

State of New Mexico CHILDREN, YOUTH and FAMILIES DEPARTMENT

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State of New Mexico reaches innovative settlement agreement with foster youth and child advocates

*N.M. to develop a trauma-responsive system for children in state custody and expand
their commitment to Native youth*

ALBUQUERQUE — The State of New Mexico's Children, Youth and Families Department (CYFD) and Human Services Department (HSD) have reached an innovative settlement with foster youth and their advocates.

The CYFD and HSD settlement plan includes:

- Developing a trauma-responsive system of care for all children in state custody.
- Placing children in out-of-home care in stable, safe, appropriate, community-based placements in the least-restrictive environment.
- Building a relationship with each of the New Mexico Nations, Tribes and Pueblos, and comply with the Indian Child Welfare Act (ICWA) — making every effort to ensure that all Native children and families receive appropriate support and services.
- Building a statewide, community-based behavioral health system that all children and families will be able to access.
- Implementing training, supervision, and support for agency staff, foster parents, and other adults who serve children impacted by trauma.

The trauma-responsive system of care will fully integrate Medicaid's behavioral health screening and service delivery for children in foster care.

The lawsuit, *KEVIN S., et al. v. BLALOCK, et al.*, No. 1:18-cv-00896 was filed in 2018 with the previous administration on behalf of 14 foster youth and two advocacy

organizations: Disability Rights New Mexico, and Native American Disability Law Center. It alleged that trauma-impacted children and youth in New Mexico foster care lacked safe, appropriate and stable placements, and behavioral health services to meet their needs in the state system.

Under Governor Michelle Lujan Grisham, who has made improving the lives of children and youth a priority of the Administration, the new CYFD and HSD Cabinet Secretaries Brian Blalock and David Scrase, respectively, identified the needs for trauma-informed, behavioral health-focused reforms and for addressing the needs of Native youth, specifically. The aims of the lawsuit and of their plans aligned and made this settlement agreement possible.

“My heartfelt goal since becoming cabinet secretary is to improve CYFD for the sake of New Mexico’s vulnerable children and youth,” said Sec. Brian Blalock, who joined the department with Gov. Michelle Lujan Grisham’s administration four months after the initial filing. “CYFD and HSD have been working to address and resolve these exact issues since the beginning of this administration, and this settlement perfectly aligns with these efforts.”

“We know from our work with children and youth in New Mexico that there is a huge need for a child welfare system that is based around the principle of understanding and responding to the impacts of trauma,” said Nancy Koenigsberg of Disability Rights New Mexico. “This settlement will allow all of us to work together to build a system that will fulfill that need.”

This new system of care is the first of its kind and could serve as a national model for addressing the needs of trauma-impacted children in foster care.

“The development of a coordinated, trauma-responsive, and evidence-based system of care in New Mexico is central to HSD’s efforts in reinforcing behavioral health for children, families and all of our neighbors in New Mexico,” said Neal Bowen, Behavioral Health Services Division Director.

Children entering the foster care system are highly likely to have experienced multiple forms of trauma. Medical and social science have established that exposure to trauma deeply impacts brain activity, function and development, particularly in the developing brain of a child or young person.

“For too long, our institutions and systems serving young people have lagged behind what we know is true about the impact of childhood trauma. We are proud to have developed an ambitious plan to fully implement trauma-responsive principles across all levels of the child welfare system,” said Kathryn Eidmann of Public Counsel, a lawyer for the Plaintiffs.

The settlement also recognizes and addresses the specific needs and interests of Native children in foster care, who are entitled to protections under the ICWA.

“This agreement ensures that Native children have access to traditional ceremonies, that culturally responsive healing practices are promoted throughout the state and realizes the protections of ICWA. It also recognizes that strengthening the family unit is a vital part of the healing process and makes sure that children are placed appropriately with their families and within their communities so this healing process can begin,” said Donalyn Sarracino, CYFD Tribal Liaison.

The agreement sets up an ongoing partnership between CYFD, HSD and the Plaintiffs. Three Co-Neutrals with national reputations as leaders in the field will be intimately involved in evaluating and helping guide the reform effort: Kevin Ryan of Public Catalyst in Iselin, NJ; Judith Meltzer, President of the Center for the Study of Social Policy in Washington, DC, and Pamela S. Hyde, Principal of Hyde & Associates – Policy and Practice Consulting, LLC in Santa Fe, NM.

“We are grateful to work with an administration that is so committed to New Mexico’s most vulnerable children. All parties approached this process in the spirit of collaboration and recognized that protracted costly litigation was not in anyone’s interest. This effort yielded a groundbreaking result on a fast timeline and will not only bring essential support and services to children who need it most but will serve as a national model for other states facing similar challenges,” said Tara Ford of the Stanford Youth and Education Law Project, counsel for Plaintiffs.

Plaintiffs are represented by Public Counsel; Munger Tolles & Olson; Stanford Youth and Education Law Project; Disability Rights New Mexico; The Rodey Law Firm, Martinez, Hart, Thompson & Sanchez, P.C.; Freedman Boyd Hollander Goldberg Urias & Ward, PA; The Law Firm of Alexander D. Crecca; and The Law Office of Ryan J. Villa.

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