

WAC 137-24-040 Rights specified. (1) To receive written notice of the alleged violation of the DOSA sentence.

(2) To have an electronically recorded hearing conducted within five working days of service of the notice.

(3) To have a neutral and detached hearing officer conduct the hearing.

(4) To examine, no later than twenty-four hours before the hearing, all supporting nonconfidential documentary evidence which the department of corrections intends to present during the hearing.

(5) To admit to the allegation. This may limit the scope of the hearing.

(6) To be present during the fact-finding and disposition phases of the hearing.

(7) To present his/her case to the hearing officer. If there is a language or communication barrier, the hearing officer may appoint someone to interpret or otherwise assist the offender. However, no other person may represent the offender in presenting his/her case. There is no right to an attorney or counsel.

(8) To confront and cross-examine witnesses appearing and testifying at the hearing.

(9) To testify during the hearing or to remain silent. An offender's silence will not be held against him/her.

(10) To have witnesses provide testimony on his/her behalf, either in person or in a witnessed statement/affidavit. However, outside witnesses may be excluded due to institutional concerns. The hearing officer may also exclude persons from the hearing upon a finding of good cause, or if the information to be presented by the witnesses is deemed irrelevant, duplicative, or unnecessary to the adequate presentation of the inmate's case. In addition, the hearing officer may exclude a witness from testifying at a hearing or may require a witness to testify outside of the offender's presence when there is a substantial likelihood that the witness will not be able to give effective, truthful testimony with the offender present. In either event, the offender may submit a list of questions to ask the witness(es).

(11) To receive a written hearing and decision summary including the evidence presented; a finding of guilty or not guilty; and the reasons to support the findings of guilt; and the sanction imposed. In the event of a deferred decision to receive a copy of the hearing and decision summary from facility staff within a reasonable amount of time.

(12) To receive a copy of the department of corrections hearing report.

(13) To obtain a copy of the audio recording of the hearing. The offender must send a written request to the hearings unit.

(14) To appeal to the regional appeals panel, in writing, within seven calendar days of receipt of the hearing and decision summary. The offender may also file a personal restraint petition to appeal the department's final decision through the court of appeals.

(15) If the offender waives their right to be present at the hearing, the department of corrections may conduct the hearing in their absence and may impose sanctions that could include loss of liberty and/or reclassification/revocation of the DOSA sentence.

(16) To waive any or all of the above rights.

[Statutory Authority: RCW 72.01.090, 72.65.100, and 72.09.130. WSR 06-21-054, § 137-24-040, filed 10/13/06, effective 11/13/06.]