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DIVISION OF CHILD AND FAMILY SERVICES
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Manual Transmission Letter (MTL)
Family Programs Office: Statewide Child Welfare Policy Manual

MTL # 0401-01182019
01182019

TO: Timothy Burch, Administrator - Clark County Department of Family Services
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FROM: Reesha Powell, Deputy Administrator, Division of Child and Family Services

POLICY DISTRIBUTION:

Enclosed find the following policy for distribution to all applicable staff within your organization:

- 0401 Public Disclosure

This policy is/was effective: 01/04/2019

- This policy is new. Please review the policy in its entirety
- This policy replaces the following policy(s): MTL # _____ - _____ Policy Name: _____
- This policy has been revised. Please see below for the type of revision:
- This is a significant policy revision. Please review this policy in its entirety.
 - This is a minor policy revision: (List page number & summary of change):
 - A policy form has been revised: (List form, page number and summary of change):
- FPO 0401A – Child Welfare Agency Public Disclosure Form
 - FPO 0401B – Completing a Public Disclosure

NOTE:

- Please read the policy in its entirety and note any areas that are additionally required by your agency to be in compliance with the policy enclosed.
- This is an **All STAFF MEMO** and it is the responsibility of the person listed above to disseminate the policy enclosed to appropriate staff within his/her organization and to ensure compliance.
- The most current version of this policy is posted on the DCFS Website at the following address: <http://dcfs.nv.gov/Policies/>. Please check the table of contents on this page for the link to the chapter you are interested in.

0401 Public Disclosure

Policy Approval Clearance Record

<input checked="" type="checkbox"/> Statewide Policy <input type="checkbox"/> Administrative Policy <input type="checkbox"/> DCFS Rural Region Policy	<input type="checkbox"/> New Policy <input type="checkbox"/> Modified Policy <input checked="" type="checkbox"/> This policy supersedes: 0401 Policy on Public Disclosure of Child Fatality and Near Fatality Information 8/2007
Date Policy Effective:	01/04/2019
Attorney General Representative Review:	07/10/2018
DCFS Deputy Administrator Approval	01/04/2019
DMG Original Approval	08/10/2007
DMG Approved Revisions	01/04/2019

STATEMENT OF PURPOSE

Policy Statement and Purpose: Statewide policies will be developed and revised in compliance with federal and state statutes and regulations within designated timeframes.

The purpose of this policy is to provide guidelines for public disclosure of a child fatality and/or near fatality pursuant to the [Child Abuse Prevention and Treatment Act \(CAPTA\)](#) and the Nevada Revised Statutes.

AUTHORITY

Federal: [Child Abuse Prevention and Treatment Act \(CAPTA\) section 106\(b\)\(2\)\(B\)\(x\)](#)

NAC: [NAC 432B.140](#); [NAC 432B.150](#); [NAC 432B.155](#); [NAC 432B.170\(7\)](#)

NRS: [NRS 218G.550](#); [NRS 432B.020](#); [NRS 432B.030](#); [NRS 432B.175](#); [NRS 432B.220](#); [NRS 432B.260](#); [NRS 432B.280](#)

DEFINITIONS

Abuse or Neglect of a Child:

A. "Abuse or neglect of a child" means, except as otherwise provided in subsection 2 of [NRS 432B.020](#).

1. Physical or mental injury of a non-accidental nature;
2. Sexual abuse or sexual exploitation; or
3. Negligent treatment or maltreatment as set forth in [NRS 432B.140](#), of a child caused or allowed by a person responsible for his welfare under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

B. A child is not abused or neglected, nor is his health or welfare harmed or threatened for the sole reason that his:

1. Parent delivers the child to a provider of emergency services pursuant to [NRS 432B.630](#), if the parent complies with the requirements of paragraph (a) of subsection 3 of that section; or
2. Parent or guardian, in good faith, selects and depends upon non-medical remedial treatment for such child, if such treatment is recognized and permitted under the laws of this state in lieu of medical treatment. This paragraph does not limit the court in ensuring that a child receive a medical examination and treatment pursuant to [NRS 62E.280](#).

C. As used in this section, "allow" means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that a child is abused or neglected.

Agency which provides Child Welfare Services: A county whose population is less than 100,000, the agency is a local office of the Division of Child and Family Services; or in a county whose population is 100,000 or more, the agency of the county, which provides or arranges for necessary child welfare services. May also be referred to as "Agency" or Child Welfare Agency".

Child: An individual who has not attained 18 years of age, or if in school, until graduation from high school.

Child Fatality: 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.

Child Welfare Agency Contact with a Child: An agency which provides child welfare services is considered to have a contact with a child if a representative or designee of the child welfare agency has received a report of abuse or neglect regarding the child or a member of the child's family or household and has opened an investigation, or made a referral for services or a family assessment.

Family: 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.

Household: An association of persons who: 1) live in the same home or dwelling and 2) may be related by blood, adoption or marriage; or 3) may be unrelated persons residing in the same home or dwelling as the child.

Information Only (I/O) and/or Information and Referral (I/R):

A. Information only (I/O): When an agency which provides child welfare services receives a referral alleging that a child has been abused or neglected, the agency must determine if the information in the referral meets the allegation criteria, thereby constituting a report of abuse or neglect. "Information Only" occurs when a referral alleging child abuse or neglect is made to a child welfare agency with the intent for an investigation to be conducted; however, after review of the information, it is determined that the referral does not meet the allegation criteria and it is therefore screened out as "Information Only".

B. Information and Referral (I/R): A referral alleging child maltreatment is made to a child welfare agency with an intent for an investigation to be conducted, however, after review of the information, it is determined that the referral does not meet the allegation criteria. The child welfare agency believes the family may benefit from services and makes referral(s) for services to the family and screens out the child maltreatment referral, as "Information and Referral".

Initiate Investigation: The child welfare agency beginning or opening an investigation by means of contact or attempted contact with the victim, siblings, caregivers, and other involved parties by a face-to-face contact, telephone contact or case review.

Known to the Agency: A report of child abuse or neglect made pursuant to [NRS 432B.260](#) has been made to an agency which provides child welfare services ([NRS 432B.030](#)) and that an investigation has been or is being conducted and a finding has been or will be made regarding child abuse or neglect ([NRS 432B.300](#), [NRS 432B.310](#), [NAC 432B.170\(7\)](#)) that constitutes having knowledge of or prior contact with the child or family.

Manner of Death: Determined by the circumstances surrounding the death. Manners of death are classified into five categories: accident, homicide, suicide, undetermined, and natural.

Near Child Fatality: 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](#)).

Preponderance of Evidence: The standard of proof in most civil cases in which the party bearing the burden of proof must present evidence which is more credible and convincing than that presented by the other party or which shows that the fact to be proven is more probable than not.

Referral: Information received from a reporting party alleging child abuse, neglect, and/or requesting services.

Relevant Information: Any case file information on the fatality or near fatality directly related to the specific child whose case file is under review.

Report: A referral becomes a report upon child welfare agency determination that information received constitutes an allegation consistent with Nevada child abuse and neglect allegation definitions. Reports are then forwarded to a supervisor or supervisory level designee for review and priority response time is assigned.

Substantiated: A report made pursuant to [NRS 432B.220](#) was investigated and that the preponderance of evidence is supportive of the abuse or neglect. ([NAC 432B.170\(7\)\(a\)](#) requires credible evidence; however, agencies are maintaining a stricter guideline with preponderance of evidence.)

UNITY: Unified Nevada Information Technology for Youth is Nevada's electronic Comprehensive Child Welfare Information System (CCWIS). This system is a mandatory tool for collecting data and reporting case management services provided to children and families.

Un-Related Individual: A person who is not related by birth, marriage, adoption, or a person who is not living with any relatives.

Unsubstantiated: A report made pursuant to [NRS 432B.220](#) was investigated and that the preponderance of evidence is not supportive of the abuse or neglect. 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\(7\)\(b\)](#) requires credible evidence; however, agencies are maintaining a stricter guideline with preponderance of evidence).

STANDARDS/PROCEDURES

Public Disclosure Requirements for a Referral or Report of a Child Fatality/Near Fatality

1. Referrals
 - a. A public disclosure may be submitted, pursuant to the practice of an Agency which provides Child Welfare Services in the jurisdiction where the fatality or near fatality has occurred, if there are prior reports of abuse or neglect within the last five (5) years for any member of the family or household, regardless of how long the case was open or the outcome of the investigation.
 - b. No public disclosure is required if there are no prior reports for any member of the family or household.
2. Reports
 - a. A public disclosure is required for any report involving a child fatality or near fatality, wherein abuse or neglect is suspected as a contributing and/or causal factor in the fatality or near fatality, pursuant to the practice of an Agency which provides Child Welfare Services in the jurisdiction where the fatality or near fatality has occurred.
3. Near Fatality Referral and Report
 - a. A referral or report that alleges the near fatality of a child must be supported by documentation in the case record. This documentation may be a written report, letter, fax, or a verbal report from a physician, a registered nurse or other licensed provider of health care that certifies that the injury was serious enough that it could have been or was life threatening to the child. Information about the condition should be contained in the public disclosure.

Public Disclosure for Posting

1. **Child Fatality or Near Fatality Public Disclosure:** The Child Welfare Agency shall provide written notification on the *Child Welfare Agency Public Disclosure Form (attachment FPO 401 – Child Welfare Agency Public Disclosure Form)* to the Nevada Division of Child and Family Services (DCFS) Administration and designated Legislative Auditor within forty-eight (48) hours of the fatality or five (5) business days of the near fatality. 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.nv.gov and carbon copied (cc) to the Social Services Program Specialist III. Updates are due at sixty (60) calendar days and nine (9) months of the date of the incident or fatality.

Updates to the Public Disclosure

1. Updated public disclosures are due to the Social Services Program Specialist III and Legislative Auditor, via the cf@listserv.nv.gov email, with updated information regarding the cause of the fatality or near fatality at sixty (60) calendar days and nine (9) months from date of the near fatality or fatality. The sixty (60) day update can serve as the final disclosure if the Child Welfare Agency’s investigations has been completed and a finding has been made. If the sixty (60) day public disclosure is not marked as final, a nine (9) month final public disclosure update is required. In computing any period of time prescribed, if the last day of the period computed falls on weekend or holiday, the date due will fall on the following business day.
2. Change of Status from Near Fatality Public Disclosure to a Fatality Public Disclosure: If a near fatality becomes a fatality, the Agency has forty-eight (48) hours from the date of the fatality to submit a new public disclosure and an update is required based on the factors surrounding the fatality.

Law Enforcement Involvement

1. Ongoing Criminal Investigation: If an investigation is conducted by law enforcement for a criminal matter and the release of the requested information may compromise their investigation or prosecution note that information is being withheld at the request of the law enforcement agency in the top section of *FPO 0401A – Public Disclosure Form*.
2. The local Child Welfare Agency is responsible for ensuring procedures exist between its 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 are made within the required timeframes.

Information that cannot be disclosed

1. The Agency which provides Child Welfare Services shall not disclose the following data or information on the *FPO 0401A – Public Disclosure Form*:
 - a. 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;
 - b. A privileged communication between an attorney and client;
 - c. Information specific to 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, therefore this information must be reported as a service to the family and not a specific child(ren);
 - d. Information concerning the identity of the person responsible for reporting the abuse or neglect of the child;
 - e. Information that may undermine a criminal investigations or pending criminal prosecution; and
 - f. 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 CFR §212\(c\)\(6\)](#)), and any other applicable law.

Timeline:

Requirement	Deadline	Starting Date	Responsible Party	Actions to be Taken
Fatality Public Disclosure Form to DCFS and Legislative Auditor	48 hours	Date of the fatality.	Child Welfare Agency in which the fatality or near fatality occurred	Submit notification to DCFS on FPO 0401A – Public Disclosure Form
Near Fatality Public Disclosure Form to DCFS and Legislative Auditor	5 business days	Date of the near fatality.	Child Welfare Agency in which the fatality or near fatality occurred.	Submit notification to DCFS on FPO 0401A – Public Disclosure Form

Requirement	Deadline	Starting Date	Responsible Party	Actions to be Taken
Sixty (60) day Update*	60 calendar days or the next business day	Date of the fatality or near fatality.	Child Welfare Agency in which the fatality or near fatality occurred.	Submit notification to DCFS on FPO 0401A – Public Disclosure Form with the appropriate updates. *Could be marked final if the Agency’s investigation has been closed and a final determination of the finding has been made.
Nine (9) month Update/Final	9 months	Date of the fatality or near fatality.	Child Welfare Agency in which the fatality or near fatality occurred.	Submit notification to DCFS on FPO 0401A – Public Disclosure Form with appropriate investigation updates and case status.

Documentation: When a child fatality or near fatality report is dispositioned into an investigation, it must be recorded in the UNITY system within thirty (30) days from the date of the report. The Fatality Documentation window (CFS052) navigated from the Person Detail window should be updated as information becomes available. If the fatality is deemed to be due to maltreatment the “Fatality Due to Maltreatment” box should be marked. For near fatalities check the box “serious or critical condition” in the Investigation Allegation Findings window (CFS048).

All information received regarding the near fatality or fatality must be recorded in UNITY.

UNITY Documentation (electronic)

Applicable UNITY Screen	Data Required
<ul style="list-style-type: none"> CFS052 – Fatality Documentation 	<ul style="list-style-type: none"> Updated as information becomes available.
<ul style="list-style-type: none"> CFS048 – Allegation Findings 	<ul style="list-style-type: none"> Check the box “serious or critical condition” for near fatalities.

JURISDICTIONAL ACTION

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

Supervisory Responsibility: N/A

STATE RESPONSIBILITIES

Public Disclosures must be approved by the DCFS Staff and AGs before posting on DCFS website. The State has a responsibility of tracking compliance that the information is received within the required timeframes.

POLICY CROSS REFERENCE

Policies:

- [0402 Child Welfare Agency’s Case Review of Child Fatality or Near Fatality](#)
- [0403 Internet Web Posting for Child Fatality Disclosures](#)
- [0405 Administrative Review for Child Fatality or Near Fatality](#)
- [506 Intake and Priority Response Times](#)
- [0513 Substantiation](#)

History and Updates: This policy was effective as of 08/10/2007. It was updated, reformatted and effective on 01/04/2019.

ATTACHMENTS

- FPO 0401A – Public Disclosure Form
- FPO 0401B – Completing a Public Disclosure