

# CO-NEUTRALS' 2022 ANNUAL REPORT

*Kevin S., et al. v. Blalock and Scrase*



## CO-NEUTRALS

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**Center for the  
Study of  
Social Policy**  
Ideas into Action



*Kevin S., et al. v Blalock and Scrase*  
**Co-Neutrals’ Annual Report – January - December 2022**

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# I. Introduction

The *Kevin S., et al. v. Blalock and Scrase* (“*Kevin S.*”) lawsuit was filed in the U.S. District Court for New Mexico on September 22, 2018,<sup>1,2</sup> on behalf of a class of children in the custody of New Mexico’s child welfare system (“Plaintiffs”) by Disability Rights New Mexico,<sup>3</sup> the Native American Disability Law Center,<sup>4</sup> Public Counsel, Pegasus Legal Services for Children, and associated counsel. The Defendants in the lawsuit include state officials responsible for administering and supervising New Mexico’s child welfare system – Children, Youth, and Families Department (CYFD) – and the system responsible for delivery of Medicaid services for eligible children as well as other behavioral health services for adults, children, and their families – Human Services Department (HSD). Following months of negotiations among the *Kevin S.* parties, on March 17, 2020, the parties executed a Final Settlement Agreement (“FSA,” also referred to herein as “Agreement”),<sup>5</sup> and on March 26, 2020, filed a Joint Stipulation of Dismissal<sup>6</sup> of the lawsuit. In reaching this Agreement, the parties acknowledged their mutual commitment to the development of a trauma-informed system of care that meets the needs of New Mexico’s diverse children and youth and their families.<sup>7</sup>

The FSA is organized in five sections. The first section states the goals of the Agreement, and provides a guiding focus on the desired outcomes of the reform. It summarizes the purpose and objectives; provides definitions of terms; and outlines processes, including the appointment and role of the Co-Neutrals, FSA implementation, Performance Standard determinations, and reporting of performance. The remaining four sections of the Agreement are organized by the primary subject areas alleged as deficient in the *Kevin S.* complaint (codified as Appendices).

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<sup>1</sup> Case 1:18-cv-00896, Dkt. No. 1

<sup>2</sup> Plaintiffs’ counsel filed an Amended Complaint on December 28, 2018 (Dkt. No. 16), and included one additional Named Plaintiff.

<sup>3</sup> Disability Rights New Mexico (DRNM) is a 501(c)(3) non-profit New Mexico corporation, designated as New Mexico’s protection and advocacy organization whose mission is to protect, promote, and expand the rights of persons with disabilities.

<sup>4</sup> The Native American Disability Law Center (NADLC) is a 501(c)(3) nonprofit organization that advocates for the legal rights of Native Americans with disabilities, and is authorized by federal statutes to initiate legal action designed to protect the rights of persons with disabilities, including children in the foster care system.

<sup>5</sup> Exhibit A to the Joint Stipulation of Dismissal (Dkt. No. 62)

<sup>6</sup> Dkt. No. 62

<sup>7</sup> Shortly after the parties executed the FSA, the Covid-19 pandemic had a significant and unforeseeable impact on the State and nation. The parties agreed to extend by 180 days the deadline for compliance with a significant number of commitments originally scheduled to be completed on December 1, 2020. FSA IV, B states, “The parties have negotiated specific completion dates for each Implementation Target and Target Outcome. Defendants agree to adhere to these deadlines. The parties may not modify, amend or extend these deadlines other than by mutual consent in writing.” The parties’ agreement is referred to herein as “Parties’ Extension Agreement.”

Specifically,

- Appendix A, titled *Trauma-Responsive System of Care*, requires CYFD and HSD to make good faith efforts to achieve substantial and sustained progress toward the development and support of a trauma-responsive system of care for all children in state custody.
- Appendix B, titled *Least-Restrictive and Appropriate Placements*, requires CYFD and HSD to make good faith efforts to achieve substantial and sustained progress toward the development of a system for placing children in out-of-home care in stable, safe, appropriate, community-based placements in the least-restrictive environment.
- Appendix C, titled *Indian Child Welfare Act*, requires CYFD and HSD to make good faith efforts to achieve substantial and sustained progress to serve Native American children and families, build a relationship with each of the New Mexico Tribes and Pueblos,<sup>8</sup> and comply with the Indian Child Welfare Act in its letter and intent.
- Appendix D, titled *Behavioral Health Services*, requires CYFD and HSD to make good faith efforts to achieve substantial and sustained progress to build a statewide, community-based mental health system that all children and families will be able to access.

Each Appendix includes a set of Implementation Targets (ITs) and Target Outcomes (TOs) toward which the State committed to make good faith efforts to achieve substantial and sustained progress. The FSA defines ITs as process commitments that CYFD and HSD agreed to undertake as intermediary and necessary steps toward reaching TOs.<sup>9</sup> The TOs are defined as performance commitments toward which CYFD and HSD agreed to make good faith efforts to achieve substantial and sustained progress in consideration for Plaintiffs' agreement to dismiss the *Kevin S.* litigation.<sup>10</sup>

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<sup>8</sup> The FSA defines New Mexico Tribes and Pueblos to be inclusive of all Tribes, Pueblos, and Nations in New Mexico. The Co-Neutrals use of this term within this report is consistent with the FSA definition.

<sup>9</sup> ITs may not be monitored once they have been achieved. Pursuant to the FSA, if the Co-Neutrals find that the Defendants have met the Performance Standard for a specific IT, the IT will not be reassessed in further reports. (FSA, pg. 8)

<sup>10</sup> The Co-Neutrals must monitor each TO until the State has met the Performance Standard continuously for a period of at least 24 months. (FSA, pg. 8)

Implementation of the State’s obligations within the FSA are validated and monitored by two Co-Neutrals. The parties appointed Judith Meltzer<sup>11</sup> and Kevin Ryan<sup>12</sup> to serve in this role.<sup>13</sup> The Co-Neutrals function in a neutral capacity, and have the authority to validate, evaluate, and audit progress toward achievement of the Performance Standard for ITs and TOs. The Co-Neutrals are also responsible for assessing and providing approval of certain policies, plans, and efforts the State must complete related to specific ITs and TOs, as identified in the FSA.

The primary public accountability mechanism for validating, evaluating, and auditing the State’s progress is through issuance of public reports. Pursuant to the FSA, the State and Co-Neutrals are each required to produce a baseline and subsequent annual reports to assess CYFD and HSD’s achievement of ITs and TOs. In July 2023, the parties agreed to amend the FSA to provide that CYFD and HSD were not required to produce or publish a written report in 2023 for the assessment period of 2022. This agreement did not negate the State’s obligation to produce annual reports for future assessment periods.

This report – authored by the Co-Neutrals – assesses and, where possible, validates the 2022 data and information produced by the State, and documents the Co-Neutrals’ determinations whether the State has met the Performance Standard for ITs and TOs due in 2022. The FSA defines the Performance Standard as,

making good faith efforts to achieve substantial and sustained progress toward achieving the Implementation Target or Target Outcome. A finding of good faith efforts to achieve substantial and sustained progress toward achieving the Implementation Target and Target Outcome shall be based on whether Defendants have made all reasonable efforts to achieve each Implementation Target or Target Outcome. This standard is not intended to assess Defendants’ subjective intentions, plans, or promises.<sup>14</sup>

The FSA also describes the information the Co-Neutrals should consider when assessing the State’s efforts against the Performance Standard, and the factors the Co-Neutrals should apply, including consideration of the FSA’s goals and prefatory language in each Appendix.<sup>15</sup> Ultimately,

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<sup>11</sup> Judith Meltzer is a Senior Fellow at the Center for the Study of Social Policy, a national non-profit policy organization that connects community action, public system reform, and policy change to create a fair and just society in which all children and families thrive. Ms. Meltzer has been appointed as court monitor or has served as a member of a technical assistance team in other state and federal class action lawsuits involving child welfare systems, including in Washington DC, New Jersey, Tennessee, South Carolina, Kansas, and Humboldt County, CA.

<sup>12</sup> Kevin Ryan is the former commissioner of the New Jersey Department of Children and Families, former New Jersey State Child Advocate, and, through Public Catalyst, supports U.S. District Court Judges overseeing child welfare reform across the country.

<sup>13</sup> Pamela Hyde was appointed as a third Co-Neutral, and retired from this role in December 2022. In January 2023, the parties agreed to amend the FSA to provide that Kevin Ryan and Judith Meltzer would serve as the two Co-Neutrals referenced in the Agreement, and that a third Co-Neutral was not required.

<sup>14</sup> FSA, pgs. 2-3.

<sup>15</sup> FSA VI, C.



ITs and TOs are meant to collectively strengthen the agencies' practices, processes, and infrastructure, and in turn, improve outcomes for children and families served by CYFD and HSD. As required by the FSA, the Co-Neutrals have applied the FSA definition of the Performance Standard in this report to assess the State's 2022 performance.

## A. Report Structure

The report is structured as follows:

- Section I outlines the original *Kevin S., et al. v. Blalock and Scrase* complaint, subsequent Agreement, the definition and role of the Co-Neutrals, and provides sources of information used and activities completed by the Co-Neutrals to prepare and compile this report.
- Section II summarizes the State's progress on *Kevin S.* commitments due by December 2022.
- Section III provides an overview of the demographics of children in state custody in New Mexico during 2022.
- Section IV discusses the State's performance on each of the FSA commitments due by December 2022, organized by the Agreement's subject area Appendices.

## B. Methodology

During this period, the Co-Neutrals and their staff held regular meetings and communicated with the Secretaries of CYFD and HSD, the agencies' leadership teams and staff, and provided feedback to the State on certain efforts and work relevant to each commitment. In September 2022, the Co-Neutrals conducted visits to seven CYFD county offices, leadership of one Pueblo and a representative from a consortium of Native child welfare professionals, and met with several service and placement providers across the state to further inform the Co-Neutrals' understanding of the State's performance and its efforts in 2022. Throughout 2022 and 2023, the Co-Neutrals also met with youth, the Plaintiffs' team, community advocates, private providers, tribal representatives, and resource parents.<sup>16,17</sup> In 2023, members of the Co-Neutral team also participated in two CYFD New Employee Training (NET) trainings – the one-day Child and

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<sup>16</sup> Following the release of the Co-Neutrals' November 15, 2022 Report, on January 6, 2023, the Plaintiffs invoked the FSA Dispute Resolution process. The Co-Neutrals mediated discussions between the parties in March through June 2023. The Co-Neutrals also participated in a facilitated listening session with Nations, Pueblos, and Tribes in New Mexico on May 10, 2023.

<sup>17</sup> In September 2023, the Co-Neutrals conducted visits to two CYFD county offices, met with tribal leadership from two pueblos, met with a community provider, and met with state officials to further inform the Co-Neutrals' understanding of the State's performance and its efforts in 2022 and 2023.

Adolescent Needs and Strengths (CANS) training, and the three-day Individualized Planning Process (IPP) training.<sup>18</sup>

The Co-Neutrals and their team collaborated with the State’s data team and program leadership to identify and refine the guidelines for data validation and data handling described in the Data Validation Plan (DVP).<sup>19</sup> They also reviewed, analyzed, and validated demographic data about children served and performance data submitted by the State. The Co-Neutral team worked independently, and for some metrics with State staff, to develop qualitative instruments and collect 2022 performance data for several TOs.

The IT and TO Performance Standard determinations within this report assess CYFD and HSD’s performance in 2022. The FSA dictates the period of assessment for each annual report; specifically, this report – due by November 15, 2023 – assesses the State’s performance from January 1, 2022 to December 31, 2022.

The Performance Standard determinations are solely based upon the State’s efforts to achieve substantial and sustained progress in 2022, even though comments regarding some commitments completed in 2023 are included in this report. The Co-Neutrals’ next report – due by November 15, 2024 – will discuss and assess the State’s performance in 2023.

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<sup>18</sup> Additional details about these trainings can be found within Section IV of this report within App. A, TO 1 – *Completed Required Screenings* and App. A, TO 4 – *Developing Process for Individualized Planning Meetings*.

<sup>19</sup> The DVP is discussed in more detail in Section IV.1.a. of this report.

## II. Executive Summary

This is the Co-Neutrals' third *Kevin S.* report on the State's efforts to achieve the commitments of the FSA. Overall, in 2022, the State remained far behind the FSA timelines for most commitments.

The FSA was structured with Implementation Targets (ITs) due to be completed in the first years of the reform as the foundation for improved outcomes (Target Outcomes, TOs) for New Mexico's children, youth, and families. Of the 13 ITs assessed in this report, CYFD and HSD met the Performance Standard for five (38%) by December 31, 2022; the State has now met all of the ITs in Appendix A and B of the FSA. The work that was accomplished in 2022 was due to significant efforts by CYFD and HSD's leadership<sup>20</sup> and many dedicated and hard-working staff during that year. The State met the Performance Standard for five (12%) of the 42 TOs due in 2022. The ITs and TOs where the State met the Performance standard, that is, made good faith efforts to achieve substantial and sustained progress, include:

- Development of a Trauma-Responsive Training and Coaching Plan (App. A, IT 2.1)
- Development of a Process for Individualized Planning Meetings (App. A, TO 4.1)
- Development of a Quality Assurance, Improvement, and Evaluation Plan (App. A, TO 5.1)
- Promotion of CYFD's internal Grievance Procedure for Youth (App. B, IT 3.2)
- Placement of Children with Kin (App. B, TO 7.1)
- Creation of CYFD's Workforce Development Plan (App. B, TO 10.1)
- Development of an ICWA/IFPA Training Plan (App. C, TO 5.1)
- Development of a Methodology for Initial Expected Service Utilization (App. D, IT 2.1)
- Develop and Publish Reimbursement Methodology, Billing Rates, and Provider Guidance (App. D, IT 3.1)
- Contractually Require Training for Care Coordination Providers (App. D, IT 9.1)

While the State has now developed several plans, policies, and processes, outcome data and information show that implementation in accordance with plans was not consistent. For example, the State adopted the use of the Child and Adolescent Needs and Strengths (CANS) screening tool

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<sup>20</sup> On January 31, 2022, the New Mexico Senate confirmed the Honorable Barbara Vigil as CYFD Secretary. She joined HSD Secretary Dr. David Scrase in leading efforts to implement the FSA in 2022.

for practice with children shortly after their entry into care to determine the need for additional assessments and evaluations, and to inform discussions within children's teams related to treatment services. The State also plans to utilize the data collected from these screenings to predict expected service utilization for behavioral health services for children in state custody in New Mexico. Although the State committed to complete a CANS screening for every child, data provided by the State show that of the episodes in state custody that children experienced in 2022 that lasted at least 45 days, only 38 percent had a CANS screening completed.<sup>21</sup> Additionally, data for 2022 show that only six percent of children in state custody received at least one session of an indicated trauma-responsive service during their time in state custody. Similar performance is evident in data related to well-child medical checkups for children in care; of all episodes in state custody for children who entered in 2022 and remained in care for at least 30 days, fewer than half (44%) received a timely well-child medical checkup. The percentage of children who timely receive that check-up has steadily decreased every year since 2019.

State data for 2022 show the continued overuse of offices as placements for children, with the number of such placements in 2022 (71) more than double that in 2019 (34). The Co-Neutrals reviewed documentation for each of these placements, and were unable to identify any documented safety or security threats which necessitated the office placement. These placements were overwhelmingly due to the lack of appropriate placements for these children and youth. More positively, in 2022, the number of new out-of-state congregate placements declined significantly. Between October 2022 and April 2023, the State sent only one child to a new out-of-state congregate placement, primarily due to focused leadership of CYFD Secretary Vigil and her team on this issue.<sup>22</sup>

CYFD has shown substantial progress in placing children with relatives, and nearly half (47%) of children in state custody for eight or more days on December 31, 2022 were placed with a relative.<sup>23</sup> This is a significant accomplishment. Although placement with relatives has increased, the State urgently needs a pool of trained, safe non-relative resource parents to care for children and prevent placements of children in offices, hotels/motels, and congregate care settings. In 2022,

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<sup>21</sup> Several commitments set goals for how the State should respond to entries into state custody, regardless of how many times a child has entered or left state custody during the reporting year. For instance, App. A, TO 1 requires that all children receive a CANS screening within 45 days of each of their entries into state custody during the reporting year. Since some children experience more than one episode in CYFD custody each year, the data analysis for this and other commitments focuses not just on children but on all their episodes of custody.

<sup>22</sup> Between May 1, 2023 and September 30, 2023, State data show there have been 11 new out-of-state congregate placements of children. This data has not been validated by the Co-Neutrals.

<sup>23</sup> The requirement for App. B, TO 7.1 that at least 40 percent of children in out-of-home care be placed with kin became effective on December 1, 2022. Under the terms of the FSA, 2022 counts as the first year of performance for this TO, though CYFD exceeded the kinship placement rate in 2021, too.

CYFD achieved 72 percent (129 of 178) of its recruitment target for new non-relative homes.<sup>24,25</sup> The FSA commitment requires that the State recruit resource homes culturally reflective of the foster care population, and none of the new non-relative resource homes in 2022 had a parent who identified as American Indian or Alaska Native.

Throughout 2022, CYFD worked to develop a Workforce Development Plan that includes empirical caseload standards for case-carrying staff; strategies for recruitment, hiring, training, and retention of CYFD staff; and development of leadership among staff with a supervisory practice framework, competencies, mentorship program, and “data scholars.”<sup>26</sup> The Co-Neutrals approved the plan in July 2023, and have repeatedly noted that achieving caseload standards is critical to the success of reform – case-carrying workers will not be able to monitor the safety of children within their placements, make efforts toward permanency for children, and plan for appropriate services and track delivery unless they have manageable caseloads and appropriate supervision.<sup>27</sup>

While CYFD worked consistently throughout 2022 to develop, refine, and strengthen its Workforce Development Plan, HSD made inadequate progress in 2022 on its required Behavioral Health Care Workforce Development Review – due in June 2021 – which is meant to describe the behavioral health workforce necessary to meet the needs of children in state custody within their communities. This review must be completed to inform the hiring and contracting plans HSD and the MCOs are required to create to expand the statewide behavioral health workforce as agreed upon in the FSA.<sup>28</sup>

The State finalized its Indian Child Welfare Act (ICWA) and Indian Family Protection Act (IFPA) Training and Coaching Plan on December 30, 2022, but progress toward most other Appendix C commitments stalled in 2022.

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<sup>24</sup> More recent data from CYFD’s public website (citation in FN below) show that between January and July 2023, only 27 new non-relative resource homes have been licensed, far below the target of 190 homes for 2023.

<sup>25</sup> Pursuant to Executive Order 2023-020, the State committed to increased transparency within CYFD by creating a Transformation Transparency Site. The site includes current data related to a number of metrics, including but not limited to, the number of children in state custody, placement types, permanency outcomes, and staff vacancies. The site can be found [here](#). The Co-Neutrals are not familiar with the methodologies used for the data presented on this site, and if it is or is not consistent with DVP definitions. The data have not been validated by the Co-Neutrals.

<sup>26</sup> The data scholars training for managers and supervisors provides basic data literacy for staff. CYFD reports the training was effective historically in supporting a more data-informed practice. CYFD reports the training was part of CYFD’s Striving Toward Excellence Program (STEP) that began in 2015, but was discontinued in 2020 due to the Covid-19 pandemic. CYFD reports implementation of the program will begin again in 2024.

<sup>27</sup> As of October 1, 2023, reported caseloads for numerous CYFD case-carrying staff were far from the standards set out in the CYFD Workforce Development Plan, and many children’s cases were being primarily managed by supervisors and managers. Because many of those case assignments were not reflected in the agency’s data submissions as of the writing of this report, it is unlikely the Co-Neutrals will be able to validate CYFD’s caseload performance in 2023.

<sup>28</sup> As of the writing of this report, the Behavioral Health Workforce Development Review has not been approved by the Co-Neutrals. The State submitted drafts for Co-Neutral feedback and approval in March and August 2021, October 2022, and May 2023. These drafts did not address explicit requirements set forth in the Agreement. HSD submitted an updated draft to the Co-Neutrals on September 28, 2023, which is under review.

As demonstrated throughout this report in discussions of the State's performance in 2022, delays and gaps in the State's submission of required data has negatively impacted the Co-Neutrals' ability to assess performance. For example, the Co-Neutrals are unable to validate CYFD caseworker caseloads due to inconsistencies between the caseload data recorded in FACTS and actual caseloads reported by staff. By way of another example, despite repeated requests from the Co-Neutrals, HSD did not provide medical necessity documentation for all children's clinical congregate care placements made by the State in 2022. And although the State committed to develop methodologies and instruments for qualitative metrics in 2021, many remained incomplete in 2022. As a result, performance data for these metrics cannot be reported.

The promise of the *Kevin S.* Agreement is a system that reflects a meaningful public-private collaboration to meet the needs of children and families across New Mexico. The Co-Neutrals have met with many CYFD and HSD staff and partners who have made substantial sacrifices to care for children and families and who passionately express their commitment to this reform, and are eager to see New Mexico implement the *Kevin S.* commitments. Many CYFD employees expressed in 2022 that the reason they continued to work at the agency is because they want to be a part of the solution. In numerous areas, staff and families have been assigned the responsibility to care for children without the tools, conditions, resources, and services the State committed to develop in the FSA. State leadership must invigorate their efforts which, in a dismaying number of areas, remained sorely lacking at the end of this report period.<sup>29</sup>

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<sup>29</sup> The Co-Neutrals intend to conduct another round of site visits to CYFD county offices and meet with stakeholders in the child welfare and behavioral health systems in January 2024 to gauge the current status of the reform. Observations and findings from these meetings will be shared with the parties.

### III. Contextual Summary of Children in State Custody

Demographic data provided by CYFD on children in foster care during 2022 show that 2,755 children were in CYFD Protective Services Division (PSD)<sup>30</sup> custody at some time from January 1, 2022 to December 31, 2022.<sup>31</sup> The total number of children in care at any point during the reporting year, as well as the total number of children in custody on the last day of the reporting year, decreased each year from 2019 through 2022 (see Table 1).

**Table 1: Children in State Custody at Any Point and on December 31 in 2019 – 2022**

	2019	2020	2021	2022
Children in care at any point during reporting year	3,881	3,344	2,949	2,755
Children in care on Dec. 31	2,212	1,984	1,781	1,719 <sup>32</sup>

Source: Analysis of Sandbox Cohort, Cohort\_Jan1, Cohort\_Dec31, Cohort\_Entries and Cohort\_Exits files submitted 3/31/22 (2019 and 2020), 5/2/22 (2021), and 5/1/23 (2022).

There were 1,767 children in state custody on January 1, 2022. During the year, there were 1,034 entries into care, and 1,097 exits, leading to a total of 1,719<sup>33</sup> children in state custody on December 31, 2022 (see Table 2).

**Table 2: Children Entering and Exiting State Custody in 2022<sup>34</sup>**

	Count
Children in care on Jan. 1, 2022	1,767
Entries during the year	1,034
Exits during the year	1,097
Children in care on Dec. 31, 2022	1,719

Source: Analysis of Sandbox Cohort, Cohort\_Jan1, Cohort\_Dec31, Cohort\_Entries and Cohort\_Exits files submitted 5/1/23.

<sup>30</sup> In 2022, CYFD was comprised of four divisions. These are Protective Services Division (PSD), Juvenile Justice Services (JJS), Behavioral Health Services Division (BHSD), and Office of Tribal Affairs (OTA).

<sup>31</sup> The Co-Neutrals' analysis is from 2022 cohort, cohort entry, and cohort exit files submitted by CYFD on May 1, 2023.

<sup>32</sup> This includes 15 children who exited state custody on December 31.

<sup>33</sup> Ibid.

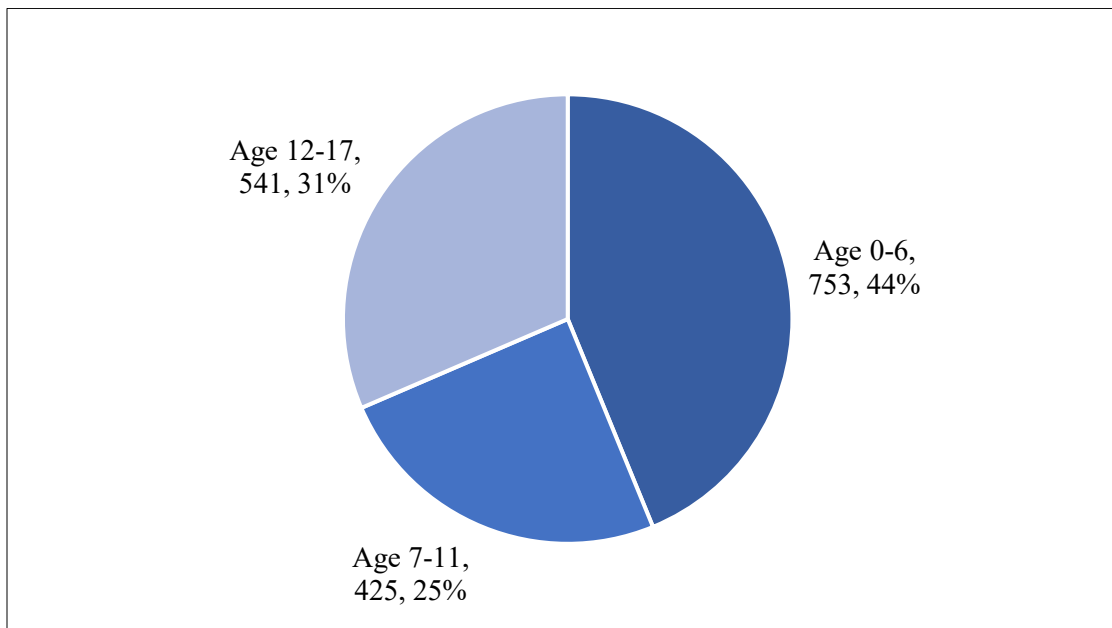
<sup>34</sup> The data include all entries and exits for children with multiple episodes of custody. There were minor inconsistencies in the data the State submitted such that the number of children in state custody at different points in time do not align exactly.

## A. Age, Gender, and Race

As of December 31, 2022, children aged birth to six years old made up the largest group (44%) of children in state custody, followed by youth aged 12 to 17 years (31%), and children aged seven to 11 years (25%) (see Figure 1). Although the number of children in state custody decreased from 2019 to 2022, the age distribution was similar for each year. In 2022, there were slightly more male (51%) than female (49%) children in state custody.

**Figure 1: Age of Children in State Custody on December 31, 2022**

*N=1,719*



Source: Analysis of Sandbox *Cohort\_Dec31* files submitted 5/1/23.

The State's data show the race and ethnicity of children in state custody on December 31, 2022 was as follows: 63 percent (1,075) were of Hispanic ethnicity, 21 percent (364) were White (non-Hispanic), seven percent (113) were American Indian/Alaskan Native (non-Hispanic), five percent (81) were Black/African American (non-Hispanic), three percent (46) were Multiracial (non-Hispanic), two percent (37) were categorized as "Unknown," and less than one percent (3) were Asian (non-Hispanic).<sup>35</sup> Of all 1,719 children, 89 percent (1,525) were not documented in FACTS as having a tribal affiliation, 11 percent (189) were documented as having a tribal affiliation, and tribal affiliation was not able to be determined for less than one percent (5) of children, as shown in Table 3.

<sup>35</sup> According to 2022 data from the US Census Bureau, 62 percent of children in New Mexico are Hispanic or Latino, 14 percent are American Indian or Alaska Native, and five percent are Black or African American. US Census Bureau, American Community Survey 1-Year Estimates for children under 18 years in New Mexico; categories are not exclusive.



**Table 3: Race, Ethnicity, and Tribal Affiliation Status of Children in State Custody  
on December 31, 2022**  
*N = 1,719 children*

Race and Ethnicity	Dec. 31, 2022	
	n	%
Hispanic (of any race)	1,075	63%
Non-Hispanic White	364	21%
Non-Hispanic American Indian or Alaska Native	113	7%
Non-Hispanic Black	81	5%
Non-Hispanic Multiracial	46	3%
Non-Hispanic Asian	3	<1%
Unknown	37	2%
<b>Tribal Affiliation</b>		
Tribal Affiliation (No)	1,525	89%
Tribal Affiliation (Yes)	189	11%
Tribal Affiliation (unable to determine)	5	<1%

Source: Analysis of Sandbox *Cohort\_Dec31* files submitted 5/1/23.

## B. Living Arrangements

On December 31, 2022, 86 percent (1,476) of children in state custody lived in family settings, including 42 percent (720) of children in relative and fictive kin resource families, 32 percent (556) of children in non-relative resource families, 10 percent (172) of children in treatment foster care (TFC) homes (relative and non-relative), and two percent (28) of children in pre-adoptive homes. On December 31, 2022, five percent (80) of children lived in in-state congregate settings<sup>36</sup> as shown in Table 4.

<sup>36</sup> For purposes of this report, the Co-Neutrals classify the placements recorded as Supervised Independent Living in FACTS as congregate placements, subject to the “best interest” determination in App. B, TO 4.1, unless there was information in the case record indicating the placement was to a non-congregate setting. For two of the seven children in a Supervised Independent Living placement on December 31, 2022, the case record indicated the placement was a non-congregate setting.

**Table 4: Placement Type for Children in State Custody on December 31, 2020 – 2022**

Setting	Dec. 31, 2020		Dec. 31, 2021		Dec. 31, 2022	
	N	%	N	%	N	%
<b><i>Children in Placements</i></b>	<b>1,825</b>	<b>91%</b>	<b>1,610</b>	<b>90%</b>	<b>1,570</b>	<b>90%</b>
<b><i>Family-based settings</i></b>						
Foster Family Home (Non-Relative)	715	36%	578	33%	556	32%
Foster Family Home (Relative & Fictive Kin)	655	33%	696	39%	720	42%
Treatment Foster Care (Non-Relative)	231	12%	180	10%	155	9%
Treatment Foster Care (Relative)	6	<1%	8	<1%	17	1%
Pre-Adoptive Family	86	4%	51	3%	28	2%
<b><i>In-state congregate settings</i></b>						
Facility <sup>37</sup>	45	2%	14	1%	17	1%
Emergency Shelter	17	1%	16	1%	18	1%
Group Home	31	2%	20	1%	17	1%
Community Home	9	1%	14	1%	21	1%
Hotel/Motel, Office, Receiving Center	0	0%	2	<1%	0	0%
Supervised Independent Living	3	<1%	5	<1%	7	<1%
<b><i>Out-of-state congregate settings</i></b>	<b>27</b>	<b>1%</b>	<b>26</b>	<b>2%</b>	<b>14</b>	<b>1%</b>
<b><i>Children not in placements</i></b>	<b>159</b>	<b>9%</b>	<b>171</b>	<b>10%</b>	<b>149</b>	<b>9%</b>
Trial Home Visit	101	5%	89	5%	98	6%
Runaway	41	2%	46	3%	36	2%
Temporary Absence	9	1%	20	1%	0	0%
Acute Hospitalization	4	<1%	8	<1%	7	<1%
Protective Supervision	3	<1%	6	<1%	4	<1%
Detention	1	<1%	2	<1%	4	<1%
<b>Total for all Children in State Custody<sup>38</sup></b>	<b>1,984</b>	<b>100%</b>	<b>1,781</b>	<b>100%</b>	<b>1,719</b>	<b>100%</b>

Source: Analysis of Sandbox *Cohort\_Dec31* files submitted 3/31/22 (2020), 5/2/22 (2021), and 5/1/23 (2022), supplemented by service type detail from FACTS *episodes* file submitted 5/2/22 (2020-2021); Manual *Hotel Stays* file submitted 3/31/22 (2020)

<sup>37</sup> Though FACTS captures information on hospital stays for children in state custody, acute hospitalizations are considered temporary absences, and – consistent with the definitions in the DVP – are not counted as placements. Acute hospitalizations are identified in the State data as any placement for a child who is under six years old at the time of placement with an "Institution Daily Rate" service type, and any placement with this service type that is 30 days or shorter for children six years or older. Stays for children six years or older with the "Institution Daily Rate" that are longer than 30 days are counted as placements subject to the congregate care medical necessity requirement (counted as "Facility" placements above).

<sup>38</sup> Percentages may not total 100 due to rounding.

## C. Length of Time of Current Episode in State Custody

On December 31, 2022, of all children in state custody (1,719), 37 percent (639) had a most recent stay in state custody of less than one year, 23 percent (401) had been in state custody for one to two years, 15 percent (250) had been in state custody for two to three years, and 25 percent (429) had been in state custody for more than three years.

**Table 5: Length of Current Episode in Care for Children in State Custody  
on December 31, 2022**

Length of Current Episode	Dec. 31, 2022	
	N	%
Less than one year	639	37%
One year to less than two years	401	23%
Two years to less than three years	250	15%
Three years to less than six years	310	18%
Six or more years	119	7%
<b>Total</b>	<b>1,719</b>	<b>100%</b>

Source: Analysis of Sandbox *Cohort\_Dec31* files submitted 5/1/23.

Although the number of children in state custody decreased every year from 2019 to 2022, the length of stay in care for children in state custody was similar. Of note, 119 children, or seven percent of children in 2022, had been in state custody for six years or more (see Table 5). This is an increase from 2019, when 94 (4%) of 2,212 children in state custody on December 31 had been in custody for six years or more.

## D. Geography

As of December 31, 2022, nearly one-third (30%) of children in care were from Region 3 (Bernalillo County), as seen in Table 6. Sixteen percent of children were from Region 1 (Northwest), 13 percent of children were from Region 2 (Northeast), 26 percent of children were from Region 4 (Southeast), and 16 percent of children were from Region 5 (Southwest). Seventy-one percent (1,217)<sup>39</sup> of children were placed in their home region on December 31, 2022, compared to 76 percent (1,224) in 2021, 79 percent (1,434) in 2020 and 74 percent (1,461) in 2019. Eighty-seven children (5%) were placed out of state, including 14 in residential settings and one child in a hospital on December 31, 2022.

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<sup>39</sup> These analyses do not include two children who did not have data for case region listed in the 2022 cohort file (Sandbox data), submitted by CYFD on May 1, 2023.

**Table 6: Regional Distribution of Case Region and Placement Region for Children in State Custody on December 31, 2022**

Region Name	Case Region		Placement Region	
	N	%	N	%
Region 1 (Northwest)	268	16%	276	16%
Region 2 (Northeast)	222	13%	179	10%
Region 3 (Bernalillo)	511	30%	498	29%
Region 4 (Southeast)	439	26%	303	18%
Region 5 (Southwest)	277	16%	237	14%
Unknown	2	<1%	0	0%
Out of State	n.a.	n.a.	86	5%
Not in an out of home placement on December 31 <sup>40</sup>	n.a.	n.a.	149	8%
<b>Total</b>	<b>1,719</b>	<b>100%</b>	<b>1,719</b>	<b>100%</b>

Source: Analysis of Sandbox *Cohort\_Dec31* files submitted 5/1/23.

## E. Federal Permanency Goals and Legal Status

Of the children in care on December 31, 2022, 844 (49%) children had a federal permanency goal of reunification. The rate of children with a goal of reunification has steadily increased from 2019 (40%), 2020 (43%), and 2021 (45%). The percentage of children in state custody who had a federal permanency goal of adoption has steadily decreased each year since 2019 (51%), 2020 (48%), and 2021 (42%).

**Table 7: Federal Permanency Goals for Children in State Custody on December 31, 2022**

Federal Permanency Goal	2020		2021		2022	
	N	%	N	%	N	%
Adoption	954	48%	754	42%	657	38%
Reunification	845	43%	802	45%	844	49%
Guardianship	120	6%	141	8%	134	8%
Long Term Foster Care	41	2%	49	3%	44	3%
Unknown	22	1%	33	2%	40	2%
Live With Other Relative(s)	2	<1%	2	<1%	0	0%
<b>Total</b>	<b>1,984</b>	<b>100%</b>	<b>1,781</b>	<b>100%</b>	<b>1,719</b>	<b>100%</b>

Source: Analysis of Sandbox *Cohort\_Dec31* files submitted 3/31/22 (2020), 5/2/22 (2021), and 5/1/23 (2022).

<sup>40</sup> Includes four children in Protective Supervision, 98 children on Trial Home Visit, and four children in detention, as well as 43 children who were temporarily absent on December 31, 2022 (36 children who were missing or had run away, and seven were placed in acute hospitalizations).

According to the State’s data, nearly one-third (511) of children in care on December 31, 2022 had the legal status “Post TPR/Relinquishment-Freed For Adoption,” indicating their parents’ rights had been terminated, and they were legally detached from a family.

## F. Exits from State Custody

Most (53%) children who exited state custody in 2022 exited to reunification with family. Table 8 below shows the rate of exits from care by exit type for 2022. Reunification rates were higher in 2019 (67%, 1,179 exits), 2020 (59%, 836 exits), and 2021 (54%, 661 exits) compared to 2022, while rates of exits to guardianship (12%) were higher in 2022. Fewer children exited to adoption in 2022 (23%, 254 exits) compared to 2021 (28%, 342 exits).

**Table 8: Exit from State Custody by Exit Type in 2022**

Exit Type	Number of Children	Percent of Children
Reunification	582	53%
Adoption	254	23%
Guardianship	131	12%
Emancipation / Aged Out	73 <sup>41</sup>	7%
Live With Other Relative(s)	19	2%
Transfer to Tribal Agency <sup>42</sup>	17	2%
Transferred to Another State Agency	10	1%
Runaway	5	<1%
Death of Child	4	<1%
Court Dismissed Case	2	<1%
<b>Total Exits</b>	<b>1,097</b>	<b>100%</b>

Source: Analysis of Sandbox *Cohort\_Exits* files submitted 5/1/23.

<sup>41</sup> Includes children who aged out of the cohort and entered Extended Foster Care.

<sup>42</sup> Includes 13 children who exited to Tribal Agency and four children who exited to Tribal IV-E Agency.

## IV. Discussion of Performance

### A. FSA Section VI: Process

#### *i. Data Validation Plan (DVP)*

Section IV of the FSA requires the State to complete a written Data Validation Plan (DVP) that has the approval of the Co-Neutrals. According to the FSA, the DVP should “set forth a process, including methodology and data sources, for validating Defendants’ progress toward achieving the Implementation Targets and Target Outcomes.” The DVP must also “set clear timelines for taking any intermediary steps necessary to validate progress towards the Implementation Targets and Target Outcomes and assign responsibility for supplying information necessary to fulfill the Data Validation Plan.”<sup>43</sup>

The Co-Neutrals and State collaboratively developed the DVP throughout 2020 and 2021, and the Co-Neutrals approved the DVP on February 16, 2022.<sup>44,45</sup> The DVP provides key methodological definitions, detail about core data systems and processes (including planned system changes to strengthen data collection), and presents a set of quantitative and qualitative metrics to help the State manage, and the Co-Neutrals assess, progress. For each quantitative metric, the DVP specifies the data and methodology that will be used to calculate the metric for each reporting period. For some items, both quantitative and qualitative metrics are necessary. As of the writing of this report, many of the needed qualitative instruments have not been developed by the State and approved by the Co-Neutrals. The State is working with the Co-Neutrals and contractors to develop approvable qualitative instruments and methodologies for all remaining DVP metrics, primarily related to conducting quality Individualized Planning Process (IPP) meetings and assessing staff trainings.<sup>46</sup>

As anticipated in the Co-Neutrals’ last report, the DVP has evolved as implementation has proceeded and the State has made adjustments to practice and improvements to its systems and data collection practices. The Co-Neutrals worked with the State in late 2022 and early 2023 to

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<sup>43</sup> FSA, pg. 6.

<sup>44</sup> The DVP, as approved, includes a number of deadlines for completion of steps necessary to validate progress. In addition to the requirement for the State to develop (and the Co-Neutrals to approve) qualitative instruments, sampling strategies, and to determine a cadence of implementation and reporting by April 30, 2022, the DVP also required CYFD to finalize a caseload standard for Placement Workers in collaboration with the Co-Neutrals, and for HSD to submit a proposed methodology reflecting their strategy to track coaching by July 1, 2022. The revised DVP, completed in early 2023, reflects a final caseload standard for Placement Workers as agreed upon in early 2023 but as of the writing of this report, the State has not submitted a proposed methodology for tracking coaching. The Co-Neutrals will continue to work with the State to complete this task.

<sup>45</sup> The approved DVP can be viewed [here](#).

<sup>46</sup> Although the Co-Neutral team provided options for these instruments and methodologies to the State in the summer of 2023, there have been months of delay by the State in submitting a proposed plan to the Co-Neutrals for approval. The State’s delay is very likely to impact the availability of 2023 performance data for some if not all of the outstanding qualitative metrics in the Co-Neutrals’ November 2024 report.

modify the DVP and add a Technical Appendix with additional guidelines for metric validation and data handling.<sup>47</sup> The Co-Neutrals will continue to identify proposed modifications each year and assess whether to approve changes after consultation with each party.

## *ii. Production of Data*

The FSA requires the State to submit all data required to validate the TOs for the previous reporting period by May 1<sup>st</sup> each year, and to submit data used to calculate baseline metrics concurrently with those reports. The State submitted 2022 data on time, on May 1, 2023. Additional data files were submitted to address issues as they were identified during the validation process.

The FSA requires the State to collect data to assess new system practices that were not previously recorded, and to use this data in new and different ways to assess the experiences of children in state custody within both the foster care system (managed by CYFD) and the broader health continuum (managed by HSD). In 2022, the State continued to develop the capacity to do this work, including engaging an external contractor (Falling Colors Corporation) to create an infrastructure to merge and support data reporting across systems. Much has been accomplished, and more work remains.

The Co-Neutral team conducted extensive qualitative reviews of children’s records and identified discrepancies between information in children’s case records and structured data entered into FACTS. There were some areas in which the data issues were sufficiently limited that validation was still possible and some areas in which the issues precluded any validation. Further detail is provided in the discussion of performance later in this report.

The Co-Neutrals continue to work closely with the State and the State’s data partners to improve the quality, completeness, and consistency of the data submitted for validation.<sup>48</sup>

## *iii. Production of Reports*

Section IV, paragraph C of the FSA requires the State and the Co-Neutrals to each produce a baseline and subsequent annual reports to assess CYFD and HSD’s efforts toward the Performance Standard for ITs and TOs. In July 2023, the parties agreed to amend the FSA to provide that CYFD and HSD were not required to produce or publish a written report in 2023 for the 2022 assessment period. This agreement did not negate the State’s obligation to produce annual reports for future assessment periods.

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<sup>47</sup> The revised DVP can be viewed [here](#).

<sup>48</sup> The structured reports produced by Falling Colors and submitted for validation are referred to as “Sandbox” files. The State also submits to the Co-Neutrals as background information extracts from FACTS (the primary system of record for CYFD), ROM (structured management reports produced from FACTS data), and other data systems as described in the DVP.

#### *iv. Parties Meetings*

The FSA requires the Co-Neutrals to “preside over a meeting between the parties at least twice a year” and stipulates the Co-Neutrals and the parties “must make every effort to have the first Parties’ Meeting no later than 30 Days after the State publishes its annual *Kevin S.* report, and the second meeting no later than 30 Days after the Co-Neutrals publish their *Kevin S.* annual report.”<sup>49</sup> The parties have the ability to provide comments on the State’s and the Co-Neutrals’ annual reports prior to these meetings.

In 2022, parties’ meetings were held on August 12, and December 7, 2022, within 30 days of the release of the State’s and the Co-Neutrals’ 2021 Annual Reports. Both meetings were facilitated by the Co-Neutrals, and were attended by leadership and staff from CYFD and HSD, including both CYFD Secretary Vigil and HSD Secretary Scrase, as well as the Plaintiffs’ team.

## **B. FSA Appendices**

### *i. Appendix A: Trauma-Responsive System of Care*

The commitments in Appendix A of the FSA require CYFD and HSD to “build and support a trauma-responsive system of care for all children in state custody.”<sup>50</sup> The parties describe a trauma-responsive system in Appendix A as a system that:

- Identifies, recognizes, understands the effects of trauma, and provides sufficient services and supports to ameliorate trauma, including secondary trauma;
- Supports and serves other stakeholders, including families and persons who work for or on behalf of children, youth, and families;
- Includes culturally appropriate services and supports; and
- Prioritizes a child’s voice and choice in decisions about where and with whom they should live and what services they should receive, and these decisions should occur in a timely manner.

Further, a trauma-responsive system “should utilize collaborative decision-making to identify strengths and needs and to develop an individualized plan for the child” and relies on “accurate,

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<sup>49</sup> FSA IV, C.

<sup>50</sup> FSA, pg. 1a



complete, and relevant evidence-based quality management tools and measures [that] are necessary for the State to implement and refine a trauma-responsive system of care.”<sup>51</sup>

*a. Implementation Targets due in 2020 or 2021 that were not previously achieved*

In prior reports, the Co-Neutrals assessed the State had met the Performance Standard for the following ITs – *Establish Child and Adolescent Needs and Strengths and Functional Trauma Assessment Criteria* (App. A, IT 1.1), and *Revised Serious Emotional Disturbance (SED) Criteria* (App. A, IT 1.2). Thus, those ITs will not be assessed in this report.

**1. Developing a Trauma-Responsive Training and Coaching Plan (App. A, IT 2.1)**

<b>FSA Requirement</b>	<i>CYFD and HSD will create a cross-departmental Trauma-Responsive Training and Coaching Plan that describes in writing a plan and process for providing mandatory, high-quality trauma-responsive training to all CYFD employees, Designated HSD Employees and employees of child-serving agencies that contract with CYFD or HSD to provide care to Children in State Custody. Training will address the impact of trauma including its neurodevelopmental effects, implementing and accessing trauma-responsive supports and services, and secondary trauma. Training will comply with professional standards and best practices in adult education, including by being case-based and interactive, and including an assessment component to measure effectiveness. Trauma-responsive training will consist of initial or pre-service training as well as consistent, ongoing in-service training, mentoring, coaching, and support. The Trauma-Responsive Training and Coaching Plan will also provide for mandatory trauma-responsive training for Resource Families and optional trauma-responsive training for Respondents. Training for Resource Families and Respondents will be accessible both online and in person, and CYFD will provide childcare during any in-person sessions if needed. Notice of training shall be provided to Resource Families and Respondents reasonably in advance of any scheduled training, and no less than 14 Days in advance of any scheduled training. Notices will state that childcare will be provided and that requests for childcare must be received 48 hours prior to the training, or a lesser number of hours determined by CYFD and/or HSD. The written plan will include identification of the training program or materials to be used and the number of hours of training to be received by each category of trainee. The trauma-responsive training and coaching described in the plan must be sufficient to allow the Departments to meet their obligations under this Agreement. The Co-</i>
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<sup>51</sup> Ibid.

	<i>Neutrals must approve the Trauma-Responsive Training and Coaching Plan.</i> (Due June 1, 2021)
<b><i>Co-Neutrals’ Finding</i></b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State met the Performance Standard for this IT in 2022.

### **Discussion**

Throughout 2021 and 2022, the State worked to develop and finalize a cross-departmental Trauma-Responsive Training and Coaching Plan. The final plan was approved by the Co-Neutrals on December 5, 2022.<sup>52</sup> Approval of the plan did not include an assessment of implementation; the implementation, impact, and effectiveness of the Trauma-Responsive Training and Coaching Plan is assessed via App. A, TO 3a – *Completion of Trauma-Responsive Training*, and App. A, TO 3b – *Trauma-Responsive Competency Assessments*.

The State’s approved Training and Coaching Plan provides a timeline by which all CYFD staff, resource parents, contracted providers, respondents, and designated HSD and Managed Care Organizations (MCOs) staff and providers will be trained in accordance with the FSA requirements. Behavioral health providers and providers who contract through the MCOs are expected to receive trauma-responsive training from the MCOs or other trainers approved by the State.<sup>53</sup>

The approved Trauma-Responsive Training and Coaching Plan charges CYFD’s Workforce Development Bureau (WDB) to develop and provide:

- Novice Trauma-Responsive training for all new and existing CYFD staff interacting with children, youth, and families;
- A trauma-responsive coaching tool to incorporate trauma-responsive conversations into individual and regional coaching plans;
- Ongoing advanced level trauma-informed and trauma-responsive care training for CYFD staff and leaders; and
- Additional leadership level opportunities and resources for supervisors and managers to develop skills needed to guide staff’s development of a trauma-responsive care approach.

<sup>52</sup> The approved Trauma-Responsive Training and Coaching Plan can be found [here](#).

<sup>53</sup> CYFD and CYFD’s Behavioral Health Services Division (BHSD) issued provider alerts in early 2023 outlining the process by which providers can have their trauma-responsive trainings approved by CYFD. BHSD oversees the behavioral health services and supports for children and youth in New Mexico. Those provider alerts can be found [here](#) and [here](#).

Additionally, the State created a cross-departmental training review committee composed of CYFD and HSD staff from various departments, including HSD’s Deputy of Clinical Services; Director of CYFD-Behavioral Health Services Division (CYFD-BHSD); and staff from CYFD’s PSD, WDB, and Office of Tribal Affairs (OTA). A component of the committee’s purpose is to ensure consistency of trauma-responsive service delivery and to update the trauma-responsive training curriculum as the field evolves and additional training needs are identified.

*b. Target Outcomes Due Between 2020 and 2022*

**2. Completing Indicated Screenings (App. A, TO 1)**

<p><b><i>FSA Requirement</i></b></p>	<p><i>By December 1, 2021, every Child in State Custody will receive the screenings indicated below. CYFD and HSD will identify, and Co-Neutrals must approve, the form of the Child and Adolescent Needs and Strengths Crisis Assessment Tool (“CANS-CAT”) and comprehensive CANS screening tools to be used. CYFD will ensure that every Child in State Custody receives the indicated screenings and will provide the results of the indicated screenings to HSD (through its MCOs and/or their successors). HSD will ensure that MCOs and/or their successors have capacity to provide indicated screenings. (Due December 1, 2021)</i></p>
<p><b><i>Co-Neutrals’ Finding</i></b></p>	<p>Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.</p>

The Co-Neutrals approved the State’s Child and Adolescent Needs and Strengths Crisis Assessment Tool (CAT) and Child and Adolescent Needs and Strengths Assessment (CANS) screening tools on March 2, 2021, in fulfillment of FSA commitment App. A, IT 1.1 – *Establish Child and Adolescent Needs and Strengths and Functional Trauma Assessment Criteria.*

CYFD issued a Program Instruction Guideline (PIG)<sup>54</sup> 08-2022-#5 titled, *Re-Issue Children in State Custody (CISC) CATS/CANS Requirements, Medicaid/Medical Coverage and Well-Child Checkup*,<sup>55</sup> dated August 30, 2022,<sup>56</sup> which states in paragraph 7.1:

Once an abuse and neglect petition has been filed, all children in the case will have a CAT completed by the investigator and filed with the court clerk no less than 24-hours before the 10-day hearing. If this deadline falls on a weekend or holiday, the screening results must be filed no less than one business day prior to the 10-day hearing. A Community Behavioral Health Clinician (CBHC) may consult with the Investigation or Permanency Worker regarding the CAT as needed.

Paragraph 7.2 of PIG 08-2022-#5 further states:

The CANS is completed by the assigned Investigation Worker or PPW or an available CANS-certified PSD worker within 45 days of removal from the home. The CANS is re-administered before the initial judicial review and every judicial review and permanency hearing (or within six months, whichever comes first) to review progress in the case plan or to adjust services and supports as results may indicate. The CANS shall also be updated upon discharge from CYFD custody. In addition, the CANS shall be completed whenever any change in behavior is identified, and after any significant life-changing event. Life-changing events may include (but are not limited to) the following:

1. change in placement;
2. change in the clinical level of care;
3. a safety or crisis event;
4. a traumatic event; and
5. a birth or death of a family member.

In early 2022, HSD published Letter of Direction (LOD)<sup>57</sup> #69-1 titled, *MCO Requirements for Children in State Custody (CISCs)*.<sup>58</sup> LOD #69-1 requires MCOs to have “two certified CANS

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<sup>54</sup> Program Instruction Guidelines (PIGs) are interim directives to CYFD PSD staff which mandate changes to procedures and practice that must be implemented immediately, and will be incorporated into new or revised procedure or policy in the future. PIGs are disseminated to CYFD PSD staff through email, and are posted on the CYFD Intranet available to CYFD staff; select PIGs related to *Kevin S* implementation are available at CYFD’s *Kevin S* webpage, which can be found [here](#). The Co-Neutrals are unable to independently verify the date PIGs are distributed to staff.

<sup>55</sup> PIG 08-2022-#5 *Re-Issue Children in State Custody (CISC) CATS/CANS Requirements, Medicaid/Medical Coverage and Well-Child Checkup* can be found [here](#).

<sup>56</sup> PIG 08-2022-#5 replaced PIG 12-2021-#21 *Children in State Custody (CISC) CATS/CANS Requirements, Medicaid/Medical Coverage and Well-Child Checkup*, which was dated December 1, 2021 (the date this commitment was originally due).

<sup>57</sup> In New Mexico, a Letter of Direction (LOD) provides instruction for MCOs to make them aware of any changes or additional responsibilities that must be completed in accordance with their contracts with HSD.

<sup>58</sup> LOD #69-1 can be found [here](#).

trainers” on their staff who are “responsible for training care coordination staff and other relevant members of the organization, including but not limited to utilization management.” LOD #69-1 further requires training on the CANS be “timely and targeted” and part of the MCO’s annual training plan submissions.

### **DVP Metrics and Validated Performance Data**

*ATO1(ii) – primary metric: For all episodes of custody longer than 45 days that occurred within or overlapped with the reporting year, the percent for which a screening was conducted using the CANS screening tool.*

The Co-Neutrals’ analysis of data submitted by the State showed that CANS screens were completed for 896 (38%) of the 2,376 children’s episodes in care that occurred within or overlapped with the reporting year.<sup>59</sup> Children’s episodes of custody were determined to be eligible for CANS screening if they reached or surpassed their 45<sup>th</sup> day within the reporting year.<sup>60</sup>

*ATO1(iii) – primary metric: For all episodes of custody longer than 10 days that occurred or overlapped with the reporting year, the percent for which a complete screen was conducted using the approved CAT screening tool by December 31 of the reporting year.*

The Co-Neutrals’ analysis of the State’s data showed that CAT screenings were completed for 400 (16%) of the 2,508 children’s episodes in care lasting longer than 10 days that occurred or overlapped with the reporting year.

The Co-Neutrals also examined the number of children’s episodes in care during which a child received both CAT and CANS screenings. Of the 2,376 children’s episodes that reached or surpassed their 45<sup>th</sup> day in 2022, 364 (15%) had CAT screenings completed during the episode and 896 (38%) had CANS screenings completed during the episode; 180 children (8%) had both a CAT and CANS completed during the episode.

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<sup>59</sup> Several commitments set goals for how the State should respond to entries into state custody, regardless of how many times a child has entered or left state custody during the reporting year. For instance, App. A, TO 1 requires that all children receive a CANS screening within 45 days of each of their entries into state custody during the reporting year. Since some children experience more than one episode in CYFD custody each year, the data analysis for this and other commitments focuses not just on children but on all their episodes of custody.

<sup>60</sup> This metric assesses children in state custody at any point during the reporting year with episodes of custody that surpassed their 45<sup>th</sup> day within 2022; entries shorter than 45 days or that began after November 17, 2022, were not counted.

**Table 9: Episodes of Children’s Custody Lasting at least 45 Days with a CANS and CAT Completed During Episode, in 2022**

Type of screening(s) completed during episode	N	%
Both CANS and CAT	180	8%
CANS only	896	38%
CAT only	364	15%
No screening completed	936	39%
<b>Total eligible episodes</b>	<b>2,376</b>	<b>100%</b>

Source: Analysis of Sandbox *Episode of Custody* and Screenings files submitted 5/1/23.

*ATO1(iv) – primary metric: For all CANS screenings completed and approved by CYFD during the reporting year, the percent for which results were provided to the child’s MCO or other care coordinating provider or entity within five business days.*

The Co-Neutrals’ analysis of the State’s data showed that no (0%) CANS screenings results were shared with MCOs of the 987 eligible children’s episodes with completed CANS during the reporting year.

*ATO1(v) – primary metric: For all CAT screenings conducted during the reporting year, the percent for which results were provided to the child’s MCO or other care coordinating provider or entity within five business days.*

The Co-Neutrals’ analysis of the State’s data showed that no (0%) CAT screenings results were shared with MCOs of the 334 eligible children’s episodes with completed CAT screenings during the reporting year.

*ATO1(i) – qualitative metric: Qualitative review of practice used to identify and address child’s trauma-related needs.<sup>61</sup>*

To collect qualitative data for this commitment, the Co-Neutral team and CYFD’s Quality Assurance (QA) unit<sup>62</sup> collaborated in developing protocols and instruments to complete reviews of CANS documentation available in BHSD STAR<sup>63</sup> and FACTS. The purpose of the reviews was to assess the quality and completeness of CANS marked in FACTS as completed for children who

<sup>61</sup> This qualitative metric is used to validate multiple related commitments, specifically, App. A, TO 1.1, App. A, TO 1.a, App. A, TO 1.b, App. A, TO 1.c, App. A, TO 2.1, App. A, TO 2.2, and App. A, TO 2.3.

<sup>62</sup> In 2022, CYFD created the QA unit as part of their QAIEP plan, as described within App. A, TO 5.1 in this report.

<sup>63</sup> BHSD STAR is the database used by CYFD to track and record all CANS and CAT screenings for children in state custody.



entered state custody between October and December 2022.<sup>64</sup> The team of reviewers consisted of CYFD QA staff as well as two CYFD Community Behavioral Health Clinician (CBHC) staff.

For reviewers certified in CANS and who had experience completing CANS in their prior PSD staff positions, a test-retest process was designed to assess the appropriateness of the CANS scores based on the documentation in the FACTS record. Reviewers completed case reviews of the children's records in FACTS up to the date the CANS screen was conducted, and then completed an independent CANS screening based on the information documented in the record. Reviewers compared their CANS scores with those originally completed by CANS-certified CYFD staff<sup>65</sup> to determine whether the CANS was scored appropriately based on the NM CANS Reference Guide<sup>66</sup> in five specific CANS Domains: the Individual Strengths Domain, the Risk Behaviors Domain, the Cultural Needs Domain, the Potentially Traumatic/Adverse Childhood Experiences Domain, and the Traumatic Stress Domain.<sup>67</sup> Based on the findings of the test-retest, reviewers then assessed the overall quality of practice for the CANS screenings. Quality of practice was rated using a four-point scale that rates how closely CANS-certified CYFD staff followed the process to complete the CANS screenings in accordance with the NM CANS Reference Guide.<sup>68</sup>

Reviewers assessed the records of 29 children who entered state custody between October and December 2022, who also had at least one completed CANS screening. Reviewers first assessed whether a CAT screening had been completed as required. Of the 29 records reviewed, 18 (62%) records had a completed CAT screening; 10 (56%) of the completed CAT screenings were completed prior to the 10-day hearing. Sixteen CAT screenings were completed prior to the CANS being completed, while two were completed after or at the same time as the CANS. Of all 29 records reviewed, 10 (34%) had a CANS screening completed within 45 days of the child's entry into state custody.

The test-retest showed CANS screening scores completed by CYFD staff assigned to the case differed from reviewers' retest scores in three of the five Domains that were assessed, based on

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<sup>64</sup> The CBHC is a behavioral health clinician who works with CYFD staff to provide clinical behavioral health consultation and review for children in state custody. All reviewers participated in the CYFD CANS training, and completed an orientation and training on the review instrument prior to conducting the review. The CYFD QA supervisor and Co-Neutral staff implemented a quality control process during the reviews, including completing second level reviews of identified surveys. Both the QA supervisor and the Co-Neutral staff also completed CANS training prior to the review.

<sup>65</sup> CANS screenings were typically completed by PPWs, PPW supervisors, or CBHCs who were certified to complete the CANS and CAT screenings.

<sup>66</sup> The NM CANS Reference Guide can be found [here](#).

<sup>67</sup> The NM CANS Reference Guide details 11 CANS Domains, some of which are assessed for children in specified age ranges. Some Domains assess a child's needs, while others assess a child's strengths. Each Domain consists of a various number of items for which a CANS-certified worker rates as a 0, 1, 2, or 3, or as a "yes" or "no." A CANS item score of a 0 or 1 indicates no action is currently needed to either meet a need or to build up or identify a strength. A CANS item score of 2 or 3 indicates an action is necessary to either address the need or to build up and/or identify a strength.

<sup>68</sup> CYFD staff (such as PPWs or CBHCs) may have additional case knowledge that is not documented in the FACTS record, which is a limitation of the test-retest and quality of practice scoring process.

the documentation found in the FACTS record.<sup>69</sup> These differences were significant enough that when assessing the quality of practice for the CANS screenings, reviewers identified that 76 percent of CANS screenings (or 22 out of 29) did not adequately follow the guidelines in the NM CANS Reference Guide.<sup>70</sup> In five of the CANS screenings, reviewers identified that an immediate intervention is necessary to improve the quality, as shown in Table 10. Based on this review, it was recommended that steps be taken to improve the quality of future screenings

**Table 10: Overall Quality of Practice Ratings for Completed CANS Screenings**

Quality of Practice Score	Number of CANS Reviewed	Percent of CANS Reviewed
0 – No Intervention Needed to Improve Practice	0	0%
1 – Monitor for Potential Intervention Needed to Improve Practice	7	24%
2 – Intervention Needed to Improve Practice	17	59%
3 – Immediate Intervention Needed to Improve Practice	5	17%
<b>Total CANS Screenings</b>	<b>29</b>	<b>100%</b>

Source: Case record review of CANS screenings in BHSD STAR and FACTS documentation conducted by CYFD's QA Unit and Co-Neutral staff.

## **Discussion**

CANS and CAT screenings are an integral part of CYFD and HSD's approach to meeting the commitments of the FSA. CAT screenings are intended to be used as a tool to quickly assess the services and supports that may be necessary for a child to maintain in the least-restrictive and most-appropriate placement setting immediately after entering state custody. CANS screenings are intended to guide referrals for further evaluations and services for children in state custody.

HSD's LOD #69-1 specifies that care coordinators should use information provided via CAT and CANS screenings in developing each child's Comprehensive Needs Assessment (CNA) and Health Risk Assessment (HRA). The CNA and HRA are used to inform the child's comprehensive care plan (CCP) developed by the MCO care coordinator. Further, the State's approved expected service utilization methodology relies upon accurate and consistent CANS screenings in order to estimate the need for behavioral health services for children in state custody, which in turn impacts

<sup>69</sup> Ibid.

<sup>70</sup> This includes CANS screenings where reviewers assessed the quality of practice as a "2" or a "3." Additional quality concerns identified from reviewers include a lack of collecting and documenting information from others involved in the child's case, and/or missing notes within the CANS screenings to better explain the rationale behind the scores, as required in the NM CANS Reference Guide.



the estimated number of behavioral health providers necessary to meet the needs of children in state custody and ultimately efforts by the State and the MCOs to assure availability of resources and services.

Quantitative data from 2022 show less than 40 percent of children's episodes of custody that lasted at least 45 days had a CANS completed at any point after the child entered state custody, and 16 percent of episodes that lasted at least 10 days had a CAT completed at any point after the child entered care. Of all 2,376 children's episodes that lasted at least 45 days, 180 (8%) had documentation showing both a CAT and a CANS screening were completed.

A qualitative review of a sample of CANS completed on children who entered care in late 2022 revealed a need for additional CANS training and/or support for CYFD staff who complete the screenings. Discrepancies in CANS screening scores will negatively impact the child's team's understanding of the child's strengths and needs, and in turn impact the services and supports offered to the child and family.

The State reports 392 CYFD staff were trained and 319 staff were certified to administer the CANS/CATS screening in 2022.<sup>71</sup> Co-Neutral team members had the opportunity to attend a New Employee Training (NET) CANS training in March 2023. CANS training and the certification process were developed by the Praed Foundation<sup>72</sup> and the training was then adapted by New Mexico CYFD to meet the specific training needs of the NM CANS. The CANS training explains the purpose and process CYFD staff must follow to administer the CANS as well as the CAT. The training did not specifically review each domain alongside the CANS Reference Guide, instead instructing CYFD staff to review the CANS Reference Guide outside of the training.

The Co-Neutrals visited multiple CYFD local offices in September 2022;<sup>73</sup> caseworkers at every CYFD office visited by the Co-Neutrals expressed uncertainty about the purpose of the CANS and its relevance to helping them serve children and families on their caseloads, as well as concern about their lack of available time to learn, accurately complete, and document CANS screenings.

Implementing the CANS and CAT as required by the FSA will not occur consistently without CYFD hiring and sustaining the staff essential for adequate training, coaching, and quality implementation. Incomplete and insufficient CANS and CAT screenings will affect the

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<sup>71</sup> Staff are required to be recertified annually to administer CANS, and must complete recertification training and a recertification test. Information provided by CYFD did not specify whether the 319 staff were provided with initial or re-certifications.

<sup>72</sup> The Praed Foundation maintains the copyrights on a variety of tools that support the Praed Foundation's Transformational Collaborative Outcomes Management (TCOM) including the CANS. Additional information on the Praed Foundation can be found [here](#).

<sup>73</sup> These include the CYFD PSD county offices in San Juan, Sandoval, Rio Arriba, Taos, Dona Ana, Grant, and Bernalillo.

implementation of TOs within each of the FSA Appendices. More importantly, children in state custody will continue to feel the effects due to needs that have not been properly identified or met.

Among the actions that can be taken to improve CYFD's efforts, the State should develop and implement a more robust CANS training (such as reviewing each domain and item criteria during the training), stronger annual recertification training, additional training for supervisors, and, most importantly, on-going coaching for staff on the role and process of the CANS in case planning.

### 3. Filing Results of CAT Screenings with the Court (App. A, TO 1a)

<b><i>FSA Requirement</i></b>	<i>Results of initial screening using the CANS-CAT will be filed with the court no less than 24 hours before the child's 10-day hearing. If this deadline falls on a weekend or holiday, the screening results must be filed no less than one business day prior to the 10-day hearing. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

Paragraph 7.3 of CYFD's PIG 08-2022-#5<sup>74</sup> states,

Sharing and Documentation of CAT/CANS Results: A copy of the initial and any updated CAT/CANS shall be provided to all providers as well as to the MCO care coordinator (or other coordinating provider/entity), guardian ad litem, youth attorney, and parent, guardian, or custodian (if parent, guardian, custodian rights have not been terminated) within five business days of the screening results, and to the court prior to scheduled judicial reviews and permanency hearings. If the child is age 14 or older, written consent by the youth is required for release of the CAT/CANS results. For every instance the CAT/CANS results are shared, the Investigation Worker or PPW must indicate in the survey monkey link in the FACTS casefile to whom and what date they sent the CAT/CANS results to. If the CAT/CANS results are shared with a mental health provider or other service provider, the Investigation Worker or PPW must indicate this in the FACTS casefile survey monkey link. The PSD worker must specify who and date sent (courts and MCO's for ex.) in the survey monkey link in the FACTS casefile. A copy of the completed CAT/CANS is placed in the hard file.

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<sup>74</sup> PIG 08-2022-#5 can be found [here](#).

## **DVP Metrics and Validated Performance Data**

*ATO1a(i) – primary metric: For all episodes of custody longer than 10 days that began within the reporting year, the percent for which CAT results were filed with the Court no less than two business days prior to a child’s 10-day hearings. If this deadline falls on a weekend or holiday, the screening results must be filed no less than one business day prior to the 10-day hearing.*

The Co-Neutrals’ analysis of the State’s data showed that there was only one child’s episode (<1%) for which CAT screening results were documented as filed timely with the courts (no less than two business days prior to a child’s 10-day hearing) during the reporting year of the 465 eligible episodes of children’s custody. Children’s episodes were eligible if they began and reached their 10<sup>th</sup> day in the reporting year and had a 10-day hearing during the reporting year.<sup>75</sup>

As supporting information, the Co-Neutrals assessed the amount of time it took for completed screenings to be filed with the courts. There were three episodes of custody for which a CAT screening was filed with the courts (timely or not) prior to the 10-day hearing. All three completed CAT screenings were filed on the same day the screening was completed; thus, the average time between completion and filing in 2022 was zero days. Two of the three filings of eligible CAT screenings were filed less than two days before the hearing. One CAT filing was timely, as it was filed two days before the custody hearing.

## **Discussion**

The Co-Neutrals’ analysis of the State’s data shows that three completed CAT screenings were filed with the courts in 2022, of which one was filed timely, and two were filed late. Although the State developed PIG 08-2022-#5 integrating this commitment into practice, performance data do not document this practice occurred as required in 2022.

## **4. Comprehensive CANS Screenings (App. A, TO 1b)**

<b><i>FSA Requirement</i></b>	<i>Comprehensive screening using a CANS-Trauma Comprehensive instrument or a comprehensive CANS assessment instrument with a trauma module will be conducted within 45 Days of removal from the home. Any child discharged from CYFD’s legal custody before these screenings are conducted will be provided a referral for the screenings. (Due December 1, 2021)</i>
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<sup>75</sup> Episodes of children in custody must have begun on or after January 1, 2022, and ended on or before December 21, 2022.

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**Co-Neutrals’  
Finding**

Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

Paragraph 7.2 of CYFD’s PIG 08-2022-#5<sup>76</sup> requires CANS to be “... completed by the assigned Investigation Worker or PPW or an available CANS certified PSD worker within 45 days of removal from the home.” Further, PIG 08-2022-#5 states, in relevant part,

If a child or youth is discharged from legal custody before screenings, evaluations, or assessments are completed, then the Investigation Worker or PPW must make a referral for those services. The worker is responsible for coordinating these additional assessments or evaluations by collaborating with the provider, the Resource Family, the parent, guardian, or custodian, and other interested parties, such as the CBHC. Recommendations for behavioral health services are documented in the case file.

**DVP Metrics and Validated Performance Data**

*ATO1b(i) – primary metric: For all episodes of custody for children who were removed and remained in State custody for at least 45 days during the reporting year, the percent for which an approved screen was conducted using the CANS within 45 calendar days of removal from home. The metric will exclude children who both did not receive this screening and who were discharged in less than 45 calendar days.*

The Co-Neutrals’ analysis of the State’s data showed that CANS screenings were conducted within 45 days of a child’s removal from home during 59 (10%) of the 618 children’s eligible episodes of custody.<sup>77</sup> Eligible episodes were new episodes of custody that began and reached their 45<sup>th</sup> day in the reporting year.<sup>78</sup>

*ATO1b(ii) – primary metric: For all episodes of custody for children who were removed during the reporting year and discharged without a CANS screening conducted, the percent whose family received a referral for the CANS screening.*

The Co-Neutrals were unable to validate 2022 data for this metric because this metric relies on a data collection process that the State had not implemented by the start of 2022. In 2022, the State

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<sup>76</sup> PIG 08-2022-#5 can be found [here](#).

<sup>77</sup> There was no record of completed CANS screenings for 457 (74%) episodes; a CANS screening was completed outside of the 45-day window for the remaining 102 (17%) episodes.

<sup>78</sup> This metric assesses only new episodes of custody; only episodes that began after January 1, 2022, and were at least 45 days long were counted. Entries less than 45 days before the end of the reporting year were not counted.

embedded a survey tool into FACTS to collect information on the date of the CANS referral the child received. Data from this survey tool will be necessary to validate this metric for 2023.

### **Discussion**

The Co-Neutrals' analysis of the State's 2022 quantitative data shows that CANS were completed within 45 days of entry for 10 percent of children. As discussed within App. A, TO 1 – *Completing Indicated Screenings* above, the State developed procedures and guidance to staff in December 2021, which were then re-issued in August 2022. However, data show this practice was not implemented consistently throughout 2022.

## **5. Completing Follow Up Screenings (App. A, TO 1c)**

<b><i>FSA Requirement</i></b>	<i>Follow up screening indicated by the CANS-CAT, CANS, and/or any other information available to CYFD or HSD, including screening for intellectual and developmental disabilities and/or sexual exploitation, will be conducted immediately where possible and within 10 Days of indication otherwise. Any child discharged from CYFD's legal custody before these screenings are conducted will be provided a referral for them. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

Paragraph 8 of CYFD's PIG 08-2022-#5<sup>79</sup> outlines guidelines for referrals for evaluations of other assessments based on the CAT or CANS results, specifically:

Based on the CAT or CANS results, referrals for further assessment or evaluation may be needed. Other assessments or evaluations may include (but are not limited to) psychological, neuropsychological, and developmental assessments. Referrals to providers must reflect the individual needs of the child or youth as identified in the CAT and CANS screening.

Additionally, paragraph 8.1 of PIG 08-2022-#5 specifies,

When it is determined further assessment or evaluation is needed for a child or youth, the worker consults with the child or youth's team (including resource parents and parent, guardian, or custodian when rights have not been terminated)

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<sup>79</sup> PIG 08-2022-#5 can be found [here](#).

to identify and select an appropriate provider to meet the needs of the child or youth.

Paragraph 8.2 further specifies,

When making a referral, the worker ensures the results of the CANS yields an appropriate referral to meet the needs of the child or youth. The PPW attaches to the referral any other necessary collateral information, in addition to the results from most recent CANS or CAT. If the child is 14 years or older, written consent by the child is required for release of behavioral health and medical records.

### **DVP Metrics and Validated Performance Data**

*ATO1c(i\*) – secondary metric: The percent of episodes of custody which included at least one follow-up assessment, as specified in the annual list provided to the Co-Neutrals.<sup>80</sup>*

The Co-Neutrals’ analysis of the State’s data showed that of the 754 eligible episodes of children’s custody in 2022 (i.e., children’s episodes in care of 10 days or longer that began during the reporting period), 295 (39%) included at least one of the indicated follow-up assessments during a child’s time in foster care. This metric counts any assessments, not just those that were referred as a result of a CANS or CAT screening.<sup>81</sup> The State’s performance has steadily decreased over time. In 2019, 51 percent of episodes of children’s custody included a follow-up assessment. This declined to 50 percent in 2020, 45 percent in 2021, and 39 percent in 2022 (see Table 11).

**Table 11: Eligible Episodes of Custody where Child Received at Least One Follow-up Assessment, 2019 – 2022**

Year	Episodes with a Follow-up Assessment	Eligible Episodes	Performance
2019	431	846	51%
2020	422	845	50%
2021	328	735	45%
2022	295	754	39%

Source: Analysis of Sandbox *EpisodeOfCustody*, Sandbox *Encounters*, and *HSD\_Service\_Codes* submitted 5/1/23.

As additional information, the Co-Neutrals examined the rate of completed follow-up screenings by children’s race and ethnicity. Hispanic children (of any race) received a disproportionately high rate of follow-up assessments during their eligible episodes of custody; of the 457 eligible episodes experienced by a Hispanic child, 43 percent (196) included an assessment during the episode. In contrast, non-Hispanic Black or African American children (5 of 20, or 25%), non-Hispanic

<sup>80</sup> For 2019-2022, this metric tracked the prevalence of the following service codes: H2010, 90791, 96130, 96131, 96132, 96133, 90885, 90792, and H2000.

<sup>81</sup> The primary metric, described below, focuses on assessments that were referred as a result of a CANS or CAT screening.

American Indian or Alaska Native children (11 of 49, or 22%), and children of unknown race and ethnicity (9 of 37, or 24%) received a disproportionately low rate of assessments during their respective episodes, although the population sizes are significantly smaller than the Hispanic population.

*ATO1c(i) – primary metric: For all episodes where a child’s initial CANS or CAT screenings indicated a need for follow-up assessment(s) (as determined by the staffing team), the percent for which all appropriate follow-up assessments were conducted within 10 days of the completion of the initial screening. The metric will exclude children discharged from care within 10 days of the initial screening who did not receive follow-up assessment(s) prior to discharge.*

*ATO1c(ii) – primary metric: For all episodes where a child’s initial CANS or CAT screenings indicated a need for follow-up assessment(s), and where the child did not receive the indicated follow-up assessment(s) prior to discharge, the percent whose family received referral(s) for the follow-up assessment(s) when the discharge took place.*

The Co-Neutrals were unable to validate 2022 data for these metrics because these metrics rely on a data collection process that the State had not implemented by the start of 2022. In 2022, the State embedded a survey tool into FACTS to collect information on the date and type of referrals and follow-up assessments the child received. Data from this survey tool will be necessary to validate this metric for 2023.

*ATO1(i): Qualitative review of practice used to identify and address child’s trauma-related needs.*<sup>82</sup>

This commitment is assessed using the same qualitative review process described above for App. A, TO 1 – *Completing Indicated Screenings*. Reviewers were asked to assess whether any referrals were made based on CANS algorithm-based service needs for children.<sup>83</sup> Of the 29 cases reviewed, five (17%) cases were found to have documented referrals based on the needs indicated by the CANS screening.<sup>84</sup> The review also demonstrated discrepancies in CANS screening scores, which directly impact the referrals suggested by the CANS algorithms.

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<sup>82</sup> This qualitative metric is used to validate multiple related commitments – App. A, TO 1.1, App. A, TO 1.a, App. A, TO 1.b, App. A, TO 1.c, App. A, TO 2.1, App. A, TO 2.2, and App. A, TO 2.3

<sup>83</sup> The CANS algorithm is described within the State’s approved methodology for App. D, IT 2 – *Initial Expected Service Utilization*.

<sup>84</sup> As additional information unrelated to CANS-specific referrals, reviewers found that 15 (52%) cases had documentation showing additional referrals not specifically referenced in the CANS were made to services such as individual therapy, daycare, and autism services.



## **Discussion**

The Co-Neutrals' analysis of the State's 2022 quantitative data indicates follow up screenings occurred in less than 40 percent of cases. As discussed above, the State reported it is working to develop a data collection tool to better collect data regarding service referrals based on CANS screenings.

## **6. Expansion and Availability of Services (App. A, TO 2)**

<b><i>FSA Requirement</i></b>	<i>By December 1, 2022, every Child in State Custody will receive age-appropriate trauma-responsive services, supports, and/or treatment to meet his or her individualized needs indicated by the CANS and functional trauma assessments, beginning immediately where possible and not to exceed 10 Days after the date of the screening and/or assessment. HSD and CYFD will expand and offer community-based, evidence-based, well-supported, and promising trauma-responsive services, which include mobile crisis response services, intensive case management, intensive home-based services, and trauma-based therapies including Dialectical Behavior Therapy (DBT), Multi-Systemic Therapy (MST), trauma-informed Cognitive Behavioral Therapy (CBT), Functional Family Training (FFT), and Eye Movement Desensitization and Reprocessing therapy (EMDR). These services will be available to all Children in State Custody for whom the services are medically necessary and will be available immediately where possible and within 10 Days of the determination of medical necessity otherwise. (Due December 1, 2022)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

## **DVP Metrics and Validated Performance Data**

*ATO2.2(i\*) – secondary metric: The sum number of children in the cohort who received either High Fidelity Wraparound services, MST, MCR or FFT during the reporting year.*

The Co-Neutrals' analysis of State's data showed that of the 2,755 children in state custody in 2022, 152 (6%) received at least one session of the indicated trauma-responsive modalities – High



Fidelity Wraparound (HFW),<sup>85</sup> Multi-Systemic Therapy (MST),<sup>86</sup> Mobile Crisis Response (MCR), or Functional Family Therapy (FFT)<sup>87</sup> – during their time in custody. The percentage of children in state custody who received any indicated modality has remained between five and six percent of the total population from 2019 to 2022 (see Table 12).<sup>88</sup>

**Table 12: Children who Received at Least One Session of HFW, MST, MCR, or FFT by Modality in 2019 – 2022**

Year	Children in State Custody Who Received Any Indicated Modality		Children who Received Listed Modality			
	Number <sup>89</sup>	Percent of cohort	HFW	MST	MCR	FFT
2019	175	5%	149	35	0	2
2020	196	6%	171	20	0	8
2021	144	5%	127	19	0	0
2022	152	6%	135	18	0	1

Source: Analysis of Sandbox *Encounters* files submitted 3/31/22 (2019 and 2020) and 7/19/22 (2021) and 5/1/23 (2022); Sandbox *EpisodeOfCustody* files submitted 3/31/22 (2019 and 2020) and 5/2/22 (2021) and 5/1/23 (2022), and Sandbox *Cohort* files submitted 3/31/22 (2019 and 2020) and 5/2/22 (2021) and 5/1/23 (2022).

<sup>85</sup> High-Fidelity Wraparound (HFW) is an approach to service delivery rather than an intervention; it “provides a comprehensive, holistic, youth and family-driven way of responding when children or youth experience serious mental health or behavioral challenges.” Additional information on HFW can be found [here](#).

<sup>86</sup> Multisystemic Therapy (MST) is an intensive family and community-based treatment for youth involved with juvenile justice and/or with substance abuse issues. Additional information on MST can be found [here](#).

<sup>87</sup> Functional Family Therapy (FFT) is a family-based intervention specifically utilized for youth experiencing significant behavioral health and/or substance use issues. Additional information on FFT can be found [here](#).

<sup>88</sup> Counts reflect analysis of data as submitted by the State; the Co-Neutral team has not validated each reported service.

<sup>89</sup> The total is less than the sum of each modality as some children received more than one type of service.

*ATO2.2(i) – primary metric: The sum number of children in cohort who received either High Fidelity Wraparound services, Mobile Crisis Response (MCR), DBT, MST, Trauma Informed-CBT, FFT, or EMDR during the reporting year.*

The State did not provide data for this metric, as the modifiers<sup>90</sup> for Dialectical Behavior Therapy (DBT),<sup>91</sup> Trauma-Focused Cognitive Behavioral Therapy (TF-CBT),<sup>92</sup> and Eye Movement Desensitization and Reprocessing therapy (EMDR)<sup>93</sup> were not in use during 2022.

*ATO2.3(i) – primary metric: Of all children in state custody who received screenings or assessments that indicated a need for High Fidelity Wraparound services (HFW), Mobile Crisis Response (MCR), DBT, MST, Trauma-informed CBT, FFT, or EMDR during the reporting year, the percent that initiated or received all services for which they were indicated within 10 days of that screening or assessment.*

In 2022, the State embedded a survey tool into FACTS to collect information on the date and type of referrals the child received. Data from this survey tool, in addition to use of the modifiers described above, will be necessary to validate this metric for 2023.

## **Discussion**

According to the State’s projected expected service utilization for children in state custody as provided in App. D, IT 2.1 – *Initial Expected Service Utilization*, in 2023, the State estimates 20 percent of children in state custody of all ages will utilize HFW, 20 percent of children ages 11 to 18 years will utilize MST, 30 percent of children ages 10 to 18 years will utilize FFT, and 32 percent of children in state custody will utilize MCR.<sup>94</sup>

The State’s available data for this commitment in 2022 show that 152 children (6% of all children in state custody) received either HFW, MST, MCR, or FFT. The State has not provided data to assess the time it takes for children in state custody to access the trauma-responsive services

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<sup>90</sup> As part of the State’s work for App. D, TO 2 – *Provider Incentives*, HSD developed specific modifier billing codes for behavioral health providers to use when billing for clinical services provided to children in state custody. Historically, providers utilizing clinical interventions such as DBT, TF-CBT, and EMDR would bill Medicaid for non-specific psychotherapy sessions, which is typical practice. With the addition of the modifiers, HSD will be able to track specific trauma-responsive interventions that are provided to children in state custody.

<sup>91</sup> Dialectical Behavior Therapy (DBT) is a therapeutic intervention shown to have efficacy for treating adolescents and those diagnosed with borderline personality disorder. Additional information about DBT can be found [here](#).

<sup>92</sup> Trauma-Focused Cognitive Behavioral Therapy (TF-CBT) is an evidence-based therapeutic intervention shown to be effective in treating children and youth who have experienced trauma. Additional information about TF-CBT can be found [here](#).

<sup>93</sup> Eye Movement Desensitization and Reprocessing (EMDR) is an evidence-based therapeutic intervention used to treat individuals who have experienced trauma, including children. Additional information on EMDR can be found [here](#).

<sup>94</sup> These estimates were completed by the State as part of their work for App. D, IT 2.1 – *Initial Expected Service Utilization*, which can be viewed [here](#). The estimates of utilization are not mutually exclusive, thus children who utilize FFT could also be expected to utilize HFW.

specified in the FSA.

## 7. Completion of Trauma-Responsive Training (App. A, TO 3a)

<b><i>FSA Requirement</i></b>	<i>By December 1, 2021, all CYFD employees, designated HSD employees, employees of child serving agencies that contract with CYFD or HSD to provide care to Children in State Custody, and Resource Families will receive the training identified in the Trauma-Responsive Training and Coaching Plan. All Respondents will be offered the trauma training identified in the Trauma-Responsive Training and Coaching Plan. (Due December 1, 2022)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### Discussion

The work required in this TO is to be guided by App. A, IT 2.1 – *Trauma-Responsive Training and Coaching Plan*, due in June 2021. As discussed above, the Co-Neutrals approved the State's plan in December 2022, and implementation consistent with an approved plan did not occur in 2022.

## 8. Trauma-Responsive Competency Assessments (App. A, TO 3b)

<b><i>FSA Requirement</i></b>	<i>By December 1, 2021, all CYFD employees, designated HSD employees, and employees of child serving agencies that contract with CYFD or HSD who provide care to Children in State Custody will demonstrate through competency assessments and self-reporting that they have received adequate trauma-responsive training. (Due December 1, 2022)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### Discussion

The work required in this TO is to be guided by App. A, IT 2.1 – *Trauma-Responsive Training and Coaching Plan*, due in June 2021. As discussed above, the Co-Neutrals approved the State's

plan in December 2022 and implementation consistent with an approved plan did not occur in 2022.

## 9. Developing Process for Individualized Planning Meetings (App. A, TO 4.1)

<b>FSA Requirement</b>	<i>By December 1, 2021, all CYFD employees, designated HSD employees, and employees of child serving agencies that contract with CYFD or HSD who provide care to Children in State Custody will demonstrate through competency assessments and self-reporting that they have received adequate trauma-responsive training. (Due December 1, 2022) Subject to the approval of the Co-Neutrals, CYFD and HSD will develop and implement a process (the Individualized Planning Meeting Plan) for convening an Individualized Planning Meeting team for making decisions and for delivering services and supports for each Child in State Custody. The Individualized Planning Meeting process shall be informed by Child and Family Teaming (CFT), collaborative decision-making, and High-Fidelity Wraparound (HFW) models, and shall prioritize the child's voice and choice. The process shall also be strengths-based, connected to natural supports, and respectful of the child's family and unique cultural heritage. The Co-Neutrals shall not withhold approval of the Individualized Planning Meeting Plan if it is reasonably calculated to achieve the Goals of this Agreement. (due June 1, 2021)</i>
<b>Co-Neutrals' Finding</b>	Based upon the Co-Neutrals' review and consideration of all available information, the State met the Performance Standard for this TO in 2022.

### Discussion

The Co-Neutrals approved the State's Individualized Planning Meeting (IPM) Plan – which the State renamed the Individualized Planning Process (IPP)<sup>95</sup> – on August 17, 2022.<sup>96</sup> The IPP is based on the New Mexico Practice Model,<sup>97</sup> which integrates the principles of a trauma-responsive approach; community-based therapeutic supports; cultural connections and tribal sovereignty; youth and family voice and choice; team-based, collaborative decision-making; continual

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<sup>95</sup> The FSA denotes "CYFD and HSD will develop and implement a process (the Individualized Planning Meeting Plan)" to fulfill this commitment. The State has indicated they intend to create an Individualized Planning Process (IPP) to serve as a framework to which all team meetings at CYFD will adhere to satisfy the commitment. As the FSA dictates this commitment to be a process, the Co-Neutrals agree with the State's decision to refer to the deliverable to meet this commitment as the Individualized Planning Process (IPP). The document describing the IPP includes a list of multiple specific meetings which will utilize the IPP for different purposes and in different situations.

<sup>96</sup> The State's IPP Plan can be found [here](#).

<sup>97</sup> The New Mexico Practice Model can be found [here](#).

professional growth and development; and cultural humility practice. It is described in the State’s plan as “a facilitated approach to conducting teaming meetings to support children and families involved with CYFD.”<sup>98</sup> The IPP is applied as a framework across a number of CYFD’s child and family team meeting types.<sup>99</sup>

The approved Plan prioritizes the child and family’s voice and choice, and the family is to be included as “an equal partner whenever possible.”<sup>100</sup> The IPP Plan envisions “an ongoing supportive process in which a resource team, coordinated by the assigned caseworker or probation officer, functions to support the family in attaining its goals.”<sup>101</sup>

## 10. Implementation of Individualized Planning Meetings (App. A, TO 4.2)

<b>FSA Requirement</b>	<i>The Individualized Planning Meeting Plan will be... fully implemented by December 1, 2022. (due December 1, 2022)</i>
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### DVP Metrics and Validated Performance Data

*ATO4(i) – primary metric: Of all required 90-day IPP staffings for children in foster home placements, the percentage which occurred timely.*

*ATO4(iii) – primary metric: Of all required 30-day IPP staffings for children in state custody who are missing or under runaway status, the percentage which occurred timely.*

This metric was not due until December 1, 2022, and because it relies on analysis of 90-day periods, the Co-Neutrals were unable to validate it for 2022. In 2022, the State embedded a survey tool into FACTS to collect information on the date and type of referrals and follow-up assessments the child received. Data from this survey tool will be necessary to validate this metric for 2023.

*ATO4(ii) – qualitative metric: Of the IPP meetings reviewed for children in foster home settings, the share that reflected all requirements articulated in the Agreement.*

<sup>98</sup> IPP Plan, pg. 1.

<sup>99</sup> A list of meetings utilizing the IPP framework can be found [here](#). A list of meetings not utilizing the IPP framework can be found [here](#).

<sup>100</sup> IPP Plan, pg. 1.

<sup>101</sup> IPP Plan, pg. 2.

*ATO4(vi) – qualitative metric: Of the IPP meetings reviewed for children who have runaway or are missing, the share that reflected all requirements articulated in the Agreement.*

Data for the qualitative IPP metrics were not available as the State had not begun to use the data collection tool developed to document whether IPP-style meetings reflect the core elements required by the IPP Plan and FSA.<sup>102</sup> The State reports they are working with consultants, including the Child Welfare Group (CWG),<sup>103</sup> to develop an IPP fidelity tool that will assess practice implementation of IPP meetings beginning in late 2023.

## **Discussion**

The State's approved IPP Plan outlines a timeline to roll out IPP training to staff across all CYFD divisions, including Juvenile Justice Services (JJS), Behavioral Health Services Division (BHSD), and Protective Services (PSD). The approved Plan identifies training that began in 2021 for select Family Centered Meeting (FCM) facilitators; PSD County Office Managers and supervisors; JJS regionals, chiefs, and supervisors; and CBHC staff. The Plan identifies training in 2022 to further include all remaining PSD, JJS, and BHSD staff, including caseworkers, with the State committing to complete the statewide roll out by December 1, 2022. This has not been possible due primarily to CYFD's understaffed workforce. The State contracted with CWG to develop and assist with implementation of the IPP framework and training.

For new staff, training is reportedly provided as part of CYFD's NET. IPP training consists of three days that aim to teach participants:

- How to engage and orient children and families to the process;
- Identifying and highlighting family strengths throughout the IPP;

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<sup>102</sup> Meetings using the IPP framework were reviewed for a number of qualitative metrics in Appendix B, including App. B, TO 2.1 – *Joint Clinical Reviews (JCRs) of Out-of-State Placements*. Specifically, the Co-Neutral team reviewed documentation of meetings for all applicable placements of children who were in out-of-state facilities between January and December 2022. The review found that in practice, meetings did not consistently follow practice expectations. For example, documentation for fewer than one-quarter (21%) of the completed JCR meetings included development of a discharge plan or identification of next steps to promote discharge. Additionally, necessary IPP team members were frequently missing from the meetings. Specifically, of the 201 completed meetings reviewed, records showed the PPW was in attendance at 84 percent of the meetings, the MCO care coordinator attended 74 percent of the meetings, the child attended 57 percent of the meetings, and the child's parent or other family members attended nine percent of the meetings. Participation and input of each of these individuals is necessary to support the goals of team-based collaborative decision-making, community-based therapeutic supports, and youth and family voice and choice. Results of the review of JCR IPPs are described in greater detail within the discussion for App. B, TO 4.1 later in this report.

<sup>103</sup> CWG is a national policy and practice organization that provides technical assistance to improve outcomes for children and families. More information on CWG can be found [here](#).

- Identification and inclusion of natural supports in the meetings; and
- Understanding what is needed for a family so that other participants can assist in meeting the goals of the family (interpreters, cultural experts, natural supports, timing, breaks, location etc.).<sup>104</sup>

Co-Neutral staff attended a three-day IPP training session, which was thorough in highlighting the importance of engaging families, their supports, and their strengths. The training emphasized the core values and principles of New Mexico's Practice Model, and outlined important practice fundamentals and skills for CYFD staff that, if implemented with fidelity, will help the agency to transform its approach to work with children, families, and communities. The training did not review logistical components, such as who should attend meetings, how frequently and at what decision points meetings should be held. This information should be provided in agency policies and guidance; caseworkers were instructed to work with their supervisors and to reach out for coaching as needed to become fully trained to implement the IPP.

The approved IPP Plan emphasizes the role of the family in identifying individuals and resources to support them in the change process. While the exact composition of the meeting may differ depending on the goals of the specific IPP and the needs of the child, the IPP Plan specifies that meetings should always include the child and the PPW.<sup>105</sup> Other important people to be included based on the purpose of the meeting or element under review can include the CBHC; the child's MCO care coordinator or other care coordinator representative; the RTC Agency or group home case manager (if the child or youth is placed in a RTC or group home); the child or youth's GAL or Youth Attorney; and a representative from the child or youth's Nation, Pueblo, or Tribe. Information in documents related to IPP meetings show that staff have been given conflicting guidance regarding who should attend IPP meetings.<sup>106</sup>

Through record reviews, the Co-Neutrals have identified cases in which multiple meetings are held every month for the same child or family. Multiple meetings require staff and families to expend additional time and resources, create the potential for breakdown in team functioning and

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<sup>104</sup> IPP Plan, pg. 10.

<sup>105</sup> IPP Plan, pg. 9.

<sup>106</sup> One example of this conflicting guidance to staff can be found in CYFD's PIG 01-2022-#3 titled, *RE-ISSUE Kevin S. Related Deliverable: Congregate Care Settings*, which defines required participants for Joint Clinical Reviews (JCR), a meeting that utilizes the IPP format and occurs every 30 days for children in out-of-state placements. This list differs from both the list of required attendees in the IPP Plan, as well as the list of required participants identified in IPP Plan Exhibit C. Exhibit C, *Meetings Using IPP Approach*, can be found [here](#). CYFD's PIG 01-2022-#3 can be found [here](#). In September 2023, the Co-Neutrals were further alerted by GALs and Youth Attorneys in New Mexico that GALs and Youth Attorneys are being told they are not allowed to attend IPP meetings, which illustrates the ongoing discrepancies and confusion among CYFD employees and community partners in the implementation of IPPs. The attorneys contacted the Co-Neutrals through Plaintiffs' team and shared a PowerPoint presentation apparently authored by CYFD which stated, "The IPM is not a legal meeting; therefore, legal representatives (CCA, Respondent, and Youth Attorney) will not be invited." The PowerPoint is currently not available on CYFD's website or *Kevin S.* webpage.



coordination, and often result in conflicting case plans and strategies. The IPP plan was intended as a framework and includes a list of meeting types that coincide with certain placements or events and are required to occur on specific cadences; CYFD and HSD should consider how these single purpose meetings can be consolidated or streamlined, as appropriate, so that a separate meeting does not have to be convened for every purpose. This would include a review of the purpose and sequence of each of these meetings to determine which meetings require a separate and distinct discussion versus those where the meeting objectives are aligned and a single meeting will allow for better team formation, coordination, and functioning resulting in a unified plan.

The impact of CYFD’s understaffed workforce on IPP implementation cannot be overstated. The required training and coaching necessary for staff to schedule, prepare for, and facilitate IPP meetings requires significant staff time and effort. Preparation for and implementation of an effective meeting requires building and maintaining trust with families; identifying relevant team members, including those that the family identifies as important; engaging and preparing team members to effectively participate in a meeting; developing an individualized plan to meet the unique challenges and needs of a family; working with the team to achieve its goals; and continuing to assess and support the team to function as a resource for the family for as long as they are involved with the agency. Implementing the IPP as described in the State’s plan will be impossible without CYFD hiring and sustaining the necessary staff.

Given the workforce crisis,<sup>107</sup> to successfully integrate IPP practice into the values and operations of CYFD casework, there must be a focus on training, coaching, and supporting supervisors. The IPP roll out plan sequenced training and coaching of supervisors as one of the first steps in implementation, and this has not been fully completed due to supervisors themselves carrying cases or covering additional responsibilities due to other supervisor position vacancies.

## 11. Development of Quality Assurance, Improvement, and Evaluation Plan (App. A, TO 5.1)

<b><i>FSA Requirement</i></b>	<i>CYFD and HSD will create and implement a Quality Assurance, Improvement, and Evaluation Plan, including quality management tools and measures to be used for reporting on CYFD and HSD’s capacity to meet the needs of Children in State Custody, including measures for reporting on providing and improving quality of care, collaborating across Departments, and for providing transparency and accountability. The Plan will include: consistent definitions and terms across CYFD and HSD, data exchange and matching across CYFD and HSD, clarification of existing measures and indicators, self-assessments,</i>
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<sup>107</sup> In September 2022, then CYFD Secretary Barbara Vigil told the Legislative Courts, Corrections and Justice Committee that CYFD was in a “workforce crisis.” The article describing her testimony to the Committee can be found [here](#).



	<i>metrics as indicators of system performance (including process indicators, client outcomes, and system impact), a continuous quality improvement process that provides information in real time to decision-makers, and a process for responding to findings from the Plan. CYFD will develop a meaningful quality assurance process to ensure that training, policy, and procedure is being properly utilized and integrated into daily processes. The Co-Neutrals must approve the Quality Assurance, Improvement, and Evaluation Plan. CYFD and HSD will develop the Quality Assurance, Improvement, and Evaluation Plan by June 1, 2021. (Due June 1, 2021)</i>
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State met the Performance Standard to develop an approved Plan for this TO in 2022.

## **Discussion**

The Co-Neutrals approved “Phase 1”<sup>108</sup> of the State’s Quality Assurance, Improvement, and Evaluation Plan (QAIEP) on December 9, 2022.<sup>109</sup> Phase 1 requires the State to develop internal capacity and cross-departmental coordination between CYFD and HSD. The QAIEP is described as:

- A conceptual framework for quality improvement;
- The processes, tools, and measures that will assure high-quality accomplishments;
- Identification of areas and actions for ongoing improvement;
- A continuous quality improvement process that provides information in real-time to decision-makers and supports organizational cultures of learning and practice improvement; and
- A process for developing future recommendations.<sup>110</sup>

The QAIEP is divided into two components – the Quality Management (QM) Program and the Quality Framework. The QM Program largely defines the necessary organizational structures to implement the work of the QAIEP, while the Quality Framework provides the values, principles, and expectations that guide the work of the QAIEP. Organizational structures described in Phase

<sup>108</sup> As the State builds capacity to implement the QAIEP as described in the FSA, the QAIEP is expected to change and evolve. Thus, the QAIEP approved by the Co-Neutrals in December 2022 is considered a “Phase 1” approval.

<sup>109</sup> The State’s Phase 1 QAIEP can be found [here](#).

<sup>110</sup> QAIEP, pg. 1.

1 include creation of a CYFD/HSD Executive Leadership Team, a QAIEP Steering Committee, and a Continuous Quality Improvement (CQI) Committee.

The Quality Framework outlines four key practice points to be monitored by the QAIEP Executive Leadership Team to assist in identifying where CYFD and HSD policies and processes are working successfully, as well as where practices need to be improved. Each practice point outlines specific objectives alongside specific metrics.<sup>111</sup> In the Phase 1 QAIEP, the four key practice points are defined as:

1. Identification and Engagement.
  - a. Objective 1: Children and youth are identified, screened, and assessed upon entering CYFD Custody [Related to Appendix A - CANS/CAT]
  - b. Objective 2: Continuous identification of service gaps and needs [Related to Appendix D - Care Coordination]
2. Access.
  - a. Objective 1: Children in state custody experience their needs as being met with timely, consistent, appropriate response. (Related to Appendix D - Service Utilization, and Appendix A – Trauma-Responsive Services)
  - b. Objective 2: There are a sufficient number of Resource Families to meet the needs of children and youth. [Related to Appendix B - Resource Families]
3. Appropriate and Effective Services.
  - a. Objective 1: Children and youth are linked to trauma-responsive, culturally appropriate, evidence-based treatments. [Related to Appendix D - Service Utilization, and Appendix A – Trauma-Responsive Services]
4. Workforce and Provider Capacity.
  - a. Objective 1: State staff display adequate or better skills in service delivery. [Related to Appendix C - ICWA training to staff]

Successful implementation of the QAIEP will require the State to cultivate a culture of collecting, reviewing, and utilizing quantitative and qualitative data at all levels, which can only be accomplished when both CYFD and HSD build the capacity and sustain the necessary staff and resources to carry out the work envisioned by the QAIEP. A notable accomplishment was the creation of a CYFD QA Unit in October 2022. The QA Unit includes one supervisor and five staff, and is described in the Phase 1 QAIEP as “dedicated to assessing implementation, quality, and fidelity of *Kevin S.* deliverables.”<sup>112</sup>

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<sup>111</sup> QAIEP, pgs. 23-25.

<sup>112</sup> QAIEP, pg. 14.

## 12. Implementation of Quality Assurance, Improvement, and Evaluation Plan (App. A, TO 5.2)

<b><i>FSA Requirement</i></b>	<i>CYFD and HSD will... fully implement [the QAIEP] by December 1, 2021. (Due by December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### **Discussion**

The Co-Neutrals approved the State's plan in December 2022, and implementation consistent with the approved plan did not occur in 2022.

The presence of stable and consistent Cabinet-level leadership, as well as in senior and middle management, is crucial to the implementation of the QAIEP. The approved Phase 1 QAIEP Plan set forth a tiered committee structure to drive the work, including the review of both CYFD and HSD data; the capacity for more in-depth analysis and qualitative review; and the processes for communicating results with both leadership and frontline workers, deciding on improvement strategies, and creating accountability for using the information gathered toward improved outcomes. Given the many leadership changes in both departments in the recent past, much of the work to operationalize key parts of the QAIEP has stalled and will need to be revitalized in the coming year.

### ***iii. Appendix B: Least Restrictive and Appropriate Placements***

The commitments in Appendix B of the FSA require CYFD and HSD to “build a system for placing children in out-of-home care in stable, safe, appropriate, community-based placements in the least-restrictive environment.”<sup>113</sup> The parties describe this system as including:

- Caregivers who understand the strengths and needs of children, and who are able to support children to grow and heal;
- Placements that are the least restrictive, most connected, and most family-like as appropriate to meet the unique needs of children;

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<sup>113</sup> FSA, pg. 5a.

- An acknowledgement that children ages 14 and older should be consulted on their express placement preferences; and
- Stable placements that meet children’s needs and protect from the harm caused by multiple placement moves.

The State’s foster care system should be used “as temporary an arrangement as possible, with the goal of being [able] to provide children in out-of-home placements a safe, nurturing, and permanent home quickly.”<sup>114</sup>

*a. Implementation Targets due in 2020 or 2021 that were not previously achieved*

In prior reports, the Co-Neutrals assessed the State had met the Performance Standard for the following ITs – *Development of Recruitment and Retention Plan* (App. B, IT 1.1), *Publish Guidance Prohibiting Retaliation* (App. B, IT 2.1), *Development and Promotion of Warm Line for Resource Parents* (App. B, IT 3.1), and *Development of a Grievance Procedure for Resource Families* (App. B, IT 3.3). Thus, these ITs will not be reassessed in this or future reports.

## 1. Promotion of Internal Grievance Procedure for Youth (App. B, IT 3.2)

<b>FSA Requirement</b>	<i>CYFD will promote its internal Grievance Procedure for youth.</i> (Due December 1, 2020)
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State met the Performance Standard for this IT in 2022.

### Discussion

CYFD issued its PIG to staff (03-2021-#5) outlining revisions to CYFD’s Placement Services Procedures on March 19, 2021; these procedures included *PR13: Application of the Reasonable and Prudent Parent Standard*, and *PR14: Child or Youth Grievance Process, the Foster Child and Youth Bill of Rights, and the Foster Youth Document of Responsibilities*.<sup>115</sup>

The revised procedures provide processes by which youth can request a review of a foster care providers’ decisions in applying the prudent parenting standard,<sup>116</sup> or report a violation of their

<sup>114</sup> Ibid.

<sup>115</sup> CYFD’s PIG outlining the grievance procedure for youth can be found [here](#).

<sup>116</sup> The Reasonable and Prudent Parenting standard – a requirement of the federal Sex Trafficking and Strengthening Families Act of 2014, Supporting Normalcy for Children in Foster Care – is the standard caregivers should apply when determining whether to allow a child in foster care to participate in extracurricular, cultural, or social activities. Efforts should be made to normalize the lives of foster children.

rights under the New Mexico Foster Child and Youth Bill of Rights.<sup>117</sup> Specifically, any youth ages 14 and older who disagrees with a foster care provider's decision on the youth's involvement in certain activities (i.e., prudent parenting standard) can contact the Director of CYFD's Office of Children's Rights (OCR)<sup>118</sup> to request a review of the foster care providers' decision within 15 days after the decision was made. Upon receipt of the request, the Director of OCR is expected to determine whether review of the decision should be conducted through a mediated discussion among the individuals involved in the decision, or if the review will be conducted by a three-person panel.<sup>119</sup>

If a youth wants to report a violation of their rights under the New Mexico Foster Child and Youth Bill of Rights, the process begins similar to the one outlined above for prudent parenting standard decisions. The child, youth, or person acting on their behalf contacts the OCR, and OCR staff will assist the child or youth in making the grievance, including providing the child or youth with the necessary forms. The OCR is responsible for investigating the grievance, developing a file for the grievance within the OCR (which includes assigning a case number), and determining if the grievance can be addressed by informal resolution, or should be assigned to a three-person panel.

As a component of promoting the grievance procedure for youth – the activity required by this IT – CYFD committed to post the New Mexico Foster Child and Youth Bill of Rights at all times within eye-level range in public spaces in all CYFD PSD offices, and in all placements, including congregate care settings, resource homes, and treatment foster care homes.<sup>120</sup> In September 2022, the Co-Neutrals visited seven CYFD PSD offices and consistently observed the New Mexico Foster Child and Youth Bill of Rights posted.

The Co-Neutrals confirmed in the second half of 2022 that CYFD had put in place a tracking process for youth grievances. OCR provided data from this system to the Co-Neutrals for review that includes 106 contacts with OCR regarding issues ranging from a parent or family member with concerns regarding an open case; requests for records; requests for OCR to participate in staffings for a child experiencing placement instability; concerns about educational decisions for a child; requests for assistance with services for children with developmental disabilities or visual impairments, and concerns about facilities in which children are placed. Nearly half (51) of the 106 contacts were initiated by a parent or family member; 20 contacts were initiated from CYFD staff involved in a case or a representative from the Office of Constituent Affairs; 10 contacts were from a community provider; and eight contacts were made directly by youth. In 26 of the contacts,

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<sup>117</sup> The New Mexico Foster Child and Youth Bill of Rights can be found [here](#).

<sup>118</sup> The Office of Children's Rights (OCR), created in January 2021, is within CYFD, and the Co-Neutrals were apprised that the Director of OCR reports to the Secretary of CYFD.

<sup>119</sup> CYFD reports the three-person panel is comprised of one PSD worker who has been employed by CYFD for at minimum one year, one caregiver, and one current or former foster youth (who could be a Youth Advocate employed by CYFD). All members of the panel must be from counties outside of where the youth's case originated, and where the youth is currently placed. OCR must make efforts to convene a panel that does not have prior knowledge of the youth or caregiver, or supervision of the PSD workers involved in the decision process.

<sup>120</sup> PR14, paragraph 5.

OCR provided direct assistance to resolve the issue; in 19 contacts, information was provided to the caller; and in 18 contacts, the issue was resolved through “informal resolution.”

*b. Target Outcomes Due Between 2020 and 2022*<sup>121</sup>

**2. Prohibition of Placements in Hotels/Motels, Out-of-State, and in Offices Except in Extraordinary Circumstances (App. B, TO 1.1)**

<b>FSA Requirement</b>	<i>By December 1, 2020, no child under 18 will be placed in any hotel, motel, out-of-state provider, office of a contractor, or state agency office unless in extraordinary circumstances necessary to protect the safety and security of the child as documented in the child’s record and approved by the Secretary or the Protective Services Director of CYFD. In any such extraordinary circumstance, CYFD shall provide notice to the child’s Guardian ad Litem and Youth Attorney immediately where possible, and not more than 24 hours after the placement of the child. Notification to the dependency court to which the child’s case is assigned must occur within 3 business days. When a child is placed with an out-of-state provider, notice to the child’s Guardian ad Litem, Youth Attorney, and the dependency court to which the child’s case is assigned will be given prior to the move, pursuant to statute. (Due December 1, 2020)</i>
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

**DVP Metrics and Validated Performance Data**

*BTO1.1(i\*) – secondary metric: The percent of children with any office, hotel/motel, or out-of-state RTC/group placements in the cohort during reporting year.*

In 2022, 82<sup>122</sup> (3%) of 2,755 children in state custody experienced a placement to at least one of the settings covered by this commitment – a hotel/motel, office, or out-of-state facility. As shown

<sup>121</sup> App. B, TO 9.1 – *Timely Permanency for Children in Care*, is due in December 2023; current performance data are included within this report.

<sup>122</sup> The metrics reported in this section were calculated from placement data submitted by the State as validated by the Co-Neutral team’s qualitative review. In reviewing children’s FACTS records, the Co-Neutral team identified discrepancies between the State’s structured data and information in children’s case records for 14 placements: four out-of-state placements that did not meet the definition of new placement (1 was an acute hospitalization, 3 were continuations of prior placements); three office stays identified in the qualitative review that did not appear in the State’s quantitative data; six placements where the placement type in FACTS was incorrect (5 office stays recorded

in Table 13, this is a decrease from 2021, when data submitted by the State indicated that 102 (4%) of 2,949 children experienced a placement to one of those settings, but an increase in percentage from 2019 and 2020, when two percent (83 of 3,881 children) experienced such placements. The number and share of children who had any placements to out-of-state facilities declined substantially between 2019 and 2022, while the number of children with any placements to a hotel/motel or office increased, more than doubling for children experiencing office placements.

**Table 13: Children with any Placement to a Hotel/Motel, Office, or Out-of-State Facility 2019 – 2022**

Category	2019 (N = 3,881)		2020 (N = 3,344)		2021 (N = 2,949)		2022 (N = 2,755)	
	#	%	#	%	#	%	#	%
<b>Children with any placement in applicable setting<sup>123</sup></b>	<b>83</b>	<b>2%</b>	<b>63</b>	<b>2%</b>	<b>102</b>	<b>4%</b>	<b>82<sup>124</sup></b>	<b>3%</b>
<b><i>Children with placement to any applicable setting, by type of setting</i></b>								
Out-of-state facility	57	1.3%	31	0.9%	27	0.9%	14	0.5%
Office	34	0.9%	32	1.0%	85	2.9%	71 <sup>125</sup>	2.6%
Hotel/motel	0	0%	2	0.1%	3	0.1%	6	0.2%

Source: Analysis of Sandbox *Placement* files submitted 3/31/22 (2019 and 2020), 5/2/22 (2021), and 5/1/23 (2022), supplemented by service type detail from FACTS *episodes* files submitted 5/2/22 (2019-22) and 5/1/23 (2022); manual *Hotel Stays* file submitted 3/31/22 (2020); and manual *Named Plaintiff – Office Stay Manual Record* file submitted 5/2/22. Findings for 2022 reflect adjustments informed by case record reviews of FACTS documentation conducted by the Co-Neutral team.

This metric is reported at the child-level (i.e., a child with multiple placements to a hotel/motel, office, or out-of-state facility is counted only once). But as additional contextual information to inform the Co-Neutrals’ assessment of the State’s efforts, the Co-Neutrals also examined the total number of placements to each placement type by month (see Table 14).

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as hotel stays, and 1 hotel stay recorded as an office stay); and an incorrect start date for one placement. The Co-Neutral team was not able to validate two additional office placements that appeared in the State’s quantitative data but for which there was no documentation in the child’s record reflecting that an office placement occurred.

<sup>123</sup> Some children had placements to more than one setting covered by this TO. Therefore, numbers by setting or placements are higher than the total number of unique children.

<sup>124</sup> As discussed further below, the Sandbox placement data submitted by the State includes two office placements that the Co-Neutrals were not able to validate. One of the placements was for a child with no other hotel/motel, office, or out-of-state placements – this child is not included in the count above. The other placement was for a child who had multiple office placements so is included in the 82 placements reported in the Table above.

<sup>125</sup> Does not include two office placements that appear in the Sandbox data for which no supporting documentation was available in the case record (both in February 2022).

**Table 14: Placements to Hotel/Motel, Office, and Out-of-State Facility  
by Month, in 2022**

Month	Total placements	Placements by setting		
		Out-of-state facility	Office	Hotel/motel
January	12	1	10	1
February	15	2	12	1
March	8	4	3	1
April	14	1	12	1
May	18	1	15	2
June	23	1	22	0
July	13	2	11	0
August	7	0	7	0
September	15	1	14	0
October	12	0	12	0
November	13	0	13	0
December	9	1	8	0
<b>Total</b>	<b>159<sup>126</sup></b>	<b>14</b>	<b>139</b>	<b>6</b>

Source: Analysis of Sandbox *Placement* file submitted 5/1/23, supplemented by service type detail from FACTS *episodes* file submitted 5/1/23 and adjustments informed by case record reviews of FACTS documentation conducted by the Co-Neutral team.

*BTO1.1(i) – primary metric: Percentage of children who had a placement in hotel/motel/office settings, or with out-of-state providers, that include required finding and approval of “extraordinary circumstances” and meet all notification requirements. For out-of-state RTC care settings, metric will include appropriate triage meetings.*

The Co-Neutral team examined FACTS data for each congregate placement in which the State recorded the allowable circumstance for that placement (e.g., “extraordinary circumstances,” “medical necessity,” or “best interest”) and the date the State made that determination. This information is recorded in FACTS, typically by caseworkers at the time of placement.

The Co-Neutral team conducted independent reviews of children’s records in an effort to validate the State’s representation of these placements in FACTS.<sup>127</sup> In reviewing children’s FACTS records, the Co-Neutral team determined that some placements that appeared as new placements subject to the “extraordinary circumstances” requirement were not new placements (e.g., acute

<sup>126</sup> Ibid.

<sup>127</sup> Data, as submitted by the State, show that caseworkers recorded in FACTS that an “extraordinary circumstances” determination was made on or before the date of placement for 101 (65%) of the 155 new placements to a hotel/motel, office, or out-of-state facility in 2022. The Co-Neutral team identified three additional office stays that were not in the data submitted by the State, and one office stay with an incorrect start date; information about “extraordinary circumstances” determinations is not available for these placements.



hospitalizations incorrectly recorded in FACTS). Moreover, there were placements described in the case record that did not appear in the State's data. For the new placements to hotels/motels, offices, and out-of-state facilities that did appear in the data and were reviewed, the Co-Neutral team determined that children's placements did not meet the extraordinary circumstances standards set forth by the parties in Appendix B.

*BTO1.1(ii) – qualitative metric: Qualitative review of extraordinary circumstance determination for placements to hotels, motels, or offices.*<sup>128</sup>

For this metric and the other qualitative metrics discussed below, the Co-Neutral team developed protocols and instruments and conducted reviews of children's FACTS's records to assess whether CYFD made placements pursuant to the extraordinary circumstances, medical necessity, and best interest standards in the FSA.<sup>129</sup>

The Co-Neutral team reviewed 145 placements in 2022 in hotels/motels and offices; this includes all six hotel/motel placements, and all 139 episodes in which CYFD housed children in county offices.<sup>130,131</sup>

CYFD informed the Co-Neutrals that all hotel/motel placements were for children who had tested positive for Covid-19. FACTS documentation for the six hotel/motel placements shows that four of the placements were made due to Covid-19, and two of those four placements had documented prior approval by the CYFD Secretary or PSD Director as required by the FSA for this TO.

None (0%) of the 139 office placements reviewed by the Co-Neutral team include documentation of specific safety and security threats which necessitated the office placement. Children's records show that nearly all of the office placements were made due to a lack of appropriate placements.

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<sup>128</sup> In reviewing extraordinary circumstances determinations, the Co-Neutral team assessed whether documentation in the child's record demonstrated the placement was necessary to protect the safety and security of the child, and that the placement was approved by the CYFD Secretary or PSD Director prior to the placement occurring, consistent with the FSA. The Co-Neutrals determined that a lack of alternative or available placements is insufficient to meet the extraordinary circumstances standard set forth in the FSA; Plaintiffs' counsel have concurred with this determination, but the parties have not yet reached an agreement on the definition of extraordinary circumstances necessary to protect the safety and security of the child.

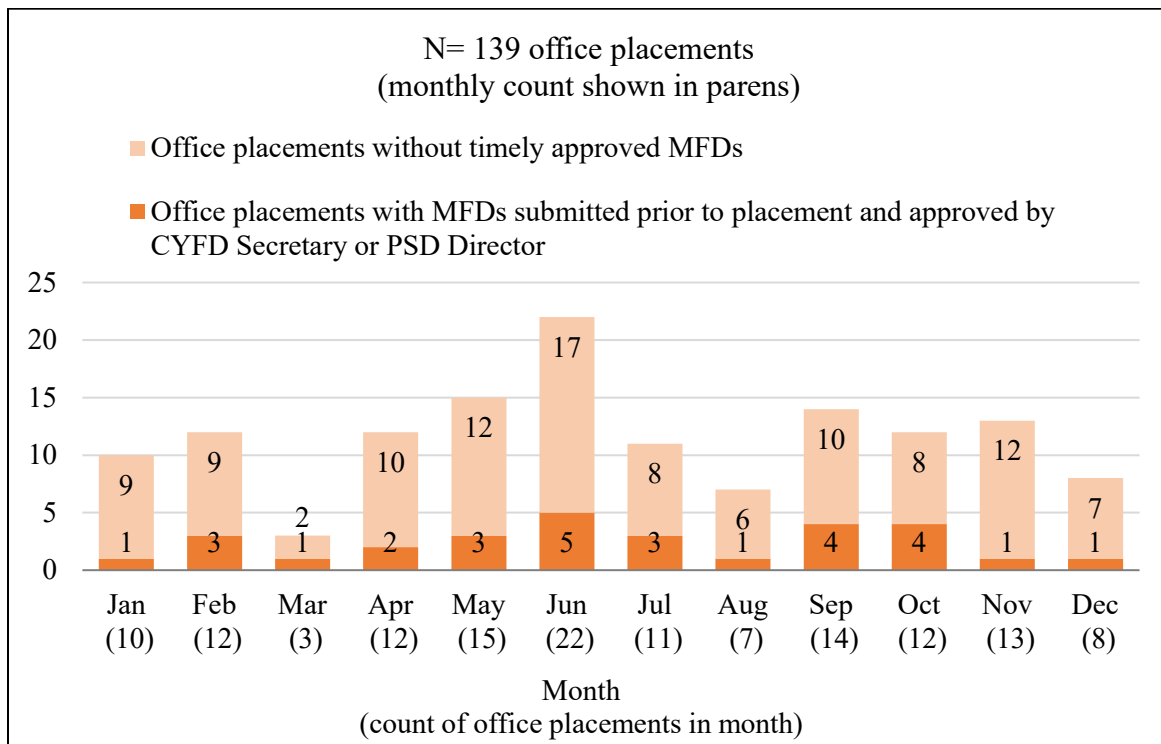
<sup>129</sup> The Co-Neutrals provided these instruments to the State for feedback, and all of the State's suggestions were incorporated. The Co-Neutral team participated in an initial orientation and training on the FSA standards and review instruments, and participated in a FACTS training conducted by CYFD staff. The Co-Neutral team implemented a quality control process during the reviews, which included inter-rater reliability and second level reviews of identified surveys. Findings from these reviews were provided to the State for review and feedback in advance of publication of this report.

<sup>130</sup> Although five placements were identified in FACTS or the quantitative data report provided by CYFD as being in a hotel, the Co-Neutral team reviewed the children's records and determined these placements were in county offices; and one placement listed as in a county office was recategorized as a hotel placement after review of the child's record. The Co-Neutral team also identified three additional office placements within children's records that were not in the quantitative data report provided by the State, and one additional office placement with an incorrect start date.

<sup>131</sup> The data submitted by the State reflected two office stays that are not included in these counts as there was no documentation in the case record that the Co-Neutral could use to validate the placements.

Many of those episodes included notations by CYFD staff justifying the office placement as, for example, preventing the child from “being homeless, in the elements, and at higher risk of victimization.” In 29 (21%) of the 139 office placements, documentation in FACTS shows a Memorandum for Decision (MFD)<sup>132</sup> was submitted to and approved by the CYFD Secretary or PSD Director prior to the placement.<sup>133</sup> Figure 2 below illustrates the months in which these office placements and MFD approvals occurred.

**Figure 2: MFDs Approved for Office Placements in 2022**



Source: Case record review of FACTS documentation conducted by the Co-Neutral team.

Nearly two-thirds of the office placements (87 of 139) lasted no more than two nights, but 21 percent (29 of 139) lasted five or more nights. The lengths of stay for all 139 office placements in 2022 are set forth in Table 15 below.

<sup>132</sup> An MFD is the CYFD template that caseworkers complete to request approval by the county office manager, regional manager, field deputy director, PSD Director, and/or CYFD Secretary. As used in the context of approval for office stays, PPWs are required to include in the MFD all efforts to identify appropriate placements for the child, and the extraordinary circumstances that threaten the child’s safety and security.

<sup>133</sup> Nine additional MFDs were approved by the PSD Director, however, the approval occurred after the placement had begun.

**Table 15: Length of Stay of Office Placements in 2022**

Length of Placement	Number of Placements	Percent of Placements
1 night	59	42%
2 nights	28	20%
3 nights	9	6%
4 nights	14	10%
5 nights	7	5%
6 nights	5	4%
More than 6 nights	17	12%
<b>Total</b>	<b>139</b>	<b>100%</b> <sup>134</sup>

Source: Case record review of FACTS documentation conducted by the Co-Neutral team.

Forty percent (56) of office placements in 2022 occurred following a child’s discharge from a non-relative resource home; 24 percent (34) of office placements occurred following a child’s discharge from a shelter, group home, or community home; and 11 percent (15) of office placements served as the child’s first placement upon entering foster care.

*BTO1.1(iii) – qualitative metric: Qualitative review of extraordinary circumstance and medical necessity determinations for placements to out-of-state congregate settings.*<sup>135</sup>

The number and share of children who had any new placements to out-of-state facilities declined in 2022 – 14 as compared to 27 in 2021. The reduction was the result of a focused effort launched in mid-2022 by the Secretary of CYFD and her leadership team to avoid out-of-state congregate care placements. The out-of-state congregate placements in 2022 were notably fewer, but those that occurred did not reflect *extraordinary circumstances necessary to protect the safety and security of the child*, as required by FSA Appendix B. Documentation demonstrates an MFD was submitted to and approved by the CYFD Secretary or PSD Director prior to seven (50%) of the out-of-state congregate placements (see Table 16 below).<sup>136</sup>

<sup>134</sup> Percentages may not total 100 due to rounding.

<sup>135</sup> In assessing extraordinary circumstances determinations, the Co-Neutral team assessed whether documentation in the child’s record demonstrated the placement was necessary to protect the safety and security of the child, and that the placement was approved by the CYFD Secretary or PSD Director prior to the placement occurring. The Co-Neutrals determined that a lack of alternative or available placements is insufficient to meet the extraordinary circumstances standard set forth in the FSA.

<sup>136</sup> Of the two MFDs that were not documented as approved by the CYFD Secretary or PSD Director, both were approved by a CYFD staff other than the CYFD Secretary or PSD Director.

**Table 16: Timely and Approved MFDs for Out-of-State Facility Placements  
by month in 2022**

Month	Number of Out-of-State Placements	Number of MFDs Submitted Prior to Placement	Number of MFDs Approved Prior to Placement	Number of Placements Documented as Necessary to Protect the Safety and Security of Child
January	1	0	0	0
February	2	2	2	0
March	4	3	1	0
April	1	1	1	0
May	1	0	0	0
June	1	0	0	0
July	2	1	1	0
August	0	-	-	-
September	1	1	1	0
October	0	-	-	-
November	0	-	-	-
December	1	1	1	0
<b>Total</b>	<b>14</b>	<b>9 (64%)</b>	<b>7 (50%)</b>	<b>0 (0%)</b>

Source: Case record review of FACTS documentation conducted by the Co-Neutral team.

The Co-Neutrals requested MCO documentation from HSD regarding medical necessity determinations for the out-of-state placements made in 2022, however, the necessary information was not provided within the timeline requested.<sup>137</sup> The Co-Neutrals therefore relied on the CYFD FACTS record, which for the cases reviewed, did not include information from HSD or MCOs on medical necessity determinations. Thus, the Co-Neutrals cannot report performance toward the medical necessity standard for out-of-state facility placements in 2022.

### **Discussion**

The number and share of children who had any placements to out-of-state facilities declined substantially between 2019 and 2022, while the number of children with any placements to a hotel/motel or office increased, more than doubling for children experiencing office placements. The Co-Neutrals assess that none of the children’s placements in offices or out-of-state facilities in 2022 met the extraordinary circumstances standard. Most of the children experiencing office

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<sup>137</sup> In June 2023, HSD provided the Co-Neutrals with MCO documentation of prior approval of five of the 14 out-of-state placements. The documentation for each of these placements concludes that the child meets medical necessity criteria for “RTC” (residential treatment center) level of care as evidenced by current behaviors. However, the documentation does not specify whether community-based mental health services could have been provided, which is the second part of the criteria required by the FSA for medical necessity determinations.

placements had significant behavioral health needs, and required intensive therapeutic supports that could not be delivered in an office setting that is not licensed for the placement of children.<sup>138</sup>

Although the number of new out-of-state placements declined, 38 children were in out-of-state facilities for at least 30 days in 2022, including many children placed there during the previous year.<sup>139</sup> A significant issue identified by the Co-Neutrals during reviews of children's out-of-state placements were the number of safety concerns documented within the out-of-state facilities where New Mexico children were placed.<sup>140</sup> Of the 38 children living in out-of-state facilities for at least 30 days at some point in 2022, the Co-Neutrals identified safety concerns in seven (18%) of their placements. Identified safety concerns include lack of supervision by facility staff (including one incident where a youth attempted suicide); use of chemical and physical restraints; sexual activity among residents; and concerns regarding medication management and use of polypharmacy.<sup>141</sup>

Documentation was found for eight of the 14 new out-of-state placements in 2022 showing that CYFD had contacted someone within the state where the facility was located to determine if the facility had any licensing violations within the previous 12 months, if there were any current sanctions, and if the state in which the facility was located currently placed children in their state's custody at the facility. This is a positive new practice.

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<sup>138</sup> The Co-Neutrals identified a number of practice issues in reviewing children's records. In numerous cases, a child slept overnight at a shelter (sometimes on a couch), and spent long periods of time in the office during the day. Another practice issue identified – which provides further support for the need for intense and immediate resource parent recruitment efforts – was the frequency of resource homes denying placement of a child because the resource parents only accepted children under a certain age, for example, children under the age of four, or six, or 10 years old.

<sup>139</sup> As a reference for more current practice, unvalidated data provided by CYFD show that as of August 28, 2023, there were 12 children in out-of-state facilities; each child's length of stay (in days) is as follows: 20, 40, 56, 96, 104, 118, 270, 494, 551, 627, 763, and 850. Almost half of the children placed out of state at the end of August 2023 had been there for well over one year.

<sup>140</sup> During case record reviews, it is part of the Co-Neutrals' practice to notify CYFD of any safety concerns that are identified within the record.

<sup>141</sup> The Co-Neutrals identified ongoing State investigations in some facilities in which children were placed in 2022. Youth Health Associates (YHA) in Utah was placed on Conditional Status as of July 27, 2022, by Utah's DHHS Licensing Office, which required YHA to provide notice to legal guardians and state agencies of all children in their program. CYFD placed a child at YHA on July 20, 2022, and there was no acknowledgement in the record of this notice. As of August 28, 2023, CYFD reports there were three children in CYFD PSD custody placed at YHA. CYFD was also notified by the Co-Neutrals in April 2022 regarding safety concerns and heightened monitoring by Texas DHHS at Tangram Rehabilitation Inc. (also known as Texas Hill Country School), where five children in state custody were placed at the time. As of August 28, 2023, CYFD reports there are no children in CYFD PSD custody placed at Tangram Rehabilitation Inc.

### 3. Joint Clinical Reviews of Out-of-State Placements (App. B, TO 2.1)

<b><i>FSA Requirement</i></b>	<i>By December 1, 2020, HSD and CYFD will conduct a joint clinical review of any out-of-state placement, where the child's out-of-state placement is not the child's permanency plan, at least on a monthly basis. (Due June 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

The Joint Clinical Review (JCR) process is outlined in paragraph 11.4 of CYFD's PIG 01-2022-#3<sup>142</sup> which includes revisions to *Procedure PR10 – Out of Home Placements*. The PIG states that the JCR is a process utilizing the IPP framework that is required for children who are placed in out-of-state facilities to provide a forum to: review the child's treatment plan and updates; review or create a discharge plan, including identification of in-state resources that need to be developed and in place for the child to return to New Mexico; identify any gaps in the medical and behavioral health care being provided, and create strategies to address any identified gaps.

JCR meetings are expected to occur every 30 days, are to be coordinated by the CYFD PPW caseworker, and specified participants must attend the meeting. These participants include the child or youth, child or youth's parent or other family members, PPW or primary assigned caseworker, PPW or primary assigned worker's supervisor, CBHC staff, MCO care coordinator or other care coordinator representative, case manager from the out-of-state facility, GAL or Youth Attorney, tribal representative (as applicable), and representative from the Office of Tribal Affairs (OTA) (as applicable).

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<sup>142</sup> CYFD's PIG 01-2022-#3 can be found [here](#).

## **DVP Metrics and Validated Performance Data**

*BTO2.1(i) – primary metric: Of all the joint clinical reviews required during the reporting year, the percent that were conducted timely.*

The Co-Neutrals’ analysis of the State’s data showed there were 258 JCRs required in 2022 for children in out-of-state placements<sup>143</sup> and 186 (72%) of them were conducted<sup>144</sup> on time.<sup>145</sup>

The Co-Neutrals examined the rate of timely meetings by month and found that the percentage of conducted and timely JCR meetings increased over the course of the year (from 62% in the first half of the year to 85% in the second; see Table 17).

**Table 17: Completed and Required Joint Clinical Reviews for Out-of-State Residential Placements in 2022, by Month**

<b>Month</b>	<b>Total required JCRs</b>	<b>Completed and timely JCRs</b>	<b>Percent of required JCRs completed timely</b>
January	28	17	61%
February	20	13	62%
March	24	10	43%
April	24	18	75%
May	25	15	60%
June	22	15	68%
July	21	14	67%
August	22	19	86%
September	22	19	86%
October	18	16	89%
November	18	18	100%
December	14	12	86%
<b>Total</b>	<b>258</b>	<b>186</b>	<b>72%</b>

Source: Analysis of Sandbox *Placement* file submitted 5/1/23, supplemented by service type detail from FACTS *episodes* file submitted 5/1/23, and Sandbox *Meetings* file submitted 7/20/23 and adjustments informed by the case record review of FACTS documentation conducted by the Co-Neutral team.

<sup>143</sup> The Co-Neutral team adjusted this count to exclude JCRs associated with the four out-of-state facility placements that appeared in the State’s data but that did not meet the definition of a new placement.

<sup>144</sup> A meeting is considered “conducted” when the State’s data indicates that it was not canceled, it occurred on or before the due date, and it was an “Out-of-State 30-Day Review.” Due dates were calculated as every 30 days after the start of the placement and were unaffected by a move from one out-of-state placement to another.

<sup>145</sup> The calculation of this metric for 2021 excluded 30-day periods from placements that began before 2021, because the commitment came due in 2021. In contrast, the 2022 metric included 30-day periods from placements that began during or before 2022, provided there was at least one meeting due in 2022. Thus, the Co-Neutrals do not compare 2022 performance with 2021 performance in this report.

*BTO2.1(ii) – qualitative metric: Qualitative review of Joint Clinical Reviews for children in out of state placements.*

The Co-Neutral team reviewed all applicable placements of children who were in facilities out-of-state between January and December 2022, including children placed out-of-state in 2021 who remained in those placements for at least 30 days in 2022. For the 38 placements reviewed, a total of 242 JCRs were required between January and November 2022.<sup>146,147</sup> The Co-Neutrals confirmed that 201 (83%) JCRs were documented as completed.<sup>148</sup> None (0%) of the completed JCRs included all required attendees and documented discussion of all required meeting components including review of the child’s treatment plan, discharge plan, and identification of in-state resources that need to be developed and in place for the child to return to New Mexico.

**Table 18: Joint Clinical Reviews (JCRs) Required and Held  
January – November 2022**

<b>Months in Period Assessed</b>	<b>Total JCRs Required</b>	<b>Number of JCRs Documented as Completed</b>	<b>Percent of JCRs Documented as Completed</b>	<b>Number of JCRs with Required Attendees and Required Meeting Components Discussed and Documented</b>
January – June 2022	142	111	78%	0
July – November 2022	100	90	90%	0
<b>Total</b>	<b>242</b>	<b>201</b>	<b>83%</b>	<b>0</b>

Source: Case record review of FACTS documentation conducted by the Co-Neutral team.

Of the 201 JCR meetings that were documented as completed between January and November 2022, the CBHC and PPW caseworker were the most consistent documented attendees in the meetings (see Table 19 below). The child’s parents or other family members were documented as participants in 18 (9%) JCR meetings.

<sup>146</sup> The Co-Neutrals’ review was conducted in December 2022, thus, practice through November 2022 was assessed.

<sup>147</sup> The universe for this qualitative metric differs from the universe in the quantitative metric due to the 11 months versus 12 months periods of review, and adjustments made in the qualitative data based on what the Co-Neutrals found in children’s case records.

<sup>148</sup> This qualitative review did not examine the timeliness component as measured in the quantitative metric discussed above. Reviewers identified if a JCR occurred at any time during the applicable month.



**Table 19: Documented Participants in Completed Joint Clinical Reviews**  
**January – November 2022**  
*N=201*

Participant Type	Number Documented in Attendance	Percent Documented in Attendance
CBHC	173	86%
PPW Caseworker	169	84%
MCO Care Coordinator	148	74%
Child or Youth	114	57%
PPW Supervisor	113	56%
Mental Health Provider Assigned to the Child or Youth	85	42%
Case Manager or Other Staff from the Facility	83	41%
GAL or YA	76	38%
Child or Youth's Parent or Other Family Members	18	9%

Source: Case record review of FACTS documentation conducted by the Co-Neutral team.

### **Discussion**

Although the quantitative and qualitative data show that the frequency of completing JCR meetings as required increased over time in 2022, the Co-Neutral team's case record review revealed that none of the meetings included all of the required participants and discussion topics.

## **4. Known Caseworker Visits to Children Placed in Out-of-State Facilities** (App. B, TO 2.2)

<b><i>FSA Requirement</i></b>	<i>A CYFD caseworker known to the child will conduct in-person visits every month. (Due June 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

Monthly visits to children in out-of-state placements are required to assess the child's safety and well-being, and to ensure the child's needs are being met. On October 19, 2021, CYFD issued PIG 10-2021-#19<sup>149</sup> which revises CYFD Procedures *PR10 – Out of Home Placement* and *PR19 –*

<sup>149</sup> CYFD's PIG 10-2021-#19 can be found [here](#).

*Visitation*, and provides that a worker “known to child”, defined as the child’s primary PSD worker or their supervisor, is required to conduct these visits. Paragraph 10.6 specifically states:

If the decision is to place a child or youth in an out of state congregate placement, the PSD Worker or Supervisor must visit the child monthly to assess the child/youth’s safety and wellbeing and ensure the child/youth’s needs are being met. When that is impossible, the PSD Worker’s Supervisor may approve the monthly worker-child visit be conducted by a worker who has a relationship to the child/youth to assess the child/youth’s safety and wellbeing and ensure the child/youth’s needs are being met. PSD Worker and Supervisor will ensure contact is maintained between the child and their family.

### **DVP Metrics and Validated Performance Data**

*BTO2.2(i\*) – secondary metric: For all of the in-person visits to any child in an out-of-state placement that is not part of a child’s permanency plan required during the reporting year, the percent that were conducted timely.*

*BTO2.2(i) – primary metric: For all of the in-person visits to any child in an out-of-state placement that is not part of a child’s permanency plan required during the reporting year, the percent that were conducted timely by a caseworker known to the child.*

Per the DVP, the first visit is due by the end of the month following the child’s placement and visits with the child are due once every month thereafter until the placement ends. For this analysis, the number of visits due was calculated based on the start of the placement<sup>150</sup> until the end of the period placed out of state (or end of the reporting year).

In reviewing the data provided by the State for this quantitative metric in conjunction with the data collected for the corresponding qualitative metric, the Co-Neutrals are unable to validate the quantitative performance data provided by the State.<sup>151,152</sup>

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<sup>150</sup> If the placement began before the start of the reporting year, the first visit was due in January.

<sup>151</sup> In 2022, data submitted by the State show there were 38 children in out-of-state facilities for at least 30 days during the reporting year, with a total of 243 visits required; the State’s data show that 227 (93%) of those visits were conducted on time by any visitor, not just a caseworker known to the child. This is a decrease from 2020 and 2021, when 402 (99%) of 407 visits and 232 (98%) of 236 visits were conducted on time, respectively. The qualitative review found that only 242 visits were required, as the discharge date for one child as documented in the record was determined to be different than the Sandbox data.

<sup>152</sup> Quantitative data submitted by the State for the 243 visits due for 38 children placed in out-of-state facilities showed 194 (80%) visits were completed on time and by a worker recorded in FACTS as “known to the child.” As discussed below, qualitative review of children’s FACTS records identified performance was 69%.

*BTO2.2(ii) – qualitative metric: Validation of known worker indicator.*

The Co-Neutral team reviewed the FACTS records for all children placed out-of-state for at least 30 days in 2022 to determine if a PSD worker visited the child each month they were placed out of state. If someone other than the child’s assigned PPW or PPW supervisor visited the child, in order to assess if the worker was “known to the child,” the Co-Neutral team reviewed documentation to determine if the supervisor approved the worker to conduct the visit and that the worker had a relationship with the child.

Of the 242 required visits between January and December 2022, 142 (59%) visits were completed by the child’s primary PPW (see Table 20 below). An additional 22 (9%) visits were completed by the assigned worker’s supervisor, and four (2%) visits were completed by a worker known to the child. Thus, based upon documentation in the child’s record, 69 percent of required visits were conducted by a worker known to the child.

**Table 20: Worker Visits to Children Placed Out-of-State Required and Completed  
January – December 2022**

Months in Period Assessed	Number of Worker Visits Required	Visits by Primary Worker		Visits by Primary Worker’s Supervisor		Visits by Worker Known to Child, but Not Primary Worker		Visits by Worker Not Known to Child		No Visit Documented	
		#	%	#	%	#	%	#	%	#	%
Jan - June 2022	135	71	53%	11	8%	4	3%	24	18%	25	19%
July – Dec 2022	107	71	66%	11	10%	0	0%	10	9%	15	14%
<b>Total<sup>153</sup></b>	<b>242</b>	<b>142</b>	<b>59%</b>	<b>22</b>	<b>9%</b>	<b>4</b>	<b>2%</b>	<b>34</b>	<b>14%</b>	<b>40</b>	<b>17%</b>

Source: Case record review of FACTS documentation conducted by the Co-Neutral team.

**Discussion**

Visits to children placed out of state by adults who they know and with whom they have a relationship are a critical component to assessing their safety when they are far from home, evaluating their treatment progress, and maintaining connections. The Co-Neutrals found that 69

<sup>153</sup> Percentages may not total 100 due to rounding.

percent of the completed visits were conducted by *a worker known to the child*. The Co-Neutrals' validation review also found that in 40 (17%) instances, no required visits occurred.

## 5. Out-of-State IPP Meeting and Development of Discharge Plans (App. B, TO 2.3)

<b><i>FSA Requirement</i></b>	<i>Within the first 30 Days of the placement, the out-of-state Individualized Planning Meeting team will develop a discharge plan which includes identification of in-state resources that need to be developed for the child to return to New Mexico. The CYFD caseworker will do so by working with HSD or its designee to secure services that could be funded by Medicaid. Individualized Planning Meetings, which may take place during scheduled treatment team meetings for children in residential care, will be held every 30 Days to support the child and identify steps necessary to promote discharge. (Due June 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

CYFD's PIG 01-2022-#3<sup>154</sup> states that discharge planning is a required component of the monthly JCR meeting for children placed in out-of-state facilities. Specifically, paragraph 11.4 states, in relevant part:

Within 30 days of a child's placement out of state, the child's Triage Team for Out of State placement will develop a discharge plan. The discharge plan is defined as a process which gives children/youth, their guardians and families' access to information that will help them to make informed decisions about their post care, while addressing their goals of care and treatment preferences, which may help to stabilize them post-placement and ultimately reduce their chances of being readmitted. The discharge plan should include identification of in-state resources that need to be developed and in place for the child to return to New Mexico.

The PIG requires that the JCR team plan for the child or youth's discharge to a less restrictive placement in New Mexico, and that the plan be documented and uploaded to FACTS.

<sup>154</sup> CYFD's PIG 01-2022-#3 can be found [here](#).

## **DVP Metrics and Validated Performance Data**

*BTO2.3(i) – primary metric: Of all the discharge plans required for an Out-of-State placement not consistent with the child's permanency plan, the percent that were done timely (within 30 days of placement).*

*BTO2.3(iii) – primary metric: Of all the discharge review IPM meetings required for an Out-of-State placement not consistent with the child's permanency plan, the percent that were done timely (every 30 days of placement).*

The Co-Neutrals were unable to validate 2022 data for these metrics because these metrics rely on a data collection process that the State had not implemented by the start of 2022. In 2022, the State embedded a survey tool into FACTS to collect information on the components of and participants in meetings (including whether a discharge plan was created or reviewed). Data from this survey tool will be necessary to validate this metric for 2023.

*BTO2.3(ii) – qualitative metric: Qualitative review of discharge plans for children in out-of-state placements.*

The Co-Neutral team reviewed the FACTS records for all children placed out of state for at least 30 days in 2022 to determine if a discharge plan was developed and/or reviewed to identify next steps to promote the child's return to New Mexico. Of the 242 discharge plans required between January and November 2022,<sup>155</sup> 50 (21%) plans were documented.

**Table 21: Discharge Plans Required and Completed  
January – November 2022**

<b>Months in Period Assessed</b>	<b>Number of Discharge Plans Required</b>	<b>Number of Discharge Plans Developed and/or Reviewed to Identify Necessary Steps to Promote Discharge</b>	<b>Percent of Discharge Plans Developed and/or Reviewed to Identify Necessary Steps to Promote Discharge</b>
January - June 2022	142	26	18%
July – November 2022	100	24	24%
<b>Total</b>	<b>242</b>	<b>50</b>	<b>21%</b>

Source: Case record review of FACTS documentation conducted by the Co-Neutral team.

## **Discussion**

Documentation of practice in 2022 shows that discharge planning was not completed for most children placed out of state. In reviewing discharge plans, the Co-Neutrals found that plans were

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<sup>155</sup> The review was conducted in December 2022, thus, practice through November 2022 was assessed.

frequently general (i.e., “TFC”) without specific action steps, timelines, or follow up to secure placement and supportive services for the child’s return to New Mexico. There were cases in which inadequate discharge planning resulted in children experiencing significant placement instability following their return to New Mexico.<sup>156</sup>

## 6. Prohibition of Clinical Congregate Care Placements Except When Medically Necessary (App. B, TO 3.1)

<b>FSA Requirement</b>	<i>By December 1, 2021, for any child placed in a congregate care setting due to a medical necessity determination that the child requires residential treatment, the finding of a medical necessity will be clinically reviewed every 30 days, or more frequently as needed. The finding of medical necessity must take into consideration whether community-based mental health services have been or could have been provided. (Due December 1, 2021)</i>
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

On January 21, 2022, CYFD issued PIG 01-2022-#3,<sup>157</sup> which requires that placement in clinical congregate care facilities occur only when determined to be medically necessary. New Mexico’s Children’s Code<sup>158</sup> defines medically necessary services as clinical and rehabilitative physical, mental, or behavioral health services that are:

- (1) essential to prevent, diagnose or treat medical conditions or are essential to enable the child to attain, maintain or regain functional capacity;
- (2) delivered in the amount, duration, scope and setting that is clinically appropriate to the specific physical, mental and behavioral health care needs of the child;

<sup>156</sup> In June 2023, the parties entered into a Corrective Action Plan (CAP) to address the State’s failure to meet performance standards in 2021 as set forth in the Co-Neutrals’ Annual Report released on November 15, 2022. Pursuant to Section I.3. and I.4. of the June 2023 CAP, the State committed to additional strategies to bring children who are placed out of state back to NM, and to track critical incidents related to the safety of children who are placed out of state, in offices, in hotels/motels, or in in-state congregate care settings. Specific details are included in the CAP, which can be found [here](#).

<sup>157</sup> CYFD’s PIG 01-2022-#3 can be found [here](#).

<sup>158</sup> NMSA § 1978, 32A-6A-4(T).

(3) provided within professionally accepted standards of practice and national guidelines; and

(4) required to meet the physical, mental and behavioral health needs of the child and are not primarily for the convenience of the child, provider or payer.

The finding of medical necessity must be determined by the child's MCO, and pursuant to the FSA, the finding of medical necessity must take into consideration whether community-based mental health services have been or could be provided.

### **DVP Metrics and Validated Performance Data**

*BTO3.1(i) – primary metric: Of all clinical reviews required for placements in congregate care settings due to medical necessity, the percent that occurred timely (every 30 days) and reviewed the medical necessity determination.*

An IPP team is required to review the determination of medical necessity for a child's congregate care placement at least every 30 days a child spends in any clinical placement to an in-state or out-of-state facility. The Co-Neutrals' analysis of State data showed that there were 473 required medical necessity reviews for children in clinical congregate care settings<sup>159</sup> and that 285 (60%) of these were conducted<sup>160</sup> on time.

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<sup>159</sup> Counts reflect analysis of data as submitted by the State; the Co-Neutral team has not reviewed each placement to in-state clinical congregate facilities reflected in the data submitted by the State to validate that a medical necessity determination was required.

<sup>160</sup> A meeting is considered "conducted" when the State's data indicates that it was not canceled, it occurred on or before the due date, and it was a "30-day Congregate/Restrictive Setting" meeting or an "Out-of-State 30-Day Review." Due dates were calculated as every 30 days after the start of the placement and were unaffected by a move from one clinical congregate placement to another.

**Table 22: Completed and Required Reviews for Clinical Congregate Placements in 2022, by Month**

Month	Total Required Reviews	Number of Completed and Timely Reviews	Percent of Required Reviews Completed Timely
January	40	21	53%
February	34	20	59%
March	36	20	56%
April	41	22	54%
May	45	26	58%
June	42	25	60%
July	41	25	61%
August	40	28	70%
September	44	25	57%
October	41	24	59%
November	34	25	74%
December	35	24	69%
<b>Total</b>	<b>473</b>	<b>285</b>	<b>60%</b>

Source: Analysis of Sandbox Placement file submitted 5/1/23, supplemented by service type detail from FACTS episodes file submitted 5/1/23, Sandbox Cohort file submitted 5/1/23, and Sandbox Meetings file submitted 7/20/23, and adjustments informed by the case record review of FACTS documentation conducted by the Co-Neutral team.

*BTO3.1(ii) – qualitative metric: Qualitative review of medical necessity determinations for placements to congregate settings.*

Information from a child’s MCO is required to validate data for this qualitative metric. As reported above, the Co-Neutrals requested the necessary information from HSD, but the State did not provide the required information relevant to the in-state clinical congregate care placements made in 2022.<sup>161</sup> Thus, the Co-Neutrals are unable to report performance toward review of medical necessity determinations for in-state clinical congregate care placements in 2022.

### **Discussion**

The State’s quantitative data show that 60 percent of the required monthly meetings for children in clinical congregate care facilities in 2022 were conducted within 30 days. While CYFD has collected data on the occurrence of these meetings, a qualitative review is necessary to determine

<sup>161</sup> Of the 54 in-state clinical congregate care placements made in 2022, HSD provided MCO documentation for six children, but none of the documentation was for the identified placement. For example, some of the documents were for reauthorization of the placement after it had been made, and some were related to placements the child experienced in 2023.



what was discussed in the meeting and whether the medical necessity determination was reviewed. If the State provides the necessary data and information, the Co-Neutrals anticipate being able to analyze quantitative and qualitative data relevant to this TO for the 2023 performance report.

## 7. 30-Day IPP Meetings for Clinical Congregate Care (App, B. TO 3.2)

<b><i>FSA Requirement</i></b>	<i>Individualized Planning Meetings will be held every 30 Days for any child placed in a congregate care setting due to a medical necessity determination to support the child and identify steps necessary to promote discharge. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

CYFD's PIG 01-2022-#3<sup>162</sup> requires in paragraph 10.1 that IPP or teaming meetings occur when a child is placed in a congregate care setting due to medical necessity. Similar to the JCR monthly meetings for children placed out of state, meetings pursuant to this commitment are expected to be held to identify the steps necessary to promote discharge and ensure the team reviews community-based behavioral health services and supports that could be provided. The PPW caseworker is responsible for coordinating these meetings, and is required to invite specific participants to the meeting. The content of the meetings is required to be documented and entered into FACTS. Pursuant to the FSA, the finding of medical necessity must be clinically reviewed at least every 30 days, and the medical necessity finding should take into consideration whether community-based mental health services and support could be provided.

### **DVP Metrics and Validated Performance Data**

*BTO3.2(i) – primary metric: Of all IPP meetings required for placements in congregate care settings due to medical necessity, the percent that were timely (every 30 days) and reviewed steps necessary to promote discharge.*

The Co-Neutrals were unable to validate 2022 data for this metric because this metric relies on a data collection process that the State had not implemented by the start of 2022. In 2022, the State embedded a survey tool into FACTS to collect information on the components of and participants in meetings (including whether a discharge plan was reviewed). Data from this survey tool will be necessary to validate this metric for 2023.

<sup>162</sup> CYFD's PIG 01-2022-#3 can be found [here](#).

BTO3.2(ii) – qualitative metric: Qualitative review of discharge planning for children in congregate placements due to medical necessity.

As discussed above, the Co-Neutrals were not provided with the information requested related to medical necessity determinations for children placed in clinical congregate care settings; this includes initial authorizations and reauthorizations for continued placement. Thus, the Co-Neutrals are unable to report performance for 2022.

**Discussion**

If the State provides the necessary data and information, the Co-Neutrals anticipate being able to analyze quantitative and qualitative data relevant to this TO for the 2023 performance report.

**8. Prohibition of Non-Clinical Congregate Care Placements Except When in a Child’s Best Interest (App. B, TO 4.1)**

<b><i>FSA Requirement</i></b>	<i>Any placement in a congregate care setting that is not supported by a determination of medical necessity, including placement in specialized group homes such as Transitional Living Placements, Maternity Group Homes, or settings for Commercial Sexual Exploitation of Children, must be supported by a determination of the IPM team, including a mental health professional, that it is in the best interests of the child. The best interest determination will be reviewed by the IPM team, including a mental health professional, at least every 90 Days, or more frequently as needed. (Due December 1, 2021)</i>
<b><i>Co-Neutrals’ Finding</i></b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

Section 10.5 of CYFD’s PIG 01-2022-#3<sup>163</sup> requires that the placement of any child in a congregate care setting that is not supported by medical necessity be supported by a determination of an IPP team – which includes a mental health professional – that the placement is in the child’s best interest.<sup>164</sup> The IPP team must meet at least every 90 days and review the *best interest determination* for the child’s continued placement within that setting.

<sup>163</sup> CYFD’s PIG 01-2022-#3 can be found [here](#).

<sup>164</sup> The PIG defines best interest as “...assurance that the health, safety, and protection of the child or youth are a priority, and the child or youth will be given care, treatment, and guidance that will assist the child or youth in developing into a self-sufficient adult. Best interest also takes into consideration the importance of maintaining cultural connection, sibling connections, and other close family bonds as well as the wishes of the child or youth.”

## **DVP Metrics and Validated Performance Data**

*BTO4.1(i) – primary metric: Of all the required IPP meetings for children in congregate care for reasons other than medical necessity during the reporting year, the percent that were held timely and reviewed the best interest determination.*

Analysis of the State’s data indicate that 115 required IPP 90-day congregate care meetings<sup>165</sup> for “best interest determinations” were required for children in non-clinical congregate settings.<sup>166</sup> Of those required, two (2%)<sup>167</sup> of these meetings were conducted<sup>168</sup> on time.

**Table 23: Completed and Required Reviews for Non-Clinical Congregate Placements in 2022, by Month**

Month	Total Required Reviews	Completed and Timely Reviews	Percent of Required Reviews Completed Timely
January	9	0	0%
February	10	0	0%
March	11	1	9%
April	7	1	14%
May	12	0	0%
June	6	0	0%
July	7	0	0%
August	10	0	0%
September	9	0	0%
October	18	0	0%
November	8	0	0%
December	8	0	0%
<b>Total</b>	<b>115</b>	<b>2</b>	<b>2%</b>

Source: Analysis of Sandbox *Placement* file submitted 5/1/23, supplemented by service type detail from FACTS *episodes* file submitted 5/1/23, Sandbox *Cohort* file submitted 5/1/23, and Sandbox *Meetings* file submitted 7/20/23, and adjustments informed by the case record review of FACTS documentation conducted by the Co-Neutral team.

<sup>165</sup> There were 23 children with one review due in 2022, eight children with two reviews due in 2022, two children with three reviews due in 2022, 15 children with four reviews due in 2022, and two children with five reviews due in 2022.

<sup>166</sup> The metrics reported in this section were calculated from placement data submitted by the State as validated by the Co-Neutrals team’s qualitative review. Final numbers reflect adjustments for five placements that lasted 90 days or longer that the Co-Neutral team assessed did not require a “best interest” determination because the child was either placed in a detention facility (1) or was receiving an independent living stipend for a placement within their own home or apartment or the home of a friend or relative (4).

<sup>167</sup> These were for two distinct children; no child had more than one 90-day review in 2022.

<sup>168</sup> A meeting was identified as conducted when the State’s data indicated that it was not canceled, it occurred on or before the due date, and it was a “Best Interest Determination IPP.” Due dates were calculated as every 90 days after the start of the placement and were unaffected by a move from one non-clinical congregate setting to another.

*BTO4.1(ii) – qualitative metric: Qualitative review of best interest determinations for placements to congregate settings.<sup>169</sup>*

The Co-Neutral team reviewed a sample<sup>170</sup> of 77 new placements to non-clinical congregate care settings<sup>171</sup> between January and December 2022. The team reviewed documentation in FACTS for each of the 77 placements. None (0%) showed that the best interest standard was met and affirmatively determined by an IPP team, inclusive of a mental health professional, prior to the placement under review.

There was an IPP meeting held prior to nine of the 77 placements, five of which included a mental health professional; however, documentation does not show that the team determined the placement was in the child's best interest.

*BTO4.1(iii) – qualitative metric: Qualitative review of IPP meetings for children in congregate placements due to best interest determination.*

Of the sample of 77 non-clinical congregate care placements reviewed by the Co-Neutral team, 17 of the placements lasted 90 days or longer.<sup>172</sup> The team reviewed documentation in FACTS for each of the 17 placements. None (0%) showed that the best interest standard was met and affirmatively determined by an IPP team, inclusive of a mental health professional, within 90 days of the placement.

There was an IPP meeting held for five of the 17 placements reviewed – two within 90 days of the placement, and three others held more than 90 days after the placement. A mental health professional was present in one of the meetings that was held within 90 days of the placement.

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<sup>169</sup> In assessing best interest placement determinations, the Co-Neutral team used the FSA App. B, TO 4 requirements, specifically, that there is documentation of a best interest determination by the IPP team, which includes a mental health professional. As required for all placements, the Co-Neutral team also utilized guidance from New Mexico's Children's Code, which articulates that placement in the least restrictive environment is a right of children, and to the maximum extent possible, children should be placed with families.

<sup>170</sup> There were a total of 106 new non-clinical congregate care placements that began in 2022; sampling represents a 95% confidence interval with a 6% margin of error. This includes placements of any duration, including many that lasted less than 90 days and are not included in the IPP metrics. Nine new placements that were pulled for sampling were removed due to the placement not being in a congregate care setting; in these instances, the child was either placed in a detention facility (1) or was receiving an independent living stipend for a placement within their own home or apartment, or the home of a friend or relative (8).

<sup>171</sup> Per the FSA, these settings include community homes, transitional living placements, maternity group homes, and other non-clinical congregate care settings (excluding shelters). CYFD began using crisis stabilization placements in late 2022, which are also applicable to this standard. The sample reviewed includes 12 of the 14 crisis stabilization placements made during that time. CYFD reports these placements provide a temporary home-like setting for youth in need of intensive supportive services to stabilize them by assessing and engaging with youth using a trauma responsive approach. CYFD reports these programs were added for the specific purpose of reducing office stays.

<sup>172</sup> There were four additional placements that lasted for 90 days or longer that were not assessed for this qualitative metric as the 90<sup>th</sup> day was after December 31, 2022.

## Discussion

Documentation of practice in 2022 shows that placements of children in non-clinical congregate care settings in New Mexico were not made pursuant to the *best interest* standard. Additionally, required staffings within 90 days were not consistently held, and those that were held were not completed timely (except in two instances) and did not meet the qualitative requirements.

### **9. Prohibition of Shelter Placements Except in Extraordinary Circumstances and 48-Hour IPP Meetings (App. B, TO 4.2)**

<b>FSA Requirement</b>	<i>If extraordinary circumstances require placement of a child in a shelter, CYFD will conduct an Individualized Planning Team meeting within 48 hours to identify an appropriate placement to which to move the child and any medically necessary services needed by the child, and notify the child's legal representative of the result of the review. (Due December 1, 2021)</i>
<b>Co-Neutrals' Finding</b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

CYFD's PIG 01-2022-#3<sup>173</sup> requires in paragraph 10.6 that children are only placed in a shelter when extraordinary circumstances exist. After placement, the PPW must conduct an IPP within 48 hours to identify an appropriate placement to move the child and to provide any medically necessary services needed by the child. If the child remains in the shelter for 90 days, a subsequent IPP meeting should be held for the same purposes.

IPP meetings are to be coordinated by the CYFD PPW caseworker, and the following participants must be invited to the meeting: child or youth, PPW or primary assigned worker's supervisor, CBHC staff, MCO care coordinator or other care coordinator representative, and the child or youth's GAL or Youth Attorney. The PPW may also include the following individuals: child or youth's parent or other family members, case manager from the shelter, tribal representative (as applicable), representative from the Office of Tribal Affairs (OTA) (as applicable), and mental health professional assigned to the child or youth.

### **DVP Metrics and Validated Performance Data**

*BTO4.2(i) – primary metric: Of all required 48-hour meetings for children in a shelter, the percent that occurred timely.*

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<sup>173</sup> CYFD's PIG 01-2022-#3 can be found [here](#).

The Co-Neutrals’ analysis of the State’s data showed there were 227 48-hour shelter placement reviews required in 2022<sup>174</sup> and 50 (22%) of them were conducted on time.<sup>175</sup>

Seventy required shelter placement reviews occurred late (after 48 hours); on average, these late reviews occurred 38 days after the shelter placement.<sup>176</sup> One hundred and seven required shelter placement reviews were not held at all.

The Co-Neutrals also examined the data by month and found that the percentage of completed and timely meetings declined over the course of the year (from 29% in the first half of the year to 16% in the second; see Table 24).

**Table 24: Completed and Required Reviews for Shelter Placements in 2022, by Month**

Month	Total Required Reviews	Completed and Timely Reviews	Percent of Required Reviews Completed Timely
January	8	0	0%
February	15	3	20%
March	15	5	33%
April	24	8	33%
May	24	7	29%
June	18	7	39%
July	18	2	11%
August	17	2	12%
September	18	1	6%
October	30	9	30%
November	18	3	17%
December	22	3	14%
<b>Total</b>	<b>227</b>	<b>50</b>	<b>22%</b>

Source: Analysis of Sandbox *Placement* file submitted 5/1/23, supplemented by service type detail from FACTS *episodes* file submitted 5/1/23, and Sandbox *Meetings* file submitted 7/20/23.

<sup>174</sup> Counts reflect analysis of data as submitted by the State; the Co-Neutral team has not reviewed each new placement to shelters reflected in the data submitted by the State to validate that a 48-hour IPP meeting was required.

<sup>175</sup> A meeting was identified as conducted when the State’s data indicated that it was not canceled, it occurred on or before the due date, and it was a “Shelter Placement/48hr” meeting. Due dates were calculated as two days after the start of each placement.

<sup>176</sup> For late meetings, often there were multiple shelter placements that occurred before the meeting took place (e.g., one child had separate shelter placements on 3/29 and 4/8 and the earliest meeting for either placement was on 5/11). In such cases, the Co-Neutrals counted the days between the meeting and every preceding placement that required a meeting (e.g., the 43 days from 3/29 to 5/11 and the 33 days from 4/8 to 5/11 were both included in the average).

The Co-Neutrals identified differences in the rate of timely 48-hour meetings by racial and ethnic groups. The rate of timely 48-hour meetings was similar between Hispanic children of any race (35 timely, completed meetings out of 134 required, or 26%) and non-Hispanic White children (15 of 55, or 27%), but there were no timely 48-hour meetings held for any of the 23 placements involving non-Hispanic Black or African-American children, the seven placements involving non-Hispanic American Indian or Alaska Native children, or the six placements involving non-Hispanic multi-race children. There were also no timely 48-hour meetings held for any of the 10 placements involving a child in the ICWA-eligible universe.

*BTO4.2(iv) – primary metric: Of all required 48-hour meetings for children in a shelter, the number for which the child’s legal representative was notified of the result of the review.*

The Co-Neutrals were unable to validate 2022 data for this metric because this metric relies on a data collection process that the State had not implemented by the start of 2022.<sup>177</sup> In 2022, the State embedded a survey tool into FACTS to collect information on the components of and participants in meetings (including whether the child’s legal representative attended the meeting or was notified of the result). Data from this survey tool will be necessary to validate this metric for 2023.

*BTO4.2(ii) – qualitative metric: Qualitative review of extraordinary circumstance determinations for placements to emergency shelter.*<sup>178</sup>

The Co-Neutral team reviewed a sample<sup>179</sup> of 119 shelter placements between April and December 2022 to determine if extraordinary circumstances justified such placements. The Co-Neutral team reviewed documentation in FACTS for all 119 placements, and none (0%) of the shelter placements identified specific safety and security threats which necessitated the shelter placement. Documentation within most of the records focused on a prior placement disruption and/or challenges locating and securing an appropriate placement for the child.

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<sup>177</sup> In the qualitative review discussed for metric BTO4.2(iii) below, the Co-Neutral team found that of the 18 IPP meetings held within 48 hours of a shelter placement, nine included documentation that the legal representative was notified of the result of the review; in all nine instances, the legal representative was a participant in the meeting.

<sup>178</sup> In assessing extraordinary circumstances determinations, the Co-Neutral team assessed whether documentation in the child’s record demonstrated the shelter placement was necessary to protect the safety and security of the child.

<sup>179</sup> The Co-Neutrals reviewed shelter placements throughout 2022 as weekly placement data were provided by CYFD pursuant to the 2022 MOU. These data were provided beginning in April 2022, and January through March 2022 data did not become available until May 2023; based upon the number of placements already reviewed up until that point, the Co-Neutrals determined additional reviews were not needed. There were 255 shelter placements in 2022 (this includes placements of any duration, including 28 that are not included in the IPP metric); sampling for April through December 2022 (119) represents 95% confidence interval with a 7% margin of error. The number of placements reviewed each month are as follows: April, 13; May, 14; June, 8; July, 13; August, 12; September, 10; October, 17; November, 19; December, 13.



*BTO4.2(iii) – qualitative metric: Qualitative review of 48-hour IPP meetings for children with emergency shelter placements.*

Of the sample of 119 shelter placements reviewed by the Co-Neutral team, 18 of the placements lasted for less than 48 hours. Documentation in FACTS for the remaining 101 placements was reviewed; although meetings were documented within 48 hours for 18 placements, none (0%) showed that the meeting identified an appropriate prospective placement for the child and any medically necessary services that were needed.

**Discussion**

Documentation of practice in 2022 does not show that placements of children in shelter settings were made pursuant to the extraordinary circumstances standard. Additionally, required staffings were not routinely held within 48 hours (only 22% of required meetings were timely), and of those that were held, data from qualitative reviews show an appropriate placement to move the child was not identified. The Co-Neutral team identified case files with sparse and incomplete documentation across all qualitative reviews, however, this was particularly true in records related to shelter placements. It was frequently difficult to discern the reason the child was placed in the shelter, and what occurred while they were there.

**10. Children in Out-of-Home Care in Licensed Foster Home Placements (App. B, TO 5.1)**

<b><i>FSA Requirement</i></b>	<i>Every child in out-of-home care will be in a licensed foster home placement unless a current finding of medical necessity requires otherwise or an Individualized Planning Meeting team determines that a non-clinical setting is in the child's best interest. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

Paragraph 10 in CYFD's PIG 01-2022-#3<sup>180</sup> states:

Every child or youth in out-of-home care will be in a licensed foster home placement unless a current finding of medical necessity requires otherwise, or an Individualized Planning Process meeting determines that a non-clinical setting is in the child's best interest.

<sup>180</sup> CYFD's PIG 01-2022-#3 can be found [here](#).



## **DVP Metrics and Validated Performance Data**

*BTO5.1(i\*) – secondary metric: Of all children in state custody during a reporting year, the percent that had any placement which was not a licensed foster home.*

In 2022, 282 children (10%) experienced at least one placement to a setting that was not a licensed foster home (licensed foster homes include relative, non-relative, fictive kin, pre-adoptive or Treatment Foster Care placements).<sup>181,182</sup> The percentage of children placed in settings other than licensed foster homes decreased from 2021 (395 children, or 13%).

**Table 25: Children with Placements to Settings Other Than Licensed Foster Homes in 2019 – 2022**

Year	Children in State Custody at Any Point, per Year	Children with Placements to Settings Other Than Licensed Foster Homes	
		Number	Percent
2019	3,881	462	12%
2020	3,344	373	11%
2021	2,949	395	13%
2022	2,755	282	10%

Source: Analysis of Sandbox *Placement* files submitted 3/31/22 (2019 and 2020), and 5/2/22 (2021), and 5/1/23 (2022), supplemented by service type detail from FACTS *episodes* file submitted 5/2/22 (2019-22); Manual *Hotel Stays* file submitted 3/31/22 (2020); Sandbox *Provider License* files submitted 3/31/22 (2019 and 2020), 8/25/22 (2021), and 5/1/23 (2022). Findings for 2022 reflect adjustments informed by case record review of FACTS documentation conducted by the Co-Neutral team.

Of the 68 children with at least one placement to a foster home that was not licensed at the time of placement, 56 (82%) spent 10 or fewer days in that setting before it was licensed.<sup>183</sup>

<sup>181</sup> The metrics reported in this section were calculated from placement data submitted by the State as validated by the Co-Neutral team’s qualitative review. Final numbers reflect adjustments for four out-of-state placements that the Co-Neutral team determined did not meet the definition of new placements (see discussion in BTO1 above), as well as one detention and eight supervised independent living placements that the Co-Neutral team determined were not to congregate settings subject to the “best interest” determination standard (see discussion in BTO4.1 above).

<sup>182</sup> See discussion above for further detail on placements to hotel/motel, office, and out-of-state facilities (BTO1), in-state clinical congregate placements (BTO3), non-clinical congregate placements (BTO4.1), and shelter placements (BTO4.2).

<sup>183</sup> Five children spent 11 to 20 cumulative days in unlicensed settings, five children spent 21 to 60 days in unlicensed settings, and two children spent more than 60 days in unlicensed settings.

**Table 26: Children with Placements to Foster Homes Not Licensed at Time of Placement in 2019 – 2022**

Placement setting	2019 N=3,881	2020 N=3,344	2021 N=2,949	2022 <sup>184</sup> N=2,755	
Foster Family Home (Relative)	1%	1%	2%	55	2%
Foster Family Home (Fictive Kin)	<1%	<1%	<1%	9	<1%
Foster Family Home (Non-Relative)	<1%	<1%	0%	5	<1%
Pre-Adoptive Family	0%	<1%	0%	0	0%

Source: Analysis of Sandbox *Placement* files submitted 3/31/22 (2019 and 2020), and 5/2/22 (2021), and 5/1/23 (2022), supplemented by service type detail from FACTS *episodes* file submitted 5/2/22 (2019-22); Manual *Hotel Stays* file submitted 3/31/22 (2020); Sandbox *Provider License* files submitted 3/31/22 (2019 and 2020), 8/25/22 (2021), and 5/1/23 (2022).

Over half of the children who experienced a new placement to a setting other than a licensed foster home had only one such experience in 2022 (171 children, 61%). One-third had two to six of these placements in 2022 (93 children, 33%), and 18 children (6%) experienced more than six of these placements in 2022.

**Table 27: Distribution of the Number of Placements to Settings Other Than Licensed Foster Homes Per Child in 2022**

Number of Placements to Settings Other Than Licensed Foster Homes in 2022	Number of Children	Percent of Children with Any Placements to Settings Other than Licensed Foster Homes
1	171	61%
2	43	15%
3	20	7%
4	16	6%
5	7	2%
6	7	2%
7	4	1%
8	2	<1%
9	4	1%
10 or more	8	3%
<b>Total</b>	<b>282</b>	<b>100%</b>

Source: Analysis of Sandbox *Placement* file and Sandbox *ProviderLicense* files submitted 5/1/23, with adjustments informed by case record review of FACTS documentation conducted by the Co-Neutral team.

<sup>184</sup> The sum of the rows for 2022 (69) does not match the total number of children who experienced at least one placement to a foster home not licensed at the time of placement (68) because one child experienced a placement to an unlicensed relative foster home and a placement to an unlicensed fictive kin foster home and was therefore counted in each row.

Black children were more likely than other groups of children in the cohort to experience at least one placement to a setting other than a licensed foster home (18 of 118, or 15%). ICWA-eligible children were less likely than other groups to experience at least one placement to a setting other than a licensed foster home (14 of 332, or 4%).

*BTO5.1(i) – primary metric: Of all children in state custody during a reporting year, the percent that had any placement which was neither a licensed foster home, nor a congregate care setting with an appropriate determination (medical necessity, best interest, or extraordinary circumstance).*

*BTO5.1(ii) – primary metric: Of all children that do not have a finding of medical necessity, determination that a non-clinical setting is in the child’s best interest, or determination of extraordinary circumstance, the percent that are in licensed relative or non-relative foster homes.*

As discussed above, the Co-Neutrals determined that adequate practice and documentation did not exist to identify in FACTS those congregate placements that meet the extraordinary circumstances, medical necessity, and best interest standards; therefore, these metrics could not be calculated.

### **Discussion**

While CYFD has collected data on the occurrence of these placements, a qualitative review is necessary to assess if extraordinary circumstances, medical necessity, or best interest determinations have been documented and supported to meet the required standard for placements in congregate care. If the State provides the necessary data and information, the Co-Neutrals anticipate being able to analyze quantitative and qualitative data relevant to this TO for the 2023 performance report.

## **11. Annual Target for New Culturally Reflective Resource Homes (App. B, TO 6.1 and 6.2)**

<b><i>FSA Requirement</i></b>	<i>Beginning on December 1, 2020, and on an annual basis by December 31 each year thereafter, the Co-Neutrals will approve a Target Outcome for CYFD to approve a specified number of new culturally reflective foster homes during the following year. (Due December 31, 2021)</i>
<b><i>Co-Neutrals’ Finding</i></b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

## **DVP Metrics and Validated Performance Data**

*BTO6.2(i\*) – secondary metric: The number of foster care resource homes newly licensed during the reporting year.*

The DVP defines newly licensed resource homes as in-state non-relative resource homes licensed and active on the final day of the reporting period that were not licensed a year earlier.<sup>185</sup> In 2022, 129 non-relative resource homes were recruited and licensed in New Mexico. This number was near the number recruited and licensed in 2021 (127).

Seventy-two percent (93) of the 129 new homes licensed in 2022 had at least one non-relative placement during the calendar year; 18 percent (23) were dually-licensed homes with only relative placements, and the remaining 10 percent (13) did not have any placement in 2022.<sup>186</sup>

**Table 28: New Active Non-Relative Resource Homes<sup>187</sup> Recruited in 2022, by Placement Status**

<b>Placement Status of New Active Non-Relative Resource Homes</b>	<b>Number of New Active Non-Relative Resource Homes</b>	<b>Percent of New Active Non-Relative Resource Homes</b>
With at least one non-relative placement	93	72%
With only relative placements	23	18%
With no placements	13	10%
<b>Total</b>	<b>129</b>	<b>100%</b>

Source: Analysis of monthly *Active Provider* batch reports and *Placement Sandbox* file submitted 5/1/23.

<sup>185</sup> This is a point-in-time comparison of homes. The methodology counts the number of homes that are licensed, active, and available for placement at the end of the reporting period (e.g., December 31<sup>st</sup>) that did not have an active license at the end of the prior reporting period (e.g., December 31<sup>st</sup> of the prior year).

<sup>186</sup> The Co-Neutral team examined the first active month for the 13 new homes active in 2022 that did not have a placement since placements are less likely for homes licensed late in the year; four homes (31%) were first active in the first quarter (January through March), three (23%) in the second quarter (April through June), one (8%) in the third quarter (July through September), and five (39%) in the fourth quarter of the year (October through December).

<sup>187</sup> Includes homes dually-licensed as relative and non-relative homes. Relative placements include fictive kin.

**Table 29: New Active Non-Relative Resource Homes Recruited in 2022,  
Statewide and by County<sup>188</sup>**

	<b>New Homes w/ Non-Relative Placement</b>	<b>New Dually-Licensed Homes w/ Only Relative Placement</b>	<b>New Homes Without Placement</b>	<b>All New Homes</b>
<b>Statewide</b>	<b>93</b>	<b>23</b>	<b>13</b>	<b>129</b>
Bernalillo	11	8	7	<b>26</b>
Dona Ana	16	4	1	<b>21</b>
Lea	7	2	0	<b>9</b>
Santa Fe	7	0	1	<b>8</b>
Valencia	5	2	1	<b>8</b>
Eddy	7	0	0	<b>7</b>
San Juan	5	1	0	<b>6</b>
Otero	3	1	1	<b>5</b>
Lincoln	3	1	0	<b>4</b>
Sandoval	3	1	0	<b>4</b>
Curry	2	2	0	<b>4</b>
Chaves	3	0	0	<b>3</b>
San Miguel	2	1	0	<b>3</b>
Los Alamos	2	0	1	<b>3</b>
McKinley	2	0	1	<b>3</b>
Colfax	2	0	0	<b>2</b>
Rio Arriba	2	0	0	<b>2</b>
Sierra	2	0	0	<b>2</b>
Taos	2	0	0	<b>2</b>
Union	2	0	0	<b>2</b>
Hidalgo	1	0	0	<b>1</b>
Luna	1	0	0	<b>1</b>
Roosevelt	1	0	0	<b>1</b>
Socorro	1	0	0	<b>1</b>
Torrance	1	0	0	<b>1</b>

Source: Analysis of monthly *Active Provider* batch reports and *Placement Sandbox* file submitted 5/1/23.

The FSA requires the State to recruit culturally reflective foster homes. The Co-Neutrals examined the household demographics of non-relative foster homes recruited in 2022 with at least one non-relative placement during the year. Fifty-three percent (49) of the 93 new homes that had at least one non-relative placement during the calendar year had at least one parent who was identified as Hispanic in the data; four percent (4) of new homes had at least one parent who was identified as Black or African American in the data;<sup>189</sup> one percent (1) of new homes had a parent who was

<sup>188</sup> Data reflect the county at the time the provider was licensed. The table includes only counties with homes recruited during the period. Treatment Foster Care (TFC) homes are not included.

<sup>189</sup> Includes individuals for whom other races were also indicated.

identified as Asian or Pacific Islander in the data;<sup>190</sup> and no new homes had a parent who was identified as American Indian or Alaska Native<sup>191</sup> in the data.

**Table 30: New Active Non-Relative Resource Homes Recruited in New Mexico in 2022 with At Least One Non-Relative Placement, by Indicated Race and Ethnicity of Resource Parents<sup>192</sup>**

Race/ethnicity of resource parent(s)	Number of New Homes	Percent of New Homes
Non-Hispanic White	54	58%
Hispanic	49	53%
Black (alone or in combination)	4	4%
Asian or Pacific Islander (alone or in combination)	1	1%
American Indian (alone or in combination)	0	0%

Source: Analysis of monthly *Active Provider* batch reports, *Placement Sandbox* file, and *ProviderDemographics Sandbox* file submitted 5/1/23.

The percent of newly recruited non-relative homes with at least one Hispanic resource parent is lower than the percent of children in state custody identified as Hispanic at the end of 2022 (63%). The percentage of newly recruited non-relative homes with at least one Black parent and the percentage with at least one Asian or Pacific Islander parent is close to the percentage of children in state custody in these categories, but these categories remain underrepresented across *all* non-relative foster homes – newly recruited or not – at the end of the period (1% each). None of the newly recruited non-relative homes had any parents who identified as American Indian or Alaska Native.

*BTO6.2(i) – primary metric: Percent of yearly target reached statewide for newly licensed foster homes by race/ethnicity.*

The Co-Neutrals approved a recruitment target for calendar year 2022 of 178 newly licensed non-relative resource homes.<sup>193</sup> This target was an annualized version of the six-month target

<sup>190</sup> Ibid.

<sup>191</sup> Ibid.

<sup>192</sup> Total does not sum to 93 because categories are not mutually exclusive; parents who identify as multiple races are counted in each category that applies, and households with parents with different race-ethnicity identified appear in multiple categories.

<sup>193</sup> At the time the Co-Neutrals approved the 2021 and 2022 targets, the Co-Neutral team understood that resource homes were shown as active in the State’s submitted data only after an initial placement; the Co-Neutrals subsequently learned that homes without any placements do appear in the State’s data, including dually-licensed relative and non-relative homes that have never accepted a non-relative placement. The Co-Neutral team will work with the State to revisit the methodology for setting and assessing progress towards recruitment targets for future years to improve understanding of the State’s progress in expanding the pool of non-relative foster homes available for children in care.

developed for the 2021 reporting period.<sup>194</sup> CYFD recruited 129 homes in 2022, achieving 72 percent of the target.

**Table 31: New Active Non-Relative Resource Homes Recruited in New Mexico in 2022, by Month License was First Active and Effective<sup>195</sup>**

Month License was First Active and Effective	Number of Homes Recruited
January	14
February	11
March	13
April	20
May	14
June	6
July	12
August	8
September	10
October	9
November	9
December	3
<b>Total</b>	<b>129</b>

Source: Analysis of monthly *Active Provider* batch reports and *Placement Sandbox* file submitted 5/1/23.

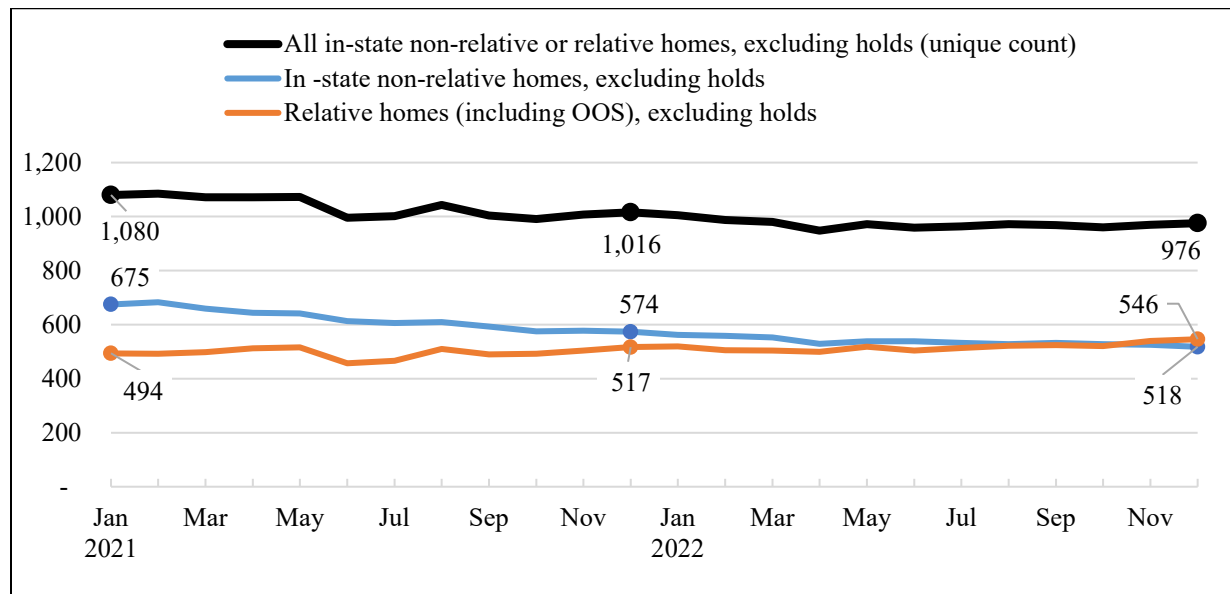
As additional contextual information to inform the Co-Neutrals’ assessment of the State’s efforts, the Co-Neutrals examined the total number of homes available in this period, including relative homes. As shown in the Figure below, the total number of homes with a foster care, specialized foster care, or relative foster care license has not increased since 2021; the decline in non-relative resource homes has not been offset by the increase in relative placements.<sup>196</sup>

<sup>194</sup> The target for July through December 2021 was based on the average number of homes recruited each quarter in 2019 and 2020, plus a “stretch factor” of 10 homes. The non-kin resource home recruitment target approved for 2023 is equal to the number of new non-relative homes the State recruited in 2019 prior to the Covid-19 pandemic (190).

<sup>195</sup> The number of active homes (i.e., no placement hold) with effective "Foster Home" or "Specialized Foster Home" licenses on December 31, 2022, that were not licensed on December 31, 2021, and did not have an active effective license at any time in the prior 12 months. TFC homes are not included.

<sup>196</sup> The number of non-relative homes includes homes with effective “Foster Home” or “Specialized Foster Home” licenses, excluding homes not in New Mexico. The number of relative homes includes out-of-state homes. Monthly counts exclude homes with placement holds during the specified month (“NO OOHP PLACE REC”). Homes with both relative and non-relative licenses are counted only once in the total but appear separately in each count.

**Figure 3: Total Number of Resource Homes with Active Effective Licenses by Month and Type 2021 – 2022<sup>197</sup>**



Source: Analysis of monthly *Active Provider* batch reports submitted 5/1/23.

### Discussion

The State recruited 129 new non-relative resource homes in 2022, only two more than the prior year and significantly below the recruitment target of 178. During 2022, the Co-Neutrals spoke with staff from numerous CYFD county and regional offices, resource parents, and community providers, and were consistently told about the lack of resources, strategy, and dedicated staff within local offices to focus on recruiting non-relative resource homes. The Co-Neutrals provided this feedback to CYFD leadership in 2022.<sup>198</sup>

## **12. Annual Target for New Treatment Foster Care Placements (App. B, TO 6.3 and 6.4)**

### ***FSA Requirement***

*Beginning on December 1, 2020, and on an annual basis by December 31 each year thereafter, the Co-Neutrals will approve a Target Outcome for ... HSD to approve a specified number of new treatment foster care placements during the following year. (Due December 31, 2021)*

<sup>197</sup> Ibid.

<sup>198</sup> Pursuant to Section I.2. of the June 2023 CAP, the State committed to a public/private strategy to recruit and retain resource families. Specific details are included in the CAP, which can be found [here](#).



***Co-Neutrals’  
Finding***

Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

**DVP Metrics and Validated Performance Data**

*BTO6.4(i\*) – secondary metric: The number of new TFC placements during the reporting year.*

The DVP defines a new treatment foster care (TFC) placement as the placement of a child who is eligible for treatment foster care, or their accompanying sibling, to a licensed treatment foster home that they have not resided in within the previous 365 calendar days. The Co-Neutrals’ analysis of data submitted by the State showed that there were 203 new TFC placements<sup>199</sup> from January 1, 2022 to December 31, 2022. The number of new TFC placements in 2022 was higher than in 2020 (195) and 2021 (196), but remains lower than the number in 2019 (242).<sup>200,201</sup>

**Table 32: New Treatment Foster Care (TFC) Placements in 2022**

Type of TFC Placement	New Placements	Percent of New TFC Placements
<b>Total new TFC placements</b>	<b>223</b>	<b>100%</b>
New TFC placements counting towards target	203	91%
For children receiving TFC services	201	90%
For siblings of children receiving TFC services	2	1%
New TFC placements not counting towards target (children without TFC services)	20	9%

Source: Analysis of Sandbox *Placements* files submitted 5/1/23 (2022).

As additional information, the Co-Neutrals examined the number of new TFC placements per child. One hundred and fifty-six unique children had at least one new TFC placement in 2022 (including two who were placed with their siblings eligible for TFC services).<sup>202</sup> Most of these

<sup>199</sup> Counts reflect analysis of data as submitted by the State; the Co-Neutral team has not validated data for each TFC placement.

<sup>200</sup> The methodology of 2019 through 2021 differs slightly from that of 2022; in 2022, a placement was only counted as new if the child had not been placed with that same family in the past 365 days, whereas this constraint was not applied to 2019 through 2021. As such, the totals are not exactly comparable across years.

<sup>201</sup> The State has not historically maintained a list of children for whom TFC placements were needed but not available, thus the Co-Neutrals are not able to assess progress toward meeting actual need. Pursuant to the June 2023 CAP, the State committed to collect data on recommendations and referrals for TFC beginning in mid-2023.

<sup>202</sup> This does not include moves between homes after initial placement; as noted above, new placements are defined as placements to a TFC home that the child has not resided in within the previous 365 calendar days.

children had one TFC placement in 2022 (124, 79%), 26 (17%) were placed in two TFC homes, and six children (4%) had placements to three or more TFC homes (see Table 33).

**Table 33: Number of New TFC Placements Per Child in 2022**

Number of New TFC Placements	Number of Children	Percent of Children
1	124	79%
2	26	17%
3	1	1%
4	4	3%
5	0	0%
6	0	0%
7	0	0%
8 <sup>203</sup>	1	1%
<b>Total</b>	<b>156</b>	<b>100%</b>

Source: Analysis of Sandbox *Placements* files submitted 7/19/22 (2021; for 365-day look-back) and 5/1/23 (2022).

*BTO6.4(i) – primary metric: Percent of yearly target reached for new licensed treatment foster care (TFC) placements statewide.*

The Co-Neutrals approved a target of 264 new TFC placements for 2022, and the State made 203 new TFC placements during the year.

**Table 34: Number of New TFC Placements Made in 2021 – 2022**

Assessment Period	New TFC Placements	TFC Target	Percent of Target Achieved
July – December 2021	84	132	64%
January – December 2022	203	264	77%

Source: Analysis of Sandbox *Placements* files submitted 7/19/22 (2021) and 5/1/23 (2022).

## **Discussion**

As shown in the data presented above, the State’s performance was significantly beneath the 2022 target for new TFC placements.<sup>204</sup> Throughout 2022, neither CYFD nor HSD made good faith efforts to meet this commitment and address the shortage of TFC homes across the State. The State did not maintain a list of children in state custody awaiting a TFC placement, despite the significant

<sup>203</sup> This child spent 308 total days in TFC placements in 2022, most of which were in two homes: 188 days (61%) in one home and 86 days (28%) in another. Of the remaining six placements, four lasted less than a week and two lasted under two weeks.

<sup>204</sup> Pursuant to Section I.2. of the June 2023 CAP, the State committed to a new process for referrals and data collection for TFC. Specific details are included in the CAP, which can be found [here](#).

number of children with behavioral health needs who were housed in offices. The lack of a data-informed plan and implementation effort to grow TFC placements that meet the needs of children in state custody contributed to children sleeping in state offices and other settings that were unprepared to meet their needs.

### 13. Children Placed with Kin (App. B, TO 7.1)

<b><i>FSA Requirement</i></b>	<i>By December 1, 2022, at least 40% of children in out-of-home care will be placed with kin; CYFD will use Seneca Family Finding software to attempt to identify and locate family members for every Child in State Custody within 48 hours of entering State custody. (Due December 1, 2022)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State met the Performance Standard for this TO in 2022.

#### **DVP Metrics and Validated Performance Data**

*BTO7.1(i) – primary metric: Percent of children in state custody in out-of-home care on December 31st of the reporting year who are placed with kin, including fictive kin.*

The State submitted data indicated that of the 1,559 children in care for eight or more days on December 31, 2022 who were in an out-of-home placement, 731 (47%) were placed with relatives or fictive kin.<sup>205</sup> The share of children placed with kin has steadily increased each year since 2019.

<sup>205</sup> Counts reflect analysis of data as submitted by the State; the Co-Neutral team has not validated each relative or fictive kin placement.

**Table 35: Children Placed with Relatives or Fictive Kin on December 31, 2019 – 2022**

	2019 <i>N=1,950</i>	2020 <i>N=1,820</i>	2021 <i>N=1,601</i>	2022 <i>N=1,559</i>	
	%	%	%	#	%
<b>Placed with relative or fictive kin</b>	<b>31%</b>	<b>36%</b>	<b>44%</b>	<b>731</b>	<b>47%</b>
<i>By type of placement:</i> <sup>206</sup>					
Foster Family Home (Relative)	29%	34%	40%	628	40%
Foster Family Home (Fictive Kin)	2%	1%	3%	86	6%
Treatment Foster Care (Relative)	<1%	<1%	<1%	17	1%

Source: Analysis of Sandbox *Cohort\_Dec31* files submitted 3/31/22 (2019 and 2020), 5/2/22 (2021), and 5/1/23 (2022), supplemented by service type detail from FACTS *episodes* file submitted 5/2/22 (2019-21).

*BTO7.1(ii) – primary metric: For all episodes of custody that began during the reporting year, the percent where the child’s first placement was with kin, including fictive kin.*

Of all children’s entries into state custody in 2022 (1,034), 757 children remained in care for eight days or more. The percentage of children placed with kin (relatives or fictive kin) at their first placement during their episode of care was 43 percent (327).<sup>207,208</sup>

*BTO7.1(iii) – primary metric: For all episodes of custody longer than 48 hours that began during the reporting year, the percent for which CYFD used Seneca Family Finder to identify kin within 48 hours of removal.*

The Co-Neutrals cannot report on this commitment because of insufficient quantitative data.

## **Discussion**

CYFD’s performance for 2022 exceeds the required performance, which became due in the last month of this reporting period. Although there is no quantitative data available on the State’s use of Seneca Family Finder, the Co-Neutrals’ focus groups with staff across the State indicates that caseworkers continued to use the tool in 2022, as well as other strategies, to identify and place children with kin caregivers. The overall results throughout 2022 were positive.

<sup>206</sup> Per the DVP (and consistent with federal reporting requirements developed by the United States Department of Health and Human Services, Administration for Children and Families), the analytic universe excludes children in care fewer than eight days; therefore, counts do not match counts shared in the Contextual Summary (Section III of this report), which includes all children in state custody on December 31<sup>st</sup> of each reporting year, regardless of length of episode.

<sup>207</sup> Source: Analysis of Sandbox *Cohort\_Entries* file submitted May 1, 2023 (2022).

<sup>208</sup> Results presented in this section differ slightly from results presented in the *Co-Neutrals’ 2021 Annual Report* due to the previous report producing a point-in-time analysis. The current methodology analyzes all entries into care in 2022, rather than all children in state custody on December 31<sup>st</sup> of the reporting period.

## 14. Placement Stability (App. B, TO 8.1)

<b>FSA Requirement</b>	<i>“For children under 18 in out-of-home care, the rate of moves from a placement setting shall not exceed three moves per 1,000 days in care. The educational consequences of a change in placement must be considered in all placement change determinations and must be discussed at Individualized Planning Process meeting and any change in placement that impacts the child's education must be accompanied by a written plan to ensure continuity in the child's education.” (Due December 1, 2022)</i>
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### DVP Metrics and Validated Performance Data

*BTO8.1(i) – primary metric: Of all children in state custody during the reporting year, the rate of placement moves per 1,000 person-days in foster care within said reporting year.*

The Co-Neutrals’ analysis of the State’s data showed that in 2022, children in state custody spent a total of 629,657 person-days in care and experienced 2,228 total placement moves.<sup>209</sup> This amounts to a rate of 3.54 moves per 1,000 person-days, which is above the FSA requirement of not exceeding three moves per 1,000 person-days, and is higher than the 2020 rate but below the rate of moves in 2019 and 2021 (see Table 36).

**Table 36: Number of Placement Moves and Person-days, 2019-2022**

Year	Total moves	Total person-days	Rate of Moves per 1,000 person-days
2019	3,140	855,714	3.67
2020	2,108	784,470	2.69
2021	2,447	685,960	3.57
2022	2,228	629,657	3.54

Source: Analysis of Sandbox *Placement* files submitted, 3/31/22 (2019 and 2020), 5/2/22 (2021), and 5/1/23 (2022), supplemented by service type detail from FACTS *episodes* file submitted 3/31/22 (2019 and 2020), 5/2/22 (2021), and 5/1/23 (2022).

As additional information, the Co-Neutrals also compared the rate of placement moves for different racial and ethnic groups of children (see Table 37). The rate of moves per 1,000 person-days was higher for non-Hispanic Black children (5.21) than for non-Hispanic White children

<sup>209</sup> Counts reflect analysis of data as submitted by the State; the Co-Neutral team did not validate each placement move or adjust the underlying data to account for discrepancies identified in qualitative reviews.

(3.95), and Hispanic children of any race (3.45). However, placement stability was better for ICWA-eligible children (1.99 moves per 1,000 person-days) than for children who were not ICWA-eligible (3.73 moves per 1,000 person-days).

**Table 37: Number of Placement Moves and Person-days in 2022, by Race/Ethnicity and ICWA Eligibility**

<b>Race/Ethnicity</b>	<b>Number of Children in State Custody</b>	<b>Total Moves in 2022</b>	<b>Total person-days in 2022</b>	<b>Moves per 1,000 person-days</b>
Hispanic ethnicity (of any race)	1,688	1,384	400,627	3.45
White (non-Hispanic)	585	531	134,425	3.95
Black or African American (non-Hispanic)	118	148	28,402	5.21
American Indian or Alaska Native (non-Hispanic)	201	76	39,832	1.91
Asian (non-Hispanic) <sup>210</sup>	3	n.a.	n.a.	n.a.
Multi-race (non-Hispanic)	80	56	18,297	3.06
Unknown	80	30	7,774	3.86
<b>Total</b>	<b>2,755</b>	<b>2,228</b>	<b>629,657</b>	<b>3.54</b>
<b>ICWA-Eligible</b>				
Yes	332	141	70,714	1.99
No	2,423	2,087	558,943	3.73
<b>Total</b>	<b>2,755</b>	<b>2,228</b>	<b>629,657</b>	<b>3.54</b>

Source: Analysis of Sandbox *Placement* file submitted 5/1/23, supplemented by service type detail from FACTS *episodes* file submitted 5/1/23, and Sandbox *Cohort* file submitted 5/1/23.

*BTO8.1(ii) – qualitative metric: Qualitative review of educational continuity considered at IPP reviews prior to placement changes.*

*BTO8.1(iii) – qualitative metric: Qualitative review of IPPs for children prior to placement moves.*

The State had not finalized the qualitative instrument and methodology to collect data and assess performance for these metrics. Thus, the Co-Neutrals are unable to report performance toward these metrics for 2022.

### **Discussion**

Performance in 2022 does not meet the required FSA standard.

<sup>210</sup> Because the number of children in this category is so low, details on placement stability were left out of the table for privacy reasons.

## 15. Achieving Permanency (App. B, TO 9.1)

<b>FSA Requirement</b>	<i>Of all children in care for 12-23 months at the start of a 12-month period, 40% will achieve permanency within 12 months of the start of that period.</i> (Due December 1, 2023)
<b>Co-Neutrals' Finding</b>	Not applicable; this TO is not due until December 1, 2023.

### **DVP Metrics and Validated Performance Data**

*BTO9.1(i) - primary metric: Of all children in care on the first day of a 12-month period who had been in care (in that episode) between 12 and 23 months, the percentage that are discharged to permanency within 12 months of the first day.*

The Co-Neutrals analyzed the State's data submission and found that of the 398 children who were in care for 12 to 23 months at the start of the reporting period (January 1, 2022), 169 (42%) reached permanency by the end of the year.<sup>211,212</sup> The percentage of children achieving permanency increased from 2021, while the number of children who have been in care for 12 to 23 months continues to decline from 2019.

Of the racial groups represented in the cohort, non-Hispanic Black children were underrepresented in achieving permanency (2 of 21, or 10%), although, there were also fewer eligible children from this group. Children in the ICWA-eligible universe were slightly overrepresented in achieving permanency, with 34 (58%) of 59 children who were eligible achieving permanency in the period.

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<sup>211</sup> Counts reflect analysis of data as submitted by the State. The Co-Neutrals reviewed approximately 30 children's exits to reunification and guardianship in 2022 and confirmed those exits occurred as entered.

<sup>212</sup> Per the DVP, permanency includes discharges from foster care to reunification with the child's parents or primary caregivers, living with a relative, guardianship, or adoption. Youth entering at age 17 who turn 18 while in care or discharge at age 18 are not counted as achieving permanency.

**Table 38: Children Who Achieved Permanency of Those Who Had Been in Care Between 12 and 23 Months, 2019 – 2022**

Year	Total Children in Care Between 12 and 23 Months as of January 1 of the Reporting Year	Children in Care 12 – 23 Months Who Achieved Permanency During the Reporting Year	Percentage of Children in Care 12 – 23 Months who Achieved Permanency During the Reporting Year
2019	619	229	37%
2020	523	222	42%
2021	438	178	41%
2022	398	169	42%

Source: Sandbox *EpisodeOfCustody* and *Cohort* tables submitted 3/31/22 (2019 and 2020), 5/2/22 (2021), and 5/1/23 (2022).

As additional information, the Co-Neutrals examined the ages and custody end reasons of eligible children who achieved permanency in the period under review. Age was calculated as of exit date. Of the 169 children who achieved permanency in 2022, 63 percent (106) were six years old or younger, 24 percent (41) were seven to 11 years old, and 13 percent (22) were 12 to 17 years old. Of the 66 children who exited to an adoption, 79 percent (52) were six years old or younger.

**Table 39: Age at Exit and Custody End Reason for Children Achieving Permanency in 2022**

Age at Exit	Custody End Reason <sup>213</sup>				All Reasons
	Adoption Finalized	Court Dismissed Case	Subsidized Guardianship	Reunification	
0-6 years	52	0	26	28	106
7-11 years	11	0	12	18	41
12-17 years	3	1	10	8	22
All Ages	66	1	48	54	169

Source: Sandbox *EpisodeOfCustody* and *Cohort* tables, submitted 5/01/2023

The Co-Neutrals also examined federal permanency goals for all children who achieved permanency in the period under review. For most children, the custody end reason matched their federal permanency goal at the time of exit. For eight children (5%),<sup>214</sup> their custody end reason was not consistent with their federal permanency goal.

<sup>213</sup> Custody end reasons are reported as listed in the source data.

<sup>214</sup> In addition, there were five children whose federal permanency goals in the data submitted by the State were listed as "Unknown" and one child whose custody ended with Court dismissal.



**Table 40: Federal Permanency Goal and Custody End Reason for Children Achieving Permanency in 2022**

Federal Permanency Goal	Custody End Reason				All Reasons
	Adoption Finalized	Court Dismissed Case	Subsidized Guardianship	Reunification	
Adoption	63	0	1	2	<b>66</b>
Guardianship	0	0	42	0	<b>42</b>
Reunification	3	1	2	50	<b>56</b>
Unknown	0	0	3	2	<b>5</b>
<b>Total</b>	<b>66</b>	<b>1</b>	<b>48</b>	<b>54</b>	<b>169</b>

Source: Sandbox *EpisodeOfCustody*, *Cohort Exits* and *Cohort* tables, submitted 5/01/2023

## 16. Creation of CYFD Workforce Development Plan (App. B, TO 10.1)

<b>FSA Requirement</b>	<p><i>CYFD will create a CYFD Workforce Development Plan that will ensure CYFD's workforce has adequate qualifications, expertise, skills, and numbers of personnel. The CYFD Workforce Development Plan will describe in writing the expected nature, scope, capacity, and structure of the workforce necessary to meet the obligations described in this Agreement. The plan will include a specific hiring plan that identifies, by county, the number of staff, credentials, and training required to meet the objectives identified in the CYFD Workforce Development Plan and outlines strategies to recruit and retain staff. The Plan will require that all caseworkers and supervisors have sufficient educational credentials and/or directly relevant experience. It will require that CYFD have a sufficient number of caseworkers to ensure that no caseworker will carry a case load of greater than the current professional standard identified by the Child Welfare League of America (CWLA). It will also include sufficient numbers of staff trained and able to implement ICWA guidelines using culturally responsive practices. The Plan will describe specific strategies to attract and retain diverse, high-quality staff with appropriate qualifications and skills. Co-Neutrals must approve the CYFD Workforce Development Plan. CYFD will develop the Workforce Development Plan by December 1, 2020 and fully implement it by December 1, 2021. (Due June 1, 2021)</i></p>
<b>Co-Neutrals' Finding</b>	<p>Based upon the Co-Neutrals' review and consideration of all available information, the State met the Performance Standard for this TO in 2022.</p>

## Discussion

Throughout 2022, CYFD actively worked to develop and finalize its Workforce Development Plan. The final Plan,<sup>215</sup> which the Co-Neutrals approved on July 13, 2023, includes an assessment of the current workforce (from information collected in surveys during April 2022); empirical caseload standards for case carrying staff; strategies for recruitment, hiring, training, and retention of CYFD PSD staff; development of leadership among staff with a supervisory practice framework, competencies, mentorship program, and “data scholars.”<sup>216</sup>

The caseload standards, including graduated caseloads for new staff, are as follows:

- *Investigation Case Workers*<sup>217</sup> – in 2022, the standard will be no more than 17 active cases. In 2023 and beyond, the standard will be no more than 12 cases (families) total; no primary assignments for first two months after completion of New Employee Training (NET), no more than three primary assignments at a time during months three and four after NET, and no more than six primary assignments at a time during months five and six after NET.
- *Permanency Planning Workers (PPW)*<sup>218</sup> – no more than 15 children on a caseload at a time; assigned as primary for no more than five children at a time for first two months after completion of NET (only transferred cases), no more than eight primary assignments at a time during months three and four after NET (can include new cases), and no more than 12 primary assignments at a time during month five and six after NET.
- *In-Home Services Providers*<sup>219</sup> – no more than eight cases (families).

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<sup>215</sup> CYFD’s Workforce Development Plan can be found [here](#).

<sup>216</sup> The data scholars training for managers and supervisors provides basic data literacy for staff. CYFD reports the training was effective historically in supporting a more data-informed practice. CYFD reports the training was part of CYFD’s Striving Toward Excellence Program (STEP) that began in 2015, but was discontinued in 2020 due to the Covid-19 pandemic. CYFD reports implementation of the program will begin again in 2024.

<sup>217</sup> Investigation Case Workers take on the investigation of alleged child abuse and/or neglect after receiving a report from Statewide Central Intake (SCI). The Investigation Case Worker completes the initial child protective service investigation and is the primary worker on the case through the disposition decision of the investigation (normally up to 45 days). (DVP, pg. 6)

<sup>218</sup> Permanency Planning Workers (PPW) manage cases for children who are in state custody or a legal intervention, including foster care, as well as a “maintain at home” determination, where the child is not removed from the home. The PPW is assigned at the conclusion of the investigation, through a case transfer staffing from the primary Investigation Case Worker. They are responsible for assessment and case planning, and providing ongoing support to the children and family. They assess the unique circumstances of each case and work with the family to establish a plan. These plans may include timely reunification with the child’s family or another permanency situation, such as guardianship, adoption, or Other Planned Permanent Living Arrangement. (DVP, pgs. 6-7)

<sup>219</sup> In-Home Service Workers promote the safety of children, reduce the risk, and reduce the recurrence of maltreatment of children by their parent and/or guardian without the intervention of the courts, providing intense in-home service supports to the family. (DVP, pg. 7)

- *Placement Workers*<sup>220</sup> – beginning July 1, 2022, the caseload standard for Placement Workers will be equal to: 15 adoption cases, or 20 licensed families, or 15 home studies. For workers with mixed caseloads, the standard will weight each piece of work. For example, each adoption case would equal 6.67% of a caseload (1 caseload divided by 15); each family would equal 5% of a caseload, and each home study would equal 6.67% of a caseload. There will be no more than three to five licensed family or adoption assignments to workers in months one to two after NET, and no more than one home study will be assigned in months one to two after NET once a worker has completed the SAFE Home Study Training; no more than five to eight licensed family or adoption cases, and no more than two new home studies will be assigned during months three to four after NET; and no more than 10 licensed family or adoption cases, and no more than four new home studies will be assigned during months five to six after NET. Following completion of month six, the worker can be assigned no more than 20 licensed family cases, or 15 adoption cases, or 15 home studies.

## 17. Implementation of Workforce Development Plan (App. B, TO 10.2)

<b><i>FSA Requirement</i></b>	<i>CYFD will fully implement the CYFD Workforce Development Plan. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### **DVP Metrics and Validated Performance Data**

*BTO10.2(i\*) – secondary metric: The average number of cases carried by casework staff, by county by quarter.*

*BTO10.2(i) – primary metric: Of all casework staff, the share who have primary caseloads consistent with established caseload standards.*

<sup>220</sup> Placement Case Workers are responsible for initial and ongoing licensure of resource families and provide ongoing support to each family. They may conduct a home study assessing resource family applicants, support placements with families to whom they are assigned, assist in matching children with families, and provide supports to the resource families following placement to ensure needs are met and retention of the family as a resource family. Placement Case Workers also complete the final adoption case work and serve as a child's primary caseworker once a child is placed for adoption following the termination of parental rights. (DVP, pg. 7)

*BTO10.2(ii) – primary metric: Of all children in out-of-home care, the number whose cases are assigned to any non-case-assignable casework staff, including supervisors, managers, case aides, administrators, or directors.*

*BTO10.2(iii) – primary metric: In a given reporting year, the rate of voluntary separations among caseworker staff positions per 100 days worked.*

Data on these metrics are not included in this report due to concerns identified by the Co-Neutrals about the quality of caseload, assignment, and staffing data in FACTS.

### **Discussion**

The State did not implement its CYFD Workforce Development Plan in 2022 and the State was unable to provide the Co-Neutrals with data that accurately tracked caseloads of CYFD caseworkers.

### ***iii. Appendix C: Indian Child Welfare Act***

The commitments in Appendix C of the FSA require CYFD and HSD to “serve Native American families, build a relationship with each of the New Mexico Tribes and Pueblos, and comply with the Indian Child Welfare Act (ICWA) in its letter and intent.” The State must “comply with ICWA and shall make every effort to ensure that all Native Children and families receive appropriate support and services.”<sup>221, 222</sup>

The Co-Neutrals previously determined that the State met the Performance Standards for three ITs in 2020 and 2021: specifically, *Draft and Promote Passage of State ICWA law* (App. C, IT 1.1),<sup>223</sup> *Maintain a Full-time Employee Responsible for Developing, Maximizing, Coordinating, and*

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<sup>221</sup> FSA, pg. 8a.

<sup>222</sup> Indian Child Welfare Act (ICWA), 25 U.S.C. §§ 1901-63.

<sup>223</sup> The Indian Family Protection Act (IFPA) was introduced and passed in the 2022 legislative session, and was signed into law by Governor Michelle Lujan Grisham on March 3, 2022. IFPA codifies into state law provisions of the federal ICWA, and provides new language within New Mexico’s Children’s Code which directs CYFD to, among other requirements, make the following efforts for Native children who come to the attention of the child welfare agency: conduct affirmative efforts to determine a child’s tribal affiliation; coordinate with the relevant tribe when conducting an investigation involving a Native child; provide active notification to the relevant tribe for any custody proceeding relating to a Native child; provide tribal courts the option to assume jurisdiction of the matter; meaningfully collaborate with tribal courts to ensure appropriate jurisdiction; give tribes the right to intervene in proceedings subject to IFPA; work with families and tribes to reunite a Native child with their tribe; and follow language access requirements for proceedings. The law also requires the State to complete “active efforts” to maintain or reunite a child with their family; “active efforts” are defined as “efforts that are affirmative, active, thorough and timely and that represent a higher standard of conduct than reasonable efforts.” The full text can be found [here](#).

*Overseeing Provision of Culturally Responsive Services* (App. C, IT 4.1); and *Create and Maintain a Dedicated ICWA unit in the 2<sup>nd</sup> Judicial District* (App. C, IT 8.1).<sup>224</sup>

The State's progress towards achieving most of the remaining ITs and TOs in Appendix C stalled in 2022. In response, the Plaintiffs twice invoked the FSA's alternative dispute resolution (ADR) process.<sup>225</sup> On June 10, 2022, the parties reached agreement on a Memorandum of Understanding (MOU)<sup>226</sup> which included various agreements by the State to improve compliance toward these commitments, and to increase and improve communication between the State and Plaintiffs on this work. More recently, the parties entered into a Corrective Action Plan (CAP)<sup>227</sup> on June 30, 2023, which includes FSA Appendix C commitments by the State to:

- Make good faith efforts to engage and negotiate with New Mexico's Nations, Pueblos, and Tribes who are interested in new or revised Joint Powers Agreements (JPAs);
- Revise resource family licensing standard procedures to include input provided by Nations, Pueblos, and Tribes;
- Engage with the Nations, Pueblos, and Tribes to develop resource family recruitment and retention plans that support Tribal community-based and family-based alliances;
- Increase processes and procedures to ensure Native children are in ICWA/IFPA-preferred placements;
- Develop a written template to offer Nations, Pueblos, and Tribes access to financial resources, including Title IV-E funds;
- Make funding accessible to Nations, Pueblos, and Tribes who at their discretion choose to provide services such as resource parent recruitment, home study development, traditional interventions or culturally responsive services, and/or reimbursement for legal services;
- Provide staff and resource parent trainings free of cost to the Nations, Pueblos, and Tribes;
- Make good faith efforts to identify any and all Nations, Pueblos, and Tribes who have data requests and establish a plan to respond accordingly within a reasonable reporting cadence;

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<sup>224</sup> As of September 2023, CYFD's ICWA unit includes one supervisor; all caseworker positions are vacant.

<sup>225</sup> See FSA, Section IX.A.

<sup>226</sup> The MOU addressed the State's failure to meet Performance Standards in 2020 as outlined in the Co-Neutrals' Annual Report released on November 15, 2021.

<sup>227</sup> The CAP addressed the State's failure to meet Performance Standards in 2021 as outlined in the Co-Neutrals' Annual Report released on November 15, 2022. The CAP can be found [here](#).

- Develop and implement a plan to ensure CYFD is providing consistent notices to Nations, Pueblos, and Tribes as required by the Indian Family Protection Act (IFPA); and
- Host an event by December 1, 2023 as a follow up to the May 2023 Listening Session to address the needs of Native children in state custody.

In reaching agreement on the CAP, the parties recognized that each of the Nations, Pueblos, and Tribes are sovereign entities and not parties to the FSA or CAP, and that nothing in either of these agreements is binding upon the Nations, Pueblos, or Tribes, and cannot commit the Nations, Pueblos, or Tribes to any activity or engagement. None of the Nations, Pueblos, and Tribes are in any way obligated to engage with or enter into an agreement or contract with CYFD by virtue of the FSA or CAP.

As required by the FSA, discussion within this section focuses on the State's efforts in 2022. The parties negotiated and agreed to the CAP in 2023, and many of the commitments included in the CAP were developed in an effort to address not only the State's performance in 2021 (which prompted development of the CAP) but also what was known at the time about the State's performance in 2022.

*a. Implementation Targets Due in 2020 or 2021 that were not previously achieved*

**1. Development of Processes and Procedures to Promote Traditional Interventions (App. C, IT 2.1)**

<b><i>FSA Requirement</i></b>	<i>With the input of New Mexico's Tribes and Pueblos, CYFD and HSD will develop processes and procedures to promote traditional interventions as first-line interventions and services, using an assessment tool for Native Children in State Custody, modifications of existing assessment tools, or other means recommended by Native experts. The form of the assessment tool or other means shall be approved by the Co-Neutrals, but the Co-Neutrals shall not withhold approval of the assessment tool if it is reasonably calculated to achieve the Goals of this Agreement. (Due June 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this IT in 2022.

**Discussion**

Beginning in 2021, CYFD collaborated with New Mexico's Nations, Pueblos, and Tribes on developing processes and procedures to promote traditional interventions as first-line interventions

and services for Native children and families. The intent of the processes were to determine what CYFD needed to do to support Native children in state custody's access to traditional interventions and services and to effectively respond to requests for assistance; these processes were not intended to assess children and families with respect to cultural ties and needs. Corresponding guidelines and procedures that were expected to be included in guidance would include how often the process would take place; who participates in the process; and the roles and responsibilities of the State to support a Native child in state custody in having regular and consistent access to identified and unidentified cultural interventions which promote cultural connectedness.

The State developed two versions of a tool and guidance. The State shared the most current version – which CYFD reports was created in collaboration with New Mexico Tribal ICWA caseworkers – with the Co-Neutrals on February 28, 2022.<sup>228</sup> CYFD reports that during the 2022 State-Tribal Leaders Summit on June 1-2, 2022, several tribal leaders expressed significant concerns with CYFD about development and use of an assessment tool, and the State's role in identifying or promoting cultural interventions or services. In response to this feedback, CYFD paused efforts to finalize the previous tool and related processes or procedures, and is reported to be developing alternative strategies to collaborate with the Native child's family and Nation, Pueblo, and Tribe to support the Native child with what they need to participate in cultural interventions and traditional ceremonies. Given the sacredness of cultural interventions and traditional ceremonies, the development and identification of these interventions is a role of the Nations, Pueblos, and Tribes.

The State has acknowledged the delay in this deliverable, and stated the delay is not based on inaction or the lack of the State's commitment to Native children in state custody having access to cultural interventions. State leaders also emphasized their understanding of the sacredness, importance, and impact that cultural interventions have on the individual child, the child's family, community, and Tribe while acknowledging the responsibility CYFD has to support the Native children in state custody with access to these sacred practices. Since June 2022, the State reports it has met with several tribal leaders and their representatives in many forums to discuss these matters in their respective tribal communities, listening sessions, and existing standing meetings.

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<sup>228</sup> The February 28, 2022 version of the assessment tool, renamed from the Cultural Assessment Questionnaire to the Cultural Strengths Inquiry, included four questions, specifically: (1) Are there any cultural practices and/or traditional events that are important to your family that you would want your child to continue to participate in?; (2) When are the traditional events and how often do they occur? How long do the events last?; (3) While your child is in CYFD custody, how can CYFD help the child participate?; (4) Are there specific cultural instructions you would like the department to follow while your child is in our care (i.e., not cutting your child's hair; no exposure to reptiles; newborn practices; etc.)?

## 2. Pursue Federal Funding through Medicaid and Title IV-E (App. C, IT 3.1)

<b><i>FSA Requirement</i></b>	<i>HSD and CYFD will pursue federal funding to the maximum extent allowable through Medicaid and IV-E funding for traditional and culturally responsive treatments, interventions, and supports, including non-medicalized interventions, for Native Children in State Custody. (Due June 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this IT in 2022. Some foundational work had begun.

### **Discussion**

Throughout 2022, CYFD and HSD report having met weekly to initiate collaborations with tribal entities, and explore opportunities to support Nations, Pueblos, and Tribes in their capacity building and expansion of what tribal members identify as culturally responsive and culturally competent interventions.<sup>229</sup> These interventions may be tribally based, and unique to each tribe. CYFD and HSD both report meeting with representatives from tribal behavioral health providers to learn about services offered within their communities, and how to access these services. HSD also reports engaging with the Centennial Care MCOs, Indian Health Services (IHS), Tribal 638 facilities, Urban Clinics, and tribal communities to expand the delivery of services and benefits. HSD has shared examples of efforts with specific Nations, Pueblos, and Tribes to support reimbursement for Medicaid covered benefits. Specifically, a joint meeting by CYFD and HSD was held with the Pueblo of San Felipe Behavioral Health Services which has resulted in HSD providing technical assistance related to Medicaid enrollment and reimbursement for clinical services. HSD also reports working with the Navajo Nation Division of Behavioral Health and Mental Health Services to become an enrolled Medicaid provider.

HSD continued to explore options in 2022 – including a Medicaid 1115 Waiver – to maximize Medicaid funding for traditional and culturally responsive treatments. In April and May 2022,

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<sup>229</sup> CYFD reported the following to the Co-Neutrals: Since 2021, CYFD has engaged with individual Nations, Pueblos, and Tribes to learn from them about the types of services which would constitute “culturally responsive services” and “culturally competent services” and what it means to “develop and arrange for traditional and culturally competent interventions.” The input received throughout 2022 and into 2023 has emphasized the importance of honoring and respecting the concerns Nations, Pueblos, and Tribes have voiced regarding cultural practices and traditional healing activities. There is a consensus between the State and the Nations, Pueblos, and Tribes that any determination regarding whether a service is culturally responsive made from anyone other than a Nation, Pueblo, and Tribe is patronizing, undermines tribal sovereignty, and is analogous to someone other than the Nation, Pueblo, and Tribe determining tribal membership. Similarly, there is firm reiteration that the development and arrangement for culturally competent interventions is not the role of the State (or others involved in Indian child welfare). CYFD must and shall work directly with the family and representatives from the Nations, Pueblos, and Tribes (who have been excellent advocates for their children and families) in a variety of settings (i.e., family centered meetings, out-of-preferred-placement team meetings, case planning discussions, etc.) when services for the child and family are being discussed.



HSD hosted tribal listening sessions and meetings with representatives and tribal social workers from Nations, Pueblos, and Tribes regarding a proposed \$500 budget per Native member per year for traditional health services provided by traditional healers. These discussions also sought feedback on utilizing a single MCO for children in state custody, and identifying a term that is comprehensive of traditional and culturally relevant services if the Centers for Medicaid and Medicare Services (CMS) approves a 1115 Waiver.

In 2022, BHSD's Native American Services Program announced a Request for Applications to increase the number of tribal providers participating in the program which provides funding to support Tribes in providing culturally relevant services that are not currently reimbursable by Medicaid.<sup>230</sup>

Throughout the year, HSD reports outreach to tribal communities. On November 7, 2022, BHSD hosted a tribal symposium to bring tribal communities together to engage and participate in discussion about their own community readiness and crisis response needs. HSD also reports that HSD's Native American Liaisons met with tribal communities in 2022 to discuss opportunities for program resources to assist with capacity building, access to federal and state funding, and technical assistance regarding behavioral health services and crisis response.

Specific efforts by CYFD to pursue federal funding through Title IV-E are discussed below in App. C, IT 6.1 – *New Mexico Tribes and Pueblos Access to IV-E Funding*.

### 3. Native Resource Family Recruitment and Retention Plan (App. C, IT 5.1)

<b><i>FSA Requirement</i></b>	<i>CYFD will develop a plan to increase recruitment and retention of Native Resource Families. The plan will include identifying relatives of Native Children, as required by ICWA or the New Mexico Tribe or Pueblo's preferred placement priorities, as well as identifying other potential Native Resource Families. The plan will include identification of additional supports needed for Native Resource Families, including supports and services that are culturally responsive and are not the same as those provided to non-Native parents, as well as providing assistance for families to navigate Resource Family licensing requirements. One methodology for identifying additional needed supports will be surveying former Native Resource Families to determine why they have stopped serving as a Resource Family and surveying potential Native Resource Families that did not complete the process to determine why they chose not to become a Resource Family. (Due June 1, 2021)</i>
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<sup>230</sup> For FY2024, HSD provided awards to eight providers, two of which provide direct services to children.

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***Co-Neutrals’  
Finding***

Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this IT in 2022.

**Discussion**

In January 2022, the State contracted with the Coalition to Stop Violence Against Native Women (CSVANW) to engage Native resource families, tribal ICWA workers, and tribal leaders to conduct surveys and listening sessions to better understand the needs of Native resource families when engaging with CYFD.<sup>231</sup> CSVANW submitted full survey findings and a report to CYFD in May 2022, including detailed and valuable information in understanding the experiences of those surveyed regarding their interactions with CYFD, and their efforts to support children and families collaboratively. CSVANW’s recommended solutions for consideration by CYFD include:<sup>232</sup>

- ***Culturally Sensitive Communication:*** to create a systemic environment of inclusion and reflective practice which embraces diversity, active listening, clear and concise expectations, respect, integrity, and the incorporation of core values which drive culturally relevant decision making.
- ***Effective Communication:*** to ensure that all communication with Resource Families is clear, concise, respectful and ongoing. Highlight the importance of regular communication with families and to respond in a timely fashion...Provide accurate information to families and explain any delays that may occur.
- ***Resource Family Recruitment and Retention:*** to actively engage in meaningful consultation with each of the tribes regarding the number of children in care, the number of Native Resource Families from each tribe and develop a specific plan for recruitment from each of those tribes based on need. To embrace the culturally relevant resource family training that is offered by the tribes...to invite the active involvement of the trainers from the tribes to deliver and facilitate the training...also consider how to effectively address the issue of family member’s history that results in the disqualification of the entire household to serve as a Resource Family.
- ***Resources and Support:*** to develop readily available resources for families to engage with in their efforts to help Native children to maintain connection to their Tribal customs and traditions, to maintain connection to their Native families and to develop a plan for ongoing sibling contact. Incorporate and follow the Cultural

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<sup>231</sup> CSVANW reports a total of 22 social workers, 16 Native resource families, and 10 tribal leaders were surveyed and/or interviewed.

<sup>232</sup> CSVANW’s Report can be found [here](#).

Compact between tribes and state for all Native children in placement...consider the identification and inclusion of Tribal Cultural Mentors from each of the New Mexico Tribes to be available for families and to also be available during training sessions.

- **Resource Family Data:** to develop a plan for how Native Resource Family Data will be maintained across the CYFD offices for easy access and accuracy.
- **Evaluation:** ongoing evaluation is important in that it captures important information readily as experiences occur and during closure of an ICWA case. It tells the story of how well things went and also the area that could be improved upon. Having access to this information sooner than later allows for immediate remedies to be applied and to develop ongoing best practices.

CYFD reports that recommendations from CSVANW’s report were discussed internally, and initial drafts of a plan were developed between July and September 2022. The State did not provide a draft plan to the Co-Neutrals.<sup>233</sup>

In March 2022, CYFD’s Office of Tribal Affairs (OTA) began hosting weekly discussions with the Nations, Pueblos, and Tribes to review and solicit input and feedback on resource family licensing procedures being drafted by CYFD. Although feedback from many Tribes was provided, the procedures were not finalized in 2022.<sup>234</sup>

#### 4. New Mexico Tribes and Pueblos Access to IV-E Funding (App. C, IT 6.1)

<b>FSA Requirement</b>	<i>CYFD will work with New Mexico Tribes and Pueblos to engage in dialogue, develop agreements, and take any other steps necessary to help New Mexico Tribes and Pueblos better access IV-E funding to improve services for Native Children, including additional funding for legal representation for New Mexico Tribes and Pueblos and Respondents. (Due June 1, 2021)</i>
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this IT in 2022.

<sup>233</sup> In late 2022, CYFD committed to creating an additional position within OTA – titled, Native American Resource Parent Coordinator – to assist with this work.

<sup>234</sup> Pursuant to Section II.2. of the June 2023 CAP, the State committed to additional strategies for Native resource family recruitment and retention. Specific details are included in the CAP, which can be found [here](#).

## Discussion

CYFD has committed to creating additional opportunities for New Mexico Nations, Pueblos, and Tribes to leverage Title IV-E federal funding for children in foster care or who are at risk of entering foster care.<sup>235</sup> CYFD's primary strategy for this action has been through development of Joint Power Agreements (JPAs)<sup>236</sup> between the State and New Mexico Nations, Pueblos, and Tribes. Such Agreements would allow the State to pass through Title IV-E federal funds to tribal nations for reimbursable costs. The Navajo Nation is the only New Mexico Tribe with a Title IV-E direct plan, which allows them to draw down funds directly from the federal government for approved activities and costs.<sup>237</sup>

CYFD reports meeting with six different Nations, Pueblos, and Tribes in 2022 to discuss Title IV-E pass-through funding opportunities for foster care maintenance payments, guardianship and adoption assistance payments, and administrative costs. Two Pueblos signed a JPA in 2022.

Decisions about whether to enter into a JPA rests with the Nations, Pueblos, and Tribes. CYFD notes that reasons for low Title IV-E utilization cited by the Nations, Pueblos, and Tribes include that they do not have the infrastructure or funding for formal foster care programs, and the process for negotiating such agreements is complex and time consuming. Tribal representatives continue to cite the need for more hands-on technical assistance to overcome these the barriers. This work is ongoing.<sup>238</sup>

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<sup>235</sup> CYFD is the designated Title IV-E agency for New Mexico, and can pass Title IV-E funds to Pueblos or Tribes for the care of Native children who meet the eligibility criteria, and who are in the custody of the Pueblo or Tribe as a result of caregiver abuse or neglect. Title IV-E reimbursement is potentially available for: monthly maintenance payments for the daily care and supervision of eligible children; administrative costs to manage the program; training of staff and resource parents; recruitment of resource parents; and costs related to design, implementation, and operation of the statewide data collection system.

<sup>236</sup> CYFD updated the JPA template in March 2022, which can be found [here](#). This JPA requires additional revisions and updates following passage of IFPA in early 2022, and this was not completed in 2022. CYFD reports work is underway to revise the JPA template and amend it to include recognition that a Native child residing on or off the reservation as a citizen of the State of New Mexico has the same right to services that are available to other children of the state. The JPA will also include provisions for state funds for additional allowable reimbursements. In 2023, CYFD reports also working on developing a separate administrative cost reimbursement agreement that will allow reimbursement for preparation and participation in judicial determinations, development of a case plan, case management and supervision, recruitment and licensure of resource homes, and other related costs including legal representation.

<sup>237</sup> Although the Navajo Nation is its own Title IV-E agency, the Ramah Navajo (Pine Hill) is not.

<sup>238</sup> Pursuant to Section II.1. and II.4. of the June 2023 CAP, the State committed to additional strategies for JPAs and tribal access to resources. Specific details are included in the CAP, which can be found [here](#).

## 5. Collection and Analysis of Data to Understand Needs of Native Children, and State’s Capabilities to Meet those Needs (App. C, IT 7.1)

<b><i>FSA Requirement</i></b>	<i>CYFD and HSD will collect and analyze data sufficient to understand the characteristics and needs of Native Children in State Custody and the capabilities of the State to meet those needs. The data to be collected will include (1) data about Native Children in State Custody, including Tribal membership status, confirmation and correction of birth certificates, removal rates, and placements (including whether children are placed with relative, non-relative Native, or non-relative non-Native Resource Families, Treatment Foster Care, congregate care, residential placement, or other out of home placement); (2) data on the demographics and characteristics of placements available to Native children (including Resource Families); and (3) data on the demographics, characteristics and services provided by treatment providers available to Native Children in State Custody. (Due June 1, 2021)</i>
<b><i>Co-Neutrals’ Finding</i></b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this IT in 2022.

### **Discussion**

After several rounds of review and feedback, in December 2021, the State provided the Co-Neutrals with a final draft methodology for a needs assessment to better understand any gaps in the State’s ability to meet the needs of Native children in state custody, and identify where future services are needed. In January 2022, the Co-Neutrals encouraged the State to move from methodology development to collecting and analyzing the data to produce a needs assessment report that would include recommendations and next steps for strategic planning, process improvements, and modifications to current services. The Co-Neutrals also recommended that CYFD and HSD establish a diverse data oversight committee – inclusive of representatives from Nations, Pueblos, and Tribes – to regulate and review data collection processes, procedures, and analysis as the manner in which data are collected and analyzed should respect tribal sovereignty and reflect cultural sensitivity and humility. The State has not provided the Co-Neutrals with a final needs assessment report nor established a data oversight committee.<sup>239</sup>

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<sup>239</sup> Pursuant to Section II.5. of the June 2023 CAP, the State committed to additional strategies related to sharing data with NM Nations, Pueblos, and Tribes. Specific details are included in the CAP, which can be found [here](#).

*b. Target Outcomes Due between 2020 and 2022*

**6. Screenings and Referrals for Native Children within 30 Days of Entering Care (App. C, TO 1.1)**

<b>FSA Requirement</b>	<i>By December 1, 2021, assessments using the tool developed for Native Children in State Custody or other process developed per Implementation Target 2 above will be conducted within 30 Days of CYFD filing a petition for custody of a Native Child in State Custody. (Due December 1, 2021)</i>
<b>Co-Neutrals' Finding</b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

**DVP Metrics and Validated Performance Data**

*CTOI.1(i): qualitative metric: Qualitative review of practice for screening and referrals to traditional and culturally-responsive services.<sup>240</sup>*

The State had not finalized the qualitative instrument and methodology to collect data and assess performance for this metric.

**Discussion**

As discussed earlier for App. C, IT 2.1 – *Development of Processes and Procedures to Promote Traditional Interventions*, the State did not develop or implement the processes and policies that will be utilized to support Native children in their access to traditional or culturally responsive services, supports, or interventions.

**7. Identification, Access, and Expansion of Culturally Responsive Services (App. C, TO 2.1)**

<b>FSA Requirement</b>	<i>CYFD will work with New Mexico Tribes and Pueblos, families, and Native Children to identify culturally responsive services. HSD will develop and expand access to traditional and culturally responsive treatments, interventions, and supports. CYFD will develop and arrange for traditional and culturally competent interventions, which may include interventions that are not medicalized and/or have not been evaluated as evidence-based, well-supported,</i>
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<sup>240</sup> This qualitative metric will be used to validate multiple related commitments, specifically App. C, TO 1.1, App. C, TO 2.1, App. C, TO 2.2, App. C, TO 2.3, and App. C, TO 3.1.

	<i>or promising. CYFD and HSD will expand culturally relevant services that can be used as an active effort to keep families intact and to avoid taking children into custody. (Due June 1, 2021)</i>
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### **DVP Metrics and Validated Performance Data**

*CTO2.1(i) – primary metric: Number of Native American children in CYFD custody receiving Traditional Medicine Benefits (TMB) during the reporting year.*

The Co-Neutrals’ analysis of State data showed there were 222 Native, MCO-affiliated children in custody for at least eight days in 2022; one (0.5%) child is documented as receiving Traditional Medicine Benefits (TMB) during the reporting year.<sup>241, 242</sup>

## **8. IPPs for Native Children to Address Need for Traditional or Culturally Responsive Services, Supports, or Interventions (App. C, TO 2.2)**

<b>FSA Requirement</b>	<i>By December 1, 2022, Individualized Planning Meetings for every Native Child in State Custody will address the need for traditional or culturally responsive services, supports, or interventions, including non-medicalized interventions, to meet his or her individualized needs as indicated by his or her assessments (Due December 1, 2022)</i>
<b>Co-Neutrals’ Finding</b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

<sup>241</sup> Source: Analysis of Sandbox Cohort and Episodes of Custody files and MCO data submitted May 1, 2023 and June 14, 2023.

<sup>242</sup> The rate of children receiving TMB in 2022 was similar to the rate reported for 2021, though only data from July through December 2021 were analyzed. Of the 281 eligible children between July to December 2021, none received TMB.

## **DVP Metrics and Validated Performance Data**

*CTOL.1(i): qualitative metric: Qualitative review of practice for screening and referrals to traditional and culturally-responsive services<sup>243</sup>*

The State had not finalized the qualitative instrument and methodology to collect data and assess performance for this metric. Thus, the Co-Neutrals are unable to report performance toward this metric for 2022. If the State provides the necessary data and information, the Co-Neutrals anticipate being able to analyze qualitative data relevant to this TO for the 2023 performance report.

### **9. Policies to Support Native Children to receive Traditional or Culturally Responsive Services (App. C, TO 2.3)**

<b><i>FSA Requirement</i></b>	<i>CYFD will make every effort to ensure that services are provided as quickly as possible with consideration of the traditions and culture of the Native child's Tribe or Pueblo, as well as child and family preferences. CYFD will develop policies to ensure that Native Children in State Custody receive traditional or culturally responsive services, supports, or interventions, including interventions which are non-medicalized and/or have not been evaluated as evidence-based, well-supported, or promising, including collecting data on implementation of the protocols. The Co-Neutrals will approve the policies and evaluate the Department's compliance with the policy. The Co-Neutrals shall not withhold approval of the policy if it is reasonably calculated to achieve the goals of this Agreement. (Due June 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

## **Discussion**

As discussed earlier for App. C, IT 2.1 – *Development of Processes and Procedures to Promote Traditional Interventions*, the State did not develop or implement the processes and policies that will be utilized to support Native children in their access to traditional or culturally responsive services, supports, or interventions.

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<sup>243</sup> This qualitative metric will be used to validate multiple related commitments, specifically App. C, TO 1.1, App. C, TO 2.1, App. C, TO 2.2, App. C, TO 2.3, and App. C, TO 3.1.



## 10. Policy to Provide Direct Assistance for Traditional Ceremonies (App. C, TO 3.1)

<b>FSA Requirement</b>	<i>CYFD will develop a policy to provide or ensure provision of direct assistance for traditional ceremonies, including arranging for all preparation and providing payment if needed, if Native Children want to participate. The policy will 1) provide for Native Children in State Custody to be presented with information about traditional ceremonies with sufficient time to decide whether they want to participate, 2) affirmatively encourage participation, and 3) facilitate all necessary preparation activities. The Co-Neutrals will approve the policy and evaluate the Department's compliance with the policy. The Co-Neutrals shall not withhold approval of the policy if it is reasonably calculated to achieve the Goals of this Agreement. (Due June 1, 2021)</i>
<b>Co-Neutrals' Finding</b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### Discussion

The State planned to include the requirements of this TO into the policy that was under development for App. C, IT 2.1 – *Development of Processes and Procedures to Promote Traditional Interventions*, and App. C, TO 2.3 – *Policies to Support Native Children to Receive Traditional or Culturally Responsive Services*. An initial draft of a payment matrix was shared with the Co-Neutrals as part of a draft policy related to these commitments which was intended to identify various routes that could be used by tribal representatives and caseworkers to secure funding for traditional services. The State did not finalize the policy in 2022.

## 11. Development of Protocols for 30-Day Review Process (App. C, TO 4.2)<sup>244</sup>

<b>FSA Requirement</b>	<i>CYFD will establish protocols governing the 30-Day review process to include families, Tribal representatives, legal representatives, and Resource Families. The protocols will require that the aim of the placement review will be to determine what actions, services and supports will enable the child to be moved to an ICWA-approved placement. If State ICWA legislation is passed and is more protective than the federal ICWA, a placement may meet this standard by being preferred by or consistent with the State ICWA legislation. The Co-</i>
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<sup>244</sup> Although out of sequence, this report discusses App. C, TO 4.2 prior to discussion of App. C, TO 4.1 in order to provide an explanation of the process and procedure established by CYFD prior to presentation of the data in App. C, TO 4.1.

	<i>Neutrals shall approve the protocols, but the Co-Neutrals shall not withhold approval of the protocols if they are reasonably calculated to achieve the Goals of this Agreement. The Co-Neutrals will evaluate compliance with the protocols.</i> (Due December 1, 2020)
<b><i>Co-Neutrals’ Finding</i></b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022. Protocols have been developed and approved by the Co-Neutrals, however, consistent compliance with the protocols, as required by this TO, did not occur in 2022.

### **Discussion**

On January 16, 2021, the Co-Neutrals approved the State’s process and procedure for this TO as outlined in a Guidance Memorandum titled, *ICWA – Foster and Adoptive Placement of American Indian/Alaskan Native Children*, and later in PIG 03-2021-#7<sup>245</sup>, dated March 24, 2021. These materials describe the legal requirements pursuant to the federal ICWA on the placement of Native children in foster care, and establish a process by which CYFD will conduct regular reviews of Native children who are not placed according to ICWA placement preferences in order to identify and secure preferred placements for the Native child.<sup>246</sup>

Pursuant to federal law, Native children in foster care should be provided placements that allow them to remain connected to their families, culture, and communities. Preferred placements for Native children as outlined in federal ICWA are listed below, in descending order of preference:

- 1) A member of the Indian child’s extended family;
- 2) A foster home that is licensed, approved, or specified by the Indian child’s tribe;
- 3) An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or
- 4) An institution for children approved by an Indian Tribe or operated by an Indian organization which has a program suitable to meet the child’s needs.<sup>247,248</sup>

<sup>245</sup> PIG 03-2021-#7 can be found [here](#).

<sup>246</sup> In 2022, the Guidance Memorandum and PIG were not updated to incorporate the provisions of IFPA.

<sup>247</sup> 25 U.S.C. § 1915 (b)

<sup>248</sup> Section 21.A.(4) of IFPA, which was passed in 2022 after CYFD issued PIG 03-2021-#7, provides for the following placement preferences: (a) an extended family member of the Indian child; (b) a foster home licensed, approved or specified by the Indian child’s tribe; or (c) a foster home licensed or approved by a licensing authority in New Mexico

The Nation, Pueblo, or Tribe can establish a different order of placement preferences to that outlined above. CYFD's process requires that when a Native child enters custody, efforts are first made to identify and secure a relative placement for the child. If these efforts are unsuccessful, and the child is placed in a non-ICWA/IFPA-preferred placement, the caseworker must notify the OTA within 48 hours. The Director of OTA is responsible for documenting these notifications, and scheduling and conducting an out-of-preferred placement (OOPP) meeting for each Native child in such placements at least every 30 days until the child is placed in a preferred placement.

Pursuant to the approved procedure, the OOPP meeting must include a representative from OTA, the PPW, and the PPW supervisor. Other meeting attendees should include the resource family, the GAL or Youth Attorney, the Native child's parents, the parents' attorneys, grandparents and other extended family members, and the child, as appropriate. The Children's Court Attorney (CCA) is encouraged to attend, and a representative from the child's Nation, Pueblo, or Tribe must be made aware of the meeting and be invited to participate in a meaningful manner. The topics and issues for discussion within the meeting are outlined within the *Process* section on pages 3 – 4 of CYFD's PIG 03-2021-#7.

While CYFD developed protocols for 30-day review processes and has been conducting reviews, performance data discussed below for App. C, TO 4.1 – *30-Day Review of Native Children in Non-ICWA/IFPA-Preferred Placements*, show that practice in 2022 was not compliant with established protocols and procedures as required by this TO.

## 12. 30-Day Review of Native Children in Non-ICWA/IFPA-Preferred Placements (App. C, TO 4.1)

<b><i>FSA Requirement</i></b>	<i>By December 1, 2020, when a Native Child is in a non-ICWA-preferred placement, the placement will be reviewed every 30 Days. (Due December 1, 2020)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

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in which one or more of the licensed or approved foster parents is Indian. CYFD's procedure needs to be amended to comply with current state law.

## **DVP Metrics and Validated Performance Data**<sup>249</sup>

### *CTO4.1(i) – primary metric: Length of time Native American children spent in non-ICWA preferred placements.*<sup>250</sup>

The Co-Neutrals’ analysis of the State’s data showed that of the 2,755 children in care at any point during 2022, 332 were ICWA-eligible.<sup>251</sup> Of these 332 children, 176 (53%) children<sup>252</sup> did not spend any time or spent less than a full day in a non-ICWA/IFPA-preferred placement,<sup>253</sup> and 64 (19%) children spent more than 180 days in a non-ICWA/IFPA-preferred placement.<sup>254</sup> Table 41 below shows the number of days spent in non-ICWA/IFPA-preferred placements for all 332 children.

### *CTO4.1(i\*) – secondary metric: Length of time Native American children spent in non-ICWA-preferred placements made after December 1, 2020.*

To assess changes in the placement process since the adoption of the FSA, the secondary metric limits the analysis to ICWA-eligible children in non-ICWA/IFPA-preferred placements that began on or after December 1, 2020. As shown in Table 41 below, the Co-Neutrals found that 189 (57%) children<sup>255</sup> did not spend any time or spent less than a full day in non-ICWA/IFPA-preferred

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<sup>249</sup> The Co-Neutrals also examined the subset of cases where FACTS recorded both Court and CYFD determinations of ICWA eligibility, to assess alignment. For children in the ICWA-eligible universe, Court determinations were provided for 270 placements, and CYFD determinations of ICWA-eligibility were provided for 76 placements. CYFD and Court determinations of ICWA eligibility aligned for 12 of the 16 placements for which both were available. Of the four where CYFD and the Court did not align, there were two placements where CYFD initially indicated that a placement was ICWA/IFPA-preferred that the Court determined were non-ICWA/IFPA-preferred, and two placements where CYFD initially indicated that a child was not ICWA-eligible, but the Court determined the child was eligible and was in a non-ICWA/IFPA-preferred placement.

<sup>250</sup> Per the DVP, these calculations (for both primary and secondary metrics) included temporary absences that occurred within or between non-ICWA/IFPA-preferred placements. For example, if a child was in a non-ICWA/IFPA-preferred placement, then was in an acute hospitalization, and then either returned to that same placement or moved to a new non-ICWA/IFPA-preferred placement, the length of that entire spell would count toward the total.

<sup>251</sup> A child is considered ICWA-eligible if: (a) the Court has affirmatively determined that they are ICWA-eligible, or (b) the Court had not yet made an ICWA-eligibility determination but either their race is identified as “American Indian or Alaska Native” or they are documented in FACTS as having a tribal affiliation.

<sup>252</sup> This includes 174 children who experienced no non-ICWA/IFPA-preferred placements, and two who experienced non-ICWA/IFPA-preferred placements that began and ended on the same day.

<sup>253</sup> A placement was considered non-ICWA/IFPA-preferred if a court hearing deemed the placement non-ICWA/IFPA-preferred. If there was no Court determination, CYFD’s determination was used. If there were no Court or CYFD determinations, the placement was considered non-ICWA/IFPA-preferred if it was not a relative foster home.

<sup>254</sup> Per the DVP, placement spells include any temporary absences if the child returns to the same resource in which they were placed before the absence. As supplemental information, the Co-Neutrals also analyzed the total number of days ICWA-eligible children spent physically present in a non-ICWA/IFPA-preferred placement (i.e., not counting temporary absences that occurred within or between non-ICWA/IFPA-preferred placements). Removing temporary absences from the duration calculations had minimal effects on the distribution – no category changed by more than a percentage point.

<sup>255</sup> There were 13 children who spent time in 2022 in non-ICWA/IFPA-preferred placements that began before December 2020, which is why there are 13 more children in the “0 days” category for the secondary metric than the primary metric.

placements that began on or after December 1, 2020,<sup>256</sup> and 57 (17%) children spent more than 180 days in non-ICWA/IFPA-preferred placements.

**Table 41: Number of Children in Non-ICWA/IFPA-Preferred Placements in 2022 and Placements made after December 1, 2020, by Total Days Spent**

Number of Days in non-ICWA/IFPA-Preferred Placements	All 2022 placements (primary metric)		Placements made after December 1, 2020 (secondary metric)	
	N	%	N	%
0	176	53%	189	57%
1-30	39	12%	39	12%
31-90	22	7%	18	5%
91-120	8	2%	8	2%
121-150	16	5%	14	4%
151-180	7	2%	7	2%
180+	64	19%	57	17%
<b>Total</b>	<b>332</b>	<b>100%</b>	<b>332</b>	<b>100%</b>

Source: Analysis of Sandbox *Placement* file submitted 5/1/23, supplemented by service type detail from FACTS *episodes* file submitted 5/1/23, and Sandbox *Cohort* and *Court Disposition* files submitted 5/1/23.

*CTO4.1(ii) – primary metric: Percent of 30-day reviews for non-ICWA-preferred placements conducted on time.*

A non-ICWA/IFPA-preferred placement review (referred to by CYFD as an “out-of-preferred placement” review, or OOPP review) is required at least every 30 days that a child spends in a non-ICWA/IFPA-preferred placement. The Co-Neutrals’ analysis of the State’s data showed that in 2022, there were 807 required 30-day reviews of non-ICWA/IFPA-preferred placements, and 177 (22%) of them were conducted<sup>257</sup> on time.<sup>258</sup>

<sup>256</sup> This includes 187 children who experienced no non-ICWA/IFPA-preferred placements that began on or after December 1, 2020, and two who experienced non-ICWA/IFPA-preferred placements that began and ended on the same day.

<sup>257</sup> A meeting was identified as conducted when the State’s data indicated that it was not canceled, it occurred on or before the due date, and it was an “ICWA Non-Preferred 30-Day Review.” Due dates were calculated as every 30 days after the start of the placement and were unaffected by a move from one non-ICWA/IFPA-preferred placement to another.

<sup>258</sup> As additional information, the Co-Neutrals examined how often children in non-ICWA/IFPA-preferred placements had *any* team meetings completed for each 30-day period (i.e., including any completed meeting, whether or not it was labeled an “ICWA Non-Preferred 30-Day Review”). This finding could indicate either that the meeting that occurred did not contain all the required elements of a non-ICWA/IFPA-preferred 30-day review or that an incorrect meeting type was selected in FACTS. Analysis of the State’s data showed that a meeting occurred within 248 (31%) of the 807 periods in which a non-ICWA/IFPA-preferred placement review was due.

The Co-Neutrals also examined the data by month and found that the percentage of completed and timely reviews decreased over the course of the year (from 27% in the first half of the year to 18% in the second; see Table 42).

**Table 42: Number of Required and Completed Reviews for Non-ICWA/IFPA-Preferred Placements, by Month, in 2022**

Month	Total Number of Required Reviews	Number of Required Reviews Completed Timely	Percent of Required Reviews Completed Timely
January	74	16	22%
February	65	15	23%
March	62	18	29%
April	60	17	28%
May	65	20	31%
June	59	16	27%
July	67	15	22%
August	70	16	23%
September	69	12	17%
October	76	11	14%
November	67	12	18%
December	73	9	12%
<b>Total</b>	<b>807</b>	<b>177</b>	<b>22%</b>

Source: Analysis of Sandbox *Placement* file submitted 5/1/23, supplemented by service type detail from FACTS *episodes* file submitted 5/1/23, and Sandbox *Cohort* and *CourtDisposition* files submitted 5/1/23.

*CTO4.1(iii): qualitative metric: Qualitative review of ICWA-preferred placements for Native children.*

*CTO4.1(iv): qualitative metric: Qualitative review of meetings for Native children in non-ICWA-preferred placements.*

To collect data for these qualitative metrics, CYFD staff and the Co-Neutral team collaborated in developing protocols and instruments for reviews of children's records in FACTS to assess if Native children who were placed in non-ICWA/IFPA-preferred placements received monthly reviews inclusive of the required participants and discussion topics as outlined in CYFD's procedures.<sup>259</sup>

The Co-Neutrals reviewed a random sample of 45 Native children who were placed in a non-ICWA/IFPA-preferred placement for at least 30 days between July and December 2022. These 45

<sup>259</sup> Reviewers participated in an orientation and training on the FSA standards and the review instrument, and met with the OTA Director to inform their understanding of the process. CYFD and Co-Neutral staff implemented a quality control process during the reviews, including completing second level reviews of identified surveys.

Native children experienced a total of 92 placements, of which 82 (89%) placements were not in accordance with ICWA placement preferences.<sup>260</sup> A total of 221 OOPP staffings were required between July and December 2022 for this sample of children, ranging from 35 to 39 each month. Documentation in FACTS showed that of the 221 required OOPP staffings, 103 (47%) OOPP staffings were held.<sup>261</sup>

Documentation for all 103 OOPP staffings completed between July and December 2022 were reviewed, and none (0%) documented that invitations to attend had been extended to all necessary participants,<sup>262</sup> and that all required discussion topics and issues were addressed within the meeting.<sup>263</sup> Specifically, a tribal representative or caseworker was present in 43 percent of the meetings held (in an additional 32% of meetings, the tribal representative or caseworker had been invited to attend but was not present), the child's parent or guardian was present in eight percent of the meetings held (in an additional 23%, the parent or guardian had been invited to attend but was not present), and the child or youth was present in three percent of meetings. Other available preferred placements were documented as discussed in 20 percent of completed meetings, and diligent efforts to identify family as possible placement resources were documented as having been discussed in 22 percent of completed meetings.

## **Discussion**

As discussed above, quantitative and qualitative data for this TO show that placement meetings to review non-ICWA/IFPA-preferred placements did not consistently occur when required. Of those that did occur, of the random sample reviewed, none documented inclusion of all required team members and discussion topics. As further context for the effectiveness of the OOPP meetings that were held, outcome data show that only nine of the 45 children reviewed moved from a non-ICWA/IFPA-preferred placement to an ICWA/IFPA-preferred placement within the period under review, and two of these placements disrupted shortly thereafter.<sup>264</sup>

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<sup>260</sup> One child was in an ICWA/IFPA-preferred placement at the beginning of the period under review, however, the child's placement provider requested the child be removed from their home, and they subsequently moved into a non-ICWA/IFPA-preferred placement. Of the nine other Native children who moved into ICWA/IFPA-preferred placements during the period under review, two did not maintain within the ICWA/IFPA-preferred placement either due to moving to a higher level of care or the child's placement provider requested the child be removed from their home.

<sup>261</sup> Data are based on random sampling and do not include the full universe of applicable Native children and placements during the period under review.

<sup>262</sup> CYFD's procedure requires that the OOPP staffing must include a representative from the OTA, the PPW, and the PPW supervisor. Other meeting attendees should include the resource family, the GAL or Youth Attorney, the Native child's parents, the parents' attorneys, grandparents and other extended family members, and the child, as appropriate. The CCA is encouraged to attend, and a representative from the child's Nation, Pueblo, or Tribe must be made aware of the meeting and be invited to participate in a meaningful manner.

<sup>263</sup> See pgs. 3-5 of PIG 03-2021-#7 for the issues that should be addressed and documented in FACTS during the OOPP meeting. PIG 03-2021-#7 can be found [here](#).

<sup>264</sup> Pursuant to Section II.3. of the June 2023 CAP, the State committed to additional strategies to ensure Native children are placed in ICWA/IFPA preferred placements. Specific details are included in the CAP, which can be found [here](#).

### 13. Procedures to Enhance Accountability for ICWA Placement Preferences (App. C, TO 4.3)

<b><i>FSA Requirement</i></b>	<i>CYFD will work with New Mexico Tribes and Pueblos to identify any Tribal placement preferences that deviate from ICWA. CYFD will create procedures that enhance accountability for ICWA placement preferences, including allowing the child's tribe or pueblo and extended family members to participate in ICWA-preferred placement reviews, Individualized Planning Meetings and case decision making meetings. (Due December 1, 2020)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022. Procedures to enhance accountability for ICWA placement preferences have been developed, but good faith efforts are needed to ensure tribal and family member participation in non-ICWA/IFPA-preferred placement meetings and to follow-up on meeting recommendations.

#### **Discussion**

CYFD has included requirements regarding who should attend meetings involving children's placements and other decision-making forums. Specifically, as discussed above, PIG 03-2021-#7 establishes a process to review non-ICWA/IFPA-preferred placements for Native children, which requires that OTA schedule and conduct the OOPP meeting and ensure that a representative of the child's Nation, Pueblo, or Tribe is aware of the meeting and is invited to participate in a meaningful manner. Other attendees in the meeting should also include, but are not limited to, the child's parents, grandparents and other extended family members, and the child, as appropriate.

The case record review described above found that a Native child's family or Nation, Pueblo, or Tribe were not consistently invited to participate in OOPP meetings. Specifically, only eight percent (8 out of 103) of the completed OOPP meetings included the child's parents or guardians, and documentation showed that the parents or guardians were invited but did not attend 22 percent (23 out of 103) of completed OOPP meetings. In four (4%) required meetings, documentation showed that the grandparents or other extended family members were invited or attended the OOPP meeting. Fewer than half (43%) of the completed OOPP meetings included participation by a tribal worker; in approximately one-third (32%) of completed OOPP meetings, documentation shows that the tribal worker was invited to but did not attend the meeting. The highest priority ICWA placement preferences are with family and Native resource parents, making these participants essential in developing a plan to move a Native child into an ICWA/IPFA preferred placement.



## 14. Development of ICWA Training Plan (App. C, TO 5.1)

<b>FSA Requirement</b>	<i>CYFD will develop an ICWA training plan by December 1, 2020, and implement it by December 1, 2021. ICWA trainings will be developed collaboratively with the CYFD's Academy for Training and Professional Development Team, Protective Services Tribal Liaison, CYFD Tribal Liaison, Tribal Advisors, and culturally responsive experts. The ICWA training will include specific information on the history of ICWA, historic relations between Native American people and state and national government, and the history of culturally insensitive social work practices. It will also include skills development in working with Native families and communities, historical trauma, engagement, cultural humility and culturally responsive intervention techniques for Native American parents and youth and community engagement with New Mexico Tribes and Pueblos, as well as best practices for ICWA. The training will include information on New Mexico Tribes and Pueblos, sovereignty, and jurisdictional issues. The Co-Neutrals shall approve the ICWA training plan, but the Co-Neutrals shall not withhold approval of the training plan if it is reasonably calculated to achieve the Goals of this Agreement. The Co-Neutrals will evaluate implementation of the training plan. (Due December 1, 2020)</i>
<b>Co-Neutrals' Finding</b>	Based upon the Co-Neutrals' review and consideration of all available information, the State met the Performance Standard for this TO in 2022.

### Discussion

On January 12, 2023, the Co-Neutrals approved the State's Indian Child Welfare Act and Indian Family Protection Act Training and Coaching Plan, dated December 30, 2022.<sup>265</sup>

The Plan was developed by CYFD's Workforce Development Bureau (WDB), OTA staff, and two workgroups. The first workgroup – Tribal Advisory Group (TAG)<sup>266</sup> – met weekly beginning in April 2022 and wrote curriculum content. The second workgroup – Native American Training

<sup>265</sup> The State's approved State's Indian Child Welfare Act and Indian Family Protection Act Training and Coaching Plan can be found [here](#).

<sup>266</sup> CYFD reports the TAG members include the following representatives: ICWA manager for the Pueblo of Nambe; ICWA worker for the Pueblo of Taos; Director for the Pueblo of Isleta Social Services; ICWA worker for the Jicarilla Apache Tribe; case worker for the Pueblo of Pojoaque Social Services; Director of Navajo Nation Department of Social Services; and Director for the Isleta Pueblo Social Services. CYFD reports that tribal social and ICWA workers from each Nation, Pueblo, and Tribe were invited to participate in weekly meetings, and WDB conducted individual e-mails and phone calls requesting input on curriculum content when a tribal representative was unable to attend a weekly meeting.

Curriculum Advisory Group (NATCAG)<sup>267</sup> – met monthly beginning in May 2022 and reviewed the content developed by TAG, and provided feedback. As the curriculum is rolled out, CYFD reports that the workgroups will continue to meet to modify content, as needed, and to evaluate the trainings’ effectiveness.

The Plan includes three tiered levels of training certificates. These levels are described below:

- ***Novice ICWA/IFPA Certification*** is required for all CYFD PSD employees, including CCAs, and OTA staff, and includes four courses<sup>268</sup>, totaling 22 hours. CYFD reports all courses were available beginning in January 2023. Existing staff are required to complete the Novice Certification by December 31, 2023, and new staff must complete the training within one year of hire.
- ***Advanced Certification*** is required for all CYFD PSD supervisors, managing attorneys, and ICWA unit staff. It consists of five courses<sup>269</sup>, totaling 12 hours. CYFD’s goal for completion of the curriculum for all Advanced courses was March 31, 2023. Existing staff are required to complete the training within one year of its availability, new staff are required to complete the training within 18 months of hire, and staff who are promoted into supervisor and managing attorney positions must complete the training within six months of promotion.
- ***Leadership Certification*** is required for County Office Managers, Regional Managers, and Field Deputy Directors. It includes six courses<sup>270</sup>, for a total of 26 hours. CYFD’s goal for completion of the curriculum for all Leadership courses is December 31, 2023. Existing staff are required to complete the training within one year of its availability, new staff are required to complete the training within 24 months of hire, and staff who are promoted into the applicable positions must complete the training within 18 months of promotion.

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<sup>267</sup> CYFD reports the NATCAG members include the following representatives: CYFD’s Office of General Counsel (OGC), the Office of the Secretary’s (OTS) Special Project Coordinator, CYFD’s Resource Parent Training Program Manager, a PS Deputy Director, a retired State of New Mexico Children’s Court Judge, a retired Indian Child Welfare Expert, individuals with lived experience, community partners with relevant expertise (Bold Futures), and tribal partner representation from the Pueblo of Isleta and the Navajo Nation.

<sup>268</sup> Novice courses include: Cultural Humility in Social Services; Populations of NM; Indian Child Welfare Act Overview – Best Practice for Best Outcomes (e-learning); and ICWA and IFPA In-Depth Training – Applying Best Practices.

<sup>269</sup> Advanced courses include: Supervising Indian Child Welfare Act/IFPA Cases; Community Cultural Wealth; Importance of Cultural Connections; Implications of Historical Trauma – Proficient; and Government-to-Government Relations – Proficient.

<sup>270</sup> Leadership courses include: Accountability and ICWA: Assuring Cultural Responsiveness; Accountability and ICWA: Assuring ICWA Compliance; Collaborative Decision-Making; Values-Based Leadership; Creating an Environment of Cultural Humility; and Community Engagement.

The Plan also includes additional trainings required for CCAs and resource parents, and has strategies to provide coaching to staff – including hiring an ICWA/IFPA Coach in OTA – and evaluation of the training.

## 15. Implementation of ICWA Training Plan (App. C, TO 5.2)

<b><i>FSA Requirement</i></b>	<i>CYFD will develop an ICWA training plan by December 1, 2020, and implement it by December 1, 2021. The Co-Neutrals will evaluate implementation of the training plan. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

### **Discussion**

The State's Indian Child Welfare Act and Indian Family Protection Act Training and Coaching Plan was finalized in December 2022. The State anticipates that all courses within the training plan will be fully operational by December 31, 2023. If the State provides the necessary data and information, the Co-Neutrals anticipate being able to analyze quantitative and qualitative data relevant to this TO for the 2023 performance report.

## ***iv. Appendix D: Behavioral Health Services***

The commitments in Appendix D of the FSA require CYFD and HSD to “structure and build a statewide, community-based mental health system that all children and families will be able to access.”<sup>271</sup> The parties describe this system in Appendix D as including:

- Prompt access to necessary services regardless of where children and families live;
- Access to services that are critical to keeping children with their families or in the most family-like setting possible;
- A diverse and full spectrum of community-based services that will decrease reliance on congregate care, keep families together in their community to the maximum extent possible, and greatly reduce reliance on out of state residential placements.

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<sup>271</sup> FSA, pg. 12a

This statewide, community-based mental health system will provide “medically necessary mental health services... in descending order of preference: at home, in a family setting, or in the most home-like setting appropriate to a child’s needs and consistent with the Children’s Code.”<sup>272</sup>

*a. Implementation Targets due 2020 and 2021 that were not previously achieved*

In prior reports, the Co-Neutrals assessed the State had met the Performance Standard for the following ITs – *Detailed Progress Report on Reimbursement Methodology, Billing Rate Information, and Guidance for Providers* (App. D, IT 3.1a);<sup>273</sup> *Publishing Medication Protocols for Public Comment* (App. D, IT 4.1a)<sup>274</sup>; *Adopt Regulations Governing Medication Protocols* (App. D, IT 4.1); *Reinstating “No Reject, No Eject” Language in Medicaid Contracts* (App. D, IT 6.1); and *Notice of Action and Grievance Protocols* (App. D, IT 7.1). Thus, those ITs will not be reassessed in this or future reports.

## 1. Behavioral Health Care Workforce Development Review (App. D, IT 1)

**FSA  
Requirement**

*HSD and CYFD will create a Behavioral Health Care Workforce Development Review with the objective of supporting and expanding provider capacity to provide community-based mental and behavioral health services with reasonable promptness that are accessible throughout the State, and particularly in rural areas. The Behavioral Health Care Workforce Development Review will describe in writing the expected nature, scope, capacity, and structure of the workforce necessary to meet the obligations described in this Agreement, including how HSD works with MCOs on increasing capacity to make available screening/assessment, High Fidelity Wraparound services, evidence-based, well-supported, or promising therapeutic treatment for children with complex trauma, intensive case management, mobile crisis response services and intensive home-based services to every Child in State Custody for whom they are medically necessary. HSD will either create or require MCOs to create a specific hiring/contracting plan that identifies, by county, the number of staff and credentials required to meet the objectives identified in the Behavioral Health Care Workforce Development Review. The Co-Neutrals must approve the Behavioral Health Care Workforce Development Review. (Due June 1, 2021)*

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<sup>272</sup> Ibid.

<sup>273</sup> App. D, IT 3.1a was created and agreed upon by the parties in the August 8, 2020 Parties’ Extension Agreement.

<sup>274</sup> App. D, IT 4.1a was created and agreed upon by the parties in the August 8, 2020 Parties’ Extension Agreement.

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***Co-Neutrals’  
Finding***

Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this IT in 2022.

**Discussion**

As of December 31, 2022, the State did not have a Behavioral Health Workforce Development Review that was approved by the Co-Neutrals. HSD’s last submission during the period, in October 2022, did not address all explicit requirements set forth in the FSA. HSD did not provide a next version to the Co-Neutrals until May 2023 despite repeated requests from the Co-Neutrals for a more timely response.<sup>275</sup> The State described their efforts to meet this commitment in 2022 as a two-phased approach. Phase 1 included gathering data to inform the State’s knowledge of current service availability, current workforce capacity, provider expansion capacity, and current and expected service utilization. In Phase 2, the State intended to use the data gathered in Phase 1 to create a specific hiring and contracting plan as required in the FSA. To accomplish Phase 1, the State contracted with Myers and Stauffer (M&S)<sup>276</sup> to design and disseminate a survey to various stakeholders during early 2022. M&S surveyed stakeholders including employees from state agencies, MCOs, and behavioral health organizations and providers, as well as members of advocacy groups, current and former children in state custody, and current and former resource parents. The M&S findings were compiled into a report by CYFD and HSD titled, *Behavioral Health Provider Capacity Assessment for Children in State Custody* (“M&S Report”), that was shared with the Co-Neutrals on June 24, 2022.<sup>277</sup> Key findings described in the report include:

- Surveyed youth want to be more involved in planning their own care, as well as increased involvement from their birth family members and natural supports.
- Providers desire increased collaboration with CYFD and HSD, and increased opportunities for input about the types of evidence-based and trauma-informed services that can best serve children in state custody and their families.
- Reimbursement complexities and credentialing issues were among the most common reasons for providers declining to accept Medicaid insurance.

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<sup>275</sup> As of the writing of this report, the Behavioral Health Workforce Development Review has not been approved by the Co-Neutrals. The State submitted drafts for Co-Neutral feedback and approval in March and August 2021, October 2022, and May 2023. HSD submitted an updated draft to the Co-Neutrals on September 28, 2023, which is under review.

<sup>276</sup> Additional information on Myers and Stauffer can be found [here](#).

<sup>277</sup> The M&S Report, titled *Behavioral Health Provider Capacity Assessment for Children in State Custody* can be found [here](#).

- Survey respondents emphasized the importance of community and social supports, as well as prevention and early intervention services, to support children in state custody and their families.
- The current number of behavioral health providers and provider agencies who practice using one or more of the evidence-based practices the State is working to expand is 142 individuals and 771 providers, including those who do not take Medicaid insurance.
- The primary barriers to more widespread use by providers of evidence-based and trauma-informed practices are cost and time.
- Providers want free access to accessible, standardized training and education.
- Survey respondents highlighted the need for an improved and streamlined community referral system.

## 2. Initial Expected Service Utilization (App. D, IT 2.1)

<b><i>FSA Requirement</i></b>	<i>To assess need, HSD and CYFD will define initial expected service utilization for screening/assessment, High Fidelity Wraparound services, evidence-based, well-supported, or promising therapeutic treatment for children with complex trauma, intensive case management, mobile crisis response services and intensive home-based services. The Co-Neutrals must approve the methodology for predicting expected utilization of these services. (Due June 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State met the Performance Standard for this IT in 2022.

### Discussion

The Co-Neutrals approved the State's expected service utilization methodology on April 19, 2022, which consists of four steps. Page 2 of the approved methodology specifies:

Step 1: Identify the current state of service utilization for the children in state custody as reported in calendar year 2019 Medicaid and other state funded data, i.e. Home and Community Based Services Waiver (HCBS services), Individualized Education Plan (IEP) services, non-Medicaid services by state general or federal funding sources through CYFD, care coordination through the Managed Care Organizations and CareLink New Mexico Health Homes (CLNM), and the Child and Adolescent Needs and Strengths (CANS) screen.

Step 2: Compare NM service provision with the second National Survey of Child and Adolescent Well-Being (NSCAW II) which is specific to children having encountered the child welfare system...The study cohort included 5,873 children involved with child welfare ranging from birth to 18 years of age across 83 counties nationwide. For purposes of this deliverable, we draw from the mental health/behavioral health aspects of the NSCAW II study, which is both descriptive and predictive in scope.

Step 3: Identify qualifying considerations in projecting, assessing, tracking, and adjusting the future utilization of selected EBP services. The State will use the Child and Adolescent Needs and Strengths (CANS) screen and its built-in decision-making tools to identify which members of the [children in state custody] cohort would benefit from a comprehensive behavioral health assessment which includes a diagnostic evaluation.<sup>278</sup> On December 1, 2021, the Crisis Assessment Tool (CAT) and the CANS were implemented for all [children in state custody]. This step will also examine the evidence for use of each of the selected trauma-based therapies. The State is also working with Mercer, our actuarial firm, in projecting service utilization for rate development. Semi-annual claims for Medicaid and non-Medicaid services will be compiled by the Data Validation Team and reviewed by the Utilization team and our actuarial consultants.

Step 4: Survey the New Mexico behavioral health providers and practitioners to determine both capacity and interest in pursuing the evidence-based practices through a State sponsored/funded training and certification roll-out. Establish a process to track and incentivize participating practitioners. Educate our Managed Care Organizations on the effort and recruit qualified practitioners and provider organizations.<sup>279</sup>

While the State has described this overall approach to be their initial methodology, adjustments to the methodology are needed to reflect the data currently available to the State. For example, Step 3 of the State's methodology relies on accurate, completed CANS screenings data for every child in state custody. As discussed within App. A, TO 1 – *Completing Indicated Screens* earlier in this report, less than half of the children in all episodes of custody that lasted 45 days or longer in 2022 had a completed CANS screening at any point after entering care. Qualitative reviews collaboratively conducted by CYFD's QA unit and the Co-Neutral team of a sample of screenings completed in 2022 surfaced concerns about the quality of most of the CANS screenings that were reviewed. Thus, the State's methodology and subsequent estimates of expected service utilization

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<sup>278</sup> The State further describes these as CANS algorithms beginning on page 11 of the approved methodology.

<sup>279</sup> See pg. 2 of the State's approved Appendix D IT 2.1 *Service Utilization*, which can be found [here](#).



could produce results that may not accurately reflect the behavioral health service needs of children in state custody.

### 3. Develop and Publish Reimbursement Methodology, Billing Rates, and Provider Guidance (App. D, IT 3.1)

<b>FSA Requirement</b>	<i>HSD will develop and publish reimbursement methodology, billing rates (taking into account validated information regarding adequate rates), and guidance for providers for screening/assessment, High Fidelity Wraparound services, evidence-based, well-supported, or promising therapeutic treatment for children with complex trauma, intensive case management, mobile crisis response services and intensive home-based services, leveraging Medicaid whenever possible. The methodology and guidance will include provider eligibility criteria as well as billing and coding procedures. (Due June 1, 2021)</i>
<b>Co-Neutrals' Finding</b>	Based upon the Co-Neutrals' review and consideration of all available information, the State met the Performance Standard for this IT in 2022.

#### Discussion

In 2021, the State created a cross-departmental workgroup to develop and assess reimbursement methodology, billing rates, and provider guidance for specific services and interventions.<sup>280</sup> The State committed to ensure these updated reimbursement methodologies, billing rates, and provider guidance are added to the next iteration of the Behavioral Health Policy and Billing Manual,<sup>281</sup> as the original timeline did not allow for inclusion of these changes in the most recent publication in 2021. The State also made good faith efforts throughout 2022 to develop increased reimbursement rates for behavioral health providers. Although the new rates for an effective date of July 1, 2023

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<sup>280</sup> Guidance for specific services focused on the services mentioned in the FSA. Specifically, these services include: CANS and CAT screenings; Early and Periodic Screening, Diagnosis and Treatment (EPSDT); assessments, specifically comprehensive multidisciplinary team evaluations for people with serious mental illness (SMI) or serious emotional disorder (SED), and comprehensive mental health assessments for individuals who do not have SMI/SED; High-Fidelity Wraparound (HFW) services; evidence-based, well-supported, or promising therapeutic treatment for children with complex trauma as specified in the FSA [trauma-focused cognitive behavioral therapy (TF-CBT), multi-systemic therapy (MST), functional family therapy (FFT), eye movement desensitization and reprocessing (EMDR), and dialectical behavior therapy (DBT)]; mobile crisis response services; intensive case management; and intensive home-based services.

<sup>281</sup> The Behavioral Health Policy and Billing Manual provides guidance on service provision and reimbursement for behavioral health services to Medicaid and non-Medicaid providers, MCOs, and other interested parties. The Manual is updated on an annual basis and includes a 30-day period for public comment. HSD estimates the next iteration of the Manual will be finalized in early 2024 pending a final public comment session in November or December 2023. Proposed changes to the Manual included information on reimbursement methodology, billing rates, and provider guidance for specific services and interventions. The current manual can be found [here](#).



were submitted to CMS for approval in the August 15, 2023 State Plan Amendment (SPA), it remains unclear when providers will be able to bill and receive the increased reimbursement rates.

The State has also developed and issued a set of guidance documents for necessary recipients to meet this commitment. These documents include:

- A Provider Alert with the updated definition of Serious Emotional Disturbance (SED) (originally issued to providers on March 11, 2021);
- Updates to the Medicaid Behavioral Health Fee Schedule;<sup>282</sup>
- Updates to the non-Medicaid fee schedule;<sup>283</sup> and
- LOD #103 *State Fiscal Year 2024 Payment Rate Increases*.<sup>284</sup>

#### 4. Monitor Implementation of Care Coordination in Contracts (App. D, IT 5.1)

<b><i>FSA Requirement</i></b>	<i>HSD will monitor implementation of a term in all contracts with its designees to require that care coordination include identification of physical, behavioral health, and long-term care needs, and providing services to address said needs, in compliance with Section 4.4 of Centennial Care 2.0 Managed Care Organization contracts with HSD. (June 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this IT in 2022.

#### **Discussion**

Care coordination is defined in the State's 1115 demonstration waiver<sup>285</sup> as a service available to all MCO-enrolled members. Care coordination is defined as:

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<sup>282</sup> The Medicaid Behavioral Health Fee Schedule provides detailed information about codes, rates, and eligible Medicaid providers. Changes to the fee schedule involves a 30-day public comment period. The current fee schedule can be found [here](#).

<sup>283</sup> Maintained by BHSD, the non-Medicaid fee schedule largely mirrors Medicaid rates and will also be updated. At this time, only providers who are registered with Falling Colors (BHSD's administrative services organization) can view the fee schedule, however, BHSD reports it is in the process of publicizing the fee schedule. The non-Medicaid fee schedule can be found [here](#). The website is managed by Falling Colors.

<sup>284</sup> LOD #103 can be found [here](#).

<sup>285</sup> Section 1115 of the Social Security Act provides the federal Centers for Medicare and Medicaid Services (CMS) with the authority to approve experimental, pilot, or demonstration projects that are likely to assist in promoting the objectives of the Medicaid program. If approved, these projects allow states flexibility to design and improve programs

- Assessing each member’s physical, behavioral, functional, and psychosocial needs;
- Identifying the specific medical, behavioral, and Long-Term-Services and Supports (LTSS), and other social support services (e.g., housing, transportation, or income assistance) necessary to meet a member’s needs.
- Ensuring timely access and provision of services needed to help each member maintain or improve their physical and behavioral health status or functional abilities while maximizing independence; and
- Facilitating access to other social support services needed to promote each member’s health, safety, and welfare.<sup>286</sup>

The State issued LOD #69-1 titled *MCO Requirements for Children in State Custody (CISCs)* on February 28, 2022.<sup>287</sup> The LOD Section 4.43 requires MCOs to assign all children in state custody as a Level Two or Level Three member to receive care coordination as defined above, with the possibility to step down to a lower level not requiring care coordination when appropriate as assessed by the MCO. Additionally, Section 4.41 of LOD #69-1 requires the MCO to contact the child’s PPW within three business days after a child in state custody is enrolled, and to assign a care coordinator to begin initial outreach and engagement in services at that time.

To monitor care coordination for children in state custody who are enrolled with an MCO, HSD undertook quarterly audits and reviews in 2021 and 2022.<sup>288</sup> These quarterly reports assess enrollment, engagement, and timeliness of required care coordination tasks for children in state custody who are enrolled with an MCO. The quarterly audits also consist of a “ride along” process by which HSD accompanies and observes the care coordinator as they complete assessments with children on their assigned caseload.

HSD’s quarterly reports indicated high levels of compliance with regard to important care coordination tasks, such as completing needs and risk assessments,<sup>289</sup> and provided generally positive results from HSD’s “ride along” process to observe care coordinators. However, the quarterly audit methodology and audit reports have not been specifically validated by the Co-Neutrals. Further, the Co-Neutrals’ interviews with scores of CYFD caseworkers, HSD staff, providers, caregivers, and youth across New Mexico throughout 2022, and reviews of thousands of documents in children’s records, revealed many examples of children’s needs going unmet with no evidence of meaningful care coordination by HSD or the MCOs. The Co-Neutrals discussed

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by demonstrating and evaluating state-specific strategies and policy approaches for specific populations. The current 1115 waiver expires on December 31, 2023, and can be found [here](#).

<sup>286</sup> New Mexico Human Services Department, *Centennial Care 2.0 Medicaid 1115 Demonstration*, p. 57.

<sup>287</sup> LOD 69-1 can be found [here](#).

<sup>288</sup> HSD’s quarterly reviews are not currently available to the public.

<sup>289</sup> Required assessments include the Health Risk Assessment (HRA) and the Comprehensive Needs Assessment (CNA).

this issue with the agencies' leadership throughout 2022, raising concerns that care coordination was not being delivered consistent with the 1115 waiver definition or HSD's expectations. The Co-Neutrals repeatedly requested documentation from HSD for medical necessity documentation for children placed in clinical congregate settings, which may demonstrate evidence of care coordination in 2022. However, the Co-Neutrals did not receive the relevant documentation from HSD.

HSD's quarterly reports in 2022 were in stark contrast to the accounts of CYFD caseworkers, providers, and youth. Care coordination services should support timely access to, and provision of, services necessary to maintain or improve the physical and behavioral health status or functional abilities of children in the least restrictive settings. The prevalent evidence to the contrary that exists among the many children's cases reviewed by the Co-Neutral team warrants a more vigorous approach to oversight and monitoring by HSD.

## 5. Developing a Joint Process for Offering Services and Supports (App. D, IT 8.1)

<p><b>FSA Requirement</b></p>	<p><i>HSD and CYFD will review and identify the responsibilities shared by both Departments and create a joint process for offering services and supports include screening, assessing, referring, treating and providing transition services to Children in State Custody of the department, including Children in State Custody who were never removed from Respondents' homes or children who have returned to Respondents' homes but who remain Children in State Custody. The goal of this joint process shall be to maximize each child's access to services and to create a unified process for offering services and supports.</i></p> <p>(June 1, 2021)</p>
<p><b>Co-Neutrals' Finding</b></p>	<p>Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this IT in 2022.</p>

### Discussion

The State provided the Co-Neutrals with drafts of a joint process for delivering services and supports to children in state custody. The State sent its latest draft in September 2022, to which the Co-Neutrals provided feedback in November 2022. Nearly a year later, in August 2023, the State informed the Co-Neutrals that they intend to revise their joint process to reflect updates as recommended by the Co-Neutrals in 2022, as well as updates necessary due to the leadership

changes at both agencies. As of December 31, 2022, the State had not developed a joint process which meets the requirements of the FSA.<sup>290</sup>

## 6. Contractually Require Training for Care Coordination Providers (App. D, IT 9.1)

<b>FSA Requirement</b>	<i>HSD or its designees will require training through its contracts for those providing care coordination for Children in State Custody who receive Medicaid, consistent with the requirements in place under Section 3.3.5 and 4.4 of the Centennial Care 2.0 MCO contracts with HSD. HSD will require this training in any and all future contracts with its designees. (Due June 1, 2021)</i>
<b>Co-Neutrals' Finding</b>	Based upon the Co-Neutrals' review and consideration of all available information, the State met the Performance Standard for this IT in 2022.

### Discussion

Section 3.3.5 of the Centennial Care 2.0<sup>291</sup> MCO contracts with HSD requires contractors to “provide regular and ongoing comprehensive training.” Section 4.4 of the Centennial Care 2.0 MCO contracts describes the process for care coordination for those enrolled with MCOs. Specifically, Section 4.4 requires contractors to complete specified assessments to determine the enrolled client’s specific needs, including determining physical, behavioral health, and/or long-term care needs. Care coordination activities also include the development of a comprehensive care plan (CCP), monthly or quarterly engagement for disease management interventions, coordination with providers, identification of service gaps, and facilitation of access to care.

HSD’s LOD #69-1 specifies that MCOs are required to “provide regular and ongoing comprehensive training including focus on supporting a trauma responsive lens throughout the system of care for [MCO] staff...”<sup>292</sup> Further, LOD #69-1:

remind[s] the MCOs of the requirements in MCO Contract Amendment 2, Section 4.4.18.2.4, [to] [p]rovide high needs population training and consultation with other Care Coordination staff including Members who are involved with CYFD juvenile justice services, protective services, behavioral health services, and their parents and/or kinship caretakers.

<sup>290</sup> As of the writing of this report, a sufficient joint process has not been identified by the State. However, the State informed the Co-Neutrals that they are working toward submitting a final joint process for approval in late 2023.

<sup>291</sup> Section 3.3.5 of the Centennial Care 2.0 contracts can be found [here](#).

<sup>292</sup> LOD 69-1 can be found [here](#).

These trainings are required to be revised to include specific training for providing care coordination in a trauma-responsive manner for children in state custody.

*b. Target Outcomes Due between 2020 and 2022*

**7. Workforce Development (App. D, TO 1)**

<b><i>FSA Requirement</i></b>	<i>HSD will work with MCOs to implement the Behavioral Health Care Workforce Development Review, with the objective of expanding and developing the statewide workforce sufficient to implement the system for delivery of community-based mental and behavioral health services described in this Agreement. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

**Discussion**

As discussed above, HSD has not developed a Behavioral Health Workforce Development Review that meets the requirements of the FSA, and implementation consistent with an approved plan did not occur in 2022.<sup>293</sup>

**8. Employing Sufficient Staff (App. D, TO 1a)**

<b><i>FSA Requirement</i></b>	<i>By December 1, 2021, HSD will employ sufficient staff such that it has the internal capacity to effectively oversee, monitor, and manage the MCOs and to oversee and develop policy and procedures related to EPSDT. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

<sup>293</sup> As of the writing of this report, the Behavioral Health Workforce Development Review has not been approved by the Co-Neutrals. The State submitted drafts for Co-Neutral feedback and approval in March and August 2021, October 2022, and May 2023. These drafts did not address explicit requirements set forth in the Agreement. HSD submitted an updated draft to the Co-Neutrals on September 28, 2023, which is under review.

## **Discussion**

The work required in this TO is to be guided by App. D, IT 1.1 – *Behavioral Health Workforce Development Review*. As discussed above, HSD has not developed a Behavioral Health Workforce Development Review that meets the requirements of the FSA, and implementation consistent with an approved plan did not occur in 2022.

### **9. Sufficient Provider Network (App. D, TO 1b)**

<b><i>FSA Requirement</i></b>	<i>By December 1, 2021, HSD will require that MCOs have a provider network sufficient to meet the needs identified in the Behavioral Health Care Workforce Development Review and hiring plans. (Due December 1, 2021)</i>
<b><i>Co-Neutrals' Finding</i></b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

## **Discussion**

The work required in this TO is to be guided by App. D, IT 1.1, the *Behavioral Health Workforce Development Review*. As discussed above, HSD has not developed a Behavioral Health Workforce Development Review that meets the requirements of the FSA, and implementation consistent with an approved plan did not occur in 2022.

### **10. Incentives for Provider Training (App. D, TO 2)**

<b><i>FSA Requirement</i></b>	<i>By December 1, 2021, HSD or its designees will provide incentives for providers to be trained in evidence-based, well-supported, and promising trauma-responsive services, which include intensive case management, High Fidelity Wraparound services, intensive home-based services, and trauma-based therapies including Dialectical Behavior Therapy (DBT), Multi-Systemic Therapy (MST), trauma-informed Cognitive Behavioral Therapy (CBT), Functional Family Training (FFT), and Eye Movement Desensitization and Reprocessing therapy (EMDR). Training will comply with professional standards and best practices in adult education, including by incorporating experiential and interactive components and using evaluations to measure effectiveness. (Due December 1, 2021)</i>
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***Co-Neutrals’  
Finding***

Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

**Discussion**

The State reports that it continued its partnership in 2022 with the New Mexico State University Center of Innovation (NMSU COI). NMSU COI partners with CYFD and the New Mexico Credentialing Board for Behavioral Health Professionals (NMCBBHP) to provide no-cost training to providers who want to become certified and credentialed to provide HFW services. However, the State did not offer adequate incentives to aid providers in the initial startup costs associated with obtaining training to provide evidence-based, well-supported, and promising trauma-responsive services other than HFW as identified in the FSA. The State described a rate development process in collaboration with their actuarial firm, Mercer, and the New Mexico Behavioral Health Providers Association (NMBHPA), to increase the reimbursement rates and create billing modifiers to be used by behavioral health providers in New Mexico. The State has shared their view that the increased reimbursement rates will cover the startup costs associated with many evidence-based interventions and provide incentives for the necessary training. However, that strategy did not lead to actual incentives in 2022 as required by the TO.<sup>294</sup>

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<sup>294</sup> HSD submitted the billing modifiers and increased rates to CMS for approval in the August 15, 2023 SPA for an effective date of July 1, 2023. HSD reports that once the increased rates are approved via the SPA, providers who are trained and certified in an evidence-based practice with the NMSU COI will be able to bill using the modifiers to be reimbursed as the increased rate. It remains unknown when providers will be able to bill and receive the increased rates. Based on the Co-Neutrals’ experiences in other jurisdictions, increased billing rates alone are unlikely to adequately address the State’s need to build provider capacity and increase evidence-based trauma-responsive services across New Mexico. The Co-Neutrals’ on-going monitoring of this commitment will include meeting with behavioral health providers and other stakeholders to assess the availability, accessibility, and effectiveness of incentives in 2023, as well as any expansions in the continuum of available behavioral health providers as discussed within App. D, TO 1b – *Sufficient Provider Workforce*.

## 11. Community-Based Mental and Behavioral Health Services (App. D, TO 3)

<b>FSA Requirement</b>	<i>By December 1, 2022, the following services<sup>295</sup> will be available to every Child in State Custody for whom they are medically necessary, as indicated by the CANS and functional trauma assessments and any follow up. Services will be available immediately where possible and not to exceed 10 Days otherwise. (Due December 1, 2022)</i>
<b>Co-Neutrals' Finding</b>	Based upon the Co-Neutrals' review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

CYFD issued PIG 08-2022-#5 *Re-Issue Children in State Custody (CISC) CATS/CANS Requirements, Medicaid/Medical Coverage and Well-Child Checkup*,<sup>296</sup> dated August 30, 2022, which states in paragraph 7.2,

Results from the CANS may indicate the need for additional assessments or evaluations, including screening for intellectual and developmental disabilities and/or sexual exploitation; CANS results drive discussions with teams related to treatment services and evaluations. Follow-up screenings, evaluations, or assessments that are indicated by the CAT/CANS will be conducted immediately when possible, or within 10 days of indication otherwise.

### **DVP Metrics and Validated Performance Data**

*ATO2.2(i\*) – secondary metric<sup>297</sup>: The sum number of children in the cohort who received either High Fidelity Wraparound services, MST, MCR or FFT during the reporting year.*

As discussed within App. A, TO 2 – *Expansion and Availability of Services* – earlier in this report, State data showed that of the 2,755 children in state custody in 2022, 152 (6%) received at least one session of the indicated trauma-responsive modalities – specifically, HFW, MST, MCR, or

<sup>295</sup> App. D, TO 3 defines these services as: HFW services; intensive case management; and intensive home-based services, which include mobile crisis response services and evidence-based, well-supported, or promising trauma-responsive therapies such as Dialectical Behavior Therapy (DBT), Multi-Systemic Therapy (MST), Trauma-Informed Cognitive Behavioral Therapy (TF-CBT), Functional Family Training (FFT), and Eye Movement Desensitization and Reprocessing therapy (EMDR).

<sup>296</sup> PIG 08-2022-#5 replaced PIG 12-2021-#21 *Children in State Custody (CISC) CATS/CANS Requirements, Medicaid/Medical Coverage and Well-Child Checkup*, dated December 1, 2021. PIG 08-2022-#5 can be found [here](#).

<sup>297</sup> Data was not able to be provided for the primary metrics for this commitment, as the modifiers for DBT, TF-CBT, and EMDR were not yet in use during the reporting year.



FFT– during their time in state custody.<sup>298</sup> The percentage of children who received any indicated modality has stayed between five and six percent from 2019 to 2022.

## **Discussion**

The State’s available data for this commitment in 2022 demonstrated low utilization of trauma-responsive services. As discussed within App. A, TO 2 – *Expansion and Availability of Services* earlier in this report, qualitative reviews collaboratively conducted by CYFD’s QA unit and the Co-Neutral team demonstrated discrepancies in CANS screening scores, which directly impact referrals for services suggested by the CANS algorithms. If items within the CANS domains are scored as non-actionable when there is in fact a need requiring an action to be taken, such as a referral for an additional assessment or service, the algorithm may recommend no service referrals based on the scores, despite the child having a need for the service.

According to the State’s projected expected service utilization for children in state custody for 2023, the State estimates 20 percent of children in state custody of all ages will utilize HFW, 20 percent ages 11 to 18 years will utilize MST, 30 percent ages 10 to 18 years will utilize FFT, and 32 percent of children in state custody will utilize MCR.<sup>299</sup> 2022 utilization data is far below these estimated needs.

## **12. Well-Child Checkups (App. D, TO 4)**

<b><i>FSA Requirement</i></b>	<i>By December 1, 2021, every Child in State Custody will receive a comprehensive well-child checkup within 30 Days of entering state custody. (December 1, 2021)</i>
<b><i>Co-Neutrals’ Finding</i></b>	Based upon the Co-Neutrals’ review and consideration of all available information, the State did not meet the Performance Standard for this TO in 2022.

CYFD issued PIG 08-2022-#5<sup>300</sup> on August 30, 2022, which requires,

<sup>298</sup> Counts reflect analysis of data as submitted by the State; the Co-Neutral team has not validated each reported service.

<sup>299</sup> These estimates were completed by the State as part of their work for App. D, IT 2.1 – *Initial Expected Service Utilization*. The estimates of utilization are not mutually exclusive, thus, for example, children who utilize FFT may also utilize HFW.

<sup>300</sup> PIG 08-2022-#5 replaced PIG 12-2021-#21 *Children in State Custody (CISC) CATS/CANS Requirements, Medicaid/Medical Coverage and Well-Child Checkup*, dated December 1, 2021 (the date this commitment was originally due). PIG 08-2022-#5 can be found [here](#).

Every child or youth in state custody will receive a comprehensive well-child checkup within 30 days of entering state custody. Once the initial well-child check is completed, the child or youth will receive annual well-child checks, annual eye exams, and bi-annual dental exams and cleanings. The child or youth's PPW documents information regarding the child's medical care, behavioral health care, dental care, and eye care on the "Medical Profile" tab in the "Medical" window in FACTS. Hard copies of records are maintained in the hard file as well as provided to the resource family. If the child is 14 years or older, the child's written consent is required for the release of behavioral health and medical records. Any medications, prescribed or over-the-counter medications, administered must be clearly documented in every court report filed.

HSD's Keeping Kids Healthy<sup>301</sup> website provides the following criteria for well-child check-ups:

#### Well Child Checkups

Children may go to a doctor, a nurse practitioner or a physician's assistant for a well-child exam. Children do not need to have a specific complaint to be seen. New Mexico has adopted the examination and screening guidelines recommended by the American Academy of Pediatrics (AAP) and Bright Futures.

Federal regulations require that providers review a child's development at every well child visit to include the following:

- Medical history;
- Measurements of height, weight and BMI;
- Unclothed physical examination;
- Nutrition screening;
- Vision and hearing screenings;
- Developmental/behavioral assessment;
- Hematocrit/hemoglobin at 9 months and 13 years;
- Lead screening at 12 months and 24 months;
- Immunizations;
- Selective screenings necessary according to risk factors; and
- Anticipatory Guidance.<sup>302</sup>

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<sup>301</sup> HSD's Keeping Kids Healthy webpage can be found [here](#).

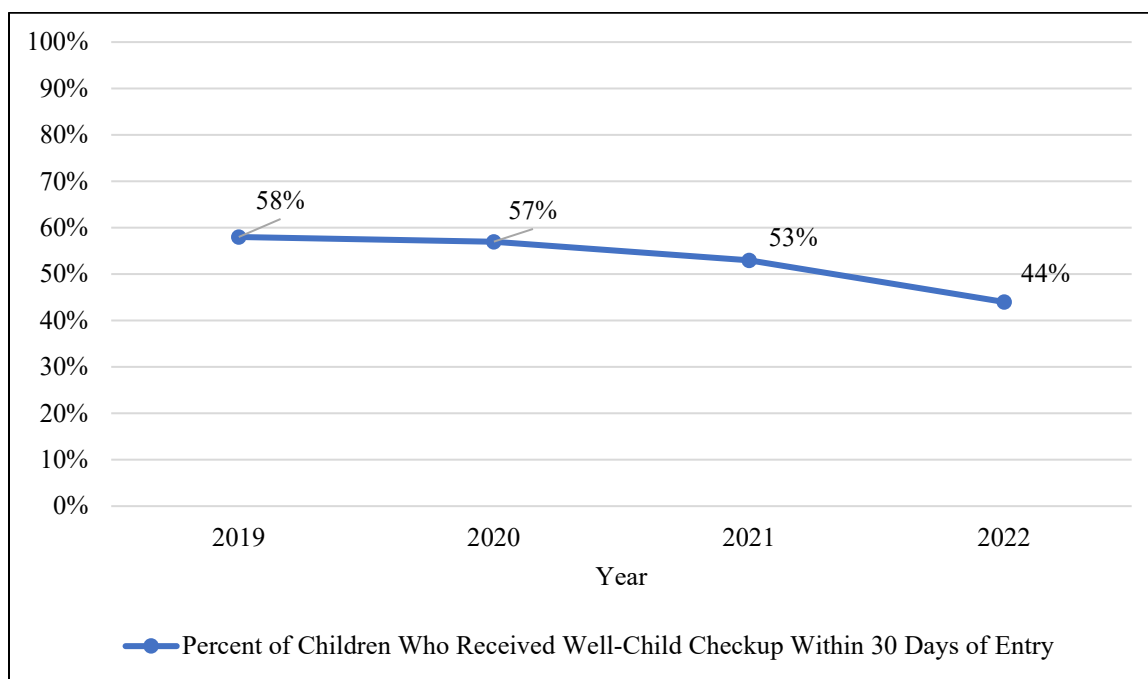
<sup>302</sup> Detailed information regarding periodicity schedule, anticipatory guidance, and screening tools can be found [here](#).

## **DVP Metrics and Validated Performance Data**

*DTO4.1(i) – primary metric: Of all episodes of custody longer than 30 days that began during the reporting year, the percent that included a well-child checkup within 30 days of the child entering State custody, as recorded by casework staff or reflected in Medicaid billing data.*

The Co-Neutrals’ analysis of the State’s data showed that of the 664 children’s episodes of custody in 2022, 294 (44%) included a well-child checkup within 30 days of a child entering custody as reported by the State, though that data likely overstates the State’s actual performance, as described below. This 44 percent performance is lower than in all prior reporting years (see Figure 4) and well below what is required in the *Kevin S. Agreement*.

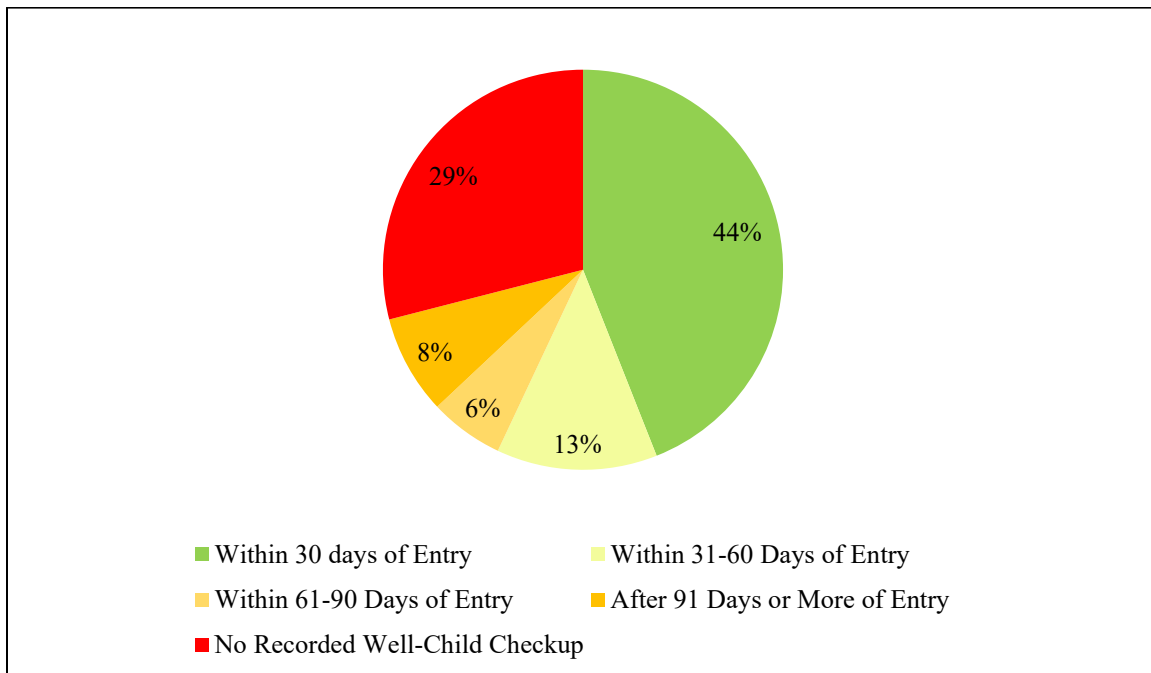
**Figure 4: Percent of Children in State Custody Who Received a Well-Child Checkup Within 30 Days of Entry into Care, 2019 – 2022**



Source: Analysis of Sandbox *Encounters* files submitted 3/31/22 (2019 and 2020), 7/19/22 (2021), and 5/1/23 (2022) and Sandbox *Cohort Entries* files submitted 3/31/22 (2019 and 2020), 5/2/22 (2021), and 5/1/23 (2022).

The Co-Neutrals examined the 370 children’s episodes of custody beginning in 2022 during which children did not receive a timely well-child checkup (see Figure 5). For 178 episodes, a checkup was completed but late (more than 30 days after the child entered custody): specifically, 83 were completed 31 to 60 days after entry, 39 were completed 61 to 90 days after entry, and 56 were completed more than 90 days after the beginning of an episode. For the remaining 192 episodes of children’s custody (29%), there was no recorded well-child checkup.

**Figure 5: Number of Days Between Entry into Custody and Well-Child Checkup for All Entries Longer than 30 days in 2022, by Percent**



Source: Analysis of Sandbox *Encounters* and *Cohort Entries* files submitted 5/1/23.

The Co-Neutral team also completed a review of checkups for all children who reportedly received a well-child checkup within 30 days of entering state custody in 2022. The review analyzed whether all required elements<sup>303</sup> of a well-child checkup per HSD’s Keeping Kids Healthy criteria were documented in the child’s medical records. The Co-Neutrals requested well-child visit documentation from the State to review a random sample of 73 children, representing a 95 percent confidence interval and 10 percent margin of error of the 294 episodes of custody for children who reportedly received a well-child checkup within 30 days of entering custody, per the State’s Medicaid billing data. The State provided appropriate documentation for only 27 (37%) of the 73 children identified in the sample. Of the 27 well-child visit records reviewed, 10 (37%) showed all required applicable elements of a well-child visit were documented. Of the remaining well-child visits records reviewed, all showed at least two or more of the required well-child checkup elements were documented. The documentation received by the Co-Neutrals varied across healthcare providers and CYFD regions, and in some cases, was provided on a CYFD-specific well-child checkup form that providers completed at the time of the child’s visit.

<sup>303</sup> Certain requirements are only applicable to children of a specific chronological age, such as age-specific immunizations. In these cases, reviewers were provided with the appropriate periodicity schedules to reference during their review of the records. Only those elements shown as required based on the child’s chronological age were assessed.

## **Discussion**

The Co-Neutrals' analysis of the State's data indicates timely well-child checkups occurred for fewer than half of all children who entered state custody in 2022, a continuing decline in performance since 2019. Although written guidance was sent to staff on implementing this commitment in 2022, the data show this practice was neither routinely nor consistently implemented for children.<sup>304</sup>

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<sup>304</sup> Pursuant to Section III of the June 2023 CAP, the State committed to additional strategies to improve compliance toward this commitment. Specific details are included in the CAP, which can be found [here](#).

## V. Appendices

### *A. Appendix A: List of Acronyms*

- ADR – Alternative Dispute Resolution
- BHSD – Behavioral Health Services Division
- CANS – Child and Adolescent Needs and Strengths
- CAP – Corrective Action Plan
- CAT – Crisis Assessment Tool
- CBHC – Community Behavioral Health Clinician
- CCA – Children’s Court Attorney
- CCP – Comprehensive Care Plan
- CFT– Child and Family Team
- CMS – Centers for Medicare and Medicaid Services
- CNA – Comprehensive Needs Assessment
- CSVANW – Coalition to Stop Violence Against Native Women
- CWG – Child Welfare Policy and Practice Group
- CWLA – Child Welfare League of America
- CYFD – Children, Youth, and Families Department
- DBT – Dialectical Behavior Therapy
- DRNM – Disability Rights New Mexico
- DVP – Data Validation Plan
- EMDR – Eye Movement Desensitization and Reprocessing
- EPSDT – Early and Periodic Screening, Diagnosis and Treatment
- FCM – Family-Centered Meeting
- FFT – Functional Family Therapy
- FSA – Final Settlement Agreement
- FTE – Full-Time Equivalent
- GAL – Guardian ad Litem
- HFW – High-Fidelity Wraparound
- HRA – Health Risk Assessment
- HSD – Human Service Department
- ICWA – Indian Child Welfare Act
- ICPC – Interstate Compact on the Placing of Children
- IFPA – Indian Family Protection Act
- IPP – Individualized Planning Process (previously IPM – Individualized Meeting Plan)
- IT – Implementation Target
- JCR – Joint Clinical Review

- JJS – Juvenile Justice Services
- JPA – Joint Power Agreement
- LOD – Letter of Direction
- MCO – Managed Care Organizations
- MFD – Memorandum for Decision
- MOU – Memorandum of Understanding
- MST – Multi-systemic Therapy
- NADLC – Native American Disability Law Center
- NATCAG – Native American Training Curriculum Advisory Group
- NET – New Employee Training
- NMBHPA – New Mexico Behavior Health Providers Association
- NM CANS – New Mexico Child and Adolescent Needs and Strengths
- NMCBBHP – New Mexico Credentialing Board for Behavioral Health Professionals
- NMSU COI – New Mexico State University Center of Innovation
- OCR – Office Children’s Rights
- OGC – Office of General Counsel
- OOPP – Out-of-Preferred Placements
- OTA – Office of Tribal Affairs
- OTS – Office of the Secretary
- PIG – Program Instruction Guideline
- PSD – Protective Services Division
- QAIEP – Quality Assurance, Improvement, and Evaluation Plan
- RTC – Residential Treatment Center SCI – Statewide Central Intake
- SED – Serious Emotional Disturbance
- SPA – State Plan Amendment
- TA – Technical Assistance
- TAG – Tribal Advisory Group
- TCOM – Transformational Collaborative Outcomes Management
- TFC – Treatment Foster Care
- TF-CBT – Trauma Focused Cognitive Behavioral Therapy
- TMB – Traditional Medicine Benefits
- TO – Target Outcome