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Attorneys and Advocates Issue Statements in Response to Kevin S. Settlement Co-Neutrals' Report on Status of Implementation

Advocates Say "New Mexico's Children Continue to Suffer From the State's Delays and Failures" – Call Upon Governor Lujan Grisham to Give Her "Full Commitment to This Long-Needed Reform."

ALBUQUERQUE, November 16, 2022 — Today, attorneys, plaintiffs, and advocates involved with the Kevin S. settlement issued statements in response to the status report from the Co-Neutrals charged with overseeing its implementation. The Kevin S. settlement was agreed upon in March 2020 in response to 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 case sought essential care, stability, treatment, and support for New Mexico's 4,700 foster children. At the time of filing, New Mexico's child welfare system was among the worst in the nation.

The settlement is a groundbreaking effort to fundamentally reform how children in the New Mexico child protection system are understood and cared for. It set specific and ambitious targets that CYFD and HSD agreed to achieve, and brought on board three experts on child welfare reform (the "Co-Neutrals") to evaluate performance using data and input from the community. This new report is the Co-Neutrals' second report on the State's efforts to achieve its commitments in the Kevin S. settlement, and assesses data for the 2,949 children in the State's care during 2021.

George Davis, New Mexico child psychiatrist, and past director of psychiatry for the NM Department of Children, Youth and Families, issued the following statement:

"Modern science shows that children are susceptible to trauma and loss in a way that can permanently change the course of their development, and child welfare practices can either minimize the impact of this trauma or intensify the damage. The Kevin S. Settlement requires the State to provide a trauma-informed system of care for children whose entire lives have been upended and development disrupted.

"Tragically, New Mexico's children continue to suffer from the State's delays and failures. A functioning state government's primary responsibility is to prevent further harm to this most vulnerable population, and the state's delayed performance is no longer excusable. This agreement is about the lives of real children and their well-being, and until our state's leaders grasp that urgency, the effort will not be sufficient."

Gary Housepian, CEO of Disability Rights New Mexico – an organizational plaintiff in the case, and part of the implementation team charged with monitoring the state's progress – issued the following statement:

"This report reflects a troubling lack of progress toward providing children the care they need to heal from traumatic experiences and grow into happy, healthy adults.

Fortunately, the Kevin S. Settlement provides the framework for how to create a “trauma-responsive” system of care that prioritizes placing children in secure, family settings with proper supports and services.

“Our children cannot wait any longer. All of us in New Mexico who care so much about these children must increase our resolve with a fierce urgency to make the settlement’s vision become reality. For too many children, this lack of progress means they continue to languish rather than thrive.”

Bette Fleishman, executive director of Pegasus Legal Services for Children, and part of the implementation team charged with monitoring the state’s progress, issued the following statement:

“Over two and a half years ago, the State made a promise to the children of New Mexico that it would build a modern, trauma-responsive child welfare system that also honors the special protections promised to Native American children. Unfortunately, this report confirms what advocates working with children and their families know, we are not seeing changes on the ground. Harmful practices persist, including sending children out of state and having them sleep in hotels, motels, and CYFD offices.

“The Kevin S. settlement is a bold commitment that can only be accomplished if our leadership has the courage to get outside their comfort zone, reach out to build new partnerships with all stakeholders, and try new ideas. Our children cannot wait – many have aged out, some are incarcerated, and some are no longer with us. Our state has a moral obligation to do better, and the Plaintiff team remains committed to the implementation of these crucial reform efforts.”

Therese E. Yanan, attorney & executive director of the Native American Disability Law Center, an organizational plaintiff in the case, issued the following statement:

“The State continues to fail to meet its commitments to provide culturally appropriate services to Native American children in their custody. Their failure to develop appropriate policies, provide much needed training for their staff, and collect and use data further undermines their ability to meet their commitments under the Kevin S Settlement, but more importantly, their obligations to Native American children in their custody and the families they serve.

“While we respect the State’s efforts to honor the sovereignty of New Mexico’s Tribes and Pueblos, the State continues to miss opportunities to talk with Native American families and children. Tribal leaders have invaluable input on how the State can improve services for their communities, but so do individual Native American families and children.

“The passage of the Indian Family Preservation Act (IFPA) was a major accomplishment and will provide valuable protections for Native American children and families across

New Mexico. The passage of IFPA was only the beginning of the State's work to improve its supports and services for Native American families.”

Tyrik LaCruise, staff attorney with Public Counsel, co-counsel in the case, and part of the implementation team charged with monitoring the state's progress, issued the following statement:

“The Kevin S. Settlement is a blueprint to transform the New Mexico child welfare system, and we knew that change would be difficult. This is why the Settlement requires the State to work on the basic building blocks for a system of care first and to take stock of the gaps in services and supports. Each deliverable in the Agreement matters, and the timeline for each deliverable matters. As the recently released Co-Neutral Report makes plain, New Mexico is failing to meet the mark.

“We need leadership from Governor Lujan Grisham and the state legislature to catalyze these reform efforts. We call upon the heads of HSD and CYFD to ask for what they need to meet their obligations under Kevin S., and we ask for the Governor's full commitment to this long-needed reform. The children and families in New Mexico are counting on us to get this right, not eventually, but today. Tomorrow is too long to wait.”

The Co-Neutrals' report is available [HERE](#).

More info on the Kevin S. settlement here: <https://kevinssettlement.com/>

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