Early Learning Council Child Care Safety Portal Ad Hoc Committee Report: August 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:
- Question #1 Recommendations with Pros and Cons
- Question #2 Recommendations with Pros and Cons
- 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?
    - What is the Early Learning Division's Interim Policy regarding sharing child fatality information on the website?
    - What information on fatalities must be reported at the aggregate level according to CCDF requirements?
    - What information on fatalities must be reported at the provider level according to CCDF requirements?
    - 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?
    - What does ELD display now at the provider level?
    - How has OCC historically learned of child fatalities?
    - What has OCC done to determine whether posting a child's cause of death is feasible and why is it not being recommended?

Report Summary:

The Child Care Safety Portal Ad Hoc Committee of the Early Learning Council met on August 27, 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. When should a child fatality be made available on ELD's website?
2. What information about a child fatality should be made available?

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.

Question 1. When should a child fatality be made available on ELD's website?

The staff explained that ELD's interim policy regarding posting child fatalities was that: (1) in situations where ELD receives child fatality information from licensed providers, ELD posts the available factual information within 48 hours of notification, and (2) in situations where ELD receives notification of the fatality from DHS or law enforcement, ELD strives to obtain clearance from those entities so that it can post a child fatality within 48 hours.   The staff noted that most of the notifications that aren't from providers are received from DHS. The staff recommendation for this question was to combine the above two policies into one such that OCC would make a child fatality available on ELD's website within 48 hours of ELD's notification, regardless of the source of information.

There was general agreement across the three groups that basic factual information about the fatality should be posted within 48 hours of OCC's notification of the fatality, barring any unforeseen circumstances.   This basic factual information would include that a child died at a named facility on a certain date. The Committee needed more clarity around notifying law enforcement and whether there needs to be an exception for an extreme case. Chief Moore offered to reach out to police chiefs and district attorneys around the state to get their feedback on whether the release to the portal of basic factual information about child fatalities would negatively affect criminal investigations or prosecutions. This information will be brought back to the group for further consideration to clarify the recommendation. Finally, one group recommended that whether there was a legal action by OCC and whether an investigation was in process should also be posted within 24 hours.

A general rationale presented for these positions was that OCC should provide child fatality information as soon as possible, but should not overpromise or underestimate the amount of time it would take such that OCC would not be meeting its own standard. Another rationale presented was that OCC should support and not hinder criminal investigations.

Question 2. What information about a child fatality should be made available?

The staff recommendations for this question were that (1) ELD makes available only factual information including: 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, as well as any health and safety violations, and (2) when no health and safety violations were found as part of the investigation, ELD will add a prominent statement to a provider's history page to indicate that no violations were found and that the information will be made available retroactively.

There was general agreement across the three groups to follow the staff's recommendation but noting that while the basic factual information of the child fatality would be known within 48 hours, the results of OCC's investigation would not be determined until later.

The general rationale presented for these positions was that OCC should post the available information as soon as possible, with the understanding that investigations take time to complete.

Staffed by: Dawn Taylor (ELD), Heidi McGowan (East Consulting and Associates), Angela Rodriguez (ELD), Tami Scott (ELD), Kristyn Keefer (ELD), and Jay Messenger (ELD).

ELC Ad Hoc Child Care Safety Portal Committee

Attendance 8/27/2019

Committee Participants (in alphabetical order by last name)	Perspective or Area of Expertise	Attendance
Bill Baney, DHS Self Sufficiency Deputy Administrator	DHS	Not Present
Kevin Barton	District Attorney	Absent
Chris Lewman	Deputy District Attorney	In Person
Kathleen McDonough	MDT coordinator	In Person
Representative Daniel Bonham	Legislator	Not Present
Martha Brooks, State Director	Fight Crime Invest in Kids Oregon	In Person
Stephanie Fortner	Parent	Virtual
Senator Sara Gelser	Legislator	Not Present
Regan Gray, Child Care Policy Advisor at Family Forward	Parent Advocacy Organization	Virtual
Renee Holmes	Child Care Provider	Not Present
Meg Kirschnick	AFSCME Representative Back-Up	Not Present
Representative John Lively	Legislator	Virtual
Andrea Le	Parent	Not Present
Deena Loughary, DHS Child Safety Manager	DHS Child Welfare – Field Staff	Not Present
Lisa Matos, Environmental Health Specialist at Multnomah County Health Department	Local Registered Environmental Health Specialist/Supervisor	Not Present
Sue Miller, **Chair**	Early Learning Council	In Person
Jerry Moore, Police Chief	Local Police Chief	In Person
Veronica Ochoa	Parent	Absent
Eva Rippeteau	AFSCME Representative	In Person
Autumn David	AFSCME Representative	Not Present
Jakelinne Salgado, Care Provider Organizer, SEIU Local 503	SEIU Representative	Not Present
Kara Tachikawa	Child Care Provider	Virtual

Shannon Vandehey, CCR&R Director for Marion, Polk, and Yamhill counties	Child Care Resource and Referral Organization	Virtual
Bobbie Weber, Retired Research Associate	Oregon State University	In Person
Staff		
Heidi McGowan, Facilitator	East Consulting & Associates	In Person
Miriam Calderon, Early Learning System Director	Early Learning Division	Not Present
Dawn Taylor, Child Care Director	Early Learning Division, Office of Child Care	In Person
Tamara (Tami) Scott, Field Operations Director	Early Learning Division, Office of Child Care	In Person
Jay Messenger, Legal and Enforcement Director	Early Learning Division, Office of Child Care	In Person
Angela Rodriguez, Operations and Policy Specialist	Early Learning Division	In Person
Jason Sloan, System Design Specialist	Early Learning Division, Office of Child Care	Not Present
Kristyn Keefer, Operations and Policy Analyst	Early Learning Division, Office of Child Care	In Person

Early Learning Council Child Care Safety Portal Ad Hoc Committee:
Cumulative Recommendations Summary (through 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).

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.

1. Should the portal display licensed care complaints found invalid? [June]

Recommendation	• The Committee agrees with the OCC staff recommendation to continue excluding invalid findings from the Portal.
Rationale	• A rationale offered was that invalid findings would still be available through public records requests.

2. Should the portal display licensed care complaints found unable to substantiate? [June]

Recommendation	• The Committee was split and did not have initial agreement on the staff recommendation to remove unable to substantiate findings from the Portal. • *The Committee advised OCC to gather additional clarification from the federal Office of Child Care regarding what, if any, are the CCDF requirements for making available information for complaint visits that do not result in a valid finding. This information will be used to further clarify this recommendation.*
Rationale	• The rationales offered for removing unable to substantiate findings from the Portal included that parents are confused by these findings, providers don't like having something displayed on the Portal that isn't proven, and that unable to substantiate findings can provided to parents via alternative means such as through a telephone inquiry to OCC or by capturing the data from these findings elsewhere on the ELD website in the form of trends. • The rationales offered for keeping unable to substantiate findings on the Portal included that parents want access to everything that is available and the more information the better, a large number of unable to substantiates against a provider might trigger a "where there's smoke, there's fire" evaluation by parents, and that because complaint visits are listed on the portal as required by the federal government, even if unable to substantiate findings were not shown on the portal, the numbers would still show on the provider page in the form of the number of complaint visits.

3. **How many years of a licensed facility's history should be represented on the portal? [June]**

Recommendation	• The agreed upon recommendation was to display monitoring and inspection reports and valid violation findings in the Portal for the past three years plus the current year, then increase to and remain at five years of information plus the current year. • There was also an addition to the recommendation by one group to consider displaying serious violations for ten years.
Rationale	• The rationale offered in support of displaying five years of information was that it seemed like the appropriate amount of history necessary for a parent to evaluate a child care provider. However, as noted, one group thought that the Portal should display serious violations for ten years because those types of violations are likely to weight more heavily in a parent's evaluation of a child care provider.

4. **Should the Office of Child Care provide guidelines to child care providers regarding provider responses? [June]**

Recommendation	• The agreed upon recommendation for the third question was to give providers guidelines for submitting a provider response to a finding.
Rationale	• The underlying rationales offered in support of providing guidelines for provider responses included that it would make the process more clear for providers, make it easier for the providers to submit a response, and lead to more focused and professional responses.

5. **Should the Portal only show information for licensed programs? [July]**

Recommendation	• There was general agreement 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 Committee was 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).

Rationale	• 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.

6. Should the Portal only show information for programs that have current license? [July]

Recommendation	• 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.
Rationale	• 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.

7. When should a child fatality be made available on ELD's website? [August]

Recommendation	• There was general agreement across the three groups that basic factual information about the fatality should be posted within 48 hours of OCC's notification of the fatality, barring any unforeseen circumstances. • *The Committee needed more clarity around notifying law enforcement and whether there needs to be an exception for an extreme case.* • *Information collected by Chief Moore regarding perspectives from other law enforcement and district attorneys will be brought back to the group for further consideration to clarify the recommendation.*
Rationale	• A general rationale presented for these positions was that OCC should provide child fatality information as soon as possible, but should not overpromise or underestimate the amount of time it would take to receive clearance such that OCC would not be meeting its own standard. • Another rationale presented was that OCC should support and not hinder criminal investigations.

8. What information about a child fatality should be made available? And, should it be made available going forward or retroactively? [August]

Recommendation	• There was general agreement across the three groups to follow the staff's recommendation to 1) post 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, as well as any health and safety violations, and (2) when no health and safety violations were found as part of the investigation, ELD will add a prominent statement to a provider's

	history page to indicate that no violations were found and that the information will be made available retroactively. • But noting that while the basic factual information of the child fatality would be known within 48 hours, the results of OCC's investigation would not be determined until later.
Rationale	• The general rationale presented for these positions was that OCC should post the available information as soon as possible, with the understanding that investigations take time to complete.

9. **What information regarding incidences of substantiated child abuse in regulated child care settings should be made available on ELD's website? [September]**

Recommendation	•
Rationale	•