

1.4.E.11 Inmate Hunger Strike

I Policy Index:



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Office of Primary Responsibility: DOC Administration

II Policy:

The Department of Corrections (DOC) will establish and maintain processes and procedures for the medical and administrative management of inmates who engage in hunger strikes. It is the responsibility of the DOC to monitor the health and welfare of individual inmates and to ensure procedures are pursued to preserve life.

III Definitions:

Attending Physician:

A physician that provides primary care and directs emergent, chronic and continuing care to inmates. The physician will provide information regarding an inmate's condition, risks to the inmate and effects the hunger strike may have upon the inmate, to the Involuntary Feeding and Hydration Treatment Panel.

Behavioral Health Services Staff:

For the purposes of this policy, a psychiatrist, psychologist or behavior health professional employed or contracted by the Department of Social Services to provide behavioral health services to inmates within a DOC institution.

Health Services Staff:

For the purposes of this policy, health services staff consists of all individuals employed by the Department of Health or contracted by the Department of Health to provide physical health services in a DOC institution.

Hunger Strike:

When an inmate is observed by staff to be refusing sufficient nutrition and/or hydration for nine (9) consecutive meals. Medically imposed fasts for the purpose of conducting medical tests or procedures and religious fasts for a reasonable length of time, consistent with religious doctrine, are exempt from this definition (See DOC policy 1.5.F.2 *Inmate Religious and Alternative Diets*).

Medical Representative:

A physician, physician assistant or nurse practitioner, as defined in SDCL §§ [34-12D-1](#), [36-4A-1](#), [36-9A-12](#) and [24-11B-2](#).

IV Procedures:

1. Determining a Hunger Strike:

- A. Inmates may participate in medically imposed fasts for the purpose of conducting medical tests or preparation for medical procedures, at the direction of Health Services staff (See DOH policy P-F-02 [Medical Diets](#)).
- B. Inmates may participate in religious fasts for a reasonable length of time, as determined by faith doctrine, provided the fast does not disrupt the daily operations of the facility or is likely to cause severe harm, permanent damage or death. The Cultural Activities Coordinator will review and monitor inmate requests for religious fasts (See DOC policy 1.5.F.2 [Religious Diet](#)).
- C. If an inmate communicates to staff he/she is on a hunger strike, or staff observe the inmate has refused sufficient nutrition and hydration for a period of nine (9) consecutive meals, the inmate will be considered to be on a hunger strike. An inmate may be determined to be hunger strike even though he/she is consuming liquids. Once it is determined/confirmed the inmate is engaged in, or may be engaged in a hunger strike, staff will:
 - 1. Interview the inmate as soon as possible and attempt to determine the inmate's reason(s) for refusing sufficient nutrition or hydration.
 - 2. Immediately notify senior staff at the facility where the inmate is housed; e.g. Warden, Deputy Warden, Associate Warden, that the inmate has been confirmed to be engaged in a hunger strike. Health Services and Behavioral Health staff must be notified.
- D. If more than one inmate chooses to engage in a hunger strike at the same time, the provisions of this policy shall apply to each inmate.
- E. Health Service staff may consult with a qualified nutritionist or dietician to determine the appropriate dietary allowance for the inmate; adjusted for age, sex and activity.
- F. Inmates who are unable to maintain sufficient nutrition or hydration by virtue of their mental illness or acute medical conditions, who are not intentionally fasting for medical or religious reasons and have not announced to staff that they are on hunger strike, but have been observed by staff skipping nine (9) consecutive meals, will be closely observed by staff for deprivation of sufficient nutrition and hydration or significant self-harm.
- G. Inmates with metabolic disorders or other medical illness who deviate from normal eating habits or intake of fluid/sufficient hydration, who could experience an immediate, significant hazard (harm) to their health, well-being and preservation, may be referred by staff to health services.

2. Initial Response:

- A. Within 12 hours of staff determining an inmate is on a hunger strike, or when staff identify an inmate is unable or unwilling to maintain sufficient nutrition and/or hydration by virtue of mental illness, metabolic disorder, medical illness or religious fast, the following will apply:
 - 1. Staff will modify the inmate's housing placement to enhance observation of the inmate and enhance the ease which medical care is offered and provided to the inmate.
 - 2. All food deliveries to the inmate will be recorded (may be documented in the inmate's medical record or other approved location).

- a. An inmate's contact with other inmates will be limited to allow staff to accurately document the inmate's access and consumption of food or beverages.
 - b. Inmates may be housed in the infirmary, camera room, dry cell or other cell to enhance supervision of the inmate, as approved by the Warden or designee.
 - c. Inmates in Restricted Housing, Disciplinary Housing or on Investigative Purpose (IP) may be retained on this status and permitted to remain in their assigned cell, unless the physician determines movement to other living quarters (the infirmary) is medically necessary.
- B. Inmates confirmed to be engaged in a hunger strike will be offered the opportunity to eat and drink at each regularly scheduled meal time. A verbal offer of food shall not suffice. Food will be delivered to the inmate in his/her cell, or the inmate will be escorted to the cafeteria and permitted to remain there for the duration of the inmate's regularly scheduled meal time. Inmates will be provided adequate access to drinking water.
1. DOC and/or Health Services staff will maintain a written report of any food and/or beverages the inmate is observed consuming or which are refused by the inmate ([See Attachment 1](#)).
 2. If the inmate is housed in a single cell, the Warden and/or Health Services staff may approve the removal of any commissary food items from the inmate's cell to facilitate an accurate monitoring of the inmate's intake of food and fluids. The Warden may temporarily suspend or restrict an inmate's privileges to order all or certain food items from commissary (See DOC policy 1.2.E.1 [Inmate Commissary](#)).
 3. Health Services staff may approve alternative beverages, including liquid nutritional supplements, be offered to the inmate, as prescribed/ordered by the attending physician.
 4. Acceptance and consumption of liquids/beverages alone will not be documented as acceptance of a "meal" but will be tracked by staff.
- C. Staff shall refer an inmate on hunger strike to medical and/or behavioral health staff for evaluation. The following evaluation procedures will be conducted by Health Services within 12 hours (or sooner if deemed necessary) of staff determining an inmate is on hunger strike, or when staff identify an inmate is unable or unwilling to maintain sufficient nutrition or hydration for reasons not consistent with a hunger strike, i.e. mental illness, metabolic disorder, medical illness:
1. Regular measurement of the inmate's vital signs and weight.
 2. Counseling to encourage the inmate to resume sufficient nutrition and hydration.
 3. Urinalysis, as ordered by a physician, physician's assistant or nurse practitioner, no less than one time per week.
 4. Lab work, as ordered by a physician, physician's assistant or nurse practitioner with a basic metabolic panel completed at least weekly.
 5. General medical evaluation by a physician, physician's assistant or nurse practitioner (shall be completed within five (5) days of when staff initially documented the inmate is on hunger strike). Frequency of follow-up evaluations will be determined by the physician, physician

assistant or nurse practitioner to ensure the inmate is not at or approaching a life-threatening stage due to failure to maintain sufficient nutrition or hydration.

6. Other tests, procedures, evaluations, assessments or information gathering deemed necessary by the DOC, Health Services or Behavioral Health Services.
- D. If the inmate refuses to comply with tests, procedures, evaluations or assessments, a record will be made by Health Services staff documenting what was offered, ordered or recommended but refused by the inmate (See DOH Policy P-I-06 [Informed Consent and Right to Refuse](#)).
1. Health Service staff will advise the inmate that at a minimum, the inmate's weight will be recorded.
 2. If the inmate does not cooperate in measuring his/her weight or refuses any required laboratory evaluation deemed essential to the preservation of life by Health Services or attending physician, i.e. urine specimen collection or blood draw for the lab work, the Warden or designee may authorize a planned use of force to seek compliance by the inmate (See DOC policy 1.3.A.3 [Use of Force - Institutions](#)).
- E. Health Service staff will advise the inmate of the physical effects of starvation and will complete the *Effects of Starvation* form ([See Attachment 2](#)).
- F. Health Service staff may refer the inmate to Behavioral Health staff for an assessment (See DOH policy P-E-05 [Mental Health Screening and Evaluation](#)).
- G. Assessment procedures will not outweigh an inmate's objection to the procedure, unless Health Services staff determines with reasonable medical certainty, that the inmate is causing or may cause, severe harm, permanent damage or death to himself/ herself by continuing to refuse sufficient nutrition or hydration.
1. If such a determination is made, medical assessments and/or medical treatments will be conducted as deemed necessary.
- H. Health Services, Behavioral Health and DOC staff will continue to meet with the inmate to assess his/her current status.
1. Staff will maintain regular contacts with the inmate, as permitted by staff scheduling, for the duration of the inmate's hunger strike, or as long as the inmate is unable or unwilling to maintain sufficient nutrition or hydration and fully document all contact. Inmates may initiate requests for Health Services through the sick call procedure.

3. Criteria for Considering Involuntary Treatment:

- A. Involuntary feeding or hydration may be considered for an inmate when it is determined by Health Service staff the inmate is likely to cause severe harm or death to himself/herself, or the inmate's condition is deteriorating to the extent medical intervention may soon be required.
- B. An inmate is not subject to being involuntarily fed or hydrated without a hearing, except in cases requiring emergency treatment (See section on Emergency Treatment).
- C. An Involuntary Feeding or Hydration Treatment Panel will be convened to determine if it is determined the inmate may require involuntarily feeding and/or hydration.

4. Involuntary Feeding or Hydration Treatment Panel:

- A. The Involuntary Feeding or Hydration Treatment Panel will consist of three (3) members, none of whom may have participated in the inmate's current diagnosis, evaluation or treatment.
 - 1. Two (2) members of the panel will be either a physician, physician assistant or nurse practitioner (See SDCL § [24-11B-2](#)).
 - 2. One (1) member of the panel will be a staff representative appointed by the Warden, who will chair the hearing.
- B. The Involuntary Feeding or Hydration Treatment Panel will review information regarding the inmate and determine if it is likely the inmate's continued refusal of sufficient nutrition and/or hydration or treatment is likely to cause severe harm or death to the inmate, thus warranting a need for involuntary treatment (See SDCL § [24-11B-3](#)).
 - 1. The panel may seek testimony or written statements from anyone having knowledge of the circumstances surrounding the inmate's refusal of sufficient nutrition, hydration and/or treatment.
 - 2. The panel will engage in a confidential review of the inmate's medical records.
 - 3. The panel will receive and review a proposed course of treatment for the inmate, including possible involuntary treatment of the inmate.
 - 4. The inmate's attending physician will provide testimony on the inmate's circumstances and conditions to the panel.

5. Inmate Notification and Hearing Rights:

- A. The inmate will be notified no less than forty-eight (48) hours in advance of the time and date set for the hearing before the Involuntary Feeding or Hydration Treatment Panel (See [Attachment 3](#)) (See SDCL § [24-11B-2](#)).
- B. The inmate shall have the following rights:
 - 1. To request assistance, advice and representation at the hearing by a disinterested lay advisor who is knowledgeable about related medical issues.
 - 2. To personally attend the hearing.
 - 3. To present information on his/her own behalf and/or have his/her lay advisor present evidence.
 - 4. To cross-examine any witnesses.

6. Decision of the Involuntary Feeding or Hydration Treatment Panel:

- A. Involuntary feeding and/or hydration may proceed upon a majority vote of the Involuntary Feeding or Hydration Treatment Panel (See SDCL § [24-11B-4](#)).
 - 1. The decision must be based in part on reasonable medical certainty that there is an immediate threat to the inmate's life or possibility of permanent damage to the inmate's health.

- B. The inmate will be advised, in writing, of the Involuntary Feeding or Hydration Treatment Panel's decision (See [Attachment 4](#)).
- C. Copies of the Panel's decision will also be provided to the attending physician, Health Services, DOC legal staff, and respective Warden.

7. Inmate Appeal of the Panel's Decision:

- A. The inmate may appeal an adverse decision by the Panel to the Secretary of Corrections, within ten (10) working days of notification of the Panel's decision (See [Attachment 5](#)) (See SDCL § [24-11B-4](#)).
 - 1. The inmate's lay advisor may assist the inmate with the appeal process, at the request of the inmate.
 - 2. Appeals are exempt from certain provisions of DOC policy 1.3.E.2 [Administrative Remedy for Inmates](#). The appeal must be filed directly with the Secretary of Corrections.
 - 3. The Secretary of Corrections will respond to the inmate's appeal within five (5) working days after receipt unless cause is shown for delay.
- B. The inmate may appeal the decision of the Secretary of Corrections to the circuit court, pursuant to SDCL § Chapter [1-26](#).
- C. Involuntary treatment will proceed against the inmate during the pendency of any appeals.

8. Ordering Treatment and Physician Reviews:

- A. If involuntary treatment is ordered, the inmate will be placed in the infirmary or other medically approved off-site placement (ACA 1-HC-1A-09) and designated staff will proceed with treating the inmate, consistent with the decision of the panel and as deemed medically necessary to preserve the inmate's health and life, consistent with the orders of the attending physician(s), for an initial period not to exceed thirty (30) days.
 - 1. The decision to commence involuntary treatment is a medical decision and must be supported by the physician's written order.
 - 2. Treatment may include, but is not limited to, nutrition, hydration, medication and obtaining specimens of bodily fluids for analysis.
 - 3. Inmates who require health care beyond the resources available at the facility, as determined by Health Services, physician or panel, will be transferred under appropriate security provisions to a facility where such care is available (ACA 1-HC-1A-05).
- B. After the first ten (10) days of treatment, and at intervals not to exceed three (3) days thereafter, the treatment must be reviewed by a physician who is not the attending physician (See SDCL § [24-11B-6](#)).
 - 1. The physician will review the inmate's case and make a written determination whether the involuntary treatment should continue. A written, individual treatment plan is required.
 - 2. Copies of the physician's report will be provided to the attending physician, Health Services, Warden and the inmate.

9. Documentation of Hearings and Findings:

- A. Documentation of all hearings, findings and actions taken by the panel or physician will be maintained in the inmate's institutional file, with copies provided to Health Services (See SDCL § [24-11B-7](#)).
 - 1. A record of the involuntary treatment will be maintained in the inmate's medical file or other designated and approved location.
 - 2. A copy of any ten (10) day review and any subsequent three (3) day reviews by a non-attending physician will be provided to Health Services.
- B. The Chair of the Involuntary Feeding or Hydration Treatment Panel will maintain a log of hearings conducted by the Panel. The log will include:
 - 1. The date the Involuntary Feeding or Hydration Treatment Panel conducted the hearing.
 - 2. The name(s) and identification number(s) of the inmate(s).
 - 3. The names, titles and business addresses of the Panel members.
 - 4. The name(s) of any other person appearing and presenting information to the Panel.
 - 5. The decision of the Panel.

10. Emergency Treatment:

- A. In an emergency, involuntary treatment of an inmate may be administered without review by the Panel, for up to three (3) days, if the treatment is ordered by two (2) medical representatives (a physician, physician assistant or nurse practitioner) (See SDCL § [24-11B-5](#)).
 - 1. An emergency exists when there is reasonable medical certainty the inmate is causing, or may cause, severe harm, permanent damage or death to himself/herself.
- B. After three (3) days of involuntary treatment, any additional treatment requires approval from the Panel.
- C. If the medical representative(s) believe there is a likelihood treatment will exceed three (3) days, an Involuntary Feeding or Hydration Treatment Panel will be convened as soon as reasonably possible within the initial three (3) days, consistent with the forty-eight (48) hour notice requirement of this policy.
- D. Prior to emergency involuntary treatment being administered, staff will make reasonable efforts to convince the inmate to voluntarily accept treatment. Possible medical risks faced by the inmate if treatment is not accepted will be explained to the inmate. Staff will document all treatment efforts in the inmate's medical record.
- E. Written documentation of the order to provide emergency involuntary treatment will be maintained in the inmate's medical file.
 - 1. Daily written reports of treatment administered shall be submitted to the medical director and Warden.

2. Health Service staff will continue clinical and laboratory monitoring as necessary, until the inmate's life or permanent health is no longer threatened.
- F. If and when it is determined medically appropriate and necessary, an inmate may be transferred to the care of an outside medical provider.
- G. None of the procedures or guidelines (does not include applicable statutes) contained in this policy are intended to limit or override the exercise of sound medical judgment by medical personnel.
 1. Each case must be evaluated on its own merits and individual circumstances.
 2. Treatment is to be offered and documented in accordance with accepted medical practice.

11. Liability/Immunity:

- A. Pursuant to SDCL § [24-11B-8](#), no person who serves on the Involuntary Feeding or Hydration Treatment Panel, who is the attending physician, Warden, or who orders or participates in the involuntarily feeding or hydrating of an inmate, may be held civilly or criminally liable for the involuntarily feeding or hydrating of the inmate pursuant to SDCL § Chapter [24-11B](#) if the person performs these duties in good faith and in a reasonable manner according to generally accepted medical or other professional practices.

12. Other Action:

- A. The attending physician, with input from the Panel, may order an inmate released from evaluation and treatment status when it is determined the inmate's oral intake of food and liquid has been achieved. Monitoring for severe or life-threatening complications of malnutrition may continue at the discretion of the attending physician, beyond the point at which the inmate resumes adequate oral intake.
 1. This order will be recorded in the inmate's medical file.
- B. Media contacts concerning an inmate's hunger strike status will be directed to the Warden, the Communications & Information Manager or Secretary of Corrections.
- C. Reporting an inmate on a hunger strike to the DOC Administration will be in accordance with DOC policy 1.1.A.3 [Reporting Information to DOC Administration](#).

V Related Directives:

SDCL §§ [24-11B-1](#), [24-11B-2](#), [24-11B-3](#), [24-11B-4](#), [24-11B-5](#), [24-11B-6](#), [24-11B-7](#), [24-11B-8](#), [34-12D-1](#), [36-4A-1](#), [36-9A-12](#) and Chapter [1-26](#).

DOC policy 1.1.A.3 – [Reporting Information to DOC Administration](#)

DOC policy 1.2.E.1 -- [Inmate Commissary](#)

DOC policy 1.3.A.3 – [Use of Force - Institutions](#)

DOC policy 1.3.E.2 – [Administrative Remedy for Inmates](#)

DOC policy 1.5.F.2 – [Religious Diet](#)

DOH policy P-F-02 – [Medical Diets](#)

DOH policy P-I-05A -- [Offender Hunger Strike](#)

DOH policy P-I-06 – [Informed Consent and Right to Refuse Inmate Living Guide](#)

VI Revision Log:

August 2005: New policy.

October 2006: **Added** reference to policies 1.5.F.2 and P-F-02. **Added** language in the procedures regarding religious diets and medical diets. **Revised** the record-keeping procedures for approved/declined fasts.

October 2007: Minor style/format changes made.

September 2008: **Revised** formatting of policy and attachments in accordance with DOC policy 1.1. A.2. **Deleted** first segment of statement regarding an inmate's indicated intent to initiate an individual hunger strike in ss (C of Determining an Inmate Hunger Strike). **Added** statement about collaborating with Mental Health in ss (A1) and **replaced** intake and output and measurements with food deliveries in ss (A2) of Initial Handling of an Inmate Hunger Strike. **Added** "consisting of a physician, physician's assistant or nurse practitioner" in ss (A of Emergency Treatment). **Replaced** "chapter" with "§", added "8" to SDCL 24-11B and **replaced** "24-11B-1 to 24-11B-8" with "24-11B" ss (A of Liability/Immunity). **Replaced** "or" with "and" in ss (A2 of Other Action) when referencing media contacts directed to the CIM, Warden and Secretary of DOC.

Added DOC policy to section V. **Revised** Attachment 1 specifying where form should be returned and **moved** form from SDSP tab to DOC tab. **Revised** title of attachment 2 to Effects of Starvation. **Revised** titles of attachments 3, 4 and 5 to be consistent with policy, attachments and WAN.

September 2009: **Added** definitions of Staff, Mental Health Staff and Health Services Staff.

Added § 24-11B-2 in definition of Medical Representative. **Added** definition of Attending Physician. **Replaced** "medical provider" with medical representative" as appropriate. **Deleted** reference to may request assistance from Special Security in ss (C1) and **added** ss (F) regarding medical placing inmates on a hunger strike both within (Determining an Inmate Hunger Strike).

Added weekends and holidays in ss (H1 of Initial Handling of an Inmate Hunger Strike).

Replaced physician or PA with medical rep. within ss (B4 of Involuntary Feeding or Hydration Tx Panel). **Deleted** reference to physician, PA, or NP in ss (A) as it is defined in Medical Rep. and **added** initial as it relates to three days in ss (C) both within Emergency Tx). **Deleted** "unit" and "inmate's unit" when referencing staff throughout policy. **Added** reference to 45 CFR in ss (B2 of Ordering Tx and Physician Reviews) and within section V. **Revised** formatting of offender's intent to attend, not to attend, whether he/she is requesting a lay advisor and directions for staff to sign if offender refused all within Attachment 3.

September 2010: **Revised** formatting of Section 1.

October 2013: **Deleted** "seventy-two (72) hours" and **Replaced** with "nine (9) consecutive meals" in definition of "Hunger Strike". **Deleted** "Inmates are not required to eat a particular meal, however, inmates must abide by specific guidelines as they pertain to religious diets and medical diets" and **Replaced** with "Inmates may participate in medically imposes fasts for the purpose of conducting medical tests or procedures as the direction of Health Services or religious fasts for a reasonable length of time" in Section 1. A. **Deleted** 1. "An inmate provided a religious diet cannot:" in Section 1 A. **Deleted** 2. "If an inmate refuses a prescribed medical diet, follow up nutritional counseling will be provided" in Section 1 A. **Added** "meals or staff determine an inmate is causing severe harm to himself/herself by refusing sufficient nutrition or hydration" in Section 1 B. **Deleted** E. "An inmate who wishes to fast for religious purposes must submit a written request to his/her respective CAC, seeking permission for a religious fast prior to beginning such a fast" in Section 1. **Added** D. to Section 1. **Deleted** "non-edible" and **Deleted** "while on a hunger strike, provided the commissary items are allowed in the inmate's housing unit" and **Added** "unless their privileges have been suspended as part of a disciplinary sanction" in Section 2 B. 2. **Deleted** "and at least once every five days thereafter for the duration of the hunger strike" and **Replaced** with "Follow-up evaluation frequency will be determined by the physician, physician assistant or nurse practitioner for the duration of the hunger strike" in Section 2 C. 5. **Added** 6. to Section 2 C. **Added** "sufficient" to Section 2 C. 2. **Deleted** "may" and **Replaced** with "will" in Section 2 F. **Deleted** "is at or approaching a life-threatening stage and **Replaced** with "is determined by staff to be causing severe harm or death to himself or herself by refusing sufficient nutrition of hydration" in Section 2 G. 1.

Deleted "that an inmate is at or approaching a life-threatening state" in Section 2 G. 2. **Added** "mental health staff" to Section 2 H. **Deleted** "medical representative" and **Replaced** with "a

physician, a physician assistant or nurse practitioner” in Section 4 A. **Deleted** “criteria” and **Replaced** with “inmate is likely to cause severe harm or death to him/herself by refusing sufficient nutrition or hydration and thus resulting in a need” and **Deleted** “has been met” in Section 4 B.

Deleted “treatment” and **Replaced** with “feeding or hydration” in Section 6 A.

November 2014: **Added** “If an inmate communicates to staff he or she is on a hunger strike, or staff observe an inmate refused” and **Deleted** “suspect an inmate has not had” and **Deleted** “staff suspect an inmate is causing serve harm to himself/herself by refusing sufficient nutrition or hydration” in Section 1 B. **Deleted** “After it is determined by staff an inmate is on hunger strike, the inmate may be isolated from the general population” and **Replaced** with “Within 12 hours of staff determining an inmate is on a hunger strike” in Section 2 A. **Deleted** “To the extent possible” in Section 2 A. 2. **Added** “observation of the inmate and to provide medical care to the inmate and limit the inmate’s contact with other inmates to accurately document the inmate’s consumption of food or beverages” in Section 2 A. 2. **Deleted** “To the extent possible” and **Deleted** “Meals” and **Replaced** with food and/or beverages” and **Deleted** “during the hunger strike” in Section 2 B. 1. **Deleted** “The inmate may continue to make purchases of commissary items, unless” and **Replaced** with “In order to monitor all food and water intake, the Warden may approve the removal of any commissary food items from the inmate’s room while the inmate is on hunger strike” and **Deleted** “as a disciplinary sanction for committing an offense in custody” in Section 2 B. 2. **Added** 3 & 4 to Section 2 B. **Added** “or the inmate’s condition is deteriorating to the extent that intervention may soon be required.” to Section 3 A. **Deleted** “Upon initial” and **Replaced** with “Inmates determined to be on hunger strike will” and **Added** “within 12 hours (or sooner if deemed necessary) of staff determining the inmate is on hunger strike” in Section 3 C. **Added** 1. to Section 6 A. **Deleted** “ten days” and **Replaced** with “five days” in Section 7 A. 3. **Added** 1. to Section 8 A. **Added** D. - G. to Section 10. **Deleted** Warden” and **Replaced** with “attending physician” **Added** “when it is medically determined the inmate’s oral intake of food and liquid has been achieved. Medical monitoring for severe or life-threatening complications of malnutrition may continue at the discretion of the attending physician, beyond the point at which the inmate resumes adequate oral intake.” to Section 12 A.

October 2015: **Added** “camera room” in Section 2 A. 2.

September 2016: **Added** “or when staff identify an inmate who is unable or unwilling to maintain sufficient nutrition or hydration by virtue of mental illness or religious fast, the following may apply” in Section 2 A. **Added** “or other cell approved by the Warden or designee” in Section 2 A. 2. **Deleted** “may be suspended” and **Replaced** with “The Warden may temporarily suspend an inmate’s privilege to order food items from commissary”. in Section 2 B. 2. **Added** “be offered to the inmate” and **Deleted** “authorized” and **Replaced** with “as prescribed/ordered”. **Added** “and/or consumption” in Section 2 B. 4. **Added** “or when staff identify an inmate who is unable or unwilling to maintain sufficient nutrition or hydration by virtue of mental illness or religious fast” in Section 2 C. **Added** deemed essential by Health Services to the preservation of the inmate’s safety” to Section 2 D. 2. **Added** “an inmate is unable or unwilling to maintain sufficient nutrition or hydration by virtue of mental illness or religious fast” in Section 2 H.1. **Added** 1. to Section 10 A.

October 2017: **Added** “When an inmate communicates to staff they are on hunger strike and the inmate is observed by staff to be refraining from eating or” to the definition of Hunger Strike. **Deleted** definition of “staff member” **Added** “provided the fast does not disrupt the daily operations of the facility or is likely to cause severe harm, permanent damage or death to the inmate in Section 1 B. **Added** “An inmate may be determined to be hunger strike even though he/she is consuming liquids: in Section 1 C. **Added** F. to Section 1. **Deleted** 3. “Inmates choosing to engage in a hunger strike will be subject to disciplinary action, in accordance with DOC policy 1.3.C.2 [Inmate Discipline System](#)” in Section 2. **Added** “Staff shall refer an inmate who is observed to be on hunger strike to medical or mental health staff for evaluation” in Section 2 C. **Added** “Inmates may initiate requests for health services through the sick call procedure” in Section 2 H 1. **Added** “DOC legal staff” in Section 6 C. **Added** “or other medically approved off-site placement” in Section 8 A. **Added** 2. and 3. to Section 8 A. **Added** “A written, individual treatment plan is required” in Section 8 B. 1.

September 2018: **Reviewed** with no changes.

Denny Kaemingk (original signature on file)

Denny Kaemingk, Secretary of Corrections

12/03/2018

Date

Attachment 2: Effects of Starvation

The **Effects of Starvation** form is located on the state's WAN.

A copy may be printed using **Microsoft Word** as follows:

1. Click [here](#) to access the **Effects of Starvation** by:
 - a. Placing mouse on the word "here" above
 - b. Press and hold the "Ctrl" key on the keyboard
 - c. Click the left button of mouse.
2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Effects of Starvation**.

The gray areas indicate the information that is to be entered.

| South Dakota Department of Corrections Policy Distribution: Public | | Attachment: Effects of Starvation Please refer to DOC policy 1.4.E.11 Inmate Hunger Strike | |
|---|------|--|------|
| EFFECTS OF STARVATION | | | |
| <p>Prolonged starvation can result in serious harm to a person's body and mind. When a person's calorie intake falls far below the body's daily energy expenditure, a complex series of reactions are set in motion by the body in an effort to defend itself against this abnormal condition. These reactions go far beyond a simple loss of weight and an emaciated appearance. If these reactions are prolonged and severe enough, they can result in serious illness and death.</p> <p>When there is a deficit in energy intake, the body draws on its own stores to maintain blood glucose, its main fuel. The body will first use whatever stored fat may be available. When fat stores are exhausted, the body will then begin to use muscle and organ tissue to produce energy. As this occurs there is a wasting away of muscle and of tissue in the liver and intestines, the heart decreases in size and output. Blood pressure and respiratory rates are reduced and cardiorespiratory failure can eventually occur. Hair becomes dry and sparse and falls out easily. There is a loss of sex drive. Diarrhea may occur and hasten the wasting process. Apathy and irritability are common. Eventually the body enters a comatose state, usually followed by death. Proteins are essential for maintenance of cellular functions and when the body's proteins have been depleted to approximately one-half of their normal levels, death ordinarily ensues.</p> <p>In addition to the above factors, many negative changes in the chemistry of the body also occur. Vitamin deficiencies occur particularly the Vitamin B group and Vitamin C group and further weaken the body. Resistance to disease and infections decreases, make the body vulnerable to other illnesses.</p> <p>I understand that my refusal to eat can bring about the above deleterious effects (as well as others) on my body and my well being. I understand that continued refusal to eat may result in serious and possibly irreversible body changes and can eventually result in my death. Furthermore, I understand the South Dakota State Penitentiary will do everything within its power to prevent the death of any person committed to its custody.</p> <p>I hereby certify that I have read (or had read to me) and had explained to me the destructive effects that occur to my body as result of my refusal to eat.</p> | | | |
| Witness Signature | | Inmate Signature | Date |
| OR | | | |
| Inmate's name | | Inmate name at left has been advised of the above information regarding the deleterious effects of his/her continued refusal to eat by the medical personnel named to the left, but inmate refused to sign the above form. | |
| Medical Personnel | Date | | |
| Witness Signature | | Date | |
| Revised 8/1/2005 | | Page 1 of 1 | |

Attachment 3: Notice of Hearing by the Involuntary Feeding or Hydration Treatment Panel

The **Notice of Hearing by the Involuntary Feeding or Hydration Treatment Panel** form is located on the state's WAN.

A copy may be printed using **Microsoft Word** as follows:

1. Click [here](#) to access the **Notice of Hearing by the Involuntary Feeding or Hydration Treatment Panel** by:
 - a. Placing mouse on the word "here" above
 - b. Press and hold the "Ctrl" key on the keyboard
 - c. Click the left button of mouse.
2. Or Select **File/New** from the Menu Bar / Select the **DOC** tab / Select **Notice of Hearing by the Involuntary Feeding or Hydration Treatment Panel**.

The gray areas indicate the information that is to be entered.

| | | |
|---|--|--|
| South Dakota Department of Corrections Policy Distribution: Public | Attachment: Notice of Hearing by the Involuntary Feeding or Hydration Treatment Panel Please refer to DOC policy 1.4.E.11 Inmate Hunger Strike | |
| NOTICE OF HEARING BY THE INVOLUNTARY FEEDING OR HYDRATION TREATMENT PANEL | | |
| Inmate Name: <input type="text"/> | Number: <input type="text"/> | |
| A hearing before the Involuntary Feeding or Hydration Treatment Panel for the purpose of deciding possible treatment by the involuntary feeding or hydration of the inmate named above will be held on: | | |
| Date: <input type="text"/> | Time: <input type="text"/> | Place of Hearing: <input type="text"/> |
| Reason for hearing: <input type="text"/> | | |
| <input type="checkbox"/> I do desire to be present at the hearing. | | |
| <input type="checkbox"/> I do not desire to be present at the hearing and waive my right to attend this hearing and my rights to present evidence, cross examine witnesses and to representation by a disinterested lay advisor. | | |
| <input type="checkbox"/> I do / <input type="checkbox"/> do not desire the assistance of a lay advisor. | | |
| Name of lay advisor: <input type="text"/> | | |
| Inmate's Signature: <input type="text"/> | Date/Time: <input type="text"/> | |
| <i>(If the inmate refuses to sign or indicate above his/her intention to attend or not attend the hearing the staff member serving the Notice will sign below)</i> | | |
| Staff Signature: <input type="text"/> | | Date/Time: <input type="text"/> |
| Statement Of Your Rights Pursuant To State Law: | | |
| 1. You will be given notice not less than forty-eight (48) hours prior to the hearing. | | |
| 2. Your hearing will be held before a Panel that will consist of two (2) medical representatives and a representative of the prison, none of whom have been involved in your treatment decisions. A majority of the Panel members must agree to involuntary treatment before forced feeding or hydration will begin, unless emergency action was necessary. | | |
| 3. You may be present at the hearing unless you have indicated otherwise. | | |
| 4. You may choose a disinterested Lay Advisor who is knowledgeable about medical issues to assist you. | | |
| 5. You may be present information on your own behalf. You may cross-examine witnesses present at the hearing. | | |
| 6. You will be notified in writing of the Panel's decision following the hearing. | | |
| 7. Should the panel decide to proceed with involuntary treatment, and if involuntary feeding or hydration exceeds ten (10) days, your case will be reviewed by a non-attending physician and at subsequent intervals not to exceed three (3) days. | | |
| 8. You have the right to appeal the Panel's adverse decision to the Secretary of Corrections. | | |
| 9. You have the right to appeal the Secretary of Corrections' adverse decision to the Circuit Court. | | |
| Original To: Inmate | | |
| Copies To: Unit Manager/Institutional file Health Services/Attending Physician Hearing Panel Members | | |
| Revised: 9/1/2009 | Page 1 of 1 | |

Attachment 4: Findings of the Involuntary Feeding or Hydration Treatment Panel

The *Findings of the Involuntary Feeding or Hydration Treatment Panel* form is located on the state's WAN.

A copy may be printed using *Microsoft Word* as follows:

1. Click [here](#) to access the *Findings of the Involuntary Feeding or Hydration Treatment Panel* by:
 - a. Placing mouse on the word "here" above
 - b. Press and hold the "Ctrl" key on the keyboard
 - c. Click the left button of mouse.
2. Or Select *File/New* from the Menu Bar / Select the *DOC* tab / Select *Findings of the Involuntary Feeding or Hydration Treatment Panel*.

The gray areas indicate the information that is to be entered.

| | | | |
|--|---|---------------------------|--------------|
| South Dakota Department of Corrections Policy Distribution: Public | Attachment: Findings of the Involuntary Feeding or Hydration Treatment Panel Please refer to DOC policy 1.4.E.11 Inmate Hunger Strike | | |
| FINDINGS OF THE INVOLUNTARY FEEDING OR HYDRATION TREATMENT PANEL | | | |
| Inmate Name: _____ | Number: _____ | Date: _____ | |
| The Panel heard/reviewed evidence and found the following: | | | |
| 1. There is <input type="checkbox"/> is not <input type="checkbox"/> information indicating the inmate is likely to cause severe harm to himself/herself, and: | | | |
| 2. The harm is: <input type="checkbox"/> is not <input type="checkbox"/> the result of a short term or temporary fast imposed for medical or religious reasons. | | | |
| 3. Without involuntary hydration or feeding, the inmate is likely to suffer serious physical injury: Yes <input type="checkbox"/> No <input type="checkbox"/> | | | |
| Other considerations of the panel: _____ | | | |
| FINDINGS ON HUNGER STRIKE: Based on information presented on this date, the Panel finds as follows: | | | |
| 1. The inmate is <input type="checkbox"/> is not <input type="checkbox"/> engaged in a hunger strike. If the Panel determines the inmate is engaged in a hunger strike, complete the remaining items in this section and the section on Findings On Treatment. | | | |
| 2. The inmate's hunger strike has been underway for _____ days. | | | |
| 3. Based on the records kept by Health Services, the inmate's weight has changed during the hunger strike from: | | | |
| _____ pounds on _____ (date) | to _____ pounds on _____ (date) | | |
| FINDINGS ON TREATMENT: The Panel has determined the following (check one): | | | |
| <input type="checkbox"/> Medically identifiable results of a hunger strike that pose a serious and severe threat to the inmate's continued health and well being have been documented by medical staff. The inmate's medical condition is likely to improve with treatment through the use of involuntary feeding or hydration, or both. The involuntary feeding and hydration of the inmate will proceed pursuant to South Dakota Codified Laws §§ 24-11B-1 through §§ 24-11B-8 and other applicable South Dakota law and the procedures of the South Dakota Department of Corrections. | | | |
| <input type="checkbox"/> The inmate's current medical condition as a result of his hunger strike does not provide sufficient cause in the opinion of the panel to require the use of involuntary hydration or feeding according to South Dakota Codified Laws §§ 24-11B-1 through §§ 24-11B-8 and other applicable South Dakota law. | | | |
| Signed: | | | |
| 1. Medical Representative: _____ | | Date: _____ | |
| 2. Medical Representative: _____ | | Date: _____ | |
| 3. Prison Representative: _____ | | Date: _____ | |
| Copies to: Inmate _____ | Unit Manager/Inmate Unit _____ | Attending Physician _____ | Warden _____ |
| Revised: 9/24/2008 | | Page 1 of 1 | |

