), § 137-28-030, filed 1/27/89, effective 3/1/89. Statutory Authority: RCW 72.01.090. 85-08-026 (Order 85-06), § 137-28-030, filed 4/1/85; 84-17-058 (Order 84-13), § 137-28-030, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-030.]

WAC 137-28-031 Cell tag. Each inmate of a multiple-inmate cell will be held accountable for an infraction that occurs within the confines of such cell unless he/she can establish a lack of involvement in the infraction.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-031, filed 8/14/84, effective 10/10/84.]

WAC 137-28-032 Earned time, granting and denial. An inmate may receive earned time sentence reduction for participating or attempting to participate in institution work, education, or training programs in accordance with department policy. Prior to a denial of earned time, the basis for the proposed denial shall be explained to the inmate. Should the inmate wish to contest the proposed denial, he/she may request a hearing, which shall be held at least twenty-four hours after the inmate has received written notice scheduling the hearing and indicating the basis for the proposed denial. The hearing shall be before an impartial official designated by the superintendent, pursuant to WAC 137-28-065. The inmate shall be provided a written statement from the hearing official showing the evidence relied on and the reasons for the decision. The hearing shall be conducted in accordance with WAC 137-28-090. Such a hearing and its result shall not be considered disciplinary in nature and the decision of the hearing shall be limited to recommending to the superintendent that earned time credits be granted or denied in whole or in part. Granting or denial of earned time credits for out-of-state inmates shall be handled in substantial accord with this rule.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-032, filed 8/14/84, effective 10/10/84.]

WAC 137-28-035 Reporting to law enforcement authorities. (1) It shall be the duty of the superintendent to report any violation of a federal, state, or local law to law enforcement authorities.

(2) If a violation has been reported to law enforcement authorities, an inmate who has been charged with an infraction shall not be questioned about the incident, outside of a formal disciplinary hearing or an administrative segregation hearing, held pursuant to this chapter, until after it has been determined that no prosecution will occur or until a finding of guilt is made.

(3) The provisions in this rule shall not preclude the reasonable segregation of the inmate in accordance with administrative segregation rules appearing in this chapter.

[Statutory Authority: RCW 72.01.010 and 72.09.010. 89-04-032 (Order 88-02), § 137-28-035, filed 1/27/89, effective 3/1/89. Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-035, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-035.]

WAC 137-28-040 Infractions—On-site adjustment. In the event of a general infraction, a staff member may make an on-site adjustment which may consist of:

(1) Counseling, warning, or reprimanding the inmate; and/or

(2) Causing the inmate to remove himself/herself from the situation immediately involved in the violation.

(3) An on-site adjustment under this rule cannot be considered a general infraction for the purposes of determining whether a 657 serious infraction under WAC 137-28-030 has occurred.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-040, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-040.]

WAC 137-28-045 Infractions—Report on. (1) In the event of a general infraction a staff member may prepare and submit an infraction report. In the event of a serious infraction the staff member shall prepare and submit an infraction report.

(2) The infraction report shall include:

(a) A description of the incident;

(b) The time and place of the incident;

(c) The names of witnesses;

(d) The specific rule alleged to have been violated;

(e) A description of any action taken; and

(f) A recommendation of any action to be taken.

(3) The infraction report shall be signed by the staff member and submitted promptly to the supervisory employee or unit team designated by the superintendent to receive such reports.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-045, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-045.]

WAC 137-28-050 General infraction report—Action on report. The supervisory employee or unit team receiving a general infraction report shall decide within five working days of receipt of the report, unless an extension is granted by the superintendent, whether to

(1) Take no further action, in which case the report shall be destroyed promptly; or

(2) Take administrative action as provided for in WAC 137-28-105(1).

(3) General infractions handled under this rule may be accumulated for purposes of invoking the provisions of WAC 137-28-030 with respect to serious infraction 657.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-050, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-050.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-060 (Order 84-16), § 137-28-055, filed 12/17/84.]

WAC 137-28-065 Appointment and disqualification of hearing officer. (1) Hearings shall be conducted by a single hearing officer designated by the superintendent.

(2) The hearing officer may not function in such capacity when he/she has direct personal knowledge or interest in the incident under consideration. Such officer must disqualify himself/herself by giving notice to the superintendent, who will select a replacement.

(3) "Direct personal knowledge or interest," as that phrase is used in this rule, shall mean knowledge or interest acquired through witnessing or directly participating in the incident under consideration. This rule shall not preclude the hearing officer's participation where the individual has acquired knowledge or interest indirectly or through review of the incident which is conducted as part of the individual's regular institutional responsibilities.

(4) The hearing officer may disqualify himself/herself or be disqualified if it is felt the hearing officer is biased for or against the inmate so that he/she cannot render a fair judgment in the hearing, regardless of the manner by which such bias was acquired.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-065, filed 8/14/84, effective 10/10/84.]

WAC 137-28-072 Out-of-state inmates. Inmates committed to the department of corrections who have been transferred to a prison in another state shall be subject to the disciplinary rules and procedures applicable in the prison to which they have been transferred except that such prison may, in its discretion, utilize any presumptive sanction guidelines in current effect in Washington state institutions.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-072, filed 8/14/84, effective 10/10/84.]

WAC 137-28-075 Prehearing procedures—Rights of inmates. (1) Before being questioned about an alleged rule infraction, an inmate alleged to have committed a rule infraction shall be advised that his/her refusal to testify at the hearing may be used against him/her.

(2) The inmate shall retain his/her institutional status and corresponding rights and privileges prior to and during the hearing except as provided in WAC 137-28-080.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-075, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-075.]

WAC 137-28-080 Temporary prehearing confinement. (1) Prior to and during a hearing, an inmate may be temporarily confined to his/her cell or room or moved to a higher custody level, including segregation, when it is reasonably believed that the inmate presents a risk to the security of the institution, an escape, a danger to himself/herself or to others, or is in danger from others.

(2) Restricts made under this rule shall be made by the shift commander who shall in writing verify the grounds for temporary prehearing confinement exist and the nature of such grounds. All restricts to a segregation unit must also be approved by the superintendent/acting superintendent within one working day of the confinement.

(3) Confinement imposed under this rule shall not be for more than three working days unless either the inmate or the institution, for good cause, requires additional time not to exceed three working days to prepare for the disciplinary hearing, or there is an administrative segregation hearing in accordance with the requirements of chapter 137-32 WAC.

(4) While confinement under this rule is temporary and only suspends an inmate's previous custody status, inmates confined shall be subject to the same rules and restrictions as other persons in the unit or status under which the inmate is temporarily confined.

(5) An inmate confined under this rule shall be afforded reasonable opportunities to adequately prepare defenses to the charge(s) against him/her.

(6) An inmate confined or restricted as authorized under this rule shall receive credit for time served in such manner if subsequently found guilty.

[Statutory Authority: RCW 72.01.010 and 72.09.010. 89-04-032 (Order 88-02), § 137-28-080, filed 1/27/89, effective 3/1/89. Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-080, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-080.]

WAC 137-28-085 Hearing officer—Preparation for hearing. In preparation for the hearing, the clerk of the

hearing officer shall at least twenty-four hours in advance of the hearing:

- (1) Provide copies of the infraction report to the inmate;
- (2) Advise the inmate, both orally and in writing, of his/her rights, subject to the relevant provisions and limitations of these rules:
 - (a) To have a hearing;
 - (b) That if he/she chooses not to testify at the hearing, his/her silence may be used against him/her;
 - (c) To present written statements from other inmates, staff or other persons in his/her behalf;
 - (d) To ask that staff members, other inmates, and other persons be present as witnesses for the hearing if it is determined by the hearing officer that to do so would not be unduly hazardous to institution's safety or correctional goals: *Provided, however,* Limitations may be made by the hearing officer if the information to be presented by the witnesses is deemed to be irrelevant, duplicative, or unnecessary to the adequate presentation of the inmate's case;
 - (e) To have a staff advisor to assist in preparation/presentation of his/her case when it is determined that the inmate is unable to adequately represent himself/herself on the basis of literacy or competence in accordance with WAC 137-28-097; and
 - (f) To have access to nonconfidential reports and records utilized by the hearing officer during the fact-finding stage: *Provided, however,* Where reports and records contain information, the disclosure of which to an inmate might reasonably compromise the security and/or safety of the institution or its inmates, such reports and records shall be specifically identified as confidential and withheld, and in such cases, the inmate shall be provided with a summary of such written documents with the classified information deleted.
- (3) Obtain written acknowledgment of the receipt by the inmate of the information provided in accordance with WAC 137-28-085(2);
- (4) Determine from the inmate whether he/she wishes to contest the allegation;
- (5) Schedule the hearing within three working days after discovery of the incident, unless such time is extended by the superintendent; and
- (6) Notify any staff member who witnessed the infraction of the hearing.

[Statutory Authority: RCW 72.01.090, 84-17-058 (Order 84-13), § 137-28-085, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-085.]

WAC 137-28-090 Conduct of hearing. (1) The hearing officer shall assure that the inmate is capable of understanding the charge against him/her, the nature of the proceedings, and is able to adequately take part in the hearing. If there is reason to doubt the inmate's understanding or ability, the hearing officer may order a postponement of the hearing in order to obtain additional information on the inmate's mental status. If the report indicates the inmate is not able to understand and/or take part in the proceedings, the hearing officer may proceed with the hearing with the inmate being fully assisted by a staff advisor appointed under WAC 137-28-097.

(2) The inmate shall be present at all stages of the hearing except during the decisional deliberations and any

inquiry the hearing officer may wish to make concerning the identity of unidentified witnesses. An inmate may waive his/her presence at a hearing.

(3) The inmate shall be informed that if he/she chooses not to testify in the hearing, his/her silence may be used against him/her.

(4) The clerk shall be responsible for presenting all appropriate paperwork to the hearing officer, but shall not be responsible for orally presenting facts and circumstances surrounding the incident.

(5) The hearing officer shall divide the hearing into two stages consisting of:

(a) Determination of the guilt or innocence of the inmate; and

(b) Determination of further action to be taken.

(6) Evidence, testimony, questions, and examinations shall be limited to facts relevant to the alleged infraction, or disposition if an infraction has been found.

(7) Where institution staff members are witnesses against the inmate, a written statement from the staff member may be considered by the hearing officer instead of in-person testimony, except where the hearing officer determines that the staff member's presence is necessary to an adequate understanding of the issues in the case.

(8) The hearing officer shall have the authority to cross-examine the staff member reporting the infraction.

(9) The inmate shall be allowed to call witnesses and present documentary evidence in his/her defense when permitting him/her to do so will not be unduly hazardous to institutional safety or correctional goals unless the witness and/or information desired to be presented is deemed to be irrelevant, immaterial, unnecessarily duplicative of other information before the hearing officer, or otherwise found to be unnecessary to the adequate presentation of the inmate's case. The testimony of all witnesses from outside the institution shall be considered in writing. In the event the hearing officer determines that the presence of a witness is appropriate, the hearing officer will call the witnesses or continue the hearing until such time as the witness is available. If the witness is unavailable, the hearing officer may, in his/her discretion, consider the written testimony previously submitted.

(10) The inmate may question witnesses against him/her in the discretion of the hearing officer. If the hearing officer determines that an inmate witness would be subject to risk of harm if his/her identity were disclosed, testimony of the inmate witness may be introduced by the testimony of a staff member to whom the information was provided by the inmate witness and/or the affidavit of the inmate witness. If the staff member to whom the inmate witness provided information is, for good cause, unavailable, the written statement of such uninvolved staff member may be used.

(11) The hearing officer shall, out of the presence of all inmates, inquire as to the identity of any anonymous inmate witness, and as to how the testifying staff member received such information. The refusal of the staff member presenting the testimony of the unidentified inmate witness to identify such inmate shall make the testimony inadmissible unless the refusal to identify the witness is approved by the superintendent or acting superintendent who personally determines that there is good cause for nondisclosure and that the informant is reliable. This decision may not be

delegated beyond the superintendent or acting superintendent. The hearing officer must make an independent determination as to the reliability of informant and credibility of information offered, except that the hearing officer may accept an assurance of credibility from the superintendent or acting superintendent who approves the nondisclosure of identity of the inmate witness.

[Statutory Authority: RCW 72.01.010 and 72.09.010. 89-04-032 (Order 88-02), § 137-28-090, filed 1/27/89, effective 3/1/89. Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-090, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-090.]

WAC 137-28-093 Decision of hearing officer. (1) A report of the hearing shall be made by a secretary and shall include the charge, names of witnesses, summary of the testimony and cross-examination, a description of the physical evidence used, and the decisions and reasons therefore. The written report shall be placed in the inmate's institutional file if he/she is found guilty. All reports shall be maintained by the clerk as part of the hearing officer's records. A complete taped record of the hearing shall be taken but the tape shall not become a part of the inmate's file, and may be destroyed one hundred twenty days after the date of the hearing or the appeal decision, or any court proceedings resulting from the hearing, whichever is later.

(2) In reaching its decision on the guilt or innocence of the inmate, the hearing officer must rely solely on evidence presented in the hearing. However, during the dispositional stage of the hearing, such factors as the inmate's institutional file, prior conduct, and overall institution adjustment may be considered.

(3) The inmate shall be informed personally of the decisions of the hearing officer. Such information shall be given to him/her orally within twenty-four hours of the hearing and in writing within seventy-two hours of the hearing unless such periods are extended by the superintendent.

(4) The inmate shall be informed of his/her right to appeal the decisions of the hearing officer to the superintendent.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-093, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-093.]

WAC 137-28-094 Lesser included and related infractions. The hearing officer is authorized to find an inmate guilty of a lesser included offense. Where the evidence suggests an inmate is guilty of an offense not charged and which is not a lesser included offense to a charged offense, the hearing officer may recommend that new charges be filed to address such offenses. The inmate may waive the right to a new proceeding and allow the hearing officer to enter a finding of guilty or not guilty and sanction on the offense.

[Statutory Authority: RCW 72.01.010 and 72.09.010. 89-04-032 (Order 88-02), § 137-28-094, filed 1/27/89, effective 3/1/89.]

WAC 137-28-095 Finding of no infraction. If the hearing officer determines that no infraction occurred, the inmate shall be reinstated to his/her previous status and all records pertaining to the charge shall be removed from the

inmate's central file but may be retained for statistical and record-keeping purposes.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-095, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-095.]

WAC 137-28-097 Staff advisors. (1) An inmate may have a staff advisor appointed by the hearing officer to prepare for a hearing. The hearing officer shall consider such factors as the literacy, the complexity of the issue and the inmate's overall ability to speak for himself/herself and adequately present his/her case, prior to assigning a staff advisor. The assignment of a staff advisor will only be necessary when considering such factors, and should not be construed to mean that a staff advisor must be assigned. The staff advisor will be a staff member and not involved in the observation of the infraction. The staff advisor may attend the hearing, but shall not be responsible for presentation of the inmate's case, questioning witnesses, or making other oral presentation unless requested to do so by the hearing officer.

(2) Where a hearing is postponed because of the mental status of an inmate pursuant to this chapter, an advisor shall be appointed immediately and instructed to fully investigate and prepare the inmate's case, should the inmate later be unable to prepare or present his/her own case.

(3) A list of approved staff advisors will be maintained by the superintendent.

(4) Staff advisors shall be provided with:

(a) Copies of the written decisions of the hearing officer and the superintendent in cases in which the staff advisors are involved;

(b) An opportunity to have private conversation with inmates they are representing;

(c) Access to written information to be used by the hearing officer in the fact-finding stage as far in advance of the hearing as is reasonably possible; and

(d) Reasonable access to all witnesses.

[Statutory Authority: RCW 72.01.010 and 72.09.010. 89-04-032 (Order 88-02), § 137-28-097, filed 1/27/89, effective 3/1/89. Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-097, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-097.]

WAC 137-28-100 Sanctions—Authority to impose.

(1) If the hearing officer determines that an inmate is guilty of a serious infraction as enumerated in WAC 137-28-030, he/she may impose one or more of the sanctions provided in WAC 137-28-105.

(2) If the hearing officer determines that more than one infraction occurred, he/she shall not impose consecutive sanctions for the separate infractions but shall consider them together and impose penalties for the group of infractions.

(3) The hearing officer may suspend the execution of a proposed disciplinary sanction for a fixed period of time, not to exceed six months, subject to the good behavior of the inmate and/or meeting other conditions as specified by the hearing officer. If the subsequent behavior of the inmate is appropriate, the hearing officer shall, at or prior to the end of the fixed period, cancel execution of the penalty. A suspended sentence may be revoked upon the inmate's being found guilty of either a general or serious infraction and/or violating the conditions attached to the original suspension.

A suspended sentence may be revoked only by the institution hearing officer following notice to the inmate of possible revocation and an in-person meeting with the inmate.

(4) The hearing officer may review any decision he/she has previously made and may modify downward any sanction previously imposed.

(5) Sanctions shall not be imposed while an appeal from the hearing officer's decision is under consideration by the superintendent.

(6) In all cases, regardless of whether an appeal is taken, the superintendent may review a sanction imposed and may reduce its severity.

[Statutory Authority: RCW 72.01.090, 84-17-058 (Order 84-13), § 137-28-100, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-100.]

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 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.

[Statutory Authority: RCW 72.01.090, 85-01-060 (Order 84-16), § 137-28-105, filed 12/17/84; 84-17-058 (Order 84-13), § 137-28-105, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-105.]

WAC 137-28-107 Sanctions and mental status. In determining an appropriate sanction, the hearing officer should give consideration to the inmate's mental health and his/her intellectual, emotional, and maturity levels and what effect a particular sanction might have on the inmate in light of such factors. The hearing officer may request the assistance of other department staff in determining appropriate sanctions.

[Statutory Authority: RCW 72.01.010 and 72.09.010, 89-04-032 (Order 88-02), § 137-28-107, filed 1/27/89, effective 3/1/89.]

WAC 137-28-110 Sanctions—Limitations. (1) No inmate shall be subject to disciplinary action for violation of inmate conduct rules unless there has been reasonable advance notice to the inmate of the specific prohibited

behavior unless such rule has been adopted on an emergency basis.

(2) Lowering the quantity or quality of food and deprivation of clothing, bedding, bed, or normal hygienic implements shall not be used as sanctions.

(3) Corporal punishment and physical restraint shall not be used as sanctions.

(4) An inmate placed in segregation shall:

(a) Be confined to an environment with healthful temperatures in cells substantially similar to those used for general population;

(b) Be provided the same opportunities for personal hygiene as are available to the general population;

(c) Be afforded his/her rights to correspondence, reading, and legal representation;

(d) Be provided daily opportunity for at least one hour of exercise unless staffing, space, institutional security, order and/or safety, or other similar circumstances make this unfeasible, in which cases such inmate shall be allowed as much exercise as is feasible in the judgment of staff; provided, however, any limitations of exercise shall be approved in advance by a staff member with the rank of lieutenant or higher; and

(e) Be visited by a physician or designated health care personnel at least three times per week; provided, however, if a physician has not personally visited the inmate for three consecutive days, a physician shall review the condition of the inmate with the health care personnel who have visited and shall review written comments and requests, and a record of visits by medical personnel shall be maintained; and provided further that inmates of forestry honor camps or small correctional institutions, as so designated by the director, shall receive medical care and observation in accordance with standard procedures in effect at such facility specified by the director of prisons.

(5) An inmate placed in isolation shall:

(a) Be confined in an environment with healthful temperatures in cells substantially similar to those used for the general population;

(b) Be provided the same opportunities for personal hygiene as are available to the general population;

(c) Retain his/her rights to correspondence, reading, and legal representation except that literature may be limited to educational, religious, legal, or program involvement material;

(d) Be visited by a physician or health care personnel at least once per day; provided, however, if a physician has not personally visited the inmate for three consecutive days, a physician shall review the condition of the inmate with the health personnel who have visited and shall review written comments and requests, and a record of visits by medical personnel shall be maintained; and provided, further, that inmates of forestry honor camps or small correctional institutions, as so designated by the director, shall receive medical care and observation in accordance with standard procedures in effect at such facility to be specified by the director of prisons;

(e) Upon approval by the superintendent, be released immediately to an appropriate setting when medical personnel recommends such release on medical or psychological grounds;

(f) Be visited by a staff member at least twice during each daily shift to ascertain his/her well being, and each such visit and findings shall be recorded; and

(g) Be accessible to the counselor assigned to him/her.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-110, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-110.]

WAC 137-28-115 Appeal to superintendent. (1) An inmate may appeal the decision of the hearing officer to the superintendent by filing a written request for review and his/her reasons therefor with the clerk within twenty-four hours, exclusive of weekends and holidays, after receiving written notice of the decision of the hearing officer. The superintendent may, in his/her discretion, consider appeals filed beyond the twenty-four hour period.

(2) The clerk shall promptly transmit the request for review and the hearing officer record to the superintendent.

(3) The superintendent shall act on the request within five working days of its receipt by affirming the decision of the hearing officer, stating his/her reasons therefor; reducing the severity of the sanctions imposed; vacating the judgment of the hearing officer, or remanding the matter for a new hearing. Any new hearing may not result in an increase of the severity of the sanctions originally imposed.

(4) Pending the decision of the superintendent, the sanctions shall not be imposed on the inmate nor shall his/her custody be subject to change unless there are grounds for detention as provided in WAC 137-28-080 or if the superintendent has reason to believe that he/she is a substantial security risk.

(5) The inmate shall promptly be notified of the decision of the superintendent.

(6) In all cases where the superintendent approves a sanction requiring the loss of more than one hundred eighty days of future good conduct time credits, or the superintendent recommends that a parole board disciplinary hearing be scheduled, the case will be referred to the director for review and approval. This review may result in approval of the sanction imposed or a lesser sanction.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-115, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-115.]

WAC 137-28-120 Reports to the board of prison terms and paroles. (1) Whenever the hearing officer finds an inmate guilty of a serious infraction, and recommends either loss of good conduct time credits or an adjustment upward of the inmate's minimum term, it shall be the duty of the hearing clerk to inform the board of prison terms and paroles of that decision within ten days or, if an appeal is taken, within ten days of the superintendent's decision. Said report shall include a copy of the summary of the hearing prepared by the hearing officer reporter.

(2) In all other cases where a finding of guilt is made for a serious infraction, it shall be the duty of the clerk to inform the board of prison terms and paroles of that decision within thirty days, or if an appeal is taken, within thirty days of the superintendent's decision. Said report shall include a copy of the summary of the hearing prepared by the hearing officer reporter.

(3) Where an inmate is found guilty of a serious infraction within forty-five days of an apparent release date,

the board of prison terms and paroles shall be notified telephonically, with written notification to follow promptly.

(4) This section shall not apply to inmates who are in custody under the Sentencing Reform Act of 1981, chapter 9.94A RCW, and who are not under the jurisdiction of the board of prison terms and paroles or its successor.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-120, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-120.]

WAC 137-28-130 Time limitations. The time limitations expressed in these regulations shall not be deemed to be jurisdictional and failure to adhere to any particular time regulation shall not be grounds for automatic reversal and/or dismissal of a disciplinary proceeding.

[Statutory Authority: RCW 72.01.090. 84-17-058 (Order 84-13), § 137-28-130, filed 8/14/84, effective 10/10/84. Formerly WAC 275-88-130.]

Chapter 137-32 WAC

PRISONS—ADMINISTRATIVE SEGREGATION AND INTENSIVE MANAGEMENT

WAC

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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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-001, filed 12/17/84. Formerly chapter 275-82 WAC.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-002, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-005, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-010, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-015, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-020, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-025, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-030, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-035, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-040, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090. 85-01-059 (Order 84-15), § 137-32-045, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090, 85-01-059 (Order 84-15), § 137-32-050, filed 12/17/84.]

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.

[Statutory Authority: RCW 72.01.090, 85-01-059 (Order 84-15), § 137-32-060, filed 12/17/84. Formerly chapter 137-66 WAC.]

Chapter 137-36 WAC

ADULT CORRECTIONAL INSTITUTIONS— INMATE PERSONAL PROPERTY

WAC

137-36-010	Purpose.
137-36-020	Definitions.
137-36-030	Authorized items.
137-36-040	Disposition of personal property.
137-36-050	Inventory of personal property.
137-36-060	Return of personal property.
137-36-070	Implementation.

WAC 137-36-010 Purpose. The purpose of these rules is to maintain the safety, security, and discipline of adult correctional facilities operated under the jurisdiction of the department of corrections in accordance with Title 72 RCW et al., by establishing guidelines for the development of department and institution level policies and rules governing the retention of personal property by inmates to prevent the possession of illegal items and contraband within the institution.

[Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040, 83-20-035 (Order 83-08), § 137-36-010, filed 9/27/83.]

WAC 137-36-020 Definitions. (1) "Contraband" consists of all illegal items, alcoholic beverages, and other items which a resident of a correctional institution may not have in his possession, as defined in regulations adopted by the superintendent of an institution and approved by the secretary.

(2) "Illegal items" are controlled substances as defined and listed in chapter 69.50 RCW or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another.

(3) "Inmate" shall refer to those persons committed to the custody of the department of corrections and inmates transferred from other states or the federal government.

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

(5) "Superintendent" means the superintendent of a correctional facility or his/her designee(s).

(6) "Unclaimed" means that no owner of the property has been identified or has requested, in writing, the release

of the property to themselves nor has the owner of the property designated an individual to receive the property or paid the required postage to effect delivery of the property.

[Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040, 83-20-035 (Order 83-08), § 137-36-020, filed 9/27/83. Formerly WAC 275-87-005.]

WAC 137-36-030 Authorized items. (1) Only authorized items may be retained by an inmate in the custody of the department. All authorized items shall be retained at the owner's risk. The state of Washington shall not be liable for any loss or damage.

(2) Authorized items may be limited in quantity and value when necessary to provide accountability, contraband control, safety or sanitary conditions, storage space, inmate morale or to meet the unique needs of each institution.

(3) Each superintendent shall establish regulations setting forth specific authorized items and levels of personal property for those inmates confined to that institution. Specific personal property authorizations may be suspended to ensure the safety, medical or mental health treatment objectives of any inmate or the general population and to ensure proper maintenance of order and security of the institution.

(4) All authorized items in excess or in noncompliance with the levels established by the superintendent of each institution shall be considered contraband and shall be disposed of as provided in WAC 137-36-040.

[Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040, 83-20-035 (Order 83-08), § 137-36-030, filed 9/27/83.]

WAC 137-36-040 Disposition of personal property. (1) Contraband items will be confiscated by the superintendent and disposed of in the following manner:

(a) Items which are determined to be owned by an inmate will be mailed or transferred to a person designated by the inmate at the inmate's expense. If the inmate is without funds, refuses to pay the required postage or refuses to designate an individual to receive the property, such items shall be donated to a charitable organization.

(b) Items for which ownership cannot be determined shall be held by the superintendent for six months and then donated to a charitable organization or destroyed.

(c) Money such as currency, personal checks, and money orders, is contraband within adult correctional institutions. If money or other negotiable instrument is found in the unauthorized possession of an inmate and he/she claims or disclaims ownership or, if ownership is unknown, the money or negotiable instrument shall be confiscated immediately and shall be deposited in the inmate welfare fund at the expiration of any appeal or hearing.

The inmate shall be advised in writing of his/her right to seek review of the decision to place the money in the inmate welfare fund. The review shall be sought by writing directly to the director of the division of prisons or his/her designee(s) within ten calendar days.

(2) All illegal items owned by and/or found in the possession of an inmate shall be confiscated. Such items shall be held for evidence for law enforcement authorities. Such illegal items that do not need to be retained as evidence shall be destroyed.

(3) Abandoned personal property shall be disposed of in the following manner:

(a) All personal property, and any income or increment which is accrued thereon, held for the owner by an institution that has remained unclaimed for more than six months from the date the owner was terminated from work release, transferred to a different institution, or when the owner is unknown or deceased, from the date the property was placed in the custody of the institution, is presumed abandoned. When an inmate who has no recorded next of kin or person to whom unclaimed property can be sent, is transferred to another institution, the property shall not be presumed abandoned for a period of twelve months.

(b) All personal property, and any income or increment which has accrued thereon, shall be presumed abandoned whenever the inmate owner has been placed on escape status. Such property shall be held for three months from the date of the escape. If during that period the inmate remains on escape status and/or no other person claims ownership of the property, the property shall be deemed abandoned and may be donated to charity or destroyed in accordance with the provisions of this regulation.

(c) All personal property, other than money, which is unclaimed for the time periods set out in this regulation, shall be presumed abandoned and may be destroyed. Where a superintendent feels the property may be used or has value to a charitable nonprofit organization, the property may be donated to such an organization.

(d) Any money unclaimed for the time limits set out in this regulation shall be presumed abandoned and paid into the revolving fund established pursuant to RCW 9.95.360.

(e) At least thirty days prior to personal property being donated or destroyed, written notice shall be given to the owner at the owner's residence or place of business or to some person of suitable age or discretion residing or employed therein. Such notice may be hand delivered or sent by certified mail. If the owner is deceased, such notice shall be sent to at least one of the owner's heirs, if known. In all other circumstances, notice shall be sent to the person previously designated by the owner as authorized to receive property.

(f) If none of the above alternatives is available, notice of the proposed donation or destruction of the property shall be published at least once in an official newspaper in the county in which the institution is located at least thirty days prior to the date fixed for the action. The notice shall be signed by the secretary and shall contain a general description of the unclaimed personal property, specifying the institution at which the property is held.

[Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040. 83-20-035 (Order 83-08), § 137-36-040, filed 9/27/83. Formerly WAC 275-87-020.]

WAC 137-36-050 Inventory of personal property.

All personal property, whether confiscated, in the possession of the inmates or maintained by the institution shall be inventoried on forms established and approved by the secretary.

A continuous log will be maintained at each holding area designated for inmate personal property. The log shall identify the property contained therein as well as the

custodial personnel who have access to the personal property area.

[Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040. 83-20-035 (Order 83-08), § 137-36-050, filed 9/27/83.]

WAC 137-36-060 Return of personal property.

Upon formal release from the institution, all personal property in the custody of the superintendent shall be returned to the inmate. If the inmate believes that property of value belonging to him/her has been lost or damaged due to staff negligence, he/she may file a claim pursuant to RCW 4.92.100.

[Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040. 83-20-035 (Order 83-08), § 137-36-060, filed 9/27/83.]

WAC 137-36-070 Implementation. The secretary may adopt rules and regulations implementing this chapter.

[Statutory Authority: RCW 72.08.103, 72.09.050, 72.13.080 and 72.15.040. 83-20-035 (Order 83-08), § 137-36-070, filed 9/27/83.]

Chapter 137-48 WAC

INMATE MAIL AND COMMUNICATIONS

WAC

- 137-48-010 Purpose.
- 137-48-020 Definitions.
- 137-48-030 Inspection of mail.
- 137-48-040 Restriction of incoming and/or outgoing mail.
- 137-48-050 Procedures for restrictions of incoming and/or outgoing mail.
- 137-48-060 Mail costs.
- 137-48-070 Mail records.
- 137-48-080 Telephone usage.
- 137-48-090 Implementation.

WAC 137-48-010 Purpose. The purpose of these rules is to maintain the safety, security, and discipline of adult prisons and prerelease facilities operated under the jurisdiction of the department of corrections in accordance with Title 72 RCW et al., by establishing guidelines for the development of departmental, division, and institution level policies and rules governing the receipt and sending of mail by inmates to prevent the transmission of illegal items or contraband into or out of an institution. These rules shall not apply to work release facilities under the jurisdiction of the department.

[91-23-103, § 137-48-010, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-010, filed 9/27/83.]

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.

WAC 137-48-020 Definitions. (1) "Contraband" consists of all illegal items, explosives, instruments which if used may cause bodily harm to the person of another, weapons, deadly weapons, alcoholic beverages, and drugs, or controlled substances as defined by chapter 69.50 RCW. Contraband also includes any item that is controlled, limited, or prohibited on the grounds or within the secure perimeter

of a correctional facility as defined by departmental, division, or institutional regulation and approved by the secretary of the department, or the division director/designee.

(2) "Disposable income" funds in an inmate's trust account from any source, which are not frozen or debited by application of (LFO) legal financial obligations or disciplinary/administrative restitution mandates.

(3) "Division director" the director of community corrections or prisons or his/her designee(s).

(4) "Emergency situations" are critical illnesses, deaths, or similar situations experienced by members of the inmate's family or the inmate.

(5) "Illegal items" are controlled substances as defined and listed in chapter 69.50 RCW or any weapon, firearm, or any instrument which, if used, could produce serious bodily injury to the person of another.

(6) "Indigent inmate" an inmate who has less than a ten-dollar balance of disposable income in his/her trust fund account on the day of the postage request and during the seven days preceding the postage request; except that:

(a) An inmate who has received at least twenty dollars cumulative from any source(s) shall not be considered indigent for thirty days following the accumulation of the twenty dollars unless the disposable income account balance is reduced to less than ten dollars by mandatory LFO, disciplinary sanction, or other mandatory administrative process; or

(b) An inmate who receives a lump sum of five hundred dollars or more from any source shall not be considered indigent for a period of six months from the date of receipt of the five hundred dollars unless the disposable income account balance is reduced to less than ten dollars by application of LFO obligations, a disciplinary sanction, or any legislative or administratively mandated requirements.

(7) "Inspection of mail" the physical act of opening, touching, smelling, and/or reading of mail, the use of mechanical or chemical systems and/or the use of animals to determine the presence of contraband or illegal items.

(8) "Legal mail" is correspondence to or from courts and court staff (judges, clerks of the court, judicial law clerks, etc.), attorneys and persons working for attorneys and to established groups involved in the representation of inmates in judicial proceedings (ACLU, legal services groups, etc.). Legal mail may also be mail to or from any local, county, state, or national, or foreign governmental agency, executive or legislative body, and/or any person representing such agency or body in an official capacity.

Note: To be considered and therefore handled as "legal mail" the correspondence must be clearly marked "legal mail" on the outside front of the envelope.

(9) "Letters" consist of handwritten/typed communications and/or written/pictorial enclosures to and from inmates. A standard first class, one ounce letter shall be consistent with the dimensions, weight, and thickness as prescribed by the United States Postal Service. A properly addressed and stamped post card or greeting card shall be processed with the same standards as described above for a first class one ounce letter. Nonstandard first class mail requires a surcharge as established by the United States Postal Service.

(10) "Mail" consists of letters, publications, or packages delivered by the United States Post Office or by other established and authorized carriers.

(11) "Packages" a wrapped or boxed object; a parcel or bundle containing one or more objects, a container in which something is packed for storage or transport or mailing.

(12) "Publications" consists of reproduced handwritten or typed/printed or pictorial materials including books, periodicals, newspapers, and pamphlets.

(13) "Return address" for an inmate this includes the full committed name, and may include any other legal name, DOC number, housing assignment, and the full name of the correctional facility from which the correspondence is mailed. For a free citizen this includes a reasonable return address as recognized by the United States Postal Service.

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

(15) "Superintendent" means the superintendent of a correctional facility or his/her designee(s).

[91-23-103, § 137-48-020, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.09.050, 72.08.103, 72.13.080 and 72.15.040. 84-08-011 (Order 84-04), § 137-48-020, filed 3/26/84. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-020, filed 9/27/83. Formerly WAC 275-96-005.]

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.

WAC 137-48-030 Inspection of mail. (1) All mail intended for or to be sent by an inmate, excluding legal mail discussed in subsection (3) of this section, may be inspected at any time by the superintendent or his/her designee(s). Mail may be disapproved for receipt or transmittal in accordance with WAC 137-48-040.

(2) No person who inspects, or participates in the inspection, of an inmate's mail, shall disclose the contents except in the cause of his/her official duties.

(3) Mail (incoming or outgoing) which is clearly identified on the outside of the envelope as legal mail, as defined in WAC 137-48-020, shall be inspected only in the presence of the inmate. Legal mail shall not be read without a search warrant but may be visually scanned in the presence of the inmate to verify legal mail status.

(4) Mail containing illegal items or contraband shall be held and disposed of in accordance with the procedures set forth in chapter 137-36 WAC or as otherwise stated in this chapter.

[91-23-103, § 137-48-030, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-030, filed 9/27/83.]

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.

WAC 137-48-040 Restriction of incoming and/or outgoing mail. (1) Incoming mail to inmates may be disapproved for receipt for any one of the following reasons:

(a) The mail contains threats of physical harm against any person or threats of criminal activity.

- (b) The mail threatens blackmail or extortion.
- (c) The mail concerns sending contraband in or out of the institution.
- (d) The mail contains plans to escape.
- (e) The mail contains plans for activities in violation of institutional rules, such as riots.
- (f) The mail concerns plans for criminal activity.
- (g) The mail is in code.
- (h) The mail is in a foreign language, its contents are not understood by the reader, and attempts to have the letter interpreted have been unsuccessful.
- (i) The mail contains information which, if communicated, would create a risk of violence and/or physical harm.
- (j) The mail contains contraband.
- (k) The mail contains obscene or sexually explicit materials as defined in department policy and/or division directives.

(l) Any mail or publication that is deemed to be a threat to legitimate penological objectives.

(m) The mail advocates that any ethnic, racial, or religious group is inferior for any reason and makes such group an object of ridicule and scorn, and it may reasonably be thought to precipitate a violent confrontation between the recipient and a member or members of the target group.

(2) Outgoing mail from inmates of institutions may be disapproved for mailing for any one of the following reasons:

(a) For any one of the reasons set forth in WAC 137-48-040(1).

(b) The mail is addressed to a minor whose parents or guardian have objected in writing to such correspondence.

(c) An individual or their guardian who previously has been sent obscene or threatening mail by the inmate has complained or has asked that such mail not be received.

(d) The mail solicits money or goods from a person or organization other than the immediate family of the inmate without the permission of the superintendent. The above provisions may not be construed to preclude the purchase of noncontraband goods or payment for such goods which have been approved by the superintendent or his/her designee.

(e) The outside of the mail (envelope or package) does not contain a return address as defined in WAC 137-48-020.

(3) No mail is to be restricted for the reason that it appeals to a particular ethnic, racial, or religious group, or that it contains critical opinions of departmental policy or departmental employees, unless the mail is also judged to be a threat to legitimate penological objectives.

(4) In addition to those reasons cited in this section, packages sent either to or from an inmate are subject to the following restrictions:

(a) An inmate may receive one gift package not to exceed fifteen pounds in weight on a quarterly basis. Quarterly periods shall consist of December through February, March through May, June through August, and September through November. Rules governing the contents of quarterly packages shall be developed specifically by each institutional superintendent and approved by the division director. The superintendent may allow exceptions from the one gift package limitation and weight limitation provided that appropriate contraband controls are maintained.

(b) The contents of the quarterly package shall be restricted to those items that are otherwise not available to

the inmate through the institutional store or other purchasing outlet provided by the institution. A replacement package may be sent during the same quarter for damaged packages that are returned to the sender by the inmate. Packages containing contraband shall be refused delivery to the inmate and will be counted as the package for that quarter.

(c) Prepaid merchandise approved by the superintendent and ordered by the inmate from any wholesaler or retailer shall not be considered one of the quarterly packages.

(d) Inmates may mail packages containing materials which have been sent to him or her in the institution or gifts consisting of his or her own hobby craft or curio work. Packages must be made and mailed at the inmate's expense.

(e) Newly admitted inmates at any department of corrections operated reception center will not receive packages while assigned to the reception center.

[91-23-103, § 137-48-040, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.01.090, 86-21-058 (Order 86-06), § 137-48-040, filed 10/14/86. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140, 83-20-036 (Order 83-09), § 137-48-040, filed 9/27/83. Formerly WAC 275-96-021 and 275-96-022.]

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.

WAC 137-48-050 Procedures for restrictions of incoming and/or outgoing mail.

(1) If an inmate's incoming or outgoing mail is restricted, written notification will be provided to the inmate by the mailroom staff. This notification shall be provided to the inmate and the sender of the specific publication, letter, or package which has been restricted and the reason for this action. The notice shall contain notification to the inmate that the restriction becomes final within ten days of the initial notice. The superintendent or his/her designee shall review the restriction within the ten-day period of time and shall either uphold the restriction, or allow for the delivery of the mail.

(2) The inmate and sender shall be advised in writing of his/her right to seek review of the decision to restrict his/her mail. The review shall be sought by writing directly to the director, division of community corrections or prisons within ten calendar days.

(3) Upon receipt of an inmate's and/or sender's appeal, the director of community corrections or prisons or his/her designee shall affirm or reverse the action taken at the institution level and shall advise the inmate and sender in writing of this action within ten working days from the receipt of the inmate's or sender's written request.

(4) When a decision is rendered regarding a particular issue of a publication, that decision shall be binding for all facilities in the respective correctional division. A division-wide notification shall be promptly issued from the office of the director when the decision is rendered.

(5) If a package contains contraband and is subject to criminal prosecution, the entire package will be turned over to the appropriate law enforcement agency. Items of contraband not subject to criminal prosecution will be disposed of in accordance with procedures set forth in departmental, division, and facility regulations as authorized by chapter 137-36 WAC.

[91-23-103, § 137-48-050, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-050, filed 9/27/83. Formerly WAC 275-96-070.]

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.

WAC 137-48-060 Mail costs. (1) Except as otherwise stated in this section, mail costs shall be the responsibility of the inmate.

(2) Mail which arrives at the institution with postage due may, at the option of the superintendent, be delivered to the inmate. The institution may pay the postage due in accordance with subsection (3) of this section, or hold the mail for a reasonable period of time so as to allow the inmate to arrange for payment of the postage due. If such arrangements are not made within the time provided, the package/mail may be donated to charity or discarded.

(3) Indigent inmates shall be authorized to receive postage equivalent to the mailing cost of ten standard, one ounce, first class letters per week. This indigent postage provision shall cover both legal and/or regular letters regardless of the number of letters identified as legal mail.

(4) Any expenditures made by the institution for postage due on incoming mail and/or indigent postage for letters, (as identified in subsection (3) of this section) may be recouped by the institution whenever such indigent inmate has ten dollars or more of disposable income in his/her trust fund account.

[91-23-103, § 137-48-060, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.09.050, 72.08.103, 72.13.080 and 72.15.040. 84-08-011 (Order 84-04), § 137-48-060, filed 3/26/84. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-060, filed 9/27/83. Formerly WAC 275-96-060.]

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.

WAC 137-48-070 Mail records. The institution superintendent or his/her designee(s) shall be responsible for the maintenance of a continuous record showing the source and destination of legal mail, packages and items of monetary value mailed by or mailed to an inmate. The secretary shall establish procedures for each institution governing the written mail record.

[91-23-103, § 137-48-070, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-070, filed 9/27/83.]

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.

WAC 137-48-080 Telephone usage. (1) Telephone facilities shall be provided in appropriate numbers and locations to permit reasonable and equitable access to all inmates, except inmates of the reception center and those inmates in disciplinary segregation.

(2) The superintendent shall promulgate written regulations providing for access of inmates to additional telephone facilities in emergency situations.

(3) The superintendent shall promulgate written regulations outlining the hours of telephone availability, maximum length of calls (not less than five minutes), limitations on telephone use, and provisions for monitoring, recording, and operator-announced calls as provided for in RCW 9.73.145.

[91-23-103, § 137-48-080, filed 11/20/91, effective 1/1/92. Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-080, filed 9/27/83. Formerly WAC 275-96-065.]

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.

WAC 137-48-090 Implementation. The secretary may adopt rules and regulations implementing this chapter.

[Statutory Authority: RCW 72.08.380, 72.09.050 and 72.12.140. 83-20-036 (Order 83-09), § 137-48-090, filed 9/27/83.]

Chapter 137-52 WAC

RESIDENT OF ADULT CORRECTIONAL INSTITUTION ESCORTED LEAVE OF ABSENCE

WAC

137-52-005	Purpose.
137-52-010	Definitions.
137-52-015	Reasons allowed.
137-52-020	Conditions.
137-52-025	Application requests for escorted leave.
137-52-030	Approval.
137-52-035	Escort procedures.
137-52-040	Expenses.
137-52-045	Expenses—Paid by inmate.
137-52-050	Expenses—Paid by department.

WAC 137-52-005 Purpose. The purpose of this chapter is to set forth the reasons for and conditions under which a superintendent may extend the limits of confinement under the authority of RCW 72.01.370.

[Statutory Authority: RCW 72.01.380. 85-07-042 (Order 85-07), § 137-52-005, filed 3/19/85. Formerly WAC 275-85-010.]

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, 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 director of the division of prisons 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.

[Statutory Authority: RCW 72.01.380. 85-07-042 (Order 85-07), § 137-52-010, filed 3/19/85. Formerly WAC 275-85-005.]

WAC 137-52-015 Reasons allowed. An escorted leave may be granted by the superintendent to extend limits of confinement into the community to permit an inmate to:

(1) Receive necessary medical or dental care which is not available in the institution;

(2) Visit a seriously ill member of the inmate's immediate family or attend the funeral of a member of the inmate's immediate family upon verification, by the superintendent, of such illness or death;

(3) Participate in athletic contests as a member of a group or team only if the inmate is in minimum custody; or

(4) Participate in supervised work of the department to include industrial, educational, and agricultural programs;

(5) Participate as a volunteer in community service work projects, which are approved by the superintendent for selected minimum custody nonviolent offenders, if such work project is requested by the local community.

[Statutory Authority: RCW 72.01.380. 85-07-042 (Order 85-07), § 137-52-015, filed 3/19/85. Formerly WAC 275-85-015.]

WAC 137-52-020 Conditions. (1) An escorted leave shall be authorized only for trips within the boundaries of the state of Washington.

(2) The duration of an escorted leave to the bedside of a seriously ill member of the inmate's immediate family or attendance at a funeral shall not exceed forty-eight hours unless otherwise approved by the superintendent.

(3) The duration of escorted leaves granted for reasons other than those mentioned in WAC 137-52-015(2) shall not exceed the normal work day (eight hours) with the exception of extended medical treatment requiring placement at a local hospital.

(4) The inmate shall be in the visual or auditory contact of an approved correctional staff member at all times and shall be considered under the custody of the superintendent.

(5) The inmate shall be housed in a city or county jail or state institution at all times when not in transit or actually engaged in the activity for which the escorted leave was granted.

(6) An agreement for reimbursement for expenses not to be paid by the state and escort arrangements must be

established in advance of the requested date of escorted leave.

(7) County and city law enforcement agencies with jurisdiction in the area of the inmate's destination shall be notified by the superintendent before allowing any escorted leave of absence under RCW 72.01.375.

[Statutory Authority: RCW 72.01.380. 85-07-042 (Order 85-07), § 137-52-020, filed 3/19/85. Formerly WAC 275-85-020.]

WAC 137-52-025 Application requests for escorted leave. The superintendent of each institution shall establish procedures governing the method of handling requests by individual inmates or the institution for an escorted leave of absence. Each leave request will be evaluated within forty-eight hours. If the leave request is initiated by the institution, the superintendent will advise the inmate of the reason for the escorted leave, including leaves for family emergency or medical requirement.

[Statutory Authority: RCW 72.01.380. 85-07-042 (Order 85-07), § 137-52-025, filed 3/19/85. Formerly WAC 275-85-025.]

WAC 137-52-030 Approval. Escorted leaves for medium and minimum custody inmates shall be approved or denied by the superintendent. Escorted leaves for close and maximum custody inmates for the purpose of medical or dental treatment shall be approved or denied by the superintendent. Escorted leaves for close and maximum custody inmates, with the exception of medical or dental treatment, shall be approved or denied by the secretary. In approving a request for escorted leave, the following factors will be considered:

(1) The nature of the request for escorted leave;

(2) The community risk associated with granting the request for an escorted leave based on the security or escape risk;

(3) The inmate's overall history of stability and any tendencies toward violent disruptive behavior;

(4) Any history of unusual disciplinary problems;

(5) The inmate's degree of trustworthiness as demonstrated by his/her performance in work assignments and maintenance of a clear disciplinary record;

(6) Any significant health problems that might be aggravated as a result of the leave; and

(7) Such other information as may be deemed relevant.

[Statutory Authority: RCW 72.01.380. 85-20-081 (Order 85-10), § 137-52-030, filed 9/30/85; 85-07-042 (Order 85-07), § 137-52-030, filed 3/19/85. Formerly WAC 275-85-030.]

WAC 137-52-035 Escort procedures. (1) Only correctional staff approved by the superintendent will be authorized to serve as escorts. Single escorts must have attained permanent employee status. At least one experienced, permanent status employee will accompany all inmates on escorted leave.

(2) Medium and close custody inmates shall be escorted by at least two correctional staff. No more than five medium/close inmates may be escorted with two correctional staff. Maximum custody inmates will be escorted in ratio of two staff to one inmate. Medium, close, and maximum custody inmates shall be escorted in hand and leg restraints. Inmates in these custody levels shall be escorted with at least

one staff member carrying a sidearm and safely separated from a second officer who will be the immediate escort for the inmate. The unarmed officer may be the immediate supervisor, counselor, or other state correctional staff approved by the superintendent. Only with the approval of the superintendent will escorts remove waist and leg restraints from inmates.

(3) Minimum custody inmates shall be escorted under circumstances deemed appropriate by the superintendent. Correctional staff may be instructed to wear their uniforms and sidearms in appropriate circumstances.

(4) A correctional officer serving as escort may wear civilian clothing when escorting an inmate to a bedside visit or a funeral unless otherwise directed by the superintendent.

[Statutory Authority: RCW 72.01.380, 85-07-042 (Order 85-07), § 137-52-035, filed 3/19/85. Formerly WAC 275-85-035.]

WAC 137-52-040 Expenses. (1) Correctional staff assigned escort duties shall be authorized per diem reimbursement for meals, lodging, and transportation at the rate established by the departmental travel policy.

(2) Correctional staff assigned escort responsibility shall receive appropriate compensation at regular salary or overtime for all hours spent in actual escort of the inmate, but not including hours sleeping or not engaged in direct supervision of the inmate. The salary shall be paid at the appropriate straight time and overtime rates as provided in the merit system rules.

(3) Cost of housing the inmate in a city or county jail when not in transition or actually engaged in the activity for which the escorted leave was granted shall be charged the inmate in accordance with WAC 137-52-045.

[Statutory Authority: RCW 72.01.380, 85-07-042 (Order 85-07), § 137-52-040, filed 3/19/85. Formerly WAC 275-85-040.]

WAC 137-52-045 Expenses—Paid by inmate. (1) The expenses of the escorted leave as enumerated in WAC 137-52-040 shall be reimbursed by the inmate or his/her immediate family unless the superintendent has authorized payment at state expense in accordance with WAC 137-52-050.

(2) Payments by the inmate, inmate's immediate family, or bonding company shall be made to the institution's business office and applied to the appropriate fund as defined by law, applicable provisions of the Washington Administrative Code, or department policy.

[Statutory Authority: RCW 72.01.380, 85-07-042 (Order 85-07), § 137-52-045, filed 3/19/85. Formerly WAC 275-85-045.]

WAC 137-52-050 Expenses—Paid by department. The expenses of the escorted leave shall be absorbed by the state if:

(1) The inmate and his/her immediate family are indigent in accordance with WAC 137-52-010(3); or

(2) The expenses were incurred for the purpose of the inmate's participation in a program activity, academic or vocational activity, work activity, or to secure medical care; or

(3) The expenses were incurred as a result of a reclassification of an inmate and the return of such inmate from a minimum custody facility to a more secure facility.

[Statutory Authority: RCW 72.01.380, 85-07-042 (Order 85-07), § 137-52-050, filed 3/19/85. Formerly WAC 275-85-050.]

Chapter 137-54 WAC

INMATE MARRIAGES—ADULT CORRECTIONAL FACILITIES

WAC

137-54-010	Definitions.
137-54-020	Eligibility and notice.
137-54-030	Superintendent's procedures.
137-54-040	Marriage ceremony.

WAC 137-54-010 Definitions. As used in this chapter, the following words have the following meanings:

(1) "Institution" means an adult correctional facility identified in RCW 72.01.050(2) or any similar facility hereafter established, or a work/training release facility established pursuant to chapter 72.65 RCW;

(2) "Superintendent" means the superintendent of an adult correctional facility identified in RCW 72.01.050(2) or any similar facility hereafter established or the supervisor of a work/training release facility established pursuant to chapter 72.65 RCW;

(3) "Inmate" means a person under the custody of the state department of corrections but does not include a parolee or a probationer.

[Statutory Authority: RCW 72.01.090 and 72.09.050, 85-05-019 (Order 85-03), § 137-54-010, filed 2/13/85.]

WAC 137-54-020 Eligibility and notice. An inmate may marry while confined to or on furlough from an institution if such marriage is legally permissible under the laws of the state of Washington. An inmate must give written notice of his or her intention to marry. Such notice shall be given to the superintendent of the institution in which the inmate resides.

[Statutory Authority: RCW 72.01.090 and 72.09.050, 85-05-019 (Order 85-03), § 137-54-020, filed 2/13/85.]

WAC 137-54-030 Superintendent's procedures. (1) Superintendents shall develop written procedures for inmate marriages. Said procedures shall address, but not be limited to:

(a) The inmate's notice of intent to marry;

(b) Premarriage counseling for the inmate and the intended spouse;

(c) The visitation privileges between the inmate and intended spouse; and

(d) The conduct of the marriage and related matters, giving due consideration to the requirements of security, safety, health, and orderliness.

(2) Inmates will be advised of such procedures developed by the superintendent.

[Statutory Authority: RCW 72.01.090 and 72.09.050, 86-07-034 (Order 86-05), § 137-54-030, filed 3/14/86; 85-05-019 (Order 85-03), § 137-54-030, filed 2/13/85.]

WAC 137-54-040 Marriage ceremony. All marriage arrangements will be planned in conjunction with and supervised by the chaplain assigned to the institution in

which the inmate resides. When the marriage ceremony takes place within an institution the superintendent may permit outside clergy or other lawfully authorized persons to perform the marriage ceremony.

[Statutory Authority: RCW 72.01.090 and 72.09.050. 85-05-019 (Order 85-03), § 137-54-040, filed 2/13/85.]

Chapter 137-56 WAC

**COMMUNITY RESIDENTIAL PROGRAMS, WORK/
TRAINING RELEASE**

WAC

137-56-005	Purpose.
137-56-010	Definitions.
137-56-015	Disposition of earnings.
137-56-020	Secretary's authority to grant or deny.
137-56-030	Reasons for which given.
137-56-040	Application—Who may apply.
137-56-050	Application—Consideration.
137-56-060	Application—Decision.
137-56-070	Plan—Investigation.
137-56-080	Plan—Approval or denial.
137-56-090	Plan—Restrictions.
137-56-095	Notification.
137-56-100	Standard rules.
137-56-110	Serious infractions.
137-56-120	Provisions of supervision.
137-56-140	Limits of confinement.
137-56-150	Sponsor-escort.
137-56-160	Termination of plan.
137-56-170	Service of notice of proposed disciplinary action.
137-56-180	Disciplinary hearing.
137-56-190	Facility review committee.
137-56-200	Disciplinary hearing—Waiver.
137-56-210	Disciplinary hearing—Rules of evidence.
137-56-220	Disciplinary hearing—Findings and conclusions.
137-56-230	Disciplinary hearing—Disposition.
137-56-240	Disciplinary hearing—Decision.
137-56-250	Disciplinary hearing—Appeal.
137-56-260	Time limits.
137-56-270	Exceptions.
137-56-280	Applicability.

WAC 137-56-005 Purpose. The purpose of this chapter is to set forth the rules and regulations governing the administration of the department's work/training release programs.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-005, filed 4/5/82. Formerly Title 275 WAC.]

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, department of corrections.

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

(9) "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) "Work/training release inmate or resident" is an inmate of a major adult correctional institution who has been approved 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) "Sponsor-escort" is a responsible citizen assigned to escort and supervise an inmate or resident during official and social activities outside of the work/training release facility.

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

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

[Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-010, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-010, filed 4/5/82. Formerly chapter 275-92 WAC.]

WAC 137-56-015 Disposition of earnings. Payment 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.

[Statutory Authority: RCW 72.65.100. 86-06-039 (Order 86-04), § 137-56-015, filed 3/3/86.]

WAC 137-56-020 Secretary's authority to grant or deny. The secretary or his or her designee may grant or deny work/training release as authorized by chapter 72.65 RCW subject to the rules of this chapter.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-020, filed 4/5/82. Formerly WAC 275-92-315.]

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;

(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).

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-030, filed 4/5/82. Formerly WAC 275-92-320.]

WAC 137-56-040 Application—Who may apply.

(1) An inmate may apply for work/training release provided that:

- (a) He or she has minimum security status;
- (b) His or her minimum term has been fixed by the board of prison terms and paroles;
- (c) He or she has less than two years to serve on the minimum term including anticipated good time credits.

(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.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-040, filed 4/5/82. Formerly WAC 275-92-325.]

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 may be referred by the superior court or board of prison terms and paroles.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-050, filed 4/5/82. Formerly WAC 275-92-330.]

WAC 137-56-060 Application—Decision. (1) If the

superintendent approves the work/training 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.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-060, filed 4/5/82. Formerly WAC 275-92-335.]

WAC 137-56-070 Plan—Investigation. (1) Upon

receipt of an approved work/training release application and plan from the superintendent, the work/training release facility supervisor or his or her designee shall complete an investigation.

(2) The work/training release investigation will verify the plan as it pertains to employment, financial resources, training, community reaction, and any other 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 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.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-070, filed 4/5/82. Formerly WAC 275-92-340.]

WAC 137-56-080 Plan—Approval or denial. (1)

The assistant 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) 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.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-080, filed 4/5/82. Formerly WAC 275-92-345.]

WAC 137-56-090 Plan—Restrictions. (1) An inmate

or resident will not be permitted to travel outside the state.

(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 from the date of issuance of transfer orders, the inmate or resident may be returned to the institution without prejudice.

(4) The purpose of work/training release is to provide a short adjustment period in a work/training release facility prior to parole. Before a work/training release plan is approved, the staff will have a reasonable expectation that the inmate or resident will be paroled in a period of time which will normally not exceed six months. If a parole 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.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-090, filed 4/5/82. Formerly WAC 275-92-350.]

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 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 is unable to read or understand English, the rules shall be read to him/her promptly in his/her accustomed language.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-095, 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.

(2) Comply with local work/training release facility rules, and any special restrictions imposed in writing by the work/training release facility supervisor. The inmate or resident may appeal in writing to the community corrections regional administrator, 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 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 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. All income from any source shall be immediately placed in the resident's trust fund account by the facility supervisor. 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 in a reasonable time, normally within six months. If it is not possible to parole the inmate or resident within a reasonable period of time, he or she may be returned to the institution.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-100, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-100, filed 4/5/82. Formerly WAC 275-92-355.]

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.
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 from the facility.
- 833 - Using physical force in the act of escape.
- 834 - Escaping/absconding from the facility 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 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.

[Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-110, filed 2/21/86.]

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 that the whereabouts of the inmate or resident is known at all times, including checks on the inmate or resident at school and work;

(3) Bed checks or head counts to account for the inmate's or resident's whereabouts; a minimum of three bed checks 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 fire codes.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-120, filed 4/5/82. Formerly WAC 275-92-405.]

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 between the hours of 8:00 a.m. and 10:00 p.m.;

(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.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-140, filed 4/5/82. Formerly WAC 275-92-410.]

WAC 137-56-150 Sponsor-escort. (1) A sponsor-escort shall be a responsible citizen who shall accompany and retain custody of 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; 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 felony probation or parole 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.

[Statutory Authority: RCW 72.65.100, 82-08-055 (Order 82-06), § 137-56-150, filed 4/5/82. Formerly WAC 275-92-415.]

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 release program, such approval may be revoked, and if the work/training release inmate or resident has been released 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 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.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-160, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-160, filed 4/5/82. Formerly WAC 275-92-510.]

WAC 137-56-170 Service of notice of proposed disciplinary action. (1) If disciplinary action is proposed, the work/training release facility supervisor 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 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 resident shall have notice of such new and/or amended allegations at least twenty-four hours prior to the disciplinary hearing.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-170, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-170, filed 4/5/82. Formerly WAC 275-92-515.]

WAC 137-56-180 Disciplinary hearing. (1) A work/training inmate or 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 committee. 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 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 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 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 committee. If there is a language or communications barrier, the review committee chairman shall appoint an advisor.

(c) The inmate or resident may have an attorney present 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 committee 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 committee shall grant such request if it is determined by the review committee 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 committee if the information to be presented by the witnesses is deemed to be irrelevant, duplicative, or unnes-

sary 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 committee chairman may exclude unauthorized persons.

(3) The review committee shall make an evaluation of the inmate's or resident's progress, attitudes, need for program modifications, work/training alternatives, or institution programming; and shall make a recommendation to the board of prison terms and paroles regarding good time credits and readiness for parole.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-180, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-180, filed 4/5/82. Formerly WAC 275-92-520.]

WAC 137-56-190 Facility review committee. (1)

The review committee shall consist of at least three members, including the work/training release facility supervisor or his or her designee and a member of the contractor's staff, if the facility is under contract with the department. The additional members shall be selected by the facility supervisor from either state staff, including community corrections officers or the contractor's staff. No resident or inmate may be a member of this committee. The facility supervisor shall serve as chairman and shall have the authority to make the final decision. The facility supervisor or his or her designee shall inform the inmate, in writing, of the review committee's decision within three working days.

(2) At institutions, the classification committee may serve as the facility review committee for work/training release inmates or residents housed at the facility; except that the institution work/training release coordinator will be a member of the committee.

(3) No person making an allegation involved in the incident, or called as a witness, shall be a member of the review committee. Persons called as witnesses must be approved by the review committee chairman 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, community corrections regional administrator, or assistant director.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-190, filed 2/21/86; 83-05-009 (Order 83-02), § 137-56-190, filed 2/4/83; 82-08-055 (Order 82-06), § 137-56-190, filed 4/5/82. Formerly WAC 275-92-525.]

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 or limited only to questions of disposition.

(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 good time credits and/or the extension of the minimum term.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-200, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-200, filed 4/5/82. Formerly WAC 275-92-530.]

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 committee, 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 committee 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 committee to be irrelevant, immaterial, unnecessarily duplicative of other information and/or testimony before the review 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 committee determines that the presence of a witness is appropriate, the review 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 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 committee. If the review committee 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 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 based on his/her determination

of good cause for nondisclosure and that the informant is reliable. The review committee must make an independent determination as to the reliability of the informant and the credibility of the information offered, except that the review committee may accept an assurance of credibility from the community corrections regional administrator who approves the nondisclosure of the identity of the work/training release inmate or resident. The inmate should be advised on the record, or subsequently provided with, a statement of good cause as to why the inmate was not allowed to call a witness or why the identity of an inmate 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 of the review 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 committee should determine if the inmate is competent to understand the charges and proceedings or needs an interpreter to participate therein. If the inmate is not competent or needs an interpreter, the review committee should postpone the hearing to secure a report on the competency of the inmate, provide an interpreter, or take such other action as will assure the fairness and orderliness of the hearings.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-210, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-210, filed 4/5/82. Formerly WAC 275-92-535.]

WAC 137-56-220 Disciplinary hearing—Findings and conclusions. (1) At the conclusion of the hearing, the review 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 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 work/training release status.

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

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-220, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-220, filed 4/5/82. Formerly WAC 275-92-540.]

WAC 137-56-230 Disciplinary hearing—Disposition.

(1) The review 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 committee shall make a determination as to whether or not the inmate or resident has earned good time credits towards parole/release, and whether the matter should be referred to the

board of prison terms and paroles 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.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-230, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-230, filed 4/5/82. Formerly WAC 275-92-545.]

WAC 137-56-240 Disciplinary hearing—Decision.

(1) The review 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; or

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

(i) Return the offender to the court or the board of prison terms and paroles 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 shall notify the inmate or resident orally within one working day and confirm the decision in writing within three working days. The written decision shall specify the evidence upon which the review committee relied and shall include a description of the circumstances surrounding the allegation(s) upon which the termination of 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.

[Statutory Authority: RCW 72.65.100, 86-06-012 (Order 86-02), § 137-56-240, filed 2/21/86; 82-08-055 (Order 82-06), § 137-56-240, filed 4/5/82. Formerly WAC 275-92-550.]

WAC 137-56-250 Disciplinary hearing—Appeal.

The inmate or resident may appeal the decision of the facility review committee to the community corrections regional administrator. 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, or his or her designee, upon receipt of an appeal, will review the findings and decision of the review committee and either:

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

- (2) Reverse the decision of the facility review 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.

[Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-250, filed 2/21/86; 83-10-042 (Order 83-05), § 137-56-250, filed 5/2/83; 82-08-055 (Order 82-06), § 137-56-250, filed 4/5/82. Formerly WAC 275-92-555.]

WAC 137-56-260 Time limits. The time limits contained in these rules shall not be deemed to be jurisdictional and failure to adhere to a particular time limit shall not be a bar to any procedure or action covered by these rules.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-260, filed 4/5/82. Formerly WAC 275-92-560.]

WAC 137-56-270 Exceptions. The secretary may authorize exceptions to the criteria listed in WAC 137-56-040, 137-56-080, and 137-56-110 through 137-56-150.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-56-270, filed 4/5/82. Formerly WAC 275-92-565.]

WAC 137-56-280 Applicability. WAC 137-56-170 through 137-56-260 shall not apply to the termination of a work/training release plan pursuant to WAC 137-56-160 (2)(a), (b), or (c). WAC 137-56-080 and 137-56-170 through 137-56-260 shall not apply to the termination or modification of a work/training release plan by the secretary pursuant to WAC 137-56-160(1).

[Statutory Authority: RCW 72.65.100. 86-06-012 (Order 86-02), § 137-56-280, filed 2/21/86.]

Chapter 137-57 WAC

SELECTING CONTRACTORS FOR AND SITING OF COMMUNITY RESIDENTIAL PROGRAMS (WORK/TRAINING RELEASE FACILITIES)

WAC

137-57-005	Purpose.
137-57-010	Definitions.
137-57-020	Secretary's authority.
137-57-030	Advisory committee.
137-57-040	Contractor selection.
137-57-050	Site selection.
137-57-060	Public notice, hearing requirements.
137-57-070	Contract/lease.
137-57-080	Waiver.

WAC 137-57-005 Purpose. The purpose of this chapter is to establish procedures for the selection of contractors providing work/training release programs, ensure department cooperation with local jurisdictions in the siting of work/training release facilities, and encourage public comment and advice in the siting decisions.

[Statutory Authority: RCW 72.65.100. 84-11-032 (Order 84-05), § 137-57-005, filed 5/14/84; 82-08-055 (Order 82-06), § 137-57-005, filed 4/5/82. Formerly Title 275 WAC.]

WAC 137-57-010 Definitions. (1) "Secretary" is the secretary of the department of corrections or his/her designee.

(2) "Department" is the department of corrections.

(3) "Work/training release facility" is an institution, community residential program or other establishment approved for housing and supervision of work/training release inmates or residents as defined in WAC 137-56-010.

(4) "Search committee" is a committee appointed by the secretary to locate potential work/training release contractors or work/training release sites.

[Statutory Authority: RCW 72.65.100. 84-11-032 (Order 84-05), § 137-57-010, filed 5/14/84; 82-08-055 (Order 82-06), § 137-57-010, filed 4/5/82.]

WAC 137-57-020 Secretary's authority. Pursuant to RCW 72.65.080 the secretary may enter into contracts with the appropriate authority for the payment of the cost of feeding and lodging and other expenses of having work release participants. Such contracts may include any other terms and conditions as may be appropriate for the implementation of the work release program as defined in chapter 137-56 WAC. In addition, the secretary is authorized to acquire by lease or contract, appropriate facilities for the housing of work release participants and providing for their subsistence and supervision.

[Statutory Authority: RCW 72.65.100. 84-11-032 (Order 84-05), § 137-57-020, filed 5/14/84; 82-08-055 (Order 82-06), § 137-57-020, filed 4/5/82.]

WAC 137-57-030 Advisory committee. When the department intends to locate or relocate a work/training release facility, the assistant director shall be responsible for assembling a department advisory committee composed of local elected and/or public officials, local law enforcement heads, interested citizens and department staff. The advisory committee shall be apprised of the department's need for the site and the geographical location desired.

The committee shall then be given the opportunity to make recommendations to the assistant director regarding said site and the selection thereof. These recommendations shall be recorded in writing.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-030, filed 4/5/82.]

WAC 137-57-040 Contractor selection. (1) When the department is seeking a contractor to provide a work/training release program, the secretary will appoint a search committee which shall conduct a search in the manner it deems appropriate to identify potential contractors who would be qualified to develop and provide a work/training release program conforming with applicable regulations, standards, and procedures adopted by the department. The search committee shall also obtain such information as is necessary to evaluate the qualifications and reliability of the potential contractors, the scope of the proposed programs and the cost of such programs.

(2) The names of the potential contractors determined by the search committee, information gathered during the search, the search committee's ranking of the potential contractors, and the search committee's recommendations shall be submitted to the secretary.

(3) The secretary, based on the information, rankings, and recommendations so submitted by the search committee, may approve one of the potential contractors as the provider of the work/training release program.

[Statutory Authority: RCW 72.65.100. 84-11-032 (Order 84-05), § 137-57-040, filed 5/14/84; 82-08-055 (Order 82-06), § 137-57-040, filed 4/5/82.]

WAC 137-57-050 Site selection. (1) When the department is seeking a work/training release site, the secretary will appoint:

(a) A search committee which shall conduct a search for possible locations in the manner it deems appropriate; and

(b) An advisory committee composed of local elected or public officials, local law enforcement personnel, interested citizens, and department staff.

(2) After the sites have been identified, the search committee shall submit a description of them to the advisory committee for review. The advisory committee's review shall evaluate the following factors:

(a) The cost of acquiring the use of the site, and the cost of improvements that would be required to renovate, repair, remodel, or alter the site to make it suitable for a work release program;

(b) The desirability of the site for program activities;

(c) The access to public transportation available at the site;

(d) The community impacts associated with the site; and

(e) The zoning restrictions applicable to the geographical area in which the site is located.

(3) After it completes its review, the advisory committee shall submit its recommendations to the secretary, and the secretary may give preliminary approval to one of the recommended sites.

[Statutory Authority: RCW 72.65.100. 84-11-032 (Order 84-05), § 137-57-050, filed 5/14/84; 82-08-055 (Order 82-06), § 137-57-050, filed 4/5/82.]

WAC 137-57-060 Public notice, hearing requirements. (1) After the secretary gives preliminary approval to a site, the department shall either apply for or assist others in applying for any permits which may be required by local zoning laws with respect to the operation of a work/training release facility.

(2) In the event there are no local zoning requirements, or hearing requirements with respect to the operation of a work/training release program on the site which has received the secretary's preliminary approval, the department shall hold a public hearing to encourage citizen input. Notice of such a hearing shall be provided in a manner best designed to notify residents within the immediate area and within the budget limitations of the department.

(3) After the required zoning permits, if any, have been obtained, and after the secretary has considered the comments expressed by members of the public during any zoning process or during the public hearing conducted by the department, the secretary may grant or withhold final approval of the proposed site.

[Statutory Authority: RCW 72.65.100. 84-11-032 (Order 84-05), § 137-57-060, filed 5/14/84; 82-08-055 (Order 82-06), § 137-57-060, filed 4/5/82.]

WAC 137-57-070 Contract/lease. Upon final approval by the secretary of a proposed contractor pursuant

to WAC 137-57-040 or the proposed site pursuant to WAC 137-57-060 the department shall, by appropriate instruments, obtain the services of the approved contractor or acquire the use of the approved site.

[Statutory Authority: RCW 72.65.100. 84-11-032 (Order 84-05), § 137-57-070, filed 5/14/84; 82-08-055 (Order 82-06), § 137-57-070, filed 4/5/82.]

WAC 137-57-080 Waiver. The secretary may waive any provisions of this chapter if he/she deems such waiver to be in the best interest of the department.

[Statutory Authority: RCW 72.65.100. 82-08-055 (Order 82-06), § 137-57-080, filed 4/5/82.]

**Chapter 137-58 WAC
GUIDELINE FOR IMPLEMENTING THE STATE
ENVIRONMENTAL POLICY ACT**

WAC

137-58-010	Purpose.
137-58-020	Definitions.
137-58-030	Agency responsibilities.
137-58-040	Responsibilities, office of capital programs.

WAC 137-58-010 Purpose. (1) The purpose of this chapter is to ensure department compliance with the State Environmental Policy Act, (SEPA), chapter 43.21C RCW, and the regulations promulgated thereto, chapter 197-10 WAC and to set forth department procedures in regards to SEPA requirements.

(2) These rules are supplemental to chapter 43.21C RCW and chapter 197-10 WAC and are not intended to provide a comprehensive description of the SEPA requirements therein listed.

[Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-010, filed 3/22/82.]

WAC 137-58-020 Definitions. The definitions set forth in chapter 197-10 WAC are hereby incorporated by reference into this chapter and should be referred to if necessary.

[Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-020, filed 3/22/82.]

WAC 137-58-030 Agency responsibilities. (1) The secretary or his/her designee shall be responsible for making final decisions regarding threshold determinations, adequacy of draft EISs and adequacy of final EISs where the department is the lead agency.

(2) The department's office of capital programs, division of prisons, shall be responsible for submitting the necessary data set forth in WAC 137-58-040 to the secretary for his/her decision.

[Statutory Authority: RCW 72.66.080. 82-07-067 (Order 82-005), § 137-58-030, filed 3/22/82.]

WAC 137-58-040 Responsibilities, office of capital programs. The department's office of capital programs, division of prisons, shall be responsible for complying with the threshold determination procedures of WAC 197-10-300 through 197-10-390; and shall be responsible for the supervi-

sion, or actual preparation of draft EISs pursuant to WAC 197-10-400 through 197-10-495, including the circulation of such statements, and the conduct of any public hearing required by chapter 197-10 WAC. The office of capital programs shall also prepare or supervise the preparation of any required final EIS pursuant to WAC 197-10-550 through 197-10-695.

[Statutory Authority: RCW 72.66.080, 82-07-067 (Order 82-005), § 137-58-040, filed 3/22/82.]

Chapter 137-60 WAC

ADULT CORRECTIONAL INSTITUTIONS— RELEASE PROGRAMS—FURLOUGH

WAC

137-60-010	Furlough of person confined in state correctional institution—Definitions.
137-60-020	Furlough of person confined in state correctional institution—Secretary's authority to grant or deny.
137-60-030	Furlough of person confined in state correctional institution—Purposes.
137-60-040	Furlough of person confined in state correctional institution—Who may apply.
137-60-045	Minimum time served requirement.
137-60-050	Furlough of person confined in state correctional institution—Conditions imposed.
137-60-060	Furlough of person confined in state correctional institution—Duration.
137-60-070	Furlough of person confined in state correctional institution—Sponsor's responsibilities.
137-60-080	Furlough of person confined in state correctional institution—Criteria for evaluating application.
137-60-090	Furlough of person confined in state correctional institution—Application for furlough.
137-60-100	Furlough of person confined in state correctional institution—Notifying inmate of decision on application.
137-60-110	Furlough of person confined in state correctional institution—Escape.
137-60-120	Furlough of person confined in state correctional institution—Revocation or suspension.
137-60-130	Furlough of person confined in state correctional institution—Law enforcement officers to be notified.
137-60-140	Furlough of person confined in state correctional institution—Exceptions to rules.

WAC 137-60-010 Furlough of person confined in state correctional institution—Definitions. (1) "Furlough" is an authorized unaccompanied leave of absence for an eligible inmate.

(2) "Furlough plan" is an inmate's statement in his or her application of the purpose, place, dates of duration, and sponsor of a single furlough or series of furloughs.

(3) "Furlough sponsor" is an approved adult who has agreed to assume the responsibilities set forth in WAC 137-60-070.

(4) "Emergency furlough" is a specially expedited furlough granted to an inmate to enable him or her to meet an emergency situation such as the death or critical illness of a member of his or her family.

(5) "Inmate" is a person convicted of a felony and serving a sentence for a term of confinement in a state correctional institution or facility, or a state approved work or training release facility.

(6) "Secretary" is the secretary of the department of corrections or his or her designee.

(7) "Furlough year" begins with the date of the first furlough and ends twelve months from that date. Subsequent furlough years count backward for the twelve month time period.

(8) "Furlough day" is any combination of two twelve-hour time segments.

[Statutory Authority: RCW 72.66.080, 82-07-006 (Order 82-04), § 137-60-010, filed 3/4/82. Formerly WAC 275-93-005.]

WAC 137-60-020 Furlough of person confined in state correctional institution—Secretary's authority to grant or deny. (1) The institution superintendent or chief, classification and treatment, may grant or deny a furlough as authorized by chapter 72.66 RCW and subject to the rules in this chapter to an inmate of a state correctional institution, not including inmates of work release facilities.

(2) The supervisor of a work release facility may grant or deny a furlough as authorized by chapter 72.66 RCW and subject to the rules of this chapter to an inmate of a work release facility; provided, however, with respect to such inmates, the granting of a first furlough shall be subject to the prior approval of the community corrections regional administrator if:

(a) There is a dispute between the work release facility supervisor and field staff regarding the granting of the furlough; or

(b) The inmate has two or more convictions for crimes against persons; or

(c) The inmate is confined under a sentence for murder in the first or second degree, manslaughter, negligent homicide, rape in the first or second degree, kidnapping, burglary in the first degree, robbery in the first degree, assault in the first degree, or arson in the first degree.

[Statutory Authority: RCW 72.66.080, 85-04-015 (Order 85-02), § 137-60-020, filed 1/28/85; 82-07-006 (Order 82-04), § 137-60-020, filed 3/4/82. Formerly WAC 275-93-010.]

WAC 137-60-030 Furlough of person confined in state correctional institution—Purposes. A furlough may be authorized to enable the inmate:

(1) To meet an emergency situation, such as critical illness, death, emotional crisis, or similar situation experienced by members of his or her family;

(2) To obtain medical care not available in a facility maintained by the department;

(3) To seek employment or training opportunities;

(a) Provided specific job interviews have been arranged for the inmate, or

(b) When the inmate has been approved for work or training release status but his or her job or training placement has not been developed or concluded, or

(c) When necessary to prepare a parole plan for a parole hearing scheduled within one hundred twenty days of the commencement of the furlough;

(4) To make residential plans for parole which require his or her personal appearance in the community;

(5) To care for business affairs in person when the inability to do so could deplete the assets or resources of the inmate so seriously as to affect his or her family or his or her future economic security;

(6) To visit his or her family for the purpose of strengthening or preserving relationships, exercising parental responsibilities, or preventing family division or disintegration;

(7) To accomplish any other purpose deemed to be consistent with plans for rehabilitation of the inmate.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-030, filed 3/4/82. Formerly WAC 275-93-020.]

WAC 137-60-040 Furlough of person confined in state correctional institution—Who may apply. (1) Any inmate may apply for a furlough: *Provided*, That

(a) He or she has minimum custody classification,

(b) His or her minimum term has been fixed by the board of prison terms and paroles,

(c) If he or she has a detainer pending, approval of the detaining agency must be secured. Other jurisdictions with detainers against a Washington state inmate may provide approval on a class of applicants; for example, all those otherwise approved by this state, in lieu of action on individual applications.

(2) Persons convicted of rape in the first degree shall not be eligible to participate in the furlough program at any time during the first three years of confinement.

(3) Persons convicted after July 1, 1981, of murder in the first degree, may not be granted furloughs.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-040, filed 3/4/82. Formerly WAC 275-93-040.]

WAC 137-60-045 Minimum time served requirement. A furlough shall not be granted to an inmate if the furlough would commence prior to the time the inmate has served the minimum amounts of time provided under this section and is within two years of his or her minimum term being served;

(1) If his or her minimum term of imprisonment is longer than twelve months, he or she shall have served at least six months of the term;

(2) If his or her minimum term of imprisonment is twelve months or less, he or she shall have served at least ninety days and shall have no longer than six months left to serve on his or her minimum term, or the mandatory term has been waived by the parole board;

(3) If he or she is serving a mandatory minimum term of confinement, he or she shall have served all but the last six months of such term subject to restrictions in WAC 137-60-040 (2) and (3).

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-045, filed 3/4/82.]

WAC 137-60-050 Furlough of person confined in state correctional institution—Conditions imposed. (1) The applicant must agree to abide by all terms and conditions of the approved furlough plan. Any violation may be cause for suspension or revocation of the furlough, and possible disciplinary action.

(2) The furlough plan will specify the residence address at which the applicant will reside during the period of furlough and will designate the names and relationships of the persons with whom he or she will live.

(3) Upon arrival at his or her destination the furloughed person will, when so required, report to a state probation and parole officer in accordance with instructions given prior to release on furlough. He or she shall report as frequently as may be required by the state probation and parole officer.

(4) The furloughed person shall abide by all local, state, and federal laws, ordinances, and statutes.

(5) With approval of either the designated state probation and parole officer, or institution staff, the furloughed person may accept temporary employment during a period of furlough. Earnings may be used to defray the costs of the furlough, including transportation, living expenses, family support, and incidental needs.

(6) Furloughed persons may not leave the state at any time while on furlough.

(7) Other limitations on movement within the state may be imposed as a condition of furlough. Unless it is part of the approved travel plan, travel outside the county to which furlough is granted must be approved in advance by the probation and parole officer in that county.

(8) A furloughed person shall not drink, ingest, possess, or be under the influence of intoxicating beverages or nonprescribed drugs. All public taverns, bars, liquor stores, and cocktail lounges will be considered "off limits" to furloughed persons.

(9) A furloughed person who drives a motor vehicle must:

(a) Have a valid Washington driver's license in his or her possession,

(b) If unaccompanied by the owner, have the owner's written permission in his or her possession to drive any vehicle not his or her own or his or her spouse's,

(c) Have at least minimum personal injury and property damage liability coverage on the vehicle he or she is driving,

(d) Observe all traffic laws.

(10) Clothing issued for use during the furlough is to be returned to the institution at the completion of the furlough.

(11) Other conditions of furlough specific to the individual may be imposed in writing, prior to the inception of the furlough.

(12) All conditions of furlough, general and specific, shall be listed on the furlough order, and shall be discussed with the inmate by his or her counselor before he or she leaves the institution. The furloughed person shall carry a copy of the furlough order and furlough identification card, with him or her at all times while on furlough. The furlough identification card will be issued to the inmate prior to departure from the institution, and returned at the end of the furlough.

(13) Willful failure to return from a furlough at the time specified in the furlough order constitutes an escape from confinement which is a violation of criminal law.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-050, filed 3/4/82. Formerly WAC 275-93-050.]

WAC 137-60-060 Furlough of person confined in state correctional institution—Duration. (1) Furloughs may not exceed thirty days at a given time or a total of sixty days in any twelve-month period. The sixty day total is designed to permit a reasonable pattern of short releases over the course of a year, or an extended period of release for special placement on furlough status in preparation for work release, training release, parole planning, medical treatment

not available in a state facility, or a combination of these reasons.

(2) First and second furloughs will not exceed five days absent unusual circumstances.

(3) Emergency furloughs will be limited to forty-eight hours plus travel time absent unusual circumstances.

(4) Any furlough may be extended by the institution superintendent or work/training release supervisor within the maximum time limits set by this section.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-060, filed 3/4/82. Formerly WAC 275-93-060.]

WAC 137-60-070 Furlough of person confined in state correctional institution—Sponsor's responsibilities.

A furlough plan must designate a sponsor for the inmate while he or she is on furlough. The sponsor must sign a statement agreeing to:

(1) Provide the furlougee with appropriate living quarters for the duration of the furlough,

(2) Notify the institution immediately if the furlougee does not appear as scheduled, departs from the furlough plan at any time, becomes involved in serious difficulty during the furlough, or experiences problems that affect his or her ability to function appropriately,

(3) Assist the furlougee in other appropriate ways, such as discussing problems, providing transportation to job interviews, etc.,

(4) Assure that the furlougee returns to the institution on time.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-070, filed 3/4/82. Formerly WAC 275-93-070.]

WAC 137-60-080 Furlough of person confined in state correctional institution—Criteria for evaluating application. (1) An application for furlough shall be considered with respect to:

(a) Consistency with the purposes described in WAC 137-60-030 and 137-60-040, and

(b) Adequacy of the furlough plan, and

(c) Possible risk to the community, and

(d) Findings of a field investigation.

(2) The application shall be evaluated without regard to the race, sex, color, national origin, or creed of the applicant.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-080, filed 3/4/82. Formerly WAC 275-93-080.]

WAC 137-60-090 Furlough of person confined in state correctional institution—Application for furlough.

(1) An application for furlough must be made on forms prescribed by the secretary, must include a furlough plan, and must be submitted by the inmate to his or her counselor.

(2) An application for furlough, other than an emergency furlough, must be made at least seven weeks prior to the date of the furlough.

(3) Any inmate whose furlough application has been rejected may reapply after such period of time has elapsed as was determined by the superintendent, work/training release supervisor, or chief, classification and treatment, at the time of rejection, such time period being subject to modification by the persons listed in this section.

(4) A furlough plan shall specify in detail the purpose of the furlough and how it is to be achieved, the address at which the applicant would reside, the names of all persons residing at such address and the relationships of such persons to the applicant.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-090, filed 3/4/82. Formerly WAC 275-93-090.]

WAC 137-60-100 Furlough of person confined in state correctional institution—Notifying inmate of decision on application. (1) The inmate and his or her sponsor shall both be notified promptly of the disposition of his or her application.

(2) If a furlough is authorized, a copy of the furlough order will be mailed to the sponsor.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-100, filed 3/4/82. Formerly WAC 275-93-100.]

WAC 137-60-110 Furlough of person confined in state correctional institution—Escape. The department has the duty, as soon as possible, to notify the state patrol of the escape of a furlougee.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-110, filed 3/4/82. Formerly WAC 275-93-110.]

WAC 137-60-120 Furlough of person confined in state correctional institution—Revocation or suspension.

(1) Any employee of the department having knowledge of a furlough infraction shall report the facts to the superintendent or work/training release facility supervisor as appropriate. Upon verification, the superintendent or work/training release supervisor will cause the custody of the furlougee to be regained and, for this purpose, may cause a furlough suspension warrant to be issued.

(2) The superintendent or work/training release facility supervisor as appropriate will determine whether to suspend or revoke the furlough. If the furlough is suspended, the superintendent or work/training release supervisor will indicate when and under what circumstances the inmate may reapply.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-120, filed 3/4/82. Formerly WAC 275-93-120.]

WAC 137-60-130 Furlough of person confined in state correctional institution—Law enforcement officers to be notified.

(1) Appropriate law enforcement agencies will be notified of a planned furlough via the state patrol communications network at least forty-eight hours prior to the beginning of the furlough.

(2) In the event of an emergency furlough, the state patrol will be notified as early as possible but the forty-eight hour requirement will not apply.

[Statutory Authority: RCW 72.66.080. 82-07-006 (Order 82-04), § 137-60-130, filed 3/4/82. Formerly WAC 275-93-130.]

WAC 137-60-140 Furlough of person confined in state correctional institution—Exceptions to rules.

In emergency situations or as otherwise allowed by statute, the secretary may authorize exceptions to the rules in chapter 137-60 WAC: *Provided*, That no exception may be made to

WAC 137-60-040 (1)(a), (b), (c), (2), and (3), 137-60-045, 137-60-050, 137-60-060, and 137-60-070.

[Statutory Authority: RCW 72.66.080, 82-07-006 (Order 82-04), § 137-60-140, filed 3/4/82. Formerly WAC 275-93-140.]

Chapter 137-65 WAC COST OF SUPERVISION—PROBATION AND PAROLE

WAC

137-65-010	Purpose.
137-65-020	Scope.
137-65-030	Fee.
137-65-040	P.P.I. report.
137-65-050	Instructions.
137-65-060	Exception.
137-65-070	Violation.

WAC 137-65-010 Purpose. The purpose of this regulation is to provide administrative rules and standards pursuant to chapter 72.04A RCW, as now or hereafter amended which requires a cost-of-supervision assessment for certain felony parolees.

[Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-010, filed 12/22/82.]

WAC 137-65-020 Scope. This regulation shall apply to every person convicted of a felony in the state of Washington and placed on parole effective July 1, 1982, when such convicted person is required by the board of prison terms and paroles to pay a monthly cost of supervision fee (assessment) to the state.

[Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-020, filed 12/22/82.]

WAC 137-65-030 Fee. The following fees may be assessed by the board of prison terms and parole for parolees on active status: Fifteen dollars per month for regular, routine parole and up to fifty dollars per month for special or intensive parole supervision.

[Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-030, filed 12/22/82.]

WAC 137-65-040 P.P.I. report. The probation and parole officer preparing the preparole investigation report shall recommend that the board of prison terms and paroles make the monthly cost of supervision assessment a condition of parole unless the officer finds one or more of the following:

(1) The offender has diligently attempted but has been unable to obtain employment which provides the offender sufficient income to make such payments.

(2) The offender is a student in a school, college, university, or a course of vocational or technical training designed to fit the student for gainful employment.

(3) The offender has an employment handicap, as determined by an examination acceptable to or ordered by the court.

(4) The offender's age prevents him from obtaining employment.

(5) The offender is responsible for the support of dependents and the payment of the assessment constitutes an undue hardship on the offender.

(6) Other extenuating circumstances as approved by the board of prison terms and paroles.

Reasons for recommending exemptions from the assessment shall be stipulated in the preparole investigation report.

[Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-040, filed 12/22/82.]

WAC 137-65-050 Instructions. When ordered by the board of prison terms and paroles to pay the monthly cost of supervision assessment, the subject offender will receive written instructions specifying terms of payment.

[Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-050, filed 12/22/82.]

WAC 137-65-060 Exception. The cost of supervision assessment shall not apply to cases supervised exclusively under the interstate compact.

[Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-060, filed 12/22/82.]

WAC 137-65-070 Violation. Failure to comply with a cost of supervision assessment order imposed by the board of prison terms and paroles shall be treated as any other violation of parole and brought to the attention of the board in a standard violation report. Limited discretion is authorized in responding to late payments if, in the parole officer's judgment, circumstances warrant, and if the subject offender is earnestly trying to meet his/her financial obligations.

[Statutory Authority: Chapters 72.04A and 9.94A RCW, as amended by chapter 20, Laws of 1982. 83-01-137 (Order 82-16), § 137-65-070, filed 12/22/82.]

Chapter 137-67 WAC TRANSFER OF CITIZENS OF FOREIGN COUNTRIES

WAC

137-67-010	Purpose.
137-67-015	Definitions.
137-67-020	Request for transfer.
137-67-025	Initial notification.
137-67-030	Process for application.
137-67-035	Referral by the secretary to the Office of International Affairs, Criminal Division, Department of Justice.
137-67-040	Verification hearing.
137-67-045	Return to state custody.

WAC 137-67-010 Purpose. The rules in this chapter establish the process for inmates of adult correctional institutions to apply for transfer to their countries of citizenship or origin in accordance with RCW 43.06.350.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-010, filed 9/3/85.]

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) "Director" is the director of the division of prisons of the Washington state department of corrections or the director's 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 72.68.010. 85-18-061 (Order 85-07), § 137-67-015, filed 9/3/85.]

WAC 137-67-020 Request for transfer. An inmate committed to the Washington corrections system who is a citizen of a foreign country may make an application for a voluntary transfer to the inmate's country of origin or citizenship, provided the following conditions exist:

(1) The inmate is able to establish citizenship in a treaty nation;

(2) The inmate voluntarily requests the transfer;

(3) There is no unresolved detainer lodged against the inmate;

(4) There is no pending fine or restitution obligation imposed on the inmate by a court of competent jurisdiction in the United States;

(5) There is no pending or actual sentence for civil contempt against the inmate; and

(6) There is no pending appeal or collateral attack on the underlying sentence or sentences which form the basis of the inmate's custody.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-020, filed 9/3/85.]

WAC 137-67-025 Initial notification. At the time of admission to the Washington corrections center, or the Purdy corrections center for women, the orientation information given to all inmates will include information on international

offender transfers. An inmate who is a citizen of a treaty nation will be informed of the existing treaty and be provided with the opportunity to indicate an interest or noninterest in a transfer to the inmate's country of origin or citizenship on an application form provided by the department. Whenever possible, the form will be bilingual or translated into the inmate's native language. The application will be processed consistent with the purpose and provisions of the applicable treaty.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-025, filed 9/3/85.]

WAC 137-67-030 Process for application. After the inmate's foreign country citizenship has been verified and that country has been identified as a treaty nation, the superintendent will forward the inmate's application for transfer and the verification of citizenship to the director. All applications for international transfer will be submitted by the director to the secretary for final department approval and recommended to the governor or the governor's designee pursuant to RCW 43.06.350.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-030, filed 9/3/85.]

WAC 137-67-035 Referral by the secretary to the Office of International Affairs, Criminal Division, Department of Justice. After approval of an inmate's application for transfer by the governor or the governor's designee, the secretary will refer the inmate's application to OIA.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-035, filed 9/3/85.]

WAC 137-67-040 Verification hearing. Following OIA approval and approval of the treaty country, the inmate will be referred by OIA to a United States magistrate or a United States district court judge, or other appointed United States official to assure and document the inmate's voluntary request for transfer. Federal authorities will complete the necessary procedures to effect voluntary transfer under the applicable treaty and laws of the United States.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-040, filed 9/3/85.]

WAC 137-67-045 Return to state custody. If for any reason an inmate's transfer is determined to be invalid, the state of Washington will reaccept the inmate for imprisonment for the remainder of the inmate's original sentence.

[Statutory Authority: RCW 72.68.010. 85-18-061 (Order 85-07), § 137-67-045, filed 9/3/85.]

Chapter 137-68 WAC

ADULT PROBATION AND PAROLE—INTERSTATE COMPACT

WAC

137-68-010
137-68-020

137-68-030

Definitions.

Detained or arrested probationer or parolee—Right to preliminary hearing.

Preliminary hearing—Preparation.

137-68-040 Preliminary hearing—Conduct.
137-68-050 Preliminary hearing—Disposition of decision.

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 director of the division of community services, 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 probation and parole officer employed by the department of corrections.

(9) "Supervising parole officer" is a parole officer 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 9.95B.010 through 9.95B.900.

(12) "Hearing officer" is a person authorized by the compact administrator in accordance with RCW 9.95B.020 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 9.95.270. 83-01-139 (Order 82-20), § 137-68-010, filed 12/22/82. Formerly WAC 275-102-475.]

WAC 137-68-020 Detained or arrested probationer or parolee—Right to preliminary hearing. (1) A probationer or parolee being supervised for another state under the interstate compact if detained or arrested within the state of Washington shall have the right as provided in chapter 9.95B RCW, to a preliminary hearing to determine whether there is probable cause to believe a condition or conditions of probation or parole have been violated and whether there is reason to believe the violations alleged are of such nature that a revocation of probation or parole should be considered by the sending state.

(2) The detained or arrested probationer or parolee may waive his or her right to such hearing in writing.

[Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-020, filed 12/22/82. Formerly WAC 275-102-480.]

WAC 137-68-030 Preliminary hearing—Preparation. (1) When a probationer or parolee being supervised in the state of Washington under the compact is detained by a parole officer, the parole officer shall immediately give verbal and written notice to such probationer or parolee of his or her right to a preliminary hearing and shall further notify the probationer or parolee of all rights guaranteed him or her by the rules in this chapter.

(2) Immediately following the detention of a probationer or parolee, the parole officer shall notify the deputy compact administrator of the detention. Arrangements shall promptly be made for the date, time, and place for a hearing so that the hearing may be held within ten days from the date the probationer or parolee is detained by the parole officer.

(3) As soon as possible following detention of a probationer or parolee, the parole officer shall prepare charges or the violations specified and provide the probationer or parolee with a copy of said charges and also notify him or her of the date, time, and place set for the hearing. Upon serving the probationer or parolee with the violations specified, the parole officer shall determine whether the probationer or parolee wishes to waive his or her right to a hearing.

(4) Prior to the hearing, the parole officer shall send to the appropriate deputy compact administrator the signed hearing waiver (if appropriate), the notice of arrest and violations specified and the violation report.

(5) A detained or arrested probationer or parolee shall have the right to consult with any person whose assistance he or she reasonably desires prior to the hearing.

[Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-030, filed 12/22/82. Formerly WAC 275-102-485.]

WAC 137-68-040 Preliminary hearing—Conduct. (1) The hearing shall be conducted by a hearing officer as defined in WAC 137-68-010(12).

(2) The hearing shall be closed to the public.

(3) The proceedings at the hearing shall be recorded.

(4) The hearing officer shall explain the purpose of the hearing, have the specified charges read aloud, and verify that the procedures specified in WAC 137-68-030 have been followed.

(5) A supervising parole officer shall be present at the hearing, submit the written report of the alleged violations in evidence, and testify as to the violations.

(6) Any person may give testimony relevant to the alleged violation or violations, introduce evidence including affidavits, and question other persons subject to the limitations in subsection (7) of this section.

(7) The detained or arrested probationer or parolee shall have the right to confront and examine any person who may have made allegations or given evidence against him or her unless the hearing officer determines that such a confrontation would present a substantial present or subsequent danger of harm to such person. In such instance a written general summary or the evidence, without disclosure of the identity

of the witness, shall be provided to the probationer or parolee at the hearing. He or she shall have the opportunity to submit evidence relevant to or controverting any information contained in the summary.

(8) The hearing may be recessed for time sufficient for the hearing officer to consider the evidence and reach a decision on the issue of probable cause.

(9) The hearing officer shall render this decision on the probable cause based solely on the evidence presented at the hearing.

(10) If probable cause is found the hearing officer may receive additional evidence and argument relevant to recommendations.

[Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-040, filed 12/22/82. Formerly WAC 275-102-490.]

WAC 137-68-050 Preliminary hearing—Disposition of decision. (1) The hearing officer shall submit a written summary and digest of the hearing to the deputy compact administrator which may include recommendations and reasons therefore.

(2) The deputy compact administrator shall submit the summary and digest to the sending state which may include his or her recommendations.

(3) If the decision is that there is probable cause to believe that the parolee or probationer has committed a violation or violations of a condition or conditions of parole or probation and it appears that retaking or reincarceration by the sending state is likely to follow, the probationer or parolee may be detained by the deputy compact administrator to allow such time as may be necessary to complete the arrangements for his or her return to the sending state.

(4) Should it be the decision of the sending state to return this probationer or parolee, the deputy compact administrator will assist in arranging for his or her return to the sending state.

(5) The record of the hearing shall be retained for not less than one hundred eighty days.

[Statutory Authority: RCW 9.95.270. 83-01-139 (Order 82-20), § 137-68-050, filed 12/22/82. Formerly WAC 275-102-495.]

Chapter 137-70 WAC

REIMBURSEMENT FOR CRIMINAL JUSTICE COSTS AND CONTINGENCY PLAN EXPENSES

WAC

137-70-010	Purpose.
137-70-020	Definitions.
137-70-030	Eligibility.
137-70-040	Reimbursable impacts/rates—Criminal justice costs.
137-70-050	Limitation of funds—Criminal justice costs.
137-70-055	Reimbursable impacts—Contingency plan expenses.
137-70-057	Funds—Contingency plan expenses.
137-70-060	Billing procedure.
137-70-070	Department review.
137-70-080	Implied consent to audit.

WAC 137-70-010 Purpose. Chapter 72.72 RCW creates an institutional impact account, in the general fund, for the purpose of reimbursing political subdivisions for criminal justice costs they incur directly as a result of crimes committed by adult offenders residing in correctional

institutions, and for expenses they incur directly as a result of their providing personnel and material pursuant to a contingency plan. The purpose of these rules is to implement that statute and to set forth the procedures under which these funds will be distributed.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-010, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-010, filed 8/16/82.]

WAC 137-70-020 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) "Deputy secretary" shall mean the deputy secretary of the department, or the deputy secretary's designee.

(3) "Contingency plan" shall mean a plan developed under RCW 72.02.150 by the secretary with representatives of political subdivisions for dealing with disturbances at a state penal facility.

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

(5) "Inmate" shall mean an individual sentenced to the custody of the department under state law and an individual transferred to the custody of the department from another state or the federal government.

(6) "Institution" and "penal facility" shall mean any facility identified in RCW 72.01.050(2) and any community residential program under the department's jurisdiction operated pursuant to chapter 72.65 RCW.

(7) "Political subdivision" shall mean any city, town, or county.

(8) "Administrator" shall mean the administrator of the department's office of contracts and regulations, or the administrator's designee.

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

[Statutory Authority: RCW 72.72.040. 87-03-029 (Order 86-07), § 137-70-020, filed 1/14/87; 84-11-033 (Order 84-06), § 137-70-020, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-020, filed 8/16/82.]

WAC 137-70-030 Eligibility. (1) Reimbursement for criminal justice costs shall be available to any political subdivision which incurs an incremental cost, reimbursable under this chapter, which is specifically and exclusively attributable to the criminal behavior of an inmate incarcerated in or who has escaped from an institution. For the purposes of this chapter parolees or probationers are deemed to be inmates only if they are assigned to an institution. Reimbursement shall be made only with respect to new crimes and shall not be made for violations of the conditions of parole or probation and the resulting revocation hearings.

(2) Reimbursement for contingency plan expenses, including costs incurred under chapter 41.26 RCW, if such costs are the direct result of physical injury sustained in the implementation of a contingency plan, shall be available to any political subdivision which incurs such expense in providing personnel and/or material, when requested by the secretary or the secretary's designee, to carry out the provisions of a duly adopted contingency plan. Provided,

however, reimbursement for costs incurred under chapter 41.26 RCW will not be made:

(a) Unless the physical injury occurs within the walls or other perimeter of the secured area, if the secretary identifies in the contingency plan the prison walls or other perimeter of the secured area; or

(b) Unless the physical injury results from providing assistance requested by the secretary or the secretary's designee which is beyond the description of the assistance contained in the contingency plan, if the secretary does not identify the prison walls or other perimeter of the secured area; or

(c) If the physical injury results from conduct which either is not requested by the secretary or the secretary's designee, or is in violation of orders by superiors of the local law enforcement agency.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-030, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-030, filed 8/16/82.]

WAC 137-70-040 Reimbursable impacts/rates—

Criminal justice costs. Reimbursement shall be restricted to fully documented law enforcement, prosecutorial, judicial and jail facility costs, as defined herein, at the actual costs of the submitting jurisdiction, not to exceed the following rates:

(1) Law enforcement costs are costs incurred by any political subdivision in apprehending escapees, in investigating crimes committed by state institutional inmates including pretrial investigations within or outside the institution, or in providing security for inmates outside the jail facility. These costs are reimbursable at the following rates:

(a) \$19.03 per hour for the period July 1, 1985, through June 30, 1986.

(b) \$19.81 per hour for the period July 1, 1986, through June 30, 1989.

(2) If an escape or investigation results in the filing of a criminal complaint, the impacted political subdivision shall be entitled to attorney costs associated with the prosecution and/or defense of the filed action. These costs are reimbursable at the following maximum rates:

(a) \$45.50 per hour from July 1, 1985, through June 30, 1986.

(b) \$47.37 per hour from July 1, 1986, through June 30, 1989.

(3) Reimbursement for judicial costs incurred as a result of the filing of a criminal complaint shall be limited to judges, court reporters, transcript typing or preparation, witness fees and jury fees. These costs are reimbursable at the following maximum rates:

(a) Judges - \$42.41 per hour from July 1, 1985, through June 30, 1986, and \$44.15 per hour for the period July 1, 1986, through June 30, 1989. These costs shall include the services of court clerks and bailiffs.

(b) Court reporters - \$19.08 per hour from July 1, 1985, through June 30, 1986, and \$19.86 per hour for the period July 1, 1986, through June 30, 1989.

(c) Transcript typing services - \$3.80 per page from July 1, 1985, through June 30, 1986, and \$3.96 per page for the period July 1, 1986, through June 30, 1989.

(d) Expert witnesses - \$63.86 per hour from July 1, 1985, through June 30, 1986, and \$66.48 per hour for the period July 1, 1986, through June 30, 1989.

(e) Witness fees/nonexpert - jury fees - reimbursable at the rate established by the local governmental legislative authority up to a maximum of \$28.67 per day for the period July 1, 1985, through June 30, 1986, and \$29.85 for the period July 1, 1986, through June 30, 1989.

(4) Jail facility costs resulting from the escape or criminal complaint shall be reimbursed at the following maximum rate: \$15.00 per inmate day from July 1, 1985, through June 30, 1987, \$18.00 for the period July 1, 1987, through July 31, 1988, and \$30.00 for the period August 1, 1988, through June 30, 1989.

(5) Coroner - Where an inmate dies as a result of criminal activity of another inmate, coroner costs incurred by a local jurisdiction may be reimbursed up to a maximum amount established by the department as reasonable.

(6) Medical costs - Where an inmate is in the custody of a local jurisdiction as a result of a crime committed while incarcerated in a state institution, extraordinary medical costs, beyond the routine medical services of the jail, may be reimbursed at the discretion of the department. Counties, cities, and towns shall notify the department prior to incurring expenses for extraordinary medical expenses, where practicable, to allow the department an opportunity to provide the necessary medical care directly.

[Statutory Authority: RCW 34.04.025. 89-12-003 (Order 89-04), § 137-70-040, filed 5/25/89. Statutory Authority: RCW 72.72.040. 87-22-064 (Order 87-04), § 137-70-040, filed 11/3/87; 87-14-044 (Order 87-02), § 137-70-040, filed 6/30/87; 87-03-029 (Order 86-07), § 137-70-040, filed 1/14/87; 86-02-053 (Order 85-13), § 137-70-040, filed 12/31/85. Statutory Authority: Chapter 72.72 RCW. 85-12-020 (Order 85-08), § 137-70-040, filed 5/29/85, effective 7/1/85. Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-040, filed 5/14/84. Statutory Authority: Chapter 34.04 RCW. 83-24-058 (Order 83-13), § 137-70-040, filed 12/6/83. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-040, filed 8/16/82.]

WAC 137-70-050 Limitation of funds—Criminal justice costs. Claims for reimbursement under WAC 137-70-040 shall be paid in the order they are received until the legislative appropriation for the biennium is fully expended. If the impact fund is fully expended before the end of the biennium, political subdivisions should continue to submit claims for the purpose of developing future impact account funding requests.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-050, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-050, filed 8/16/82.]

WAC 137-70-055 Reimbursable impacts—Contingency plan expenses. Reimbursement shall be restricted to applicants eligible under WAC 137-70-030(2) for fully documented expenses incurred directly as a result of their providing personnel and/or material pursuant to a contingency plan.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-055, filed 5/14/84.]

WAC 137-70-057 Funds—Contingency plan expenses. Reimbursement under WAC 137-70-055 shall be made solely from the institutional impact account from funds

available in that account. If full reimbursement would exceed available funds, the secretary will request the legislature to appropriate sufficient funds to enable the secretary to make full reimbursement, and if so appropriated, the secretary will make such reimbursement.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-057, filed 5/14/84.]

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, Division of Management and Budget, Office of Contracts and Regulations, P.O. Box 9699, FN-61, Olympia, Washington 98504.

(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 72.72.040. 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.

(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 and the director of the department's division of management and budget, or the director's 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 9699, Olympia, WA 98504, attention: Office of Contracts and Regulations.

(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 72.72.040. 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.]

WAC 137-70-080 Implied consent to audit. By submitting requests for reimbursement, the requesting political subdivision agrees to:

(1) Maintain records which would support the request made for a period five years after the date of such request; and

(2) Make such records available for review and/or audit by the department if requested by the secretary or the secretary's designee.

[Statutory Authority: RCW 72.72.040. 84-11-033 (Order 84-06), § 137-70-080, filed 5/14/84. Statutory Authority: Chapter 72.72 RCW. 82-17-044 (Order 82-10), § 137-70-080, filed 8/16/82.]

Chapter 137-75 WAC

JAIL AND MEDICAL COST REIMBURSEMENT TO CITIES AND COUNTIES

WAC

137-75-010	Purpose.
137-75-020	Definitions.
137-75-030	Department financial responsibility.
137-75-040	Extraordinary emergency medical treatment.
137-75-050	Request for reimbursement.
137-75-060	Implied consent to audit.

WAC 137-75-010 Purpose. Chapter 70.48 RCW as amended by chapter 235, Laws of 1984, imposes certain financial responsibility on the department of corrections for certain persons imprisoned in a city or county jail. The purpose of these rules is to establish procedures by which the department of corrections will discharge said financial responsibility.

[Statutory Authority: RCW 72.01.090 and 1984 c 235. 84-15-053 (Order 84-09), § 137-75-010, filed 7/17/84, effective 9/2/84.]

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) "Director" shall mean the director of the division of prisons or the director of the division of community services of the department, or their designees;

(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 and 1984 c 235. 84-15-053 (Order 84-09), § 137-75-020, filed 7/17/84, effective 9/2/84.]

WAC 137-75-030 Department financial responsibility. (1) The financial responsibility of the department under this chapter shall be limited to reimbursing cities and counties for the costs and at the rates set forth in chapter

235, Laws of 1984 or any amendment thereto hereafter enacted.

(2) The financial responsibility of the department for a person convicted of a felony as defined by RCW 9A.04.040 and committed to the care and custody of the department, but detained in a jail after June 30, 1984, shall begin upon the eighth day, excluding Saturdays, Sundays, and holidays, following the sentencing of such person for the felony and notification to the department by the city or county that such person is available for movement to an institution, and shall terminate at midnight of the day immediately preceding the day of release of such person from detention. Provided, however, if such person is detained in the jail beyond such eight-day period pursuant to an order of a superior court, the financial responsibility of the department shall not begin until the expiration of the period ordered by the court, and shall terminate at midnight of the day immediately preceding the day of release of such person from detention. The notification required hereunder is to be given by telephone or teletype to the supervisor of the reception center at the Washington Corrections Center, Shelton, Washington.

(3) The financial responsibility of the department for a person detained in a jail solely by reason of a parole hold after June 30, 1984, shall begin upon the sixteenth day following the commencement of such detention, and shall terminate at midnight of the day immediately preceding the day of release of such person from detention. Provided, however, the department shall have no such financial responsibility if a felony charge is filed against a person so detained.

(4) The financial responsibility of the department for an inmate, as defined in RCW 72.09.020, who resides in a work release facility and who is detained in a jail after June 30, 1984, shall begin when such detention commences, and shall terminate at midnight of the day immediately preceding the day of release of such inmate from detention.

[Statutory Authority: RCW 70.48.450, 87-14-045 (Order 87-03), § 137-75-030, filed 6/30/87. Statutory Authority: RCW 72.01.090 and 1984 c 235, 84-15-053 (Order 84-09), § 137-75-030, filed 7/17/84, effective 9/2/84.]

WAC 137-75-040 Extraordinary emergency medical treatment. (1) The department shall reimburse a city or county the actual cost of extraordinary emergency medical treatment provided to a person for whom the department is financially responsible.

(2) If a person for whom the department is financially responsible requires extraordinary and emergency medical treatment, the department is to be notified by a competent medical authority of the nature and course of such treatment as far in advance as practical. The department will then authorize such treatment or advise of alternative means by which such treatment may be provided. If it is not practical to give such notice prior to such treatment, notice will be given to the department as soon as practical after such treatment has been given.

(3) The notice required shall, in the case of parolees and work release inmates, be given to the director of the division of community services, and in all other cases such notice shall be given to the director of the division of prisons.

[Statutory Authority: RCW 72.01.090 and 1984 c 235, 84-15-053 (Order 84-09), § 137-75-040, filed 7/17/84, effective 9/2/84.]

WAC 137-75-050 Request for reimbursement. (1) A city or county requesting reimbursement under this chapter shall complete a form supplied by the department and file it with the Administrator, Office of Contracts and Regulations, Department of Corrections, P.O. Box 9699, Olympia, Washington 98504, who will forward the request to the director. The director will confirm the accuracy of the information submitted with the request and determine whether the amount requested is properly reimbursable under chapter 70.48 RCW and this chapter.

(2) All such requests must be filed within thirty days after the costs for which reimbursement is requested were incurred. Provided, however, with respect to such costs incurred in the month of June in odd-numbered years, such requests must be filed no later than ten days after the close of the state fiscal biennium (June 30).

[Statutory Authority: RCW 70.48.450, 87-14-045 (Order 87-03), § 137-75-050, filed 6/30/87. Statutory Authority: RCW 72.01.090 and 1984 c 235, 84-15-053 (Order 84-09), § 137-75-050, filed 7/17/84, effective 9/2/84.]

WAC 137-75-060 Implied consent to audit. By submitting a request for reimbursement under this chapter, the requesting city or county agrees to maintain for a period of five years after the date of the request records which would support such request, and to make such records available for review or audit by the department.

[Statutory Authority: RCW 72.01.090 and 1984 c 235, 84-15-053 (Order 84-09), § 137-75-060, filed 7/17/84, effective 9/2/84.]

**Chapter 137-78 WAC
EMPLOYEE ASSAULT BENEFITS**

WAC

137-78-010	Definitions.
137-78-020	Eligibility.
137-78-030	Application process.
137-78-040	Conditions of reimbursement.
137-78-050	Medical reports.
137-78-060	Denial of application for assault benefits.
137-78-070	Appeal from denial of assault benefits/overpayments.

WAC 137-78-010 Definitions. For the purposes of this chapter the following words shall have the following meanings:

(1) "Assault" means an intentional touching, striking, cutting, or shooting of a person or the body of another.

(2) "Assault benefits" means reimbursement to employees of some of their costs attributable to being the victim of an offender assault.

(3) "Chief, office of employee services" means the individual who is appointed by the secretary to head the office of employee services or his/her designee.

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

(5) "Employee" means any individual who is appointed by the secretary, and who serves under the supervision and authority of the department. The term "employee" shall not include an individual performing personal services under contract or offenders.

(6) "Doctor" means a person licensed to practice one or more of the following professions: Medicine and surgery; osteopathic; chiropractic; drugless therapeutics; podiatry; dentistry; optometry.

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

(8) "Secretary" means the secretary of the department of corrections or the secretary's designee.

[Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-010, filed 7/19/89, effective 8/19/89.]

WAC 137-78-020 Eligibility. Employees who apply to the department may be eligible for assault benefits if the secretary finds that each of the following has occurred:

(1) An offender has assaulted the employee and as a result thereof the employee has sustained injuries which have required the employee to miss one or more days of work;

(2) The assault is not attributable to any extent to the employee's negligence, misconduct, or failure to comply with any rules or conditions of employment;

(3) The assault occurred while the employee was in the performance of his/her official duties; and

(4) The employee has made application for compensation under Title 51 RCW.

[Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-020, filed 7/19/89, effective 8/19/89.]

WAC 137-78-030 Application process. Employees who meet the requirements of WAC 137-78-020 and elect to apply for assault benefits shall submit a signed application for assault benefits and a properly completed report of personal injury form (DOC 3 133 (x)), together with the certificate of the doctor that attended him or her, to his or her supervisor within ten working days of the occurrence of the assault or, if the application could not be reasonably submitted within that period, within ten working days of the time when application could reasonably have been made. Applications shall be reviewed through the appropriate division command. The division director shall forward the application, with appropriate recommendations, to the office of employee services. The chief of the office of employee services shall grant or deny the request for assault benefits within ten working days after written notification from the employee or the department of labor and industries that the employee's application for compensation under Title 51 RCW has been approved, but may extend that time to gather additional information.

[Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-030, filed 7/19/89, effective 8/19/89.]

WAC 137-78-040 Conditions of reimbursement. (1) Assault benefits authorized the employee by the secretary under this chapter shall not continue longer than the date of termination of time-loss benefits by the department of labor and industries or three hundred sixty-five consecutive days from the date of the injury, whichever date is earlier, and shall be limited to the following:

(a) For each workday missed due to assault for which the employee is not eligible to receive compensation under chapter 51.32 RCW, the employee shall receive full pay pursuant to RCW 72.09.240 and this chapter; and

(b) In respect to workdays missed due to assault for which the employee shall be reimbursed compensation under chapter 51.32 RCW, the employee shall receive full pay, less

any industrial insurance payments for time loss during the period in which assault benefits are received.

(2) As the intent of this chapter is to reimburse the employee the difference of salary compensation paid by the department of labor and industries and the full pay the employee would have received but for the time loss from the injury sustained as a result of an inmate assault, the employee shall not be entitled to receive greater than one hundred percent of his or her base salary as a result of payments by the department of labor and industries and the department unless such overpayment is the result of the employee's election to use accumulated vacation leave, holiday leave, compensatory time off, or exchange time.

(3) Employees granted assault benefits shall accrue full annual leave, sick leave, and insurance benefits during the time period they are approved to receive assault benefits.

(4)(a) Employees applying to the department for assault benefits may elect to use accrued sick leave until such application is approved or denied, provided that the employee shall return any subsequent overpayment to the department.

(b) The employee's accumulated sick leave hours shall not be reduced for the workdays missed due to the assault, provided that the employee has returned any overpayments to the department.

(c) If the employee fails to return any overpayments to the department, sick leave hours charged to an employee who receives worker's compensation as a result of the time loss and assault benefits shall be proportionate to the overpayment by the department during the claim period.

(5) The employee shall not be entitled to assault benefits provided in this section for any workday for which the secretary finds that the employee has not diligently pursued his or her compensation remedies under chapter 51.32 RCW.

(6) While the employee is receiving assault benefits authorized under this chapter, the employee shall continue to be classified as a state employee and receive full service credit.

(7) The employee shall be entitled to assault benefits only for absences which the chief of the office of employee services believes are justified.

(8) No employee eligible to receive or receiving benefits under this chapter shall be entitled to continue to receive benefits should the legislature revoke the reimbursement authorized under this chapter.

[Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-040, filed 7/19/89, effective 8/19/89.]

WAC 137-78-050 Medical reports. The employee shall, at the request and sole expense of the department, submit to an independent medical examination by a licensed physician or other licensed health care provider designated by the department to determine whether the employee may continue to receive assault benefits.

[Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-050, filed 7/19/89, effective 8/19/89.]

WAC 137-78-060 Denial of application for assault benefits. If the employee's request for assault benefits is denied by the office of employee services, the employee may, within ten working days from the date of denial, file a

petition with the office of employee services for reconsideration, stating the specific grounds upon which the application should be granted. The petition shall be in the format specified by the office of employee services. The petition shall be deemed to have been denied if not disposed of within twenty working days from the date the petition is filed.

[Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-060, filed 7/19/89, effective 8/19/89.]

WAC 137-78-070 Appeal from denial of assault benefits/overpayments. (1) If the employee's petition for assault benefits to the chief of the office of employee services is denied, the employee may appeal that decision to the secretary in accordance with chapter 34.05 RCW and this section. The employee shall file a written petition with the Office of the Secretary at 410 W. 5th, P.O. Box 9699, Olympia, Washington 98504, within thirty days after the denial of assault benefits or within ten days after disposition of the petition for reconsideration.

(2) If a dispute exists between the employee and department concerning the amount of any overpayment to be repaid the department, the employee may request a hearing in accordance with chapter 34.05 RCW and this section. The employee shall file a written petition with the Office of the Secretary at 410 W. 5th, P.O. Box 9699, Olympia, Washington 98504, within thirty days after the dispute arises.

[Statutory Authority: RCW 72.13.170. 89-15-059 (Order 89-05), § 137-78-070, filed 7/19/89, effective 8/19/89.]

Chapter 137-80 WAC INSTITUTIONAL INDUSTRIES

WAC

137-80-010	Purpose.
137-80-020	Definitions.
137-80-030	Establishment of inmate programs.
137-80-040	Sale of goods.
137-80-050	Proceeds of sale.
137-80-060	Inmate job opportunities.

WAC 137-80-010 Purpose. These rules and regulations are adopted pursuant to and in accordance with chapter 34.04 RCW. The purpose is to provide standards and procedures for the operation of the division of institutional industries.

[Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-010, filed 8/27/82.]

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

(2) "Director" means the director of the institutional industries division 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 service 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 division 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 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-020, filed 8/27/82.]

WAC 137-80-030 Establishment of inmate programs. In order to provide a comprehensive work program the following classes of work programs are adopted:

- (1) Class I: Free venture industries;
- (2) Class II: Tax reduction industries;
- (3) Class III: Institutional support industries;
- (4) Class IV: Community work industries; and
- (5) Class V: Community service programs.

The above listed classes of work programs are adopted as codified in RCW 72.09.100. The secretary shall set forth department policy for the establishment of each class of work program, regulating, among others, inmates participation and wages, space rental and contracts for inmate employment.

[Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-030, filed 8/27/82.]

WAC 137-80-040 Sale of goods. (1) The director or his/her designee may sell all articles, materials, and supplies authorized by statute to be produced or manufactured in correctional institutions to any state agency, political subdivision of the state or as otherwise authorized by statute.

(2) The secretary shall require those institutions under his direction to give preference to those articles, materials, and supplies produced or manufactured by institutional industries when purchases are made for institution needs.

(3) The director may cause to be prepared annually, at such times he may determine, lists containing the descriptions of all articles and supplies manufactured and produced in state correctional institutions; copies of such list shall be sent to the supervisor of purchasing and to all departments, institutions and agencies of the state of Washington.

[Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-040, filed 8/27/82.]

WAC 137-80-050 Proceeds of sale. Except for any sum recommended by the institutional industries board of directors to be returned to the state general fund, all net profits from institutional industries shall be placed in a special revolving fund (Class II account) and shall be used exclusively, without appropriation, in the expansion and improvement of Class II industries.

[Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-050, filed 8/27/82.]

WAC 137-80-060 Inmate job opportunities. The director shall cause to be periodically prepared and distributed to a central location in each institution a list of prison industries' job opportunities. This list shall include, but not limited to, job descriptions and the educational and skill requirements of each job and shall be made available to personnel of the institution, institutional industries and to the inmates.

[Statutory Authority: RCW 72.09.050 and chapter 34.04 RCW. 82-18-042 (Order 82-11), § 137-80-060, filed 8/27/82.]

Chapter 137-91 WAC

ADULT CORRECTIONAL INSTITUTIONS— MEDICAL CARE—HEALTH CARE

WAC

137-91-011	Medical/dental care—General policy.
137-91-021	Medical/dental services.
137-91-050	Use of allied health professionals.
137-91-060	Records.
137-91-070	Supplemental care.

WAC 137-91-011 Medical/dental care—General policy. The policy of the department of corrections with regard to medical and dental care for inmates of adult correctional institutions is to provide, at a minimum, a degree of care which is designed to reasonably respond to an inmate's serious medical and dental needs. The considerations of proper medical/dental procedure, time and available resources are material in defining what is a reasonable

response in any particular situation. More than the minimum level of care may be provided when such additional care comports with proper medical practice and is reasonably affordable from the department's resources. Serious medical needs are those which, if not responded to, will

(1) Cause or allow to continue significant or debilitating pain; or

(2) Cause significant deterioration of the inmate's medical condition during the period of his incarceration.

[Statutory Authority: RCW 72.01.050, 72.01.090 and 72.09.050. 84-16-066 (Order 84-11), § 137-91-011, filed 7/30/84, effective 9/4/84. Formerly WAC 275-91-011.]

WAC 137-91-021 Medical/dental services. The medical/dental treatment program operated by the department of corrections shall include the following services:

(1) Regular environmental health inspections and, where appropriate, recommendations.

(2) Initial examination when the inmate enters the adult correctional system. This examination shall include:

(a) A medical history;

(b) A physical examination, including funduscopy and ocular tonometry for residents over forty years of age, rectal examination as indicated, and other examinations as indicated;

(c) A chest film as indicated;

(d) Serology;

(e) Blood count;

(f) Urinalysis;

(g) Electrocardiogram as indicated;

(h) Visual and auditory acuity;

(i) Dental examination;

(j) For female residents, gonorrhea culture and Pap smear as indicated.

(3) Immunizations as indicated.

(4) Evaluation of capacity for work and recreation.

(5) Period consultations, examinations and treatment as required for the medical and dental maintenance of each inmate in accordance with the policy discussed at WAC 137-91-011.

[Statutory Authority: RCW 72.01.050, 72.01.090 and 72.09.050. 84-16-066 (Order 84-11), § 137-91-021, filed 7/30/84, effective 9/4/84. Formerly WAC 275-91-021.]

WAC 137-91-050 Use of allied health professionals. Allied health professionals may be used in the medical and dental health programs at each institution. When operating under the supervision of a licensed physician or dentist, an allied health professional may conduct initial screening, treat minor illnesses, and do related tasks.

[Statutory Authority: RCW 72.01.050, 72.01.090 and 72.09.050. 84-16-066 (Order 84-11), § 137-91-050, filed 7/30/84, effective 9/4/84. Formerly WAC 275-91-050.]

WAC 137-91-060 Records. Medical and dental records shall be maintained at the institution in which an inmate is housed. Upon the transfer of an inmate between state institutions, that inmate's medical and dental records shall be transferred along with the inmate. Records shall include all items of material interest to medical personnel and shall include

- (1) Detailed reports of admission medical evaluation and recommendations;
- (2) Progress notes regarding continuing health status including illnesses, hospitalizations, surgery, results of consultations and examinations, reports of tests done, and immunizations;
- (3) Reports made by outside consultants.

[Statutory Authority: RCW 72.01.050, 72.01.090 and 72.09.050. 84-16-066 (Order 84-11), § 137-91-060, filed 7/30/84, effective 9/4/84. Formerly WAC 275-91-060.]

WAC 137-91-070 Supplemental care. Any inmate may, at his or her own expense, obtain medical or dental care additional to that mandated by the provisions of this chapter: *Provided*, That a doctor or dentist in the department's employ certifies that the proposal for supplemental treatment comports with sound medical or dental practice. The time and place of the performance of the supplemental care are subject to the convenience of the prison's custody staff.

[Statutory Authority: RCW 72.01.050, 72.01.090 and 72.09.050. 84-16-066 (Order 84-11), § 137-91-070, filed 7/30/84, effective 9/4/84. Formerly WAC 275-91-070.]