



DISABILITY RIGHTS  
NEW MEXICO (DRNM)



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### Kevin S. Plaintiffs' Summary of Remedial Order No. 2

Yesterday morning, the Arbitrator, Charles Peifer, issued his second remedial order in the *Kevin S.* case, finding that even months after his initial remedial order, the State has failed to make progress in reforming our child welfare system. CYFD & HCA *are* the state authorities that co-created solutions with the plaintiffs and national child welfare experts to turn this failed system into a trauma informed system of care 5 years ago, when this lawsuit was settled. Secretary Casados and Sectary Armijo have failed to see to it that the vital promises made to our kids in custody are kept. With children's lives in the balance, Governor Lujan Grisham must ensure that her selected leaders act decisively to implement the *Kevin S.* settlement.

#### *What's important*

1. Even after the Arbitrator issued his initial Decision finding that children in state custody were at grave risk of harm due to the State's non-compliance with the *Kevin S.* agreement, the State has continued to drag its feet and has failed to keep children in the foster care system safe.
2. The arbitrator, Charles Peifer, has affirmed that the *Kevin S. settlement* is the right plan to correct the system and is establishing a process for accountability including additional reporting and a succession of additional status conferences to ensure progress.
  1. He is taking this issue so seriously that he's inviting Governor Lujan Grisham to the next hearing.
3. Despite the protracted state of emergency facing children in foster care in New Mexico, they are still not getting the level of attention they need and deserve from State leadership. Children should not be left sleeping in offices or abandoned to other states. And the State should ensure that when they take children into state custody, they get to the doctor.
4. There is no disagreement about what needs to happen to make children more safe, rather the State has not taken their obligations seriously enough to get the job done.
5. The stark consequences for the State's business as usual falls on the backs of our most vulnerable. Three children in foster care have died so far this year, two died by suicide. Three other infants who recently touched the child welfare system have also died this summer.
6. The State cannot sit on the sidelines as report after report details the dire and life threatening circumstances impacting children in state custody. The State can and must do better. The settlement in *Kevin S.* outlines concrete actions that must be taken and the Arbitrator is making the State accountable for taking those steps by the end of the year.

*What's in the order*

(The order can be viewed here: <https://kevinssettlement.com/wp-content/uploads/2025/08/2025-08-18-remedial-order-no-2-final.pdf>)

1. The Arbitrator agreed the state is still failing to live up to its obligations to children in foster care and issued substantial orders to improve compliance.
  1. He set three additional status conferences in October 7, 2025; November 20, 2025; and January 30, 2026.
  2. He invited the Governor Lujan Grisham to the October hearing.
2. The Arbitrator ordered that the State must meet important deadlines to improve its compliance and outcomes for children by the end of the year, including:
  1. Complying with the 2025 caseload standards the State agreed to for caseworkers, including implementing graduated caseloads for new workers and ensuring that no supervisors will be carrying cases.
  2. Licensing 265 new non-relative resource homes.
  3. Licensing 244 new treatment foster care placements.
  4. Ensuring 100% of children get comprehensive well child checks within 30 days of entering State custody.
3. To immediately address the safety of children, the Arbitrator ordered the State take the following actions immediately:
  1. Notify the Co-Neutrals overseeing compliance within 24 hours of a child's death or a critical incident at hotels, motels, offices, out-of-state placements, shelters, and congregate homes.
  2. Provide the Co-Neutrals with any information they request about fatalities or critical incidents within 15 days.
4. The Arbitrator asked the Co-Neutrals to provide several reports and additional information to help assess compliance.
  1. If the Co-Neutrals find the State has failed to comply with its end-of-year deadlines and make continuous progress on other goals, the plaintiffs can move for an order to show cause, where the State would have to explain, under oath, why it is still out of compliance and face possible repercussions for failing to comply with the order.

By:

The *Kevin S.* Plaintiffs' Implementation Team