

IN THE ARBITRATION OF

KEVIN S., *et al.*,

Plaintiffs,

vs.

NEW MEXICO CHILDREN, YOUTH
and FAMILIES DEPARTMENT, and
NEW MEXICO HUMAN SERVICES
DEPARTMENT,

Defendants.

REMEDIAL ORDER NO. 2

This order follows a status conference and hearing held July 3, 2025 and the submission by the parties and the Co-Neutrals of information regarding the Defendants' compliance with Remedial Order No 1, issued on January 21, 2025.

Based on the hearing and submissions, this second remedial order directs the Defendants to take additional steps as it seeks to comply with the parties' Final Settlement Agreement, the Corrective Action Plan dated June 30, 2023, and certain of the requirements imposed by Remedial Order No. 1.

Background

As detailed in the Decision and Award issued January 21, 2025, in 2018, Plaintiffs sued the two departments of state government principally responsible for administering the State's child welfare system, the New Mexico Children, Youth and Families Department ("CYFD) and the New Mexico Human Services Department, now known as the Health Care Authority ("HCA") (together, referred to as "the State"). The suit alleged that the State consistently failed to fulfill state and federal legal obligations to children in state custody ("CISC"). Plaintiffs and

Defendants agreed to settle the lawsuit in a “Final Settlement Agreement” (“FSA”) executed on March 6, 2020. In the FSA, the State agreed to meet Implementation Targets (“ITs”) and their deadlines, foundational steps toward meeting Target Outcomes (“TOs”), to reform New Mexico’s child welfare system into a trauma-informed system of care.

Plaintiffs alleged the State failed to make significant progress on the FSA commitments in the years following and initiated the alternative dispute resolution process provided for in the FSA. On June 16, 2022, the Parties executed a Memorandum of Understanding to improve compliance with the FSA. On June 30, 2023, the Parties executed a Corrective Action Plan (“CAP”) describing basic, remedial steps needed for the State to start meeting its FSA obligations. Each CAP obligation was to be implemented in addition to the FSA, with a performance deadline of January 5, 2024. After the deadline, Plaintiffs alleged that State failed to comply with the CAP and the FSA and initiated arbitration by filing an Amended Arbitration Notice on July 15, 2024. The Parties engaged in eight days of arbitration hearings in November 2024.

On January 21, 2025, I issued my Decision and Award (“Decision”) finding that the State failed to meet the *Kevin S.* FSA Performance Standard in the areas of: (1) CYFD Workforce Caseloads, (2) Resource Family Recruitment, (3) Well-Child Checks, and (4) Data Submissions. I also entered Remedial Order No. 1 on January 21, 2025 which required the State to take specific actions by specific dates with the goal of advancing State compliance with the FSA. The Remedial Order invited the Co-Neutrals and Plaintiffs to respond in writing to any plan submitted by Defendants and both did so. Remedial Order No. 1 Para. 20.

I. Submissions Related to Remedial Order No. 1

A. Caseloads, Caseworker Hiring, and Retention

Under Remedial Order No. 1 (“RO1”) Paragraph 1, I ordered CYFD to take “all steps necessary to request adequate funding from the Legislature during the 2025 session to fully fund all caseworker and case aide positions required for the Department to meet the caseload standards.” CYFD submitted an initial version of the report on April 15, 2025, and later submitted a corrected version of the report on May 7, 2025. CYFD requested and received \$30,000,000 in funding from the New Mexico Legislature for caseworkers for Fiscal Years 26, 27, and 28 for caseworkers and \$9,600,000 for case aides for Fiscal Years 26 and 27. *See* Defendants’ Report on Paragraph(s) 1 and 12 of Remedial Order No. 1 (April 15, 2025). Plaintiffs contend the report does not comply with RO1 due to: unreliable and unverifiable data using a Live Caseload Calculation Tool that pulls from June 2024 Heatmap data that is noncompliant with the FSA Data Validation Plan (“DVP”); neglecting to account for historical or current attrition rates in calculating caseworker positions; submission of inconsistent and misleading information as to the number of caseworkers it requested to meet caseload standard compliance; lack of explanation of methodology; no meaningful budget adjustments since the Arbitrator’s Decision; and inconsistent budget figures.

Paragraph 2 of RO1 provides that CYFD will submit “a plan to create a new classification of worker and add such persons to handle on-call, emergency and overnight work” to address children in office stays and to respond to on-call emergencies. CYFD submitted its plan on April 30, 2025, highlighting the creation of an Emergency Response Investigation Specialist, creation of an Emergency Response Behavioral Health Specialist, an allocation of 35 of the 101 funded caseworker positions to overnight shifts, and a commitment to remove

overnight supervision responsibilities from case-carrying staff in selected counties. Both Plaintiffs and the Co-Neutrals contend that CYFD's plan is inadequate as it pulls 35 caseworkers from an already insufficient pool of 101 and is piecemeal in approach, with only seven of New Mexico's 33 counties staffed with Emergency Response workers in the fall of 2025. On June 27, 2025, the State issued a reply letter that offers additional detail but continues to point toward funding limitations as reason for not being able to expand emergency capacity.

Paragraph 3 of RO1 orders CYFD to develop a plan "to increase the Department's new employee training capacity for new hires to commence every two weeks." Plaintiffs contend that CYFD did not comply with Paragraph 3 as the plan does not provide for new employee training ("NET") every two weeks, but monthly, and the plan places too high a burden on already overburdened supervisors to provide training.

Paragraph 4 of RO1 instructs CYFD to explain in writing how it has spent, or plans to spend, the \$3 million special appropriation made by the Legislature. CYFD submitted its response on March 31, 2025, outlining how the Department has encumbered \$1,860,988 (62%) of the appropriation. The plan proposes that CYFD submit a more complete report at the end of Fiscal Year 2025. Plaintiffs contend that CYFD failed to comply with Paragraph 4 because its plan pushes all results to the end of the fiscal year, and lacks basic detail on purported contracts, expected deliverables, and the correlation between funding and the Workforce Development Plan, which formed the basis of the legislative appropriation.

B. Resource Family Recruitment and Retention

Paragraph 5 of RO1 orders CYFD to "dedicate one placement staff worker located in each of the five high-needs counties identified in the CAP...to focus exclusively on foster placement recruitment." Plaintiffs contend that CYFD did not comply with RO1 because CYFD

failed to identify each person responsible for recruitment and retention in each of the counties rather than regions and those identified have additional responsibilities.

Paragraph 6 of RO1 orders CYFD to “provide the Co-Neutrals any contracts it has entered with individuals or entities to assist in aiding the Department in evaluating or improving foster home recruitment and retention.” Plaintiffs contend that CYFD did not comply with RO1 because they failed to provide sufficient information regarding the contracts to permit analysis by the Co-Neutrals.

C. Well-Child Checks

Paragraph 7 of RO1 instructs HCA to submit to the Co-Neutrals and Arbitrator quarterly Presbyterian Health Plan (“PHP”) reports regarding the number of well-child checks completed within 30 days of a child entering CYFD custody. It also instructs CYFD to ask PHP to include key details around why any required well-child checks were not completed. Plaintiffs contend that while HCA has identified the person responsible for quarterly reporting, HCA has not submitted quarterly reports that meet the requirements of RO1. *See* Co-Neutrals’ Response to Remedial Order #1 Deliverables Received April 30, 2025 (May 30, 2025) (Co-Neutrals anticipate more complete information to be included in HCA’s July 2025 quarterly report). At the status conference, HCA acknowledged that in reporting compliance with the requirement that all children receive a Well-Child check within 30 days the child comes into custody, it was still not accurately accounting for the date that children come into custody, which is necessary to comply with the FSA. Status Conference at 1:41:32-1:42:24 (Meltzer).

Paragraph 8 of RO1 instructs CYFD to report to the Co-Neutrals the utilization of services offered through Department of Health (“DOH”) MOU executed on December 21, 2023. Both the Co-Neutrals and Plaintiffs contend that CYFD failed to comply with RO1 because the

report fails to include sufficient detail to explain the underuse of the MOU or justification of renewal, given that zero well-child checks were completed under the original MOU.

Paragraph 9 of RO1 directs HCA to report to the Co-Neutrals on the status of the San Juan County Co-Location pilot project and whether the project should be expanded to other counties. HCA submitted a preliminary update on March 31, 2025, and a full report on April 30, 2025. Both the Co-Neutrals and Plaintiffs contend that HCA failed to comply with Paragraph 9 as the report does not evaluate whether co-location should be expanded to other counties, does not detail how office schedules were coordinated between HCA and CYFD, and significantly falls short of the number of office hours necessary for meaningful co-location.

Paragraph 10 of RO1 orders HCA to submit a report to the Co-Neutrals evaluating whether PHP can allow electronic access to CISC's medical records for caseworkers and eligible foster parents. HCA identified the person responsible for compliance with Paragraph 10 on February 14, 2025, and submitted its report on March 31, 2025. The March 31, 2025 report largely focuses on the barriers to implementation of electronic medical records without assessing or suggesting possible solutions or workarounds. Both the Co-Neutrals and Plaintiffs contend that the report is inadequate. The State issued a June 9, 2025 letter in response to Co-Neutral feedback. The letter outlines four suggested solutions from PHP and HCA's response to each. Similar to the March 31, 2025 plan, the letter does little to meaningfully explore workarounds to barriers to implementation.

Paragraph 11 of RO1 orders HCA to identify in writing the senior leadership staff member accountable for improving well-child check compliance. HCA identified the staff member in a February 14, 2025 letter.

D. Data Submissions

RO1 Paragraph 12 directs CYFD to take all steps necessary to request adequate funding from the Legislature to fully fund the Department's data obligations under the FSA. CYFD filed a report on April 15, 2025, and submitted a revised report on May 7, 2025. The report outlines a plan to request funding for six new FTE data positions but does not provide information as to how the roles were analyzed and selected, their duties and responsibilities as they relate to remedying known data issues, what share of their responsibilities relate specifically to fulfilling *Kevin S.* requirements, or the decision to not renew the Falling Colors contract. Both the Co-Neutrals and Plaintiffs contend that the submission does not meet the requirements of RO1. In its June 5, 2025 follow up letter to Co-Neutral feedback, CYFD provided additional information regarding the six new positions, however the letter still does not offer detailed role and responsibility information nor is there any mention of the Falling Colors contract which expired June 30, 2025. The State also did not provide the requested justification or explanation of its decision to add the six new positions.

II. July 3, 2025 Status Conference

In addition to reviewing the submissions of the State, Plaintiffs and Co-Neutrals, I held a status conference to further discuss the status of the State's efforts and the recommendations of the Co-Neutrals. The Co-Neutrals have extensive experience with reform in other States. In their experience, successful child welfare reform requires a judge who demands accountability from the state, an engaged and committed governor, and focused and motivated agency leadership. Status Conference at 31:28:44-31:49:98 (Meltzer); Status Conference at 1:16:54-1:17:16 and 1:48:51-1:49:53 (Ryan). Specifically, the Co-Neutrals recommended that the Arbitrator hold the State accountable to specific outcomes. Status Conference at 1:14:05-1:15:34 and 1:37:56-

1:38:33 (Ryan). Holding the State accountable to specific outcomes incentivizes barrier busting, which is possible and direly needed here. PX 55 at P001786; Status Conference at 1:14:01-1:14:21 (Ryan). The Co-Neutrals also recommended that I retain jurisdiction to provide periodic oversight and monitor progress during the remedial phase of the arbitration. March 19, 2025 Co-Neutrals' Letter to Arbitrator re: Remedial Order Recommendations at 1; Status Conference at 32:31:26-32:50:94 (Meltzer).

The Co-Neutrals have made numerous targeted recommendations to CYFD and HCA over the years. At the status conference, the Co-Neutrals expressed frustration over the lack of progress made by the State over the last five years. Status Conference at 32:39:26-32:44:94 (Meltzer). In the Co-Neutrals' experience, compliance is best achieved when the State takes ownership over the plan to comply with required litigation outcomes. While the State has submitted numerous plans over the years, the primary problem, as the Co-Neutrals view it, is the State fails to implement them. Status Conference at 46:06:51-46:30:12 and 47:45:18-48:11:46 (Meltzer). The Co-Neutrals want to assist the State to make progress towards the FSA and are willing to approve (or disapprove) of plans. Status Conference at 31:58:38-32:31:21 (Meltzer).

In the last six months, the State has not made significant progress in its efforts to come into compliance with the FSA. Status Conference at 0:40:11-0:40:22 and 3:09:37-3:09:59 (Peifer). The evidence and submissions provided to me establish that the State is preparing to make progress and has indeed obtained additional funding that will assist in future progress, but that, measured by outcomes for children, measurable and verifiable progress is lacking. Children and youth remain at imminent risk of harm and time is of the essence. Status Conference at 48:21:05-48:40:23 (Ryan). CYFD has not reduced their reliance on congregate care settings and children continue to sleep overnight in offices. Status Conference at 2:24:27 (Casados). Despite

securing funding for caseworker hiring to stabilize the workforce and caseload standards, over the last six months, little has changed in terms of children being housed in offices, congregate care, and out-of-state placements. Status Conference at 2:37:39-2:38:19 (Casados). CYFD remains reliant on these settings to house children. Status Conference at 2:24:27 (Casados). CYFD agreed that building out a system of care that has other alternatives for youth, including building out foster homes, is critical to addressing the office stay issue. Status Conference at 2:37:02-2:37:14 (Casados). While CYFD reports that it has reduced office stays to an average of 12 youth a month statewide, CYFD has not made progress regarding use of congregate care placements. Youth are now placed at YDI and AMI, with some youth staying at those placements for longer than 90 days. Additionally, CYFD reports that the number of youth in out-of-state placements has remained stagnant, reportedly with 25 youth in out-of-state placements. Status Conference at 2:27:06-2:28:52 (Casados). Children in these inappropriate placements are subjected to harm and Plaintiffs indicate that at least three children in State custody have died in 2025. Status Conference at 0:37:20-0:37:35 (Ford). Yet, CYFD does not include serious injuries and fatalities of foster children in their Critical Incident Reports to the Co-Neutrals. Status Conference at 1:38:33- 1:40:12 (Ryan). The Co-Neutrals recommend and are willing to undertake independent review of fatalities and Critical Incidents to ensure the State is better equipped to keep children in foster care safe. Status Conference at 1:38:33-1:39:18 (Ryan).

Stabilizing a well-trained workforce must be treated as a top priority that is profoundly overdue and should be treated as a matter of profound urgency. Status Conference at 50:17:70-50:26:60 (Ryan). Caseworkers continue to communicate to the Co-Neutrals that they are desperate because nothing has changed in the last two years and they continue to encounter the same inhospitable working conditions. Status Conference at 48:58:22-49:36:42 (Ryan). In

addition to their general job duties, caseworkers continue to work overtime to provide care to children who are housed in offices. CYFD has posted 25 positions for staff caring for children staying in offices but has not filled any of those positions. Status Conference 2:31:32-21:31:43 (Sandoval).

To track caseloads, the Co-Neutrals have recommended numerous times that CYFD create a data dashboard. *See* Co-Neutrals' Initial Recommendations in Response to Remedial Order No. 1 dated January 25, 2025 (March 19, 2025). At the Status Conference, CYFD announced that a data dashboard was set to be rolled out on July 1, 2025. Status Conference at 1:20:16-1:20:32 (Casados). The development of the dashboard is promising but the Plaintiffs and the Co-Neutrals need to be given an opportunity to review the dashboard and make recommendations regarding its accuracy and completeness. Status conference 1:32:38-1:32:52 (Ryan).

The State is not in compliance with ensuring every child in custody has a well-child visit within 30 days of entering custody. Instead, the State tracks the 30 days from the date they determine the child is eligible for enrollment in the MCO, which can be a date well after the date the child enters custody. Status Conference at 1:41:33-1:42:21 (Meltzer). The State has not demonstrated any improvement in the rate of compliance of timely well-child checks. Status Conference at 1:53:11-1:53:44 (Armijo).

Lastly, the Co-Neutrals offered to answer additional questions from me, including requesting permission from the parties to allow me to have ex parte communication with them. Status Conference at 1:51:54-1:52:11 (Ryan). Plaintiffs support this request, Defendants do not. I will address the suggestion that I have ex parte communications with the Co-Neutrals in a separate order.

III. Agreed Actions by Defendants

From their submissions or statements at the Status Conference, Defendant(s) have agreed that:

1. The State will implement a structured pay differential for all 35 Emergency Response positions in addition to the existing after-hours employees. *See Reply to Responses on State's Submissions under Arbitration of Kevin S., Remedial Order No. 1, Paragraphs 2, 3 and 9 (June 27, 2025).*
2. The State will create a position for a senior-level manager who reports directly to the CYFD PS Director and who is primarily responsible for monitoring county office staffing on a weekly basis and managing statewide efforts to comply with the caseload standards *in Kevin S. See Reply to Responses on State's Submissions under Arbitration of Kevin S., Remedial Order No. 1 (June 27, 2025).*
3. CYFD has the capacity to deliver NET every two weeks, sustainably, but they have opted to keep training at five-week intervals. Status Conference at 1:09:47:16-1:10:3:74 (Lindsey Davis).
4. The State will continue to request funding to hire all protective services positions and will request the necessary positions and funding to expand caseworker positions to accommodate attrition. *See Follow up regarding Arbitration of Kevin S., Remedial Order No. 1, Paragraphs 1 and 12 CYFD Funding for Case-assignable Workers and Data Capacity (June 5, 2025).*
5. The State will conduct an analysis of the contributing factors for families deciding not to proceed with or delaying in becoming a licensed resource home. *See Reply to Responses on State's Submissions under Arbitration of Kevin S., Remedial Order No. 1 (June 27, 2025).*
6. The State will provide the Co-Neutrals with aggregate quarterly data reports and case-identifying information for the children for whom the State identifies have missed well-child visit due to one of the articulated criteria for a well-child visit not occurring. *See Response to March 10, 2025 Letter (March 31, 2025).*
7. The State will develop a mutually agreeable definition of critical incident with the Co-Neutrals and Plaintiffs that will allow for more meaningful critical incident reporting. *See Reply to Responses on State's Submissions under Arbitration of Kevin S., Remedial Order No. 1 (June 27, 2025) See Status Conference at 3:23:03-3:23:42 (Loman).* If the State, Plaintiffs and Co-Neutrals are unable to reach an agreement on a definition by September 15, 2025, I invite Parties and Co-Neutrals by that date to provide me with their competing proposals, and I will settle the definition.
8. The State's emergency response investigation workers will only respond to emergency reports and not keep the case assignment beyond the initial response. The Secondary shift will only respond to emergency reports and not keep the case

- assignment beyond the initial response. CYFD is in alignment with the Co-Neutrals' recommendations and best practice in other states. CYFD Plans to have all reports responded to by the Secondary Shift transferred to the day shift of the following morning. *See Reply to Responses on State's Submissions under Arbitration of Kevin S. Remedial Order No. 1, Paragraphs 2, 3 and 9 (June 27, 2025).*
9. The State's emergency response behavioral health specialists need to be provided with support from clinical professionals/teams when managing crisis situations in the office stay settings. *See Reply to Responses on State's Submissions under Arbitration of Kevin S. Remedial Order No. 1, Paragraphs 2, 3 and 9 (June 27, 2025).*
 10. The State agrees that it needs to develop a system of support for emergency response behavioral health specialists in times of crisis and escalated behaviors, including offering local providers the ability to co-locate. *See Reply to Responses on State's Submissions under Arbitration of Kevin S. Remedial Order No. 1, Paragraphs 2, 3 and 9 (June 27, 2025).*
 11. The State will not train emergency response behavioral health specialists in any hands-on de-escalation restraints. *See Reply to Responses on State's Submissions under Arbitration of Kevin S. Remedial Order No. 1, Paragraphs 2, 3 and 9 (June 27, 2025).*
 12. The State plans by the end of calendar year 2025, to expand its co-location program to additional counties including Santa Fe, Roosevelt, Curry, Los Alamos, Rio Arriba, Quay, Harding, and De Baca. *See Reply to Responses on State's Submissions under Arbitration of Kevin S. Remedial Order No. 1, Paragraphs 2, 3 and 9 (June 27, 2025).*
 13. The State will develop a team responsible for training Resource/Foster parents for licensure. *See Reply to Responses on State's Submissions under Arbitration of Kevin S., Remedial Order No. 1 (June 27, 2025).*
 14. The State will continue to explore the creation of a centralized Medicaid data exchange that would allow all MCOs to report well-child check compliance consistently. *See Response to Co-Neutral's April 24, 2025, Remedial Order 1, Paragraph 10 - Electronic Medical Records Access, MyChart/MyPres (June 9, 2025).*
 15. The State will develop a team responsible for training Resource/Foster parents for licensure. *See Reply to Responses on State's Submissions under Arbitration of Kevin S., Remedial Order No. 1 (June 27, 2025).*
 16. The State will continue to provide the Co-Neutrals with quarterly TFC data and child entry cohort data. *See Reply to Responses on State's Submissions under Arbitration of Kevin S., Remedial Order No. 1 (June 27, 2025).*

17. The State agreed to convene a meeting with its contractors on resource family recruitment and retention. *See* Reply to Responses on State’s Submissions under Arbitration of *Kevin S.*, Remedial Order No. (June 27, 2025). The State should invite the Co-Neutrals to attend a convening with the State’s contractors.
18. The Parties agreed to meet with the Co-Neutrals to discuss whether to amend the FSA regarding the State’s obligation to produce a report by August 1 every year regarding its progress with respect to the Target Outcomes and Implementation Targets.

IV. Order

Finding that the Defendants failed to comply with aspects of Remedial Order No. 1, and there is a continuing need to order specific performance and other remedial relief intended to address Defendants’ performance under the *Kevin S.* FSA in the areas of caseworker caseloads, resource family recruitment and retention, well-child checks, and data submissions, I order as follows:

1. The State is ordered to make continual and continuous progress towards all outcomes and directives set forth below between now and December 31, 2025. To ensure that progress is made by the State, I will hold status conferences on October 7, 2025, and November 20, 2025. I will also hold a hearing to assess compliance with this Order on January 30, 2026. All hearings will begin at 9 am mountain time.
2. The State will achieve the following outcomes—based on FSA Target Outcomes and the State agreed to—by December 31, 2025:
 - a. The State will implement the caseworker caseload standards in its Workforce Development Plan for case carrying workers and do so in accordance with the 2025 Data Validation Plan approved by the Co-Neutrals, including by implementing the graduated caseload standard and ensuring that no supervisors will be carrying any cases.
 - b. The State will approve and license 265¹ new non-relative resource homes between January 1, 2025 and December 31, 2025.
 - c. The State will approve and license 244² new treatment foster care placements between January 1, 2025 and December 31, 2025.

¹ This is the target agreed to by the State and approved by the Co-Neutrals for 2025 under the FSA.

² This is the target agreed to by the State and approved by the Co-Neutrals for 2025 under the FSA.

- d. The State will ensure that 100% of children will receive a comprehensive Well-Child visit within 30 days of entering state custody.
3. The State will implement the steps it has agreed to take, as detailed in Section III above. As to Items 9 and 10 in Section III, the State will submit a plan for compliance, and obtain approval of the plan from the Co-Neutrals, by October 7, 2025.
4. To immediately address the safety of children due to the State's non-compliance with the FSA, the State will comply with the following directives—based on CAP commitments the State agreed to regarding critical incidents and the State's agreement to independent Co-Neutral review of child fatalities—beginning immediately:
 - a. The State will provide the Co-Neutrals with written notice by email within one business day of notification to the Department of any child fatality or critical incident regarding a child placed in hotels, motels, offices, out-of-state, in shelters, or in congregate care in New Mexico. Along with the notice of critical incident(s), the State will provide a safety plan for the child, describing services and supports that will be provided as necessary to address the harm of the critical incident and steps that will be taken to protect the child from such harm in the immediate future. Children placed in offices for under 23 hours will be included in the critical incident reviews. The Co-Neutral team will promptly be provided with any documents they request related to the placement, including emails related to staffing and oversight of placement decisions. The State shall respond in writing within two business days to the Co-Neutrals' request for information corresponding to an identified critical incident.
 - b. The State will provide information requested by the Co-Neutrals regarding child fatalities and critical incidents within 15 days of the date the request is made. I request that the Co-Neutrals conduct such independent reviews as they deem appropriate of any or all child fatalities and critical incidents since January 1, 2025 and make any recommendations to me that they deem appropriate regarding such reviews five days prior to the October 7, 2025 and November 15, 2025 status conferences to be held in this matter. The Co-Neutrals and the Parties agree that a dashboard which accurately tracks caseworker caseloads is necessary. The State is directed to make any changes to the data dashboard it displayed at the July 3, 2025 hearing needed to obtain approval of the dashboard by the Co-Neutrals before September 30, 2025. I request that the Co-Neutrals report on the status of their approval of the dashboard at the October 7, 2025 status conference.
5. I request that as soon as practicable after this order is issued, the Co-Neutrals provide me and the Parties with a report specifying the data and information the Co-Neutrals will require from the State to assess the State's compliance with the outcomes and

directives set forth herein. The report should specify the dates by which the data and information should be submitted by the State to the Co-Neutrals in order for the Co-Neutrals to report on the State's compliance as I have requested herein.

6. At least five days prior to any status conference or hearing, I invite the Co-Neutrals to provide me and the Parties with a report providing any information they deem necessary or appropriate for me to consider in assessing whether the State has made continual and continuous progress on the outcomes and directives set forth in Remedial Orders 1 and 2.
7. By January 15, 2026, I request that the Co-Neutrals issue a report specifying whether the State has achieved the outcomes set forth in this Order. The report need only provide the information the Co-Neutrals deem it necessary or appropriate for me to consider in assessing the State's compliance with Remedial Orders Nos. 1 and 2 and in deciding whether any additional remedial orders or action are appropriate. The purpose of this requested date is to allow review with sufficient time for the Parties to provide information to the Legislature.
8. If the Co-Neutrals are unable to fully assess the State's compliance or progress regarding any outcome or directive set forth herein due to a lack of data or insufficient data provided by the State, or if the State fails to provide any data or information by the date(s) specified by the Co-Neutrals, the Co-Neutrals should so specify.
9. If the Co-Neutrals find that the State has failed to make continual and continuous progress on any outcome or directive, or has failed to achieve the outcomes specified herein by December 31, 2025, Plaintiffs may move for an order to show cause, and if they do so, I will hold a hearing to provide the State with an opportunity to be heard.
10. If such a hearing is held, and if I find that the State failed to make continual and continuous progress on any outcome or directive or that the State failed to achieve any outcome by December 31, 2025, I may issue such other and further orders as I deem appropriate after providing the parties and the Co-Neutrals an opportunity to provide input.
11. I invite the Governor of the State of New Mexico to attend the next status conference or hearing scheduled in this case.
12. To effectuate the agreement of the parties, I will retain jurisdiction over this order and previous orders.

This order may be supplemented by further orders and is directed at HCA and CYFD but should be understood as applying also to the Cabinet Secretaries of the Departments, in their official capacities.

It is so ORDERED.

Dated: August 18, 2025

Charles R. Peifer
Arbitrator