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DEPARTMENT OF SOCIAL SERVICES
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GOVERNOR

March 6, 2010

ALL COUNTY LETTER (ACL) NO. 10-06

TO: ALL COUNTY WELFARE DIRECTORS
ALL COUNTY CHIEF PROBATION OFFICERS
ALL CHILD WELFARE SERVICES PROGRAM MANAGERS
ALL TITLE IV-E AGREEMENT TRIBES

SUBJECT: REGULATIONS IMPLEMENTING SENATE BILL (SB) 39 CHILD
FATALITY DISCLOSURE AND REPORTING REQUIREMENTS

REFERENCE: CHILD ABUSE PREVENTION AND TREATMENT ACT (CAPTA), AS
AMENDED BY PUBLIC LAW 108-36, ENACTED JUNE 25, 2003,
SECTION 106 (42 U.S.C. 5106), CALIFORNIA PUBLIC RECORDS
ACT, PENAL CODE SECTION 11174.32-11174.35, WELFARE AND
INSTITUTIONS CODE (W&IC) SECTION 827, W&IC SECTION 10850.4,
SB 525 (CHAPTER 1012, STATUTES OF 1999), ASSEMBLY BILL
(AB) 1151 (CHAPTER 847, STATUTES OF 2003, SB 39
(CHAPTER 468, STATUTES OF 2007)

The purpose of this ACL is to inform county child welfare agencies (Child Welfare Services [CWS]/Probation) of new regulations signed by the Secretary of State effective November 10, 2009. Pursuant to SB 39, the regulations provide instruction for the reporting and disclosure of information related to cases of child abuse and/or neglect that result in fatalities. Information specified within the regulations is not retroactive for cases of child abuse and/or neglect that resulted in fatalities prior to January 1, 2008. The regulations were formerly filed as emergency regulations on January 1, 2008, and have subsequently been revised based on public comment. The final regulations can be accessed on the California Department of Social Services (CDSS) website at <http://www.dss.cahwnet.gov/ord/PG309.htm>.

REASON FOR THIS TRANSMITTAL

- State Law Change
- Federal Law or Regulation Change
- Court Order
- Clarification Requested by One or More Counties
- Initiated by CDSS

Summary of Changes to the Regulations

- Submission of the SOC 826 form is limited to when the fatality or near fatality is “determined to be” a result of abuse and/or neglect. In order to mitigate duplicate submissions for child fatalities, as of November 10, 2009, counties are no longer required to submit a SOC 826 until it is determined that the fatality was the result of abuse and/or neglect. In other words, counties no longer need to submit the form for fatalities that are *suspected* to be the result of abuse and/or neglect. When there is reasonable suspicion that the fatality was the result of abuse and/or neglect, the CWS agency must open a referral. Even though it is no longer required that county CWS agencies report the “suspected” information to the CDSS, they are still required, upon public request, to release a limited amount of information regarding a child fatality that is suspected to be the result of abuse and/or neglect. The releasable information includes:
 - The age and gender of the child;
 - The date of the fatality;
 - Whether the child was in foster care or in the home of his/her parent/guardian at the time of the fatality; and
 - Whether an investigation is being conducted by law enforcement or CWS/Probation.
- Confidentiality laws cited are limited to those pertinent to child welfare services. Prior to the revisions found in the final regulations, Section 31-502.41 contained a wide array of confidentiality laws. The final version of the regulations pared down the references to include only those laws that directly apply to the confidentiality of child welfare records and the types of records/documents that are required to be released pursuant to W&IC section 10850.4 and implementing regulations.
- The remaining minor changes were made to clarify language and numbering for consistency throughout the regulations.

Child Fatality/Near Fatality Reporting Form

The revised *Child Fatality/Near Fatality County Statement of Findings and Information* form (SOC 826, rev. August 2009) is attached, and has been available since November 10, 2009, on the CDSS web at <http://www.dss.cahwnet.gov/cdssweb/entres/forms/English/SOC826.pdf>. For reports of fatalities/near fatalities that occurred between the revision date of the SOC 826 form (August 2009) and the date it was made available for use (November 10, 2009), counties are not required to resubmit the form. The CDSS will accept the version of the form that was effective and available at the time of submission.

Fatalities

Counties must use the August 2009 version of the SOC 826 form for reporting information, from November 10, 2009 forward, for all **fatalities determined to be the result of abuse and/or neglect** regardless of when the fatality occurred (2008, 2009, etc.).

The CDSS is required to release SOC 826 forms related to fatalities when a request is made pursuant to the California Public Records Act (Government Code section 6250 et seq.).

Near Fatalities

Counties must use the August 2009 version of the SOC 826 form, for reporting information from November 10, 2009, forward for all original submissions for **near fatalities determined to be the result of abuse and/or neglect**, regardless of when the near fatality occurred (2008, 2009, etc.).

The CDSS will continue to disclose information related to near fatalities when a request is made pursuant to the California Public Records Act (Government Code section 6250 et seq.). Please refer to ACL 08-13 for additional instructions regarding the reporting and disclosure requirements for near fatalities determined to be a result of child abuse and/or neglect.

Should you have any questions regarding this ACL or the new regulations, please contact me at (916) 657-2614 or the Pre-Placement Policy Unit, within the Child Welfare Policy and Program Development Bureau, at (916) 651-6160.

Sincerely,

Original Document Signed By:

GREGORY E. ROSE
Deputy Director
Children and Family Services Division

Attachment

CHILD FATALITY/NEAR FATALITY COUNTY STATEMENT OF FINDINGS AND INFORMATION

INSTRUCTIONS:

Counties shall complete this form for each child fatality/near fatality determined to be a result of abuse and/or neglect. The form shall be submitted to CDSS within ten business days of notification of final determination from the investigating agency.

For a child fatality, complete parts A and B.

For a child near fatality, complete parts A and C.

PART A - ALWAYS COMPLETE THIS INFORMATION FOR CDSS SUBMISSION

Date form completed: _____ Fatality Near Fatality

Note: Redact information in this box prior to the public release of this document.

CWS/CMS 19 DIGIT REFERRAL # OF CHILD VICTIM:

COUNTY CONTACT AND PHONE NUMBER (INDIVIDUAL THAT CDSS WOULD CONTACT FOR ADDITIONAL INFORMATION):

COUNTY WHERE INCIDENT OCCURRED:

REPORTING COUNTY (IF DIFFERENT):

CHILD'S GENDER:

MALE FEMALE

CHILD'S AGE:

DATE OF FATALITY/NEAR FATALITY (IF KNOWN):

RESIDENCE OF THE CHILD AT THE TIME OF THE ABUSE/NEGLECT THAT RESULTED IN THE FATALITY/NEAR FATALITY:

Home of parent/
legal guardian Foster Care/Out-of-Home Care

INVESTIGATION CONDUCTED BY:

Law Enforcement CWS/Probation

PART B - CHILD FATALITY FINDINGS - CONCLUSION OF INVESTIGATING AGENCY

DETERMINATION MADE BY:

Coroner/
Medical Examiner Law Enforcement CWS/Probation

FINDING OF CHILD FATALITY DUE TO (CHECK ALL THAT APPLY):

Crime Suicide Non-Accidental Undetermined Other: _____

PART C - CHILD NEAR FATALITY FINDINGS - CONCLUSION OF INVESTIGATING AGENCY

DETERMINATION MADE BY:

Physician Law Enforcement CWS/Probation

FINDINGS OF CHILD NEAR FATALITY DUE TO (CHECK ALL THAT APPLY):

Crime Attempted
Suicide Non-Accidental Undetermined Other: _____

DO NOT INCLUDE A NARRATIVE; CHECK THE APPROPRIATE BOXES ABOVE.

**Please fax this form to:
Children's Services Operations Bureau,
Attention: Bureau Chief at (916) 651-8144.**