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John A. Johnson
Commissioner

Local Commissioners Memorandum

Transmittal:	06-OCFS-LCM-13
To:	Local District Commissioners
Issuing Division/Office:	Development and Preventive Services
Date:	December 14, 2006
Subject:	Notification to OCFS of the Death of Children in Open Child Protective or Preventive Services Cases
Contact Person(s):	See Pages 3-4
Attachments:	Agency Reporting Form for Serious Injuries, Accidents or Deaths of Children in Foster Care and Deaths of Children in Open Child Protective or Preventive Services Cases (When No Abuse or Maltreatment is Suspected)
Attachment Available Online:	Yes

I. Purpose

The purpose of the Local Commissioners Memorandum is to advise local departments of social services (LDSS) of provisions contained in Chapter 485 of the Laws of 2006 pertaining to an expansion of case types where a fatality review is required upon a child's death. If a child receiving services in an open child protective services (CPS) or preventive services case dies, the death must be reported to OCFS, and OCFS, or an approved local or regional fatality review team, must conduct a fatality review and prepare and issue a report on the death. Chapter 485 became effective on December 14, 2006.

II. Background

Prior to the enactment of Chapter 485, a fatality review and the preparation and issuance of a fatality report was required if the child's death allegedly occurred as a result of child abuse or maltreatment, or if the child died of any cause while in foster care. OCFS Division of Development and Preventive Services (DDPS) Regional Office staff learns of fatalities that allegedly occurred as a result of child abuse and maltreatment initially from the Statewide Central Register of Child Abuse and Maltreatment (SCR). For children who die in foster care when there is no suspicion of child abuse or maltreatment, LDSSs or voluntary authorized agencies are required to contact the applicable DDPS Regional Office by telephone within 24 hours of the death, and subsequently submit a form entitled, "Agency Reporting Form for Serious Injuries, Accidents, or Deaths of Children in Foster Care," which was promulgated as Appendix A to 88 ADM-29.

The applicable DDPS Regional Office (or an approved local or regional fatality review team) reviews the information provided by the LDSS and/or voluntary foster care agency and any other information it obtains, such as the coroner's or medical examiner's report. It then issues a fatality report based on its review.

III. Program Implications

In order for OCFS, or an approved local or regional fatality review team, to fulfill its fatality review and report responsibilities if a child dies in an open CPS or preventive services case, where abuse or maltreatment is not reported, it will need the participation and assistance of the LDSS in several areas. (Note: If a child is being served by a purchased preventive agency, the LDSS may delegate some or all of the notification/information collection responsibilities outlined in this Memorandum to such agency.) First, similar to what is currently required in relation to a child who dies or is seriously injured in foster care, LDSSs are required to provide telephone notice to the DDPS Regional Office within 24 hours of the LDSS learning of the death of a child in an open CPS or preventive services case. Following the phone call, within 72 hours of the death, the LDSS must complete a copy of the new "Agency Reporting Form for Serious Injuries, Accidents or Deaths of Children in Foster Care and Deaths of Children in Open Protective or Preventive Cases (When No Abuse or Maltreatment is Suspected)" (Attachment 1) and or e-mail or fax it to the DDPS Regional Office, and to any approved local or regional fatality review team that will review the fatality. (Note: Currently, Attachment 1 is a document that will need to be

printed and completed in paper form, and faxed to the DDPS Regional Office and to any approved local or regional fatality review team. In the near future, this form will be available as an electronic template on the OCFS website. LDSSs and voluntary foster care agencies will be advised when it is available electronically.) This new form replaces the old form entitled, "Agency Reporting Form for Serious Injuries, Accidents, or Deaths of Children in Foster Care", which was promulgated as Appendix A to 88 ADM-29.

Attachment 1 requires, among other elements, information concerning the cause of death. Pursuant to Chapter 485, OCFS also should receive any autopsy and medical report made by the coroner or medical examiner in relation to a child who dies in an open CPS or preventive services case as currently is required for abuse/maltreatment and foster care fatalities. However, at the time the LDSS learns of the child's death and completes Attachment 1, it should provide whatever information is available that speaks to the possible cause of death. While it is OCFS's responsibility, or the responsibility of an approved local or regional fatality review team, to conduct the fatality review and complete a fatality report, the coroner's or medical examiner's reports are important components of the fatality review, as is the information that the LDSS has received. As part of the LDSS's responsibilities in open foster care, preventive and protective cases, it is expected that the LDSS will obtain information pertaining to the circumstances of the child's death to reasonably conclude that the child did not appear to be abused or maltreated (by this, it is not meant that a CPS investigation should be undertaken; rather, the LDSS should consider available information to determine whether there is reasonable cause to suspect that the child may have been abused or maltreated, and whether a CPS report ought to be made) and to determine whether any other children in the home appear safe and not at heightened risk of abuse or maltreatment.

As currently occurs for abuse/maltreatment and foster care fatalities, OCFS DDPS staff or the local or regional child fatality review team may request additional information from the LDSS, or other entities,. OCFS appreciates the past cooperation it has received in this regard from LDSSs, especially given the emotionally upsetting and/or charged atmosphere caused by a child's death. OCFS will try to be sensitive to grieving families as well as to LDSS and provider staff when requesting additional information needed to fulfill its statutory responsibilities.

IV. Contact Persons

BRO - Linda Brown (716) 847-3145
User ID: Linda.Brown@ocfs.state.ny.us
RRO - Linda Kurtz(585) 238-8201
User ID: Linda.Kurtz@ocfs.state.ny.us
SRO - Jack Klump(315) 423-1200

User ID: Jack.Klump@ocfs.state.ny.us
ARO – Glenn Humphreys (518) 486-7078
User ID: Glenn.Humphreys@ocfs.state.ny.us
YRO - Pat Sheehy (914) 377-2080
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S/S Jane Lynch

Issued By:

Name: Jane Lynch

Title: Deputy Commissioner

Division/Office: Division of Development and Prevention Services

Attachment 1
Agency Reporting Form for Serious Injuries,
Accidents, or Deaths of Children in Foster Care
and

Deaths of Children in Open Child Protective or Preventive Cases

Instructions:

Call the appropriate Regional Office to report a serious injury, accident or death of a child in foster care or a fatality involving a child in an open protective or preventive case within 24 hours of death or as soon thereafter as the agency becomes aware of the injury, accident or death.

This form is to be filled in by an agency official to report:

- A serious injury or accident resulting in medical treatment, hospitalization or death of a child in foster care.
- The death of a child in an open protective case.
- The death of a child in an open preventive case.

The form must be completed and sent to the appropriate Regional Office of the New York State Office of Children and Family Services (OCFS) within 72 hours of the injury, accident or death.

Check Case Type (Please check all that apply):

Foster Care _____ **Protective** _____ **Preventive** _____

SCR Called? Yes ___ No ___

Date of Death _____

Name of Child _____ Date of Birth _____

CIN _____

Agency or individual having legal custody _____

Address: _____

List any witnesses to the injury, accident or death:

Address: _____

Describe the circumstances of child's accident or injury, or cause of death. Details should include the date, time, and location.

For a report involving a serious injury or accident of a foster child, describe the agency's actions following the accident or injury.

For a report involving the death of a child in foster care or in an open preventive or protective case, report the name, address and telephone number of the child's parents or legal guardian.

For a report involving the death of a foster child, indicate if the parents were notified and describe the method of notification.

Attending Physician's name: _____(if any)

Hospital, clinic or other treatment facility to which child was taken:

___ For serious injury or accident involving a foster child, check if the child is still there.

___ For all reports, check if a hospital or medical report is attached.

___ If a hospital or medical report is not attached, check if such a report has been requested.

Date the OCFS Regional Office was notified by telephone: _____

Name of Agency caller: _____

Name of the Regional Office: _____

Name of representative contacted: _____

Additional comments to supplement the above information or to clarify the child's situation, condition, prognosis, official cause of death, etc.

Signature of individual completing the form: _____

Name of Agency: _____

Date form completed: _____

Title of Agency Official: _____

To be completed by the OCFS Regional Office

Date Received in Regional Office: _____

OCFS Fatality Report Number: (RO/Year/###) _____

Reviewed by: _____
(name of Regional Director)

Additional information that is needed by Regional Office:

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Follow-up action assigned to: _____