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## State of Wisconsin Department of Corrections

### Religious Diets – DAI 309.61.03 Policy Update 2/22/15 FREQUENTLY ASKED QUESTIONS

**STAFF ONLY**

**NOTE:** Original 7/1/12 FAQ questions are in black ink. New 2/22/15 questions are posted in red ink.

#### So what changes were made to 309.61.03?

- Add language clarifying the purpose of religious diets – to accommodate religious food prohibitions, but not to provide for all permissible, preferred, traditional, cultural, ceremonial or sacred foods.
- Specify that menus for the three religious diets are constructed to meet the most restrictive adherence level – and thereby accommodate lesser adherence inclusively.
- Give examples of point of service.
- Require inmate to participate in Chaplain interview, if requested.
- Delineate the difference of deadlines between an URG Annual Religious Celebratory Meal/Observance (congregate meal formerly called “feast”) and multi-day special meal accommodations.
- Clearly state that single-day fasting will not receive special food service accommodation.
- Add provisions regarding religious diet accommodation within confines of seg meal restrictions.
- Change heading of section to clearly list “Compliance Expectations.”
- Better explain halal, kosher and plant-based diets.
- Outline food service procedures/responsibilities in a consistent format across the three religious diets.
- Very clearly specify recipes and procedures required to serve kosher foods in non-kosher kitchens.
- Change the plant-based religious diet menu to serve the most restrictive form of vegetarian diet (vegan) – eliminating milk from the current menu.
- Remove references to “non-pork” dietary practices because DOC doesn’t offer a “non-pork” menu option.
- Clarify on the chart that for each URG, the inmate may receive a religious diet OR may be encouraged to self-select from the regular menu.

#### How does an inmate request a religious diet? Are there any requirements to be eligible?

Form DOC-2167 allows inmates to request a religious diet. It also outlines the Religious Diet Participation Agreement explaining allowed and prohibited behaviors.

#### Why does DOC provide religious diets anyway?

Federal and state laws require that inmates have opportunities to practice their faith or religious beliefs. Courts have consistently recognized that religious diets are a legitimate religious practice or expression within some faith traditions. In addition to accommodating religious beliefs, DOC is required to provide nutritionally adequate food. Therefore DAI developed the first religious diets policy in 2002 to provide consistent religious diets accommodation department-wide.

**Which religions have a special diet?**

Some groups or individuals within nearly every faith tradition have beliefs about diets, what and how they should eat, and how food consumption is part of their religious practice or expression. Within every faith group, there are wide variations in how strictly people may adhere to religious diets. Some will follow the diet at particular times of year in observance of special dates, such as Lent, Passover or Ramadan. Others will strictly adhere to the religious diet year-round.

The three options and corresponding faith groups within the DOC religious diet program include:

- Halal diet – Muslim
- Kosher diet – Jewish
- Plant-based diet – all faith traditions (Catholic, Eastern Religions, Humanist/Atheist/Agnostic, Jewish, Muslim, Native American/American Indian, Pagan and Protestant/Other Christian), as well as inmates who designate “Other” or “No Preference” on the DOC-1090 Religious Preference form.

**We used to serve milk with the plant-based and halal diets. Now the plant-based menu includes a fruit drink mix. Why?**

Language was added to the policy to clarify that all three religious diet menus are constructed to meet the most restrictive adherence level – and thereby accommodate lesser adherence levels inclusively. There are many variations of vegetarian practice, with vegan adherents as the most restrictive – abstaining from all animal products. Eliminating milk from the plant-based menu makes this diet consistent with the “most restrictive” standard. The new menu will provide necessary nutrients from the fortified sugar-free fruit beverage and other fortified food items.

Some halal adherents do not consume dairy products. The halal diet is formulated based upon the plant-based menu. Therefore eliminating milk also makes the halal diet consistent with the “most restrictive” standard.

**What if an inmate on a plant-based or halal diet takes milk? Do we write them up for a violation?**

The plant-based and halal menus are constructed to satisfy the USDA Recommended Daily Allowance (RDA) nutritional requirements including only the fortified fruit drink mix. Like food/beverages on any menu (general, modified for medical/religious accommodation), inmates may voluntarily choose not to consume certain items. This alters their actual nutritional intake from the RDA. Meal trays will not be adjusted to address nutritional changes which result from voluntary, personal preference choices.

Some sites may offer beverage choices at the point of service, such as milk, water or fruit drink. In most cases, staff do not need to monitor which beverage is consumed. In other words, inmates receiving plant-based or halal religious diets would not be violating the religious diet agreement by drinking milk – even though the menu offers fortified juice drink.

POINT OF SERVICE	Prepared meal tray served in cell or other venue	Main line in dining hall or server	
		Facility offers no beverage choice	Facility offers choice of milk or fortified fruit drink mix on serving line
<b>BEVERAGE SERVED</b>	Menu prescribed <ul style="list-style-type: none"> <li>• Halal – fortified fruit drink mix</li> <li>• Kosher morning/evening meal – milk; mid-day meal – water</li> <li>• Plant-based – fortified fruit drink mix</li> </ul>	Menu prescribed <ul style="list-style-type: none"> <li>• Halal – fortified fruit drink mix</li> <li>• Kosher morning/evening meal – milk; mid-day meal – water</li> <li>• Plant-based – fortified fruit drink mix</li> </ul>	Choice of either – with the exception of kosher mid-day meals, which shall not receive milk

**Can inmates on a religious diet eat anything other than their diet tray?**

Yes. Inmates may consume food items that are permissible under their religious diet tenets from food service or other permissible sources.

### Can inmates on a religious diet order from canteen?

Yes. Inmates may order and consume food items from canteen that are permissible under their religious diet tenets. Canteen purchases may be monitored to ensure compliance. Staff reviewing canteen purchases should be mindful that many foods on the canteen list will be designated or marked with religious diet certification (halal, kosher or plant-based). A few products may be acceptable under an inmate's faith tenets, even if they are not coded as such.

### Can inmates on a religious diet share food?

There are two parts to this answer, so please read carefully:

- Facility rules on food sharing are the primary guidance. Food sharing rules vary from site-to-site and inmates on religious diets must still adhere to facility rules.
  - ⇒ If food sharing is NOT permitted for inmates on the general menu, no inmates should be sharing food.
  - ⇒ If limited food sharing IS permitted among inmates on the general menu (e.g. trade food at same table), inmates on a religious diet cannot be penalized for **receiving** food from other inmate food trays – SO LONG AS the food item is not prohibited by that inmate's religious diet tenets.
- However, inmates participating in the DOC religious diets program are prohibited from **giving** food from their specially prepared diet tray away to other inmates. The Religious Diet Participation Agreement signed by the inmate on the DOC-2167 specifically states that providing religious diet items to other inmates constitutes "Unauthorized Transfer of Property" Wis. Admin. Code ch. 303. These limits on sharing religious diet items can be imposed because DOC undergoes additional food and administrative cost to accommodate religious diets.

### What does "religious diet tenets" mean?

The policy defines this term as – principles or faith doctrines supporting adherence to certain dietary practices. Dietary practices may include prohibition of certain foods and/or food handling guidelines. Note that some faith groups have foods which are permissible under religious diet tenets, but not provided in the DOC religious diet program (e.g., eggs and fish may be acceptable for some faiths that adhere to vegetarian diets, but are not included in the DOC plant-based religious diet). Inmates consuming such items would not be in violation of the religious diet policy.

### What are some examples of foods inmates can eat without violating their religious diet tenets?

Examples of permissible foods may include:

- Muslim faith tenets and halal diet do not prohibit consumption of eggs. However the DOC halal diet does not contain eggs. Therefore inmates consuming eggs from another inmate's tray (if allowed at that facility) would not be violating their religious diet tenets.
- Fresh fruit is permissible under kosher law. A Jewish inmate on a kosher diet who takes an extra banana from the food service line (if allowed at that facility) is not violating their religious diet tenets.
- Inmates may purchase canteen items that are clearly marked as kosher, halal or plant-based.
- Inmates may purchase canteen items that are not clearly marked as acceptable for a religious diet, but that are not prohibited by their faith. (e.g. some vegetarians will consume dairy).

Examples of prohibited foods include:

- Kosher dietary laws of the Jewish faith (as well as Muslim halal diet) prohibit consumption of pork. Therefore inmates on the DOC kosher diet who purchase and/or consume pork rinds from canteen are in violation of their religious diet.
- Raman noodles purchased from canteen would not meet kosher law requirements and are prohibited for inmates on a kosher diet.

### How are staff supposed to know the religious diet tenets of every faith or every inmate?

The procedures for staff have not changed with this policy revision. Staff are not expected to know what foods are prohibited under every religious diet. Staff should write an Incident Report (IR) if there is any suspicion that an inmate is violating the religious diet policy (giving away food, consuming or purchasing prohibited items, etc.). Chaplains (or designated staff in the centers) should investigate religious diet-related IRs to determine whether a violation occurred. RPAC and religious advisors are available for consultation as needed.

### I wrote an Incident Report (IR), but the inmate was never taken off the religious diet. Why?

Per policy, inmates are not immediately removed from a religious diet for a single violation. The chaplain (or center designee) will interview/counsel an inmate who has committed a first violation of their religious diet agreement. If the inmate did not violate the faith tenets, then the IR would be vacated. If an inmate commits a second violation within a 6-month period, they may be taken off the diet.

The “two strikes” policy for religious diets acknowledges that sometimes inmates are new to their faith practices and learning the dietary laws. Like faith adherents in the community, inmates sometimes make mistakes or are not as diligent about their religious practices. DOC faces legal problems if we penalize inmates on religious diets for doing something that an inmate who is not on a religious diet would be allowed to do (like sharing food). That may be perceived as discriminating against certain faiths because of dietary requirements, which is a clear constitutional and federal law violation.

**Do I write an IR if an inmate uses food from his religious diet tray to feed the birds?**

If inmates on the general menu are allowed to give items from their food tray to wildlife (birds, squirrels, etc.), inmates on a religious diet cannot be penalized for doing the same. If feeding wildlife is not permitted for inmates on the general menu, inmates on religious diets should be treated consistently with overall facility policies and penalties for this behavior. In other words, the penalty would not be loss of the religious diet, but the same as for inmates on the general menu.

**Can inmates on a religious diet choose what they want to eat meal-by-meal?**

No. Per policy and the Religious Diet Participation Agreement signed by the inmate, religious diet accommodation is permanent and affects all meals until formally discontinued. Inmates must take their specially prepared religious diet tray. They cannot go through the regular service line when a favorite meal is being served.

**What is “Kosher for Passover?” Why is it different than regular kosher?**

"Kosher for Passover" (KforP) is a distinct set of dietary laws that observant Jews practice specifically during the 8 days of Passover. This is different than regular "Kosher" food laws. KforP requires that - in addition to regular kosher laws related to prohibited foods and handling procedures - there be no leavened bread and no consumption of any leavening agents whatsoever. For example, no corn, beans, soy, etc. is consumed during this time. This practice is an annual observance in remembrance of the Jews flight from slavery in Egypt on such short notice that their bread did not have time to rise.

**Why does DOC change the whole facility menu for Lent?**

DOC accommodation of Lent has been in policy for a number of years. DOC serves fish on Fridays year-round due to the long Wisconsin community traditions of Friday fish fry events. This also accommodates Catholic inmates who wish to abstain from meat during Lent. During Lent, a fish or meatless meal is served at one meal (mid-day or evening) and the other meal includes a meat portion that can easily be set aside (i.e. not incorporated into a casserole). This allows facilities to avoid preparing a large quantity of meatless Lenten meal trays or bag meals.

**If an inmate breaks the Ramadan fast, can he still go to the Eid-Al-Fitr?**

Yes. Religious diet adherence (including fasting) and attendance at the Annual Religious Celebratory Meal/Observance (formerly called “feast”) are separate religious practices. DOC cannot impose pre-requisites on religious practices because this would be requiring a level of faith adherence that an inmate may not hold for themselves - a violation of individual religious rights.

**So if DOC is going to extra work and expense to provide religious diets, shouldn't we be strict about enforcement?**

As with all policies and programming, there must be a balance between facility/security interests and inmate rights. DOC provides religious diet accommodation on the condition that inmates adhere to the Religious Diet Participation Agreement they signed at the time the diet was requested and approved. Expectations include not giving food from their diet tray to other inmates and adhering to their faith tenets about not consuming certain foods. Staff enforcement is important. However, staff sometimes adopt the role of “religious diet police,” trying to catch inmates in errors or even trip inmates up on the religious diet rules, which is usually not a productive use of limited staff resources.

Inmates – like people of faith in the community – have different levels of adherence to different faith practices. Faithful people in the community and in prisons do make mistakes. DOC staff can instruct and give guidance on DOC policies and rules. But faith practices themselves – including religious diets - are a much more personal practice representing the honor-bound relationship between an individual and their deity(ies) or faith tradition.

In general, inmates on religious diets should be treated consistently with overall facility policies and penalties. Penalizing inmates on religious diets extra harshly, though, would equate to discriminating against religions that adhere to a special diet. Conversely, allowing them extra privileges would equate to giving favoritism to certain faiths that have dietary requirements - a violation of federal laws. Therefore removal from a religious diet is not an appropriate penalty for general facility rule violations. Removal from a religious diet should only be done by the chaplain/designee for repeated violations of the Religious Diets policy.

**Where can I get more information?**

Please feel free to contact Religious Practices Coordinator Kelli Willard West with questions or concerns. She can be reached at 608-240-5168 or [kelli.west@wi.gov](mailto:kelli.west@wi.gov).