

# Chapter 137-56 WAC

## COMMUNITY RESIDENTIAL PROGRAMS, WORK/TRAINING RELEASE

### WAC

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### DISPOSITION OF SECTIONS FORMERLY CODIFIED IN THIS CHAPTER

137-56-060	Application—Decision. [WSR 94-07-065, § 137-56-060, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 82-08-055 (Order 82-06), § 137-56-060, filed 4/5/82. Formerly WAC 275-92-335.] Repealed by WSR 05-24-009 and 06-02-038, filed 11/28/05 and 12/28/05, effective 5/1/06. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070.
137-56-100	Standard rules. [WSR 94-07-065, § 137-56-100, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-100, filed 2/21/86; WSR 82-08-055 (Order 82-06), § 137-56-100, filed 4/5/82. Formerly WAC 275-92-355.] Repealed by WSR 05-24-009 and 06-02-038, filed 11/28/05 and 12/28/05, effective 5/1/06. Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070.
137-56-190	Facility review committee. [Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-190, filed 2/21/86; WSR 83-05-009 (Order 83-02), § 137-56-190, filed 2/4/83; WSR 82-08-055 (Order 82-06), § 137-56-190, filed 4/5/82. Formerly WAC 275-92-525.] WSR 94-07-065, § 137-56-190, filed 3/14/94, effective 5/1/94. Note: Under RCW 34.05.030 (1)(c), as amended by section 103, chapter 288, Laws of 1988, the above section was not repealed under the Administrative Procedure Act, chapter 34.05 RCW, but was published in the Washington State Register and codified into the Washington Administrative Code exactly as shown by the agency filing with history notes added by the code reviser's office.

**WAC 137-56-005 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. WSR 82-08-055 (Order 82-06), § 137-56-005, filed 4/5/82. Formerly Title 275 WAC.]

(12/28/05)

**WAC 137-56-010 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 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.

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

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

(6) "Work/training release offender" is any offender committed to or transferred to the department's custody pursuant to a valid criminal conviction who has been approved by the department for placement in a designated work/training release facility.

(7) "Sponsor-escort" is a responsible citizen assigned to escort and monitor a resident during official and social activities outside of the work/training release facility.

(8) "Work/training release facility" is an establishment approved for housing and monitoring of work/training release residents during the resident's stay in a work/training release program.

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

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

(11) "Hearings program administrator" means the administrator of the hearings unit of the department, or the hearing program administrator's designee.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-010, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-010, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-010, filed 2/21/86; WSR 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.** Reasonable payment as determined by the department of board and room charges will be deducted from the work/training release residents' earnings. For purposes of this section, earnings shall constitute all income and money received or possessed by the work/training release offender 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 offender by the department.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-015, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-015, filed 3/14/94, effective 5/1/94. Stat-

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

**WAC 137-56-030 Reasons for placement in a work release program.** Work/training release may be authorized for one or more of the following:

- (1) To participate in full-time employment or part-time employment at specialized programs;
- (2) To participate in a vocational training program, including attendance at an accredited college.
- (3) To secure services to support transition back to the community.
- (4) As a sanction for violating community supervision conditions.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-030, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-030, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 82-08-055 (Order 82-06), § 137-56-030, filed 4/5/82. Formerly WAC 275-92-320.]

**WAC 137-56-040 Eligibility criteria.** (1) An offender is eligible for work/training release provided that:

- (a) He or she has a minimum security status;
  - (b) He or she is within the last one hundred eighty days of their confinement.
- (2) Offenders 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) Offenders convicted of murder first degree are not eligible for work/training release, without the written approval of the secretary.
- (4) Offender who violates condition(s) of community supervision and is sanctioned to a term less than one hundred eighty days.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-040, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-040, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 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) Based on the offender's request to participate in a work release program and/or the offender's need to transition through a work release program, the facility classification review team will refer the offender to the appropriate program.

(2) The community corrections officer can make recommendation for placement in a work release program as a result of violation of conditions of supervision in the community.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-050, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-050, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 82-08-055 (Order 82-06), § 137-56-050, filed 4/5/82. Formerly WAC 275-92-330.]

**WAC 137-56-070 Screening referrals.** (1) The work/training release facility supervisor or his or her designee shall screen the offenders referred to the program.

(2) The work/training release screening process will be based on established criteria.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-070, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-070, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 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 work release supervisor or designee's screening decision will be documented by the work/training release facility supervisor/designee on the offender tracking system indicating the action taken.

(2) Approved offenders will be placed in the program based on priority with high risk offenders being placed first. Disapproved offenders can obtain the reasons for the denial, as documented on the offender tracking system.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-080, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-080, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 82-08-055 (Order 82-06), § 137-56-080, filed 4/5/82. Formerly WAC 275-92-345.]

**WAC 137-56-090 Plan—Restrictions.** 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 in which the offender is confined.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-090, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-090, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 82-08-055 (Order 82-06), § 137-56-090, filed 4/5/82. Formerly WAC 275-92-350.]

**WAC 137-56-095 Orientation.** (1) At the time of admission, each work/training release offender shall be advised in writing of:

- (a) Program goals and services available.
- (b) Rules governing conduct and program rules.
- (c) Disciplinary action which may be taken in the event of a serious infraction or violation of rules or special conditions. To include, but not be limited to:
  - (i) Remain confined to the work/training release 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 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 may be deemed an escapee and fugitive from justice, and upon conviction shall be guilty of a felony and sentenced in accordance with state law.

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

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

(iv) Report all income to the work/training facility supervisor or his or her designee. All income from any source shall

be immediately placed in the resident's inmate banking account by the facility supervisor or his/her designee. A receipt will be issued.

(2) All amendments or additions to 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 offenders shall be responsible for informing themselves of such postings. Complete and up-to-date copies of these rules and all program rules shall be available at each work/training release facility for examination.

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

(4) All offenders will receive orientation within forty-eight hours of arrival. Orientation must be completed before the offender can leave the facility. The offender must sign the appropriate form indicating he/she will comply with all the work release policies and program rules.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-095, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-095, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-095, filed 2/21/86.]

**WAC 137-56-110 Serious infractions.** Refer to chapter 137-25 WAC, serious infractions.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-110, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 99-16-078, § 137-56-110, filed 8/3/99, effective 8/18/99; WSR 94-07-065, § 137-56-110, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 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 providing supervision of offenders in the program, the following will be provided at the work release facility:

(1) Staff on duty twenty-four hours a day, seven days a week;

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

(3) Bed checks or head counts to account for the resident's whereabouts; a minimum of three counts daily shall be required;

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

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

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-120, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-120, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 82-08-055 (Order 82-06), § 137-56-120, filed 4/5/82. Formerly WAC 275-92-405.]

(12/28/05)

**WAC 137-56-140 Limits of confinement.** A work/training release offender shall be confined to the facility at all times except:

(1) When seeking or arranging for registration at a school or training facility;

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

(3) When authorized a point-to-point pass not to exceed two hours, excluding travel, for the purpose of transacting personal business including a treatment regimen, between the hours of 7:00 a.m. and 10:00 p.m. and/or outside that time frame with written permission of the facility supervisor or designee;

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

(5) When on furlough;

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

(7) When ordered to perform community service;

(8) When seeking employment as approved on an approved job search pass.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-140, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-140, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 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 monitor a work/training release offender during a social or recreational activity. The sponsor-escort must be approved by the work/training release facility supervisor or designee; and the sponsor and resident must sign an agreement with the department which describes his or her responsibilities.

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

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

(4) Sponsor-escorts may not be party to an active no-contact order with the offender.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-150, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-150, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 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.** At any time after approval has been granted to any work/training release offender to participate in the work/training release program, such approval may be revoked, and the offender may be sent to a state correctional institution or jail. A work release offender may be terminated from the program as a result of a disciplinary or classification decision or the following:

(1) If requested in writing by the work/training release offender;

(2) If the work/training release offender lacks aptitude for the assignment or is improperly placed; or

(3) If the work/training release offender has been unable to adjust or adapt to the conditions of the work/training release facility; or

(4) If the work/training release offender's situation and circumstances have significantly changed; or

(5) If the work/training release offender has failed to comply with federal or state laws or local ordinances.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-160, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-160, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-160, filed 2/21/86; WSR 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 or community corrections officer may suspend the work/training release plan and place the offender in custody pending a disciplinary hearing.

(2) The work/training release facility supervisor or designee shall advise the offender 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) If the work/training release plan is not suspended pending the disciplinary hearing, then the facility supervisor or designee shall advise the offender at least twenty-four hours prior to the scheduled hearing.

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

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-170, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-170, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-170, filed 2/21/86; WSR 82-08-055 (Order 82-06), § 137-56-170, filed 4/5/82. Formerly WAC 275-92-515.]

**WAC 137-56-175 Alternatives to the formal disciplinary hearing.** When addressing serious infractions, the work/training release community corrections officer may, with the facility supervisor's permission, choose to address the infraction behavior using either a department authorized stipulated agreement or the negotiated sanction agreement process.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-175, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-175, filed 3/14/94, effective 5/1/94.]

**WAC 137-56-180 Disciplinary hearing.** (1) A work/training release offender served with allegations providing the basis for a proposed disciplinary action shall be notified in writing that a hearing has been set before department hearing officer. An allegation involving the commission by the offender of a serious infraction may be amended at anytime by the department, provided that twenty-four

hours notice be given to the offender or the offender agrees in writing to waive notice to respond to the allegations. The hearing will be held within eight working days of the suspension of the work/training release plan, unless a longer time is approved by the hearings program administrator or his or her designee. The written notice of hearing shall be given to the offender at least twenty-four hours before the hearing unless notice is waived, in writing, and advise the offender of his or her rights, including the following:

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

(b) The offender shall present his or her own case to the hearing officer. If there is a language or communications barrier, the hearing officer shall appoint an advisor.

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

(d) The offender 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 offender may, in preparation for the hearing, ask the hearing officer that certain department or contract staff members, other work/training release offenders, and other persons be present as witnesses at the hearing. The hearing officer shall grant such request if it is determined by the hearing officer that to do so would not be unduly hazardous to the work/training release facility's safety or correctional goals: Provided, however, limitations may be made by the 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 work/training release offender's case.

(2) Attendance at the hearing shall be limited to parties directly concerned. The hearing officer may exclude unauthorized persons.

(3) Hearings shall be recorded and a copy of the recording maintained in accordance with the statewide retention schedule.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-180, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 95-22-060, § 137-56-180, filed 10/30/95, effective 12/1/95. WSR 94-07-065, § 137-56-180, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-180, filed 2/21/86; WSR 82-08-055 (Order 82-06), § 137-56-180, filed 4/5/82. Formerly WAC 275-92-520.]

**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 offender may choose to waive his or her right to a hearing by signing an admission of the allegation and request that the hearing be dispensed with entirely or limited only to questions of disposition. Also, the offender may waive, in writing, the twenty-four hour notice.

(2) The offender 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 offender, he or she shall be advised in writing that in admitting the violation and waiving the hearing, a report will be submitted which

may result in the loss of work/training release status, good time credits and/or the extension of the minimum term.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-200, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-200, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-200, filed 2/21/86; WSR 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 opinion of the hearing officer, 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 hearing officer's decision in a matter shall be offered into evidence.

(3) The work/training release offender shall be allowed to call witnesses approved by the hearing officer 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 offender 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 hearing officer to be irrelevant, immaterial, unnecessarily duplicative of other information and/or testimony before the hearing officer, or otherwise found to be unnecessary to the adequate presentation of the work/training release offender's case. The testimony of all witnesses from outside the work/training release facility shall be considered in writing. In the event the hearing officer determines that the presence of a witness is appropriate, the hearing officer 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 hearing officer may, in his or her discretion, consider the written testimony previously submitted.

(4) The work/training release offender may question witnesses against him/her at the discretion of the hearing officer. If the hearing officer determines that a source of information would be subject to risk or harm if his/her identity were disclosed, testimony of the confidential source may be introduced by the testimony of a staff member. The confidential testimony may be provided by the source or by the written and signed statement of the source. If the staff member to whom the source provided information is unavailable, the written statement of this staff member may be used. The hearing officer shall, out of the presence of all work/training release offenders and off the record, identify the confidential source, and how the testifying staff member received the confidential information. The staff member presenting the information from a confidential source shall identify the source and the circumstances surrounding the receipt of the confidential information to the hearing officer, off the record. The hearing officer shall make an independent determination regarding the reliability of the confidential source, the credibility of the confidential information, and the necessity of not revealing the source of the confidential information. In deter-

(12/28/05)

mining whether the confidential source is reliable and the confidential information is credible, the hearing officer should consider all relevant circumstances including, but not limited to:

(a) Evidence from other staff members that the confidential source has previously given reliable information;

(b) Evidence that the confidential source had no apparent motive to fabricate information;

(c) Evidence that the confidential source received no benefit from providing the information;

(d) Whether the confidential source is giving first-hand information;

(e) Whether the confidential information is internally consistent and is consistent with other known facts; and

(f) The existence of corroborating evidence.

The hearing officer shall also determine whether safety concerns justify nondisclosure of the source of confidential information. The reliability and credibility determination and the need for confidentiality must be made on the record.

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

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

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-210, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 95-22-060, § 137-56-210, filed 10/30/95, effective 12/1/95. WSR 94-07-065, § 137-56-210, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-210, filed 2/21/86; WSR 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 hearing officer will make a finding of fact as to whether or not the allegations made against the offender have been proven by a preponderance of the evidence presented at the hearing.

(2) If the hearing officer determines that the allegations have not been proven by a preponderance of the evidence presented at the hearing, the offender shall be restored/continued on work/training release status.

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

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-220, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-220, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-220, filed 2/21/86; WSR 82-08-055 (Order 82-06), § 137-56-220, filed 4/5/82. Formerly WAC 275-92-540.]

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**WAC 137-56-230 Disciplinary hearing—Disposition.**

(1) The hearing officer shall seek and consider input from the community corrections officer, the facility contract staff and pertinent treatment providers.

(2) The hearing officer will consider the offender's total background, adjustment on work/training release, attitude, recommendations of interested parties, and any other information relative to the offender's ability to continue in the program. The hearing officer shall make a determination as to whether or not the offender has earned good time credits toward release, and whether the matter should be referred to the indeterminate sentence review board or the court for possible increase in the inmate's or offender's minimum term.

(3) The offender 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 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-230, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-230, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-230, filed 2/21/86; WSR 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 hearing officer may:

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

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

(c) Require restitution be made by the work/training release offender; or

(d) Require extra duty to be performed by the offender; or

(e) Revoke approval of an approved sponsor; or

(f) Deny good conduct time; or

(g) Terminate the work/training release plan and return the work/training release offender to an institution/jail, or facility.

(2) Nothing in this section shall preclude subsequent reclassification of the work/training release offender or placement into administrative segregation if demonstrable cause exists to support this action.

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

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-240, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 94-07-065, § 137-56-240, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-240, filed 2/21/86; WSR 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 offender may appeal the decision of the hearing officer to the area appeals panel. Appeal requests must be in writing, must be specific and based on objection to the procedures used or the information available to the hearing officer in making his or her decision. Appeals must be submitted within seven calendar days of the hearing officer's written decision. For reasons of community protection, all sanctions ordered by the hearing officer will be imposed following the hearing and will not be stayed. The appeals panel, upon receipt of an appeal, will review the findings and decision of the hearing officer and either:

(1) Affirm, or affirm and modify to a lesser sanction the decision of the hearing officer; or

(2) Reverse the decision of the hearing officer; or

(3) Remand for a rehearing.

[Statutory Authority: RCW 72.01.090, 72.09.130, and 9.94.070. WSR 05-24-009 and 06-02-038, § 137-56-250, filed 11/28/05 and 12/28/05, effective 5/1/06. WSR 95-22-060, § 137-56-250, filed 10/30/95, effective 12/1/95. WSR 94-07-065, § 137-56-250, filed 3/14/94, effective 5/1/94. Statutory Authority: RCW 72.65.100. WSR 86-06-012 (Order 86-02), § 137-56-250, filed 2/21/86; WSR 83-10-042 (Order 83-05), § 137-56-250, filed 5/2/83; WSR 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. WSR 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. WSR 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. WSR 86-06-012 (Order 86-02), § 137-56-280, filed 2/21/86.]