

The Kevin S. Settlement; Transforming New Mexico's Child Welfare System

In 2018 thirteen children in New Mexico's foster care system, joined by Disability Rights New Mexico and the Native American Disability Law Center, filed a lawsuit¹ seeking essential care, stability, treatment, and support for each of New Mexico's foster children. At the time of filing, New Mexico's child welfare system was among the worst in the nation. In March of 2020, Defendants CYFD and HSD settled the lawsuit, co-creating a settlement agreement² with Plaintiff's counsel to create a trauma-informed system of care. This ambitious agreement calls for a phased-in approach to system reform which will bring New Mexico's child welfare system into compliance with local and federal law.

The agreement promises **major improvements** in the following areas: developing a trauma informed system of care, ensuring that children and youth are in homes whenever possible, protecting the unique rights and interests of Native American children, building a statewide, community-based behavioral system.

CYFD and HSD agreed to achieve a number of specific and ambitious targets over the span of years so that a foundation is built for true reform that is long-lasting and embedded in the culture of CYFD and HSD. Three experts on child welfare reform (the "Co-Neutrals") are evaluating the State's performance using State data and input from the community. Each target will be evaluated until it has been met for at least 24 months.

The Co-Neutrals—Kevin Ryan, Pam Hyde, and Judy Meltzer—were selected for their expertise in the issues raised by the agreement as well as the process of turning around complex systems. The Co-Neutrals and the state agencies produce public reports on settlement activities and progress toward achieving the targets in the settlement every year.

The 2022 Co-Neutral report found that the State only met 7 of the 16 Implementation Targets and failed to meet even a single Target Outcome (31 Target Outcomes were assessed) in 2021. These are the validated facts.

The Co-Neutrals make four primary recommendations to turn the State's performance:

- Strengthening and stabilizing the CYFD workforce;
- Growing resource family placements;
- Expanding behavioral and mental health services;
- Strengthening the collaboration and communication with New Mexico's Nations, Pueblos and Tribes.

The legislature can demand that CYFD and HSD request funding sufficient to meet their obligations under Kevin S.; allocate needed funding; and to hold regular hearings to review real time data regarding the State's efforts to come into compliance with the settlement. Children coming into custody in 2023 deserve a better system now.

¹ A copy of the lawsuit is located on the Kevin S. Settlement web page here: <https://kevinssettlement.files.wordpress.com/2020/02/1066.pdf>

² The Settlement Agreement is located at: https://kevinssettlement.files.wordpress.com/2020/03/2020_02_06-kevin_s_agreement_final.pdf