ELC Ad Hoc Committee: Child Care Safety Portal

August 27, 2019
3:00 p.m. – 5:30 p.m.

Meeting Agenda

Check-In, Progress to Date, and Agenda Review	3:00 – 3:20
When should child fatality information be made available online and what should be included?	3:20 – 4:15
▪ Review of Background Materials	
▪ Questions on Background Materials	
▪ Group Discussions	
Break	4:15 – 4:30
Group Report Outs and Committee Recommendations	4:30 – 5:15
▪ When should information be available?	
▪ What information should be made available?	
Introduction to September's Meeting Topics	5:15 – 5:20
Closing	5:20 – 5:30

Question #1:

When should a child fatality be made available on ELD's website?

Interim Policy:
- In situations where ELD receives child fatality information from licensed providers, ELD posts the available factual information on the ELD website within 48 hours of notification.

- In situations where ELD receives notification of the fatality from DHS or law enforcement, ELD strives to obtain clearance from DHS or law enforcement to make a child fatality available on ELD's website within 48 hours.

Recommendation:
- Make a child fatality available on ELD's website within 48 hours of ELD's notification, regardless of the source of information.

Meets CCDF Requirements:
- CCDF recommends, but does not require, all monitoring and inspection reports be posted within 90 days of the monitoring visit or corrective action.

PROS AND CONS of the RECOMMENDATION		
Provider/Facility	Pros: • None identified.	Cons: • None identified.
Parent/Guardian	Pros: • Parents checking the history of a potential provider will know quickly if a death has occurred at the facility.	Cons: • None identified.

Question #2:
What information about a child fatality should be made available?
- ## Should this information be made available going forward or retroactively?

Current Practice:
- We currently make available the following information: the date of death, license number, facility name, owner/provider name, city, zip code, injury circumstance, and any regulated information available as part of the provider's individual page, including any health and safety violations.

- We currently do not post the result of an investigation of a child fatality when there are no health and safety violations found.

Recommendation:
- ELD makes available only factual information: date of death, license number, facility name, owner/provider name, city, zip code, and any other regulated information available as part of the provider's individual page, including any health and safety violations.

- When no health and safety violations were found as part of the investigation, the ELD will add a prominent statement to a provider's history page to indicate that no violations were found. This information will be made available retroactively.

Meets CCDF Requirements:
- Monitoring and Inspection reports must include a prominent display of any health and safety violations, including any fatalities and serious injuries occurring at the provider.
  - To highlight this information, Lead Agencies may choose to put these violations at the top of the report using a different or bold font/or a separate text box.

PROS AND CONS of the RECOMMENDATION		
Provider/Facility	Pros: • Providers will benefit from information that is clear and easy to understand.	Cons: • None identified.
Parent/Guardian	Pros: • Parents will benefit from information that is clear and easy to understand.	Cons: • None identified.

Background Information:
Making Child Fatality Information Available in the Child Care Safety Tools and Portal

What was the Early Learning Division's past practice regarding when child fatalities were made available on the website?

- The Early Learning Division's past practice was to wait for clearance from the Department of Human Services (DHS) and law enforcement before making any child fatality information available on our website. Clearance means that OCC received permission from investigating agencies to make information available to the public regarding allegations or incidents that prompted the investigation.
- OCC is made aware of pending investigations that often involve very serious allegations. OCC is asked to work in cooperation with other agencies to ensure that OCC does not take an action that will hinder the open investigations of the other agencies. For example:
    - OCC has been asked to hold off on taking any action at all, including acknowledging the existence of an open case. Sometimes that's because the other agency is concerned that an alleged perpetrator will flee the state.
    - Sometimes OCC is asked not to address possible violations of OCC rules. This can be because the investigating agencies don't want the alleged perpetrator to be able to "get their story straight or cover things up" before they can investigate, and believe that OCC talking to the alleged perpetrator can "tip them off."
- The length of time it has taken to receive clearance and make the information available on our website has varied. Information has been posted as quickly as within one day. The most amount of time to post was 18 months. Longer times were usually attributed to criminal investigations. If OCC waited to post, it was based on a request to do so by the investigating agency. Sometimes the investigating agency is waiting for toxicology results to determine cause of death.

What is the Early Learning Division's Interim Policy regarding sharing child fatality information on the website?

- When to disclose fatality information?
    - Within 48 hours of OCC's learning of the fatality, display information on ELD website.
- Where to disclose fatality information?
    - Child Care Safety Tools area of ELD Website (includes the Child Care Safety Portal)
- Who controls the release of fatality information? OCC or Partner Agency?
    - It depends on the source of OCC's information about the fatality.
        - If OCC does not control release of the fatality information, OCC will immediately and repeatedly seek permission from the partner agency until it is granted.
    - Licensed providers are required to report to OCC "any death of a child while in care, within 24 hours" by rule.
    - OCC should pursue a memorandum of understanding with DHS that allows OCC to post the child fatality information listed below from DHS within 48 hours of OCC's notification of the fatality.

What information on fatalities must be reported at the aggregate level according to CCDF requirements?

- State agencies must post online the aggregate number of all deaths that occur in child care settings each year. The information on deaths must be separated by type of child care (Registered Family, Certified Family, Certified Center, and Regulated Subsidy).

What information on fatalities must be reported at the provider level according to CCDF requirements?

- At the provider level, a fatality needs to have an inspection report posted if the fatality occurred due to a health and safety violation. Reports must be posted in a timely manner, recommended to be within 90 days of the monitoring visit or corrective action.

If a child is seriously injured or dies in care but health and safety violations are not substantiated, then is it required to be posted prominently on the provider's inspection report?

- No, the final rule at 45 CFR 98.33(a)(4)(iii) requires inspection reports and summaries to prominently display information about health and safety violations (including fatalities and serious injuries) but does not require information about deaths and injuries that are not associated with health and safety violations. However, all deaths and injuries, regardless of cause, would be reported as part of the aggregate data

What does ELD display now at the provider level?

- Number of fatalities that have occurred at an individual facility
- Facility Name
- Owner/Provider Name
- License Number
- City
- Zip Code
- Other regulated information available as part of the provider's individual page, including any health and safety violations
- Injury Type (death is a type of injury in the Injury Log)
- Injury Date
- Injury Circumstance
    - Circumstance is a field in the injury log that is used to add context as to how an injury—not a death—occurred.
    - For example:
        - Injury Type: Broken Bone
        - Circumstance: Fall – Play Equipment
    - The circumstance field was not designed for fatalities. In the current system, the injury type will almost always be "health related issue." This should not be confused with cause of death. It is not descriptive of whether a health and safety violation was found while investigating the death and it is not a cause of death.

How has OCC historically learned of child fatalities?

- OCC has typically received notice of a child fatality at a licensed child care facility from either the child care provider or the Department of Human Services (DHS).
    - Licensed providers
        - Licensed providers are required to report to OCC "[a]ny death of a child while in care, within 24 hours" OAR 414-300-0030 (4)(a) (Certified Child Care Center); OAR 414-350-0050 (10)(a) (Certified Family Child Care); OAR 414-205-0035 (24)(a) (Registered Family Child Care).
    - DHS
        - If DHS "or a law enforcement agency receives a report of child abuse, [DHS] or the agency shall immediately:...[n]otify the Office of Child Care if the alleged child abuse occurred in a child care facility." ORS 419B.020(b). "[R]eports and records compiled under the[se] provisions are confidential and may not be disclosed except as provided…" ORS 419B.035(1). DHS "may make [these] reports … available when [it] determines that such disclosure is necessary…" ORS 419B.035(3).

What has OCC done to determine whether posting a child's cause of death is feasible and why is it not being recommended?

- In regards to whether OCC should post a child's cause of death on the ELD's website, OCC conducted research, sought technical assistance from the federal Office of Child Care, and consulted with the Oregon Department of Justice.
- There are policy reasons and legal considerations that support not posting the cause of death. First, OCC's legal authority to share cause of death information is highly questionable. Second, there are privacy issues to be considered and the child's family may be adversely affected by the posting of the cause of death. Third, the determination of the official cause of death often takes a significant amount of time, which could diminish the marginal value of the information to the website's users. Finally, per the federal Office of Child Care, there is no state in the nation that currently provides the child's cause of the death on the state child care regulator's website.

Early Learning Council Child Care Safety Portal Ad Hoc Committee Report: July 2019

> **Committee Charge:** Advise the Early Learning Council on the issues, challenges, and expectations related to providing accurate, timely, and relevant information to parents via the Child Care Safety Portal. This includes, but is not limited to, the federal requirements for posting information in accordance with the Child Care Development Fund (CCDF).
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> Specifically, the Committee is charged with delivering recommendations to the Early Learning Council related to the breadth and depth of information in the portal, how the information is represented, and other considerations for what information is available via the Child Care Safety Portal (CCSP). These recommendations will be delivered no later than November 1, 2019.

The following background materials were provided:

- License Exempt Child Care
- Non-Licensed Types in the Portal
- Data Availability Comparison
- Location of Potential New Safety Tools: Child Care Safety Tools Overview Page
- Oregon's Child Care Safety Check Tool: "The Portal"
- Oregon's Child Care Search Tool
- Question #1 Recommendations with Pros and Cons
- Question #2 Recommendations with Pros and Cons

Report Summary:

The Child Care Safety Portal Ad Hoc Committee of the Early Learning Council met on July 23, 2019 from 3:00 to 5:30 pm. The purpose of the meeting was to consider two questions related to the posting of information on the Child Care Safety Portal and to develop recommendations for each. The two questions were:

1. Should the Portal only show information for licensed programs?
2. Should the Portal only show information for programs that have current license?

Prior to the meeting, the Office of Child Care (OCC) forwarded the Committee members a set of documents that provided (a) background information on each of the two questions and (b) OCC staff recommendations for each of the two questions along with pros and cons of the recommendations. This was in response to a request by the Committee at the May 2019 meeting that OCC provide staff recommendations going forward.

Discussion Outcomes:

The Committee broke into three small groups to analyze the questions presented and the recommendations provided. Overall, the Committee agreed that whatever information was provided about licensed and unlicensed providers on the ELD website, it could be accessed via either a single search tool or multiple search tools located on a single page, as long as the tools were easy to use and the search results generated were easy to understand. There was preference for a single search tool, depending on the feasibility of having the information be easily distinguishable.

Question 1. Should the Portal only show information for licensed programs?

The staff recommendations for this question were that (1) the Portal search shows information for programs that are Licensed or Regulated Subsidy Providers only, and (2) information about individuals that have a valid finding of illegal care is made available online within the child care safety tools overview web page.

There was general agreement across the three groups that all the provider information gathered by OCC—licensed care providers, recorded programs, regulated subsidy providers, and illegal care providers—needs to be made available somewhere on the ELD website in an easily understand able format such that the types of care can be readily distinguished by parents. Further, there was agreement as to the need for the website to be clear about the differences between the types of providers such as by providing definitions of the care types and noting the different levels of oversight OCC exerted by OCC on each type. The three groups were split as to whether the information should be provided in one search tool (the Portal) or through multiple specialized search tools grouped together as a list of hyperlinks on a single webpage (the Child Care Safety Tools page).

The general rationale presented for these positions was that parents should be provided all of the available information, but in a way that is user friendly and easy to understand.

Question 2. Should the Portal only show information for programs that have current license?

The staff recommendations for this question were that (1) the Portal search only shows information for programs that have current licenses, and (2) a list of programs that were closed related to legal action is made available online within the child care safety tools overview web page.

There was general agreement across the three groups that some information about programs that do not have a current license should be displayed somewhere on the ELD website with a clear description of why the program's license is not current (e.g., expired, revoked, suspended, etc.).

There was some agreement that only providers that expired 3 or fewer years ago should be included.

The general rationale presented for these positions was that without the history provided through the inclusion of programs that no longer have a current license, ELD website users would be denied access to potentially useful information.

Finally, the committee members provided several recommendations to improve the user-friendliness of the Portal. In regards to searching generally, it was recommended that all search functions to be located in one spot on the ELD website, searching be less finicky such that even partial text entries in a search box would return relevant results, and if a search of one tool does not return a result for a particular provider, then searches of other relevant tools are recommended. In regards to displaying search results, it was recommended that a description of each tool will be available on the Child Care Safety Tools Overview page, information that would help clarify the results be provided (for example, definitions of key terms), and that the level of oversight of programs be indicated by a color code (for example, green for licensed programs that receive more oversight from OCC, yellow or red for other program types that receive less oversight from OCC). Finally, it was recommended that if the Portal was changed to include only licensed programs, it be renamed to include the word "licensed" in the name.

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