



MTL # 0401 – 12032021  
12/03/2021

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### POLICY DISTRIBUTION

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

#### 0401 - Public Disclosure

This policy is/was effective: 12/03/2021

- This policy is new. Please review the policy in its entirety
- This policy replaces the following policy(s): MTL # 0401-01182019 and 0403-01182019 Policy Name: Public Disclosure and Internet Web Posting of Child Fatality Public Disclosure Forms
- 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 policy was merged with Policy 0403 Internet Web Posting of Child Fatality Public Disclosure Forms and written to include the updated requirements and timeframes for when public disclosures should be submitted.
  - 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): Forms 0401A and 0401B have been revised to remove the type of disclosure table.

### 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 and 0403 Policy on Internet Web Posting for Child Fatality Disclosure.
Date Policy Effective:	12/03/2021
Attorney General Representative Review:	12/02/2021
DCFS Deputy Administrator Approval	12/03/2021
DMG Original Approval	08/10/2007
DMG Review Date	09/20/2021

**STATEMENT OF PURPOSE**

**Policy Statement and Purpose**

Nevada posts Child Fatality and/or Near Fatality Public Disclosure (PD) forms provided by the Child Welfare Agencies to provide access to the public as outlined in [NRS 432B.175](#). PD forms are posted to the DCFS Website <http://dcfs.nv.gov/Policies/CW/400/>

The purpose of this policy is to provide guidance regarding when a public disclosure must be completed, information for posting, and tracking of a 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\(b\)\(2\)\(B\)\(x\)](#); [Health Insurance Portability and Accountability Act of 1996 \(HIPAA\)](#); [Family Educational and Privacy Act of 1974 \(FERPA\)](#)  
**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:** As defined by [NRS 432B.040](#), a person under the age of 18 years or, if in school, until graduation from high school. The term does not include a child who remains under the jurisdiction of the court pursuant to [NRS 432B.594](#).

**Child Fatality:** The cessation of life, manifested in people by a loss of heartbeat, 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.

**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.

**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.

**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:** Information received from a reporting party alleging child abuse, neglect and/or requesting services. Reports are then dispositioned to determine appropriate response.

**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 Child Fatality and/or Near Fatality**

1. [NRS 432B.175](#) requires the public disclosure of data or information regarding a fatality or near fatality of a child who is the subject of a report of abuse or neglect.
2. For the purposes of this statute, a report is considered made when any person, by any means, communicates possible abuse or neglect of a child to an Agency which provides child welfare services.
3. A Public Disclosure is required when a report is received regarding a child fatality or near fatality and that child has been the subject of a report of possible abuse or neglect at any time prior to or including the report of the fatality or near fatality.
4. The PD must be submitted by the Child Welfare Agency in the jurisdiction where the fatality or near fatality occurred.
5. The PD must provide all information required by [NRS 432B.175](#) and be submitted on [FPO 0401A – Public Disclosure Form](#). This information includes:
  - a. A summary of the report of abuse or neglect and a factual description of the contents of the report:
    - i. The date of birth and gender of the child;
    - ii. The date that the child suffered the fatality or near fatality;
    - iii. The cause of the fatality or near fatality, if such information has been determined;
    - iv. Whether the Child Welfare Agency 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 Child Welfare Agency 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 Child Welfare Agency 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 Child Welfare Agency 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 Child Welfare Agency before the fatality or near fatality and, if so, the reasons that the case was closed; and,
    - v. Whether the Child Welfare Agency, 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;
      2. Has made or intends to make a referral for child welfare services for the child or a member of the child's family or household;
      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.
6. The PD must not disclose the following information:

- 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. Any 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 investigation 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.
7. Law Enforcement Involvement
- a. Ongoing Criminal Investigation:
    - i. 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](#).
  - b. 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.

### **Timeframe and Procedure for Submission of PD by Child Welfare Agency**

1. The PD must be submitted to the DCFS Family Programs Office (FPO) and designated Legislative Auditor at [Cf@listserv.state.nv.us](mailto:Cf@listserv.state.nv.us) and carbon copied (cc) to the Child Fatality Program Specialist within five (5) business days of the fatality or near fatality for review and posting. For the purpose of this policy, business days are considered to be Monday-Friday, excluding holidays.
  - a. Note: [NRS 432B.175](#) requires information about a fatality be provided at the public's request within forty-eight (48) hours and information about a near fatality be provided at the public's request within five (5) business days. While the policy timeframe allows for five (5) business days on both, if the public makes a request sooner than the PD is posted, the Child Welfare Agency must comply with the statutory timeframes.
2. If the Child Welfare Agency submits a near fatality PD and the near fatality becomes a fatality, the Child Welfare Agency has 2 business days to submit a new PD with an update as to the factors of the fatality.

### **Public Disclosure for Posting by the Family Programs Office**

1. All disclosures submitted by a Child Welfare Agency to the [Cf@listserv.state.nv.us](mailto:Cf@listserv.state.nv.us) must:
  - a. Comply with the requirements of [NRS 432B.175](#) as outlined above; and,
  - b. Be reviewed by the Family Programs Office and then the Office of the Attorney General (AG) for approval to post; and,
  - c. Once approved, be posted to the DCFS website; and,
  - d. Remain on the DCFS website for two (2) consecutive, calendar years, at which time it will be removed.

**Timeline:**

Requirement	Starting Date	Deadline	Responsible Party	Actions to be Taken
Fatality Public Disclosure Form to FPO and Legislative Auditor	Date of the fatality.	5 business days, or within 48 hours of public request, whichever timeframe occurs sooner.	Child Welfare Agency in which the fatality or near fatality occurred	Submit notification to <a href="mailto:Cf@listserv.state.nv.us">Cf@listserv.state.nv.us</a> , and CC the Child Fatality Program Specialist on FPO 0401A – Public Disclosure Form for approval and posting
Near Fatality Public Disclosure Form to FPO and Legislative Auditor	Date of the near fatality.	5 business days, or within 48 hours of public request, whichever timeframe occurs sooner.	Child Welfare Agency in which the fatality or near fatality occurred.	Submit notification to <a href="mailto:Cf@listserv.state.nv.us">Cf@listserv.state.nv.us</a> , and CC the Child Fatality Program Specialist on FPO 0401A – Public Disclosure Form for approval and posting

**Documentation:** When a child fatality report is received, the Fatality Documentation Window in UNITY, navigated from the Person Profile window, must be completed with all information available within thirty (30) days from the date of the investigation closure. Updates to the UNITY Fatality documentation windows shall be made upon receipt of pertinent information relating to the fatality. If the fatality is found to be due to maltreatment in accordance with the [Statewide Policy 0513 Investigation Findings and Closure](#), either the allegation of Physical Injury Neglect/1N Death or Physical Injury Abuse/1A Death, along with any other allegation that applies, should be substantiated and 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. 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"> <li>Fatality Documentation</li> <li>Allegation Findings</li> </ul>	<ul style="list-style-type: none"> <li>Updated as information becomes available.</li> <li>Check the box “serious or critical condition” for near fatalities.</li> </ul>

**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 FPO and AGs before posting on DCFS website. The State has the responsibility of tracking compliance to ensure the information is received within the required timeframes and confidential information is not disclosed.

**POLICY CROSS REFERENCE**

**Policies:**  
 0402 Review of Child Fatality or Near Fatality Cases Policy



[506 Intake and Priority Response Times](#)  
[Statewide Policy 0513 Investigation Findings and Closure](#)

**History and Updates:** This policy was effective as of 08/10/2007. It was updated, reformatted and effective on 01/04/2019. This policy was modified to include 0403 Internet Web Posting of Child Fatality Public Disclosure Forms on 12/03/2021.

**ATTACHMENTS**

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