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**New Mexico Children, Youth, and Family Department Under Legal Order to Ask  
Legislature for Enough Funding to Do Its Job**

*Arbitrator Finds CYFD and HCA Responsible for Failing Children in Foster Care*

**ALBUQUERQUE, NM** – As the New Mexico State Legislature was convening in Santa Fe and Gov. Michelle Lujan Grisham was calling for an improved child welfare system, a legal arbitrator in Albuquerque issued a carefully considered order telling CYFD that it must request full funding to provide the services the children and youth in foster care in New Mexico need. He also, among other steps, ordered HCA to provide more data regarding well-child checks to help ensure they occur in a timely manner.

The order comes in response to the 2020 Kevin S. Settlement, which requires the State to provide essential care, stability, treatment, and support to the thousands of children in New Mexico's foster care system. The agreement stems from a lawsuit brought by 13 children in New Mexico's foster care system, Disability Rights New Mexico, and the Native American Disability Law Center.

The [settlement](#) set a number of specific, much needed goals. It required the State to hire adequate staff and provide appropriate care to children and youth in the foster care system. It also brought in experts called "Co-Neutrals" to advise, monitor and ensure the State lived up to the agreement.

Last year, the Co-Neutrals issued a scathing report noting that conditions in the foster care system had gotten worse instead of better. The plaintiffs in the lawsuit demanded arbitration, and the arbitrator found the state was not living up to its promises. He issued [an order](#) clearly spelling out what the State must do to come into compliance with the settlement or face stiffer consequences.

"This decision is a breakthrough for the governor and the Legislature," said **Tara Ford, Directing Attorney for Public Counsel's Opportunity Under Law project**. "We don't need more studies, task forces, or plans. It's time to implement the actions the State has agreed are needed to ensure the safety and wellbeing of children in State custody."

"For the past five years, the State made promises to the children they had taken into their custody," said **Bette Fleishman, Executive Director at Pegasus Legal Services for Children**. "My clients have aged out and are not doing well. The children of New Mexico cannot

wait another five years to be provided the services and homes they were promised. Time doesn't stop for the children.”

“This is a CYFD and HCA failure to deliver on promises to these kids and families, and there is a fierce urgency now,” said **Gary D. Housepian, Executive Director at Disability Rights New Mexico**. CYFD is not merely falling short of standards. These failures with well child visits, home placements and recruitments have had consequences that require heightened diligence and implementation or kids will continue to suffer under the State’s watch.”

“Every one of my clients who has been forced to endure a night on the floor of a CYFD office asks me to do everything in my power to make sure no other child has to go through that,” said **Sara Crecca, Attorney at the Law Office of Sara S. Crecca**. “It is inhumane what we are doing to our children and it should be the top priority of this administration to end this practice now.”

“There is not a more fundamental requirement for normal child development than a home and a primary caretaker, and we can only hope that this decision will finally obligate the State of New Mexico to provide those when children are in its care and custody,” said **George Davis, Child Psychiatrist past director of psychiatry for the NM Department of Children, Youth and Families**.

“The Law Center appreciates that the Arbitrator recognized and addressed the need for statewide services, especially the need to identify homes for children in rural areas like San Juan County,” said **Therese E. Yanan, Attorney and Executive Director at the Native American Disability Law Center**. “This decision recognizes the importance of the State fulfilling its commitments and fundamentally improving services for New Mexico’s children in their custody.” -

“The Plaintiffs, on behalf of the children that Plaintiffs serve, are heartened by the Arbitrator’s decision that New Mexico can and should care for endangered children taken into State custody,” said **Christina West, Partner at Barnhouse Keegan Solimon & West LLP**. “The decision moves away from distractions and rightfully forces the State to focus on fully implementing necessary, initial steps to get on track.”

More information about the settlement is available at [kevinsettlement.com](http://kevinsettlement.com).

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