



**DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD AND FAMILY SERVICES**

**4126 Technology Way – 3rd Floor
Carson City, Nevada 89706
(775) 684-4400**

**Manual Transmission Letter (MTL)
Family Programs Office: Statewide Policy Manual**

ALL STAFF MEMO

2007 – MTL #0401

10/23/2007

TO: Tom Morton, Director - Clark County Department of Family Services
Barbara Legier, Deputy Director - Division of Child and Family Services – Central Office
Pat Hedgecoth, Deputy Director - Division of Child and Family Services – District Offices
Mike Capello, Director - Washoe County Department of Social Services

From: Cynthia R. Freeman, Ph.D.
Social Services Chief III

Subject: Policy Distribution

Enclosed please find Policy 0401 Public Disclosure for distribution to all applicable staff within your organization. This policy is effective 08/10/2007 and replaces 200 Policy on Public Disclosure of Child Fatality and Near Fatality Information Policy(s).

This policy has been placed into the new Family Programs Office Policy Format. Please read the policy in its entirety and note any areas of Jurisdictional Action that are additionally required by your agency to be in compliance with the policy enclosed.

It is the responsibility of the Agency Director listed above to disseminate the policy enclosed to appropriate staff within your organization and to ensure compliance.

Please contact me at 775-684-4410 or cfreeman@dcsf.state.nv.us if you have any questions.

0401.0 Public Disclosure

0401.1 Policy Approval Clearance Record

<input checked="" type="checkbox"/> Collaborative Policy	This policy supersedes:	Number of pages in Policy: 8
Date Effective: 08/10/2007	200 - Policy on Public Disclosure of Child Fatality and Near Fatality Information	
PART Review & Approval	n/a	Policy Lead: Caroline Thomas, MSW, LSW
DMG Approval	08/15/2006	Policy Lead: Caroline Thomas, MSW, LSW
DMG Approved Revisions	01/31/2007	Policy Lead: Caroline Thomas, MSW, LSW
DMG Approved Revisions	07/09/2007	Policy Lead: Caroline Thomas, MSW, LSW
DMG Approved Revisions	08/10/2007	Policy Lead: Caroline Thomas, MSW, LSW
DCFS Administrator Approval:	08/10/2007	Signature: On File
Review by Representative from the Office of the Attorney General:	On going review	Signature: n/a

0401.2 Statement of Purpose

- 0401.2.1 Policy Statement:** The purpose of this policy is to provide guidelines for public disclosure of child fatalities and near fatalities pursuant to the Child Abuse, Prevention and Treatment Act (CAPTA) and the Nevada Revised Statutes.

0401.3 Authority

CAPTA Section 106 (b)(1)(B)(2)(A)(x); "provisions which allow for public disclosure of the findings or information about the case of child abuse or neglect which has resulted in a child fatality or near fatality;" (see Administration of Children and Families Manual of Policies Procedures, CAPTA, Section 2.1A.f).

0401.4 Definitions

- 0401.4.1 Agency which provides child welfare services (NRS 432B.030):** Means the following:
1. In a county whose population is less than 100,000, the local office of the Division of Child and Family Services;
 2. In a county whose population is 100,000 or more, the agency of the county, which provides or arranges for necessary child welfare services.
- 0401.4.2 Child:** Means a person under the age of 18 years. (NRS 432B.040)
- 0401.4.3 Child Fatality:** Means the cessation of life, manifested in people by a loss of heart beat, absence of spontaneous breathing, and the permanent loss of brain function; loss of life.

- 0401.4.4** **Credible Evidence:** Means “evidence to be worthy of credit must not only proceed from a credible source but must, in addition, be “credible” in itself, by which is meant that it shall be so natural, reasonable and probable in view of the transaction which it describes or to which it relates as to make it easy to believe it...” (Black’s Law Dictionary, 6th edition, page 367).
- 0401.4.5** **Family:** Means a group of two or more persons related by birth, marriage, or adoption and or an unrelated individual who live together; all such related persons are considered as members of one family.
- 0401.4.6** **Known to the Agency:** Means a report of child abuse or neglect made pursuant to NRS 432B.260 has been made to an agency which provides child welfare services (NRS432B.030) and that an investigation has been conducted and a finding has been made regarding child abuse or neglect (NRS 432B.300, 310, NAC 432B.170(7)) that constitutes having knowledge of or prior contact with the child or family.
- 0401.4.7** **Manner of Death:** Is determined by the circumstances surrounding the death. Manners of death are classified into five categories: accident, homicide, suicide, undetermined, and natural.
- 0401.4.8** **Near Fatality:** Means an act that places a child in serious or critical condition as verified orally or in writing by a physician, a registered nurse or other licensed provider of health care. Such verification may be given in person or by telephone, mail, electronic mail or facsimile. (AB261, 2007)
- 0401.4.9** **Relevant Information:** Means any case file information on the fatality or near fatality directly related to the specific child whose case file is under review.
- 0401.4.10** **Substantiated:** Means a report made pursuant to NRS 432B.220 was investigated and that credible evidence of the abuse or neglect exists. (NAC 432B.170(7)(a))
- 0401.4.11** **Unrelated individual:** Means a person who is not living with any relatives.
- 0401.4.12** **Unsubstantiated:** Means that a report made pursuant to NRS 432B.220 was investigated and that no credible evidence of abuse or neglect exists. The term includes efforts made by an agency which provides child welfare services to prove or disprove an allegation of abuse or neglect that the agency is unable to prove because it was unable to locate the child or the person responsible for the welfare of the child. (NAC 432B.170(7)(b))

0401.5 Procedures

0401.5.1 **Report of Child Fatality/Near Fatality and Investigation**

A report of child abuse or neglect involving a child fatality or near fatality made to an agency which provides child welfare services in the jurisdiction in which the fatality or near fatality occurred, by a mandated or other reporter in accordance with NRS 432B.220, (such as a representative from a law enforcement agency, a coroner’s office, physician or other medical personnel), shall initiate the following:

1. Assignment of the case for investigation within 24 hours of the receipt of the report.
2. A record search in the Central Registry for any prior substantiated report on the child, the child’s family, and any other person(s) who are residing in the household.

3. A record search in the UNITY system to determine if the child was known to the agency and if any previous record(s) exist, and provision of the information to the supervisor/program manager.
4. If a record search indicates that the child is a case participant in any open case, provision of immediate written notification upon assignment of the case for investigation to the caseworker/case manager and, if the report involves a foster care home, provision of notification to the agency responsible for foster care licensure.
5. If the report indicates the near fatality of a child, provision of documentation is required from a licensed physician for a statement certifying the near fatality.
6. Courtesy notification to the Administrator of the Nevada Division of Child and Family Services as soon as the report of fatality or near fatality is known to the agency, but no later than 24 hours. All notifications should be submitted via email to the following email address: cf@listserv.state.nv.us.
At a minimum, the courtesy notification should contain the following information:
 - Place of Death
 - Cause of Death
 - Name of child(ren)
 - Date of Birth
 - Date of Death
 - UNITY Case Number
7. Provision of written notification on the FPO 0401A Child Welfare Public Disclosure Form by the child welfare agency to the Nevada Division of Child and Family Services Administration and designated Legislative Auditor within 48 hours of the fatality or near fatality becoming known to the agency. This form provides the basic information that will be placed on the DCFS website that is available to the public. All Disclosures are to be submitted via email to cf@listserv.state.nv.us.
8. Updates to the FPO 0401A Child Welfare Public Disclosure Form will be provided to the Nevada Division of Child and Family Services Administration and designated Legislative Auditor within 15 calendar days from the date of initial submission and again in 30 calendar days from the date of initial submission. Any files, notes, information and records which the agency has concerning the child, the manner in which the case was handled, any services that were provided to the child or the family of the child and any other relevant information will be submitted to the Legislative Auditor with the final public disclosure submission.
9. If the investigation is being conducted by law enforcement for a criminal matter and the release of the requested information may compromise their investigation or prosecution, the child welfare agency will develop a preliminary statement on the FPO 0401A Child Welfare Public Disclosure Form in collaboration with local law enforcement. This form must be submitted to the Nevada Division of Child and Family services with a copy sent to the designated Legislative Auditor, regarding the unavailability of the specified information at this particular time. The public disclosure form must report that the child welfare agency is unable to release certain information, as specified by a law enforcement agency, that has been identified as compromising an ongoing investigation or prosecution and name the specific law enforcement agency that is requesting the information be withheld. In sections of the Public Disclosure Form where information is being withheld, the agency will insert the language, **"Information in this section is being withheld at the request of _____ (Name of agency) law enforcement agency."**

The local child welfare agency is responsible for ensuring procedures exist between their agency and law enforcement to ensure that law enforcement notifies the child welfare agency of the need for specified omissions, appropriate collaboration occurs, the information disclosed is appropriate, and that disclosure is made within the required timeframes.

10. If the disclosure information is delayed at the request of law enforcement, the child welfare agency will plan coordinated submission(s) with law enforcement and provide updates to the FPO 0401A Child Welfare Public Disclosure Form until all required public disclosure information has been submitted to the Nevada Division of Child and Family Services with a copy sent to the designated Legislative Auditor.
11. When the investigation has been completed and a finding has been made regarding the child abuse report, an update of the FPO 0401A Child Welfare Public Disclosure Form will be provided to the Nevada Division of Child and Family Services Administration for release with a copy sent to the designated Legislative Auditor.
Any files, notes, information and records which the agency has concerning the child, the manner in which the case was handled, any services that were provided to the child or the family of the child and any other relevant information will be submitted to the Legislative Auditor with the final public disclosure submission.

0401.5.2 Contents of Public Disclosure

In accordance with the Child Abuse, Prevention and Treatment Act (Administration of Children and Families Manual of Policies Procedures, CAPTA, Section 2.1A.4) AB 261, the child welfare agency will release information regarding a child fatality and/or near fatality to the general public via state website posting. The following outlines the information that will be provided to the Nevada Division of Child and Family Services for public release.

- A. Notification or disclosure to the public on the FPO 0401A Child Welfare Public Disclosure Form will include the following information, as available (Note that letters and numbers below correspond with the above form located in the Attachments section of this policy):
 - A) Date of the notification to the child welfare agency about the fatality or near fatality of the child;
 - B) Location of child at time of death or near fatality (city/county);
 - C) A summary of the report of abuse or neglect and a factual description of the contents of the report;
 - D) The date of birth and gender of the child;
 - E) The date that the child suffered the fatality or near fatality;
 - F) The cause of the fatality or near fatality, if such information has been determined;
 - G) Whether the agency which provides child welfare services had any contact with the child or a member of the child's family or household before the fatality or near fatality and, if so:
 - 1) The frequency of any contact or communication with the child or a member of the child's family or household before the fatality or near

- fatality and the date on which the last contact or communication occurred before the fatality or near fatality;
- 2) Whether the agency which provides child welfare services provided any child welfare services to the child or to a member of the child's family or household before or at the time of the fatality or near fatality;
 - 3) Whether the agency which provides child welfare services made any referrals for child welfare services for the child or for a member of the child's family or household before or at the time of the fatality or near fatality;
 - 4) Whether the agency which provides child welfare services took any other actions concerning the welfare of the child before or at the time of the fatality or near fatality; and
 - 5) A summary of the status of the child's case at the time of the fatality or near fatality, including, without limitation, whether the child's case was closed by the agency which provides child welfare services before the fatality or near fatality and, if so, the reasons that the case was closed; and
- H) Whether the agency which provides child welfare services, in response to the fatality or near fatality:
- 1) Has provided or intends to provide child welfare services to the child or to a member of the child's family or household; and
 - 2) Has made or intends to make a referral for child welfare services for the child or for a member of the child's family or household; and
 - 3) Has taken or intends to take any other action concerning the welfare and safety of the child or any member of the child's family or household.
- B. Upon the determination of a finding or the conclusion of the child abuse investigation pursuant to NRS 432B.300, the child welfare agency will release via state website posting, an updated public notice based upon the FPO 0401A Child Welfare Public Disclosure Form.
- C. The agency which provides child welfare services shall **NOT** disclose the following data or information on the Public Disclosure Form:
1. The name of the child who suffered a fatality or near fatality or the name of any member of the family or other person who lives in the household of the child who suffered the fatality or near fatality;
 2. A privileged communication between an attorney and client;
 3. Information regarding the sibling(s) of a deceased child. This includes any information regarding Child Protective Services/Child Welfare actions taken with respect to any of the siblings. An assessment for service needs conducted with the siblings during the course of the investigation of the fatality or near fatality is protected by confidentiality;
 4. Information concerning the identity of the person responsible for reporting the abuse of neglect of the child;
 5. Information that may undermine a criminal investigation or pending criminal prosecution; and

6. Information that if disclosed, would violate other federal or state law, including, but not limited to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Family Educational and Privacy Act of 1974 (FERPA), alcohol and drug abuse patient records (42 USC §290dd-2 and 42 CFR §212(c)(6)), and any other applicable law.

0401.5.3 Notification of Child Fatality/Near Fatality – Information Only

Notifications of a child fatality or near fatality, unrelated to child abuse or neglect, made for informational purposes only to an agency which provides child welfare services in the jurisdiction in which the fatality or near fatality occurred shall initiate the following:

A courtesy notification memorandum to the Administrator of the Nevada Division of Child and Family Services as soon as the notification of fatality or near fatality is known to the agency, but no later than 24 hours. All notifications should be submitted via email to the following email address: cf@listserv.state.nv.us.

At a minimum, the courtesy notification should contain the following information:

- Place of Death
- Cause of Death
- Name of child(ren)
- Date of Birth
- Date of Death
- UNITY Case Number, if applicable

No public disclosure information is required on “information only” notifications.

0401.5.4 Timelines:

Table 0401.1: Timelines for Public Disclosure Policy

Requirement	Deadline	Starting Date	Responsible Party	Actions to be Taken
Courtesy Notification to Child Fatality In-Box	24 hours	Date the Child Welfare Agency first learns about fatality or near fatality	Child Welfare Agency in which the fatality or near fatality occurred	Submit notification to DCFS and the Legislative Auditor via the Contact.childfatality@dcfs.state.nv.us email address
Public Disclosure Form to State	48 hours	Date the Child Welfare Agency first learns about fatality or near fatality	Child Welfare Agency in which the fatality or near fatality occurred	Submit notification to DCFS on Form FPO 0401A
Public Disclosure Form Updates	15 day, 30day and when new information becomes known to the agency after that	Date the Child Welfare Agency first learns about fatality or near fatality	Child Welfare Agency in which the fatality or near fatality occurred	Submit notification to DCFS on Form FPO 0401A with the appropriate updates
Public Disclosure Website Posting	48 hours	Date the Child Welfare Agency first learns about fatality or near fatality	Child Welfare Agency in which the fatality or near fatality occurred	All Public Disclosures will be posted on the DCFS Public Website at the initial 48 hour notice and after with appropriate updates. All disclosures will be removed from the website one year from the date of the first posting.

0401.5.5 Forms:

- A. FPO 0401A Child Welfare Public Disclosure Form.

0401.6 Jurisdictional Action

0401.6.1 Development of Internal Policies: Jurisdictions will adhere to this policy as written.

0401.6.2 Timelines: Refer to timelines in section 0401.5.3

0401.6.3 Tools & Forms:

- A. FPO 0401A Child Welfare Public Disclosure Form.

0401.6.4 Documentation: No case file or UNITY Documentation required under this policy.

0401.7 State Responsibilities

0401.7.1 Participants in Policy Development

- A. **FPO Staff:** FPO Social Services Program Specialist
- B. **Jurisdictional Representatives:**
- C. **Stakeholders:** Legislative Counsel Bureau

0401.7.2 Technical Assistance

- A. **Requesting Technical Assistance:** Administration for Children and Families, American Bar Association, Child Law
- B. **Relaying TA Information:** Via policy workgroups.
- C. **Evidenced Based Practice:** n/a

0401.7.3 Clearance Process

- A. Office of the Attorney General Review
- B. DMG Approval on 08/10/2007
- C. Policy effective 08/10/2007

0401.7.4 State Oversight

- A. Public Disclosures must be approved by the jurisdiction and the Office of the Attorney General before posting on DCFS Website.
- B. Assessment of compliance of courtesy notifications and public disclosures of child fatalities/near fatalities and the quality of their content.

0401.8 Policy Cross Reference

0402 Child Welfare Agency's Case Review of Child Fatality or Near Fatality.

0403 Statewide Oversight: Administrative Review for Child Fatality or Near Fatality

0404 Child Welfare Agency Actions Related to Child Fatality / Near Fatality Notifications and Disclosures

0401.9 Attachments

0401.9.1 **FPO 0401A:** Child Welfare Public Disclosure Form