

SUBSTITUTE CARE ADVISORY COUNCIL

SFY 26 ANNUAL REPORT



Approved 22 October 2026

SUBSTITUTE CARE ADVISORY COUNCIL OCT 2026

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NM Stat § 32A-8

**Enacted 1985; recompiled in
1993 as part of the Children's
Code**

***The purpose of the Citizen
Substitute Care Review Act
is to provide a permanent
system for
independent and objective
monitoring of children
in the custody of the Children,
Youth and Families
Department (CYFD).***

The Act was revised effective FY 17 to establish a Substitute Care Advisory Council to identify systemic policy issues regarding substitute care and to report annually its recommendations regarding statutes, policies and procedures relating to substitute care.

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EXECUTIVE SUMMARY

New Mexico Attorney General's report details CYFD's failure to protect children¹

Poll shows overwhelming disapproval of New Mexico governor's handling of CYFD²

New Mexico House Democrats announce plan to reform embattled CYFD³

Senate Republicans hold task force hearing to reform CYFD⁴

Gubernatorial candidates weigh in on CYFD reforms⁵

As with CYFD, others are trying to do their best. Yet the mark continues to be missed. It is said when you point one finger at someone or something, there are three fingers pointing back at you. This is never truer than in this situation.

It is a misjudgment that CYFD is New Mexico's child protection system. The reality is that the judiciary branch, the legislative branch, other executive branch entities, service providers and the community are part of our child protection system. When CYFD fails, the judiciary fails, the legislature fails, as these are the branches with system responsibility.

Nowhere in the headlines, or in reports on discussions of reform, is any acknowledgement of the roles of the judiciary and the legislature in our child protection system. Just as there are cries to hold CYFD transparent and accountable, the same standard must be applied to the judiciary and the legislature.

There has been chronic complacency in each branch to exercise its power in making changes needed. Each has had dozens, if not hundreds of recommendations over the years to address shortfalls in providing for the safety, permanency and well-being of our most vulnerable children. There is no doubt that had recommendations been implemented, we would not be where we are today.

Through the Citizen Substitute Care Review Act (Act) alone, CYFD, the judiciary and the legislature have been provided recommendations for 40 years. The work from the Act is the only work in New Mexico which has consistently reviewed cases of children/youths in custody of the state, provided recommendations directly to the presiding judge, CYFD and attorneys as well as providing recommendations to CYFD, the judiciary and legislature in annual reports. Yet there is little to no confidence that our legislators have knowledge of this valuable resource it created. Most telling is

¹ Giron, Allison, Cruz, Isaac, Pierret, Ann. KRQE 08 April 2026.

² <https://www.youtube.com/watch?v=Yua6KvNSnnU>.

³ Robbins, Natalie. Albuquerque Journal, 11 August 2026.

⁴ Logroño, Monica, KOB, 12 August 2026.

⁵ Candelaria, Esteban. Searchlight New Mexico, 13 April 2026.

that not one legislative interim committee or taskforce has invited the Council Director to the table for discussions on the state of CYFD, child protection and reform efforts.

Ignorance and failure of CYFD, the judiciary and legislature to implement recommendations does not absolve responsibility of each. To be clear, this critique is not to single out a particular individual. Rather this failure demonstrates a pervasive pattern that it is the system which is the culprit. Only by transforming the system will we have improved child protection outcomes.

Buckminster Fuller advises *You never change things by fighting the existing reality. To change something, build a new model that makes the existing model obsolete.* Maya Angelou challenges each of us to *Do the best you can until you know better. Then when you know better, do better.*

We know better and we are obligated to do better. Our legislative leaders are signaling they are ready. However, New Mexico is beyond reform which appears to be focused on a tweak here and there to CYFD. What New Mexico needs, and must have now, is a plan for child protection system transformation.

This annual report includes the observations of reviews of 123 children and youths conducted in SFY 26 and demonstrates the burgeoning sharing of information between CYFD and Council Staff and the potential that brings. Strengths and concerns are noted and recommendations provided. Recommendations, when implemented, will make our existing model obsolete and give New Mexico a transformed child protection system.

Transformation is not for the timid; it is for the bold, for the courageous, and for those who walk their talk that protection of our children and youth matter.

Will our legislature lead the development of a plan to transform our child protection system to include the institutionalization of a monitoring system? Will the legislature own, and hold itself accountable for considering recommendations; prioritizing the passage of child welfare legislation, exercising its override power when a governor vetoes its passed legislation and allocating sufficient resources?

Will our judiciary own and hold itself accountable for providing oversight of CYFD's discharge of its child protection responsibilities and protecting the rights of children with trained judges and attorneys?

Or will the finger stay pointed solely at CYFD while children/youths continue to be traumatized and even die in the system meant to protect them?

We know better. We must do better. Now.

For more information on the history and work under the Citizen Substitute Care Review Act, contact the Council Director, Shelly A. Bucher, LMSW at Shelly.bucher@scac.nm.gov or 505-469-4781 (work cell with text).

SYSTEM TRANSFORMATION RECOMMENDATIONS

Establish...

- ❖ a short-term Blue-Ribbon task force which includes but is not limited to representatives of entities with evaluative and reporting responsibilities to create a written plan for child protection system transformation.
- ❖ a permanent child welfare legislative committee with responsibility to receive evaluation reports with recommendations and to determine whether each recommendation will be implemented.
- ❖ professional parenting standards and compensation for foster parents.
- ❖ procedures to hold agencies offering treatment foster care (TFC) services accountable and does not allow “returning” a child/youth due to behavior.
- ❖ prohibition of termination of parental rights without an identified adoption resource or a viable Individualized Adoption Plan.
- ❖ specialized units with educated and trained staff to develop Individualized Adoption Plans; manage cases when a child/youth is placed in an out of state institutional setting; provide consultation on psychotropic medications.
- ❖ pursuant to NM Stat § 9-2A-12, the Children, Youth and Families Advisory Committee.
- ❖ financial compensation to each child/youth who, while in the care of CYFD, experienced maltreatment, placement instability, and did not achieve permanency timely.
- ❖ the Office of Child Advocate (OCA) as an adjunct agency pursuant to Section 9-1-6 NMSA 1978; administratively attach the Substitute Care Advisory Council to the OCA in accordance with provisions of Section 9-1-7 NMSA 1978.

Restructure CYFD with an Inverted Hierarchy.

Exercise legislature power to override of vetoes of passed legislation.

Identify mandatory child welfare training for CYFD protective services, children’s court judges, attorneys and legislators.

Adopt reasonable workloads for CYFD permanency planning workers, children’s court judges and attorneys based on what it takes to fulfill responsibilities.

Allocate funding for positions to meet reasonable caseload standards adopted and mandatory training requirements.

- ✚ Request the Children's Court Improvement Commission (CCIC) identify support needed for children's court judges to provide oversight and hold CYFD, legal representatives and stakeholders accountable.

STRENGTHS OBSERVED IN SFY 26

- ✚ The Memorandum between the Council and CYFD was signed by Secretary Casados effective 01 July 2025.

- Council Director meets regularly with the CYFD Secretary. PSD Director and the Deputy Director of the CYFD Office of Performance and Accountability.
- A process has been established to correct data in CYFD's monthly lists to the Council.
- Data from internal reviews and contracted reviews is being shared; a process is being established to synthesize recommendations from evaluative reports and identify recommendations to implement and monitor.
- The Council Director and one staff have been trained to conduct CYFD's internal federal Children and Family Services Reviews; the Director has served as a guest reviewer for CYFD internal reviews.

- ✚ The Council Director and the newly appointed Director of the Office of Child Advocate have had initial discussions on collaborative efforts to share information.

- ✚ The Department of Information and Technology (DOIT) established an email domain of scac.nm.gov for the work of the Council and Council staff.

- ✚ CYFD issued Protective Services Directives which implementation will be monitored through Substitute Care Review Board specific case reviews.

- PSD Directive 2026-006 effective 2 July 2026 following CYFD finalizing its Structured Decision Making (SDM) reunification assessment tool in 2025. This directive provides requirements for the use of the tool which includes Transition Home Plans and the directive provides requirements for CYFD visitation to children placed on a trial home visit.
- PSD Directive 2026-002 effective 12 January 2026 provides requirements related to a multi-level response system to reports of alleged child abuse/neglect.
- PSD Directive 2026-005 effective 5 June 2026 and reissued on 12 August 2026 places requirements for CYFD investigations which includes all high-risk cases referred to its Family Services Division for follow up.

- ✚ A 14-member foster parent advisory council has been established via NM FIESTA.

- ✚ The Legislature appropriated \$450,000 to the Regulation Licensing Department for the specific use of the Council. In addition, the Legislature identified \$100,000 federal pass-through funds from CYFD to RLD for the specific use of the Council.
- ✚ A Children's Court Improvement Commission workgroup is drafting guidance for the appointment of an Educational Decision Maker.

Your work has the potential to save the State of New Mexico millions of dollars in litigation fees.

ATTORNEY

I am always looking to improve practice.

CYFD ADMINISTRATOR

Thank you again for all the valuable work you and your organization do to support children in state custody and their families.

ATTORNEY

Your SCRB reports have been a wakeup call; a beneficial kick in the ...

ATTORNEY

I pray the judge listens to your recommendations.

RELATIVE FOSTER PARENT PROVIDER

CONCERNS OBSERVED IN SFY 26

- ✚ The transfer of funds from CYFD to the Regulation Licensing Department for use of the Council SFY 26 and to date SFY 27 has not occurred.
- ✚ The Regulation Licensing Department has not signed a memorandum with the Council despite efforts begun in June 2025.
- ✚ Noted concerns in Council annual reports have not been remediated:
 - Youth Services are not provided to youth ages 14 and older.
 - Case planning is not individualized.
 - CYFD reports to the court do not include required information.
 - Discharge plans for children/youth in institutional settings are not provided.
 - All notices of changes of placement are not provided.
 - Mandated child welfare training and reasonable caseloads for children's court judges and attorneys have not been established.
 - Children's Court Rules regarding status conferences/hearings and revisions to templates have not been established.
 - Legislature has not established a mechanism for Council reports and recommendations as standing items on interim legislative committee agendas.
 - Legislature has not taken action to establish a child welfare reform and investment act similar to the Behavioral Reform and Investment Act.
- ✚ Resources available to inform CYFD, the judiciary and the legislature of recommendations to improve discharge of child protection responsibilities are not being utilized.
- ✚ New Mexico creates legal orphans through termination of parental rights without a child/youth having an identified adoption resource or an Individualized Adoption Plan.
- ✚ Agencies offering treatment foster care (TFC) are allowed to "return" a child/youth when a disruption has occurred in one of its placements.
- ✚ CYFD permanency planning worker caseload standards are not based on effort needed to fulfill position responsibilities.
- ✚ CYFD permanency planning workers are responsible for oversight of medications without specialized training.



SUBSTITUTE CARE ADVISORY COUNCIL
STRUCTURE AND SFY 26 ACTIVITIES

SYF 26 SUBSTITUTE CARE ADVISORY COUNCIL STRUCTURE AND ACTIVITIES

**COUNCIL ESTABLISHED
FY 17**

Per the revision of the Citizen Substitute Care Review Act, hereinafter “Act”, in 2016, the Substitute Care Advisory Council, hereinafter “Council”, was established.

In addition to the five members appointed by the governor, the Council includes the Cabinet Secretary/designee of the Department of Finance and Administration, Department of Health, Human Services Department, now known as the Health Care Authority, and the Public Education Department. Members of the Council as of October 2026 are listed on page two.

**BY ITS DESIGN, THE
COUNCIL IS TRANSITORY IN
NATURE**

The Council does not include the Secretary of the Early Childhood Education & Care Department (ECECD) launched in 2020, nor does it include the Secretary of CYFD as a non-voting member. **A legislative effort in 2021 (SB 242) to add both to the Council was vetoed by Governor Lujan Grisham.** Since its onset ten years ago, the Council has never been fully appointed and by design is transitory in nature.

**COUNCIL HAS NEVER BEEN
FULLY APPOINTED IN 10
YEARS**

The Council experienced member changes in SFY 26. Chair Sean Scates’ (Chaves County) 3-year term as a public member with child welfare expertise expired 31 August 2025. Vice-chair Lela Wendell (Santa Fe County), public member with child welfare expertise, assumed chair responsibilities.

In October 2025, Governor Lujan Grisham filled one of two vacant positions for a public member with lived experience with the appointment of Tianna Lopez (Eddy County). Betina McCracken, Health Care Authority (HCA) Secretary’s Designee, retired from her position in April 2026. In June 2026, the HCA Secretary designated Christopher Bartsch as designee.

Two public member positions, one with child welfare expertise and the other with lived

experience, which are appointed by the governor, remain vacant. Further transitions and vacancies are anticipated in calendar year 2027, raising concerns of the Council's ability to function without a quorum.

Per the Act, the general purpose of the Council is to oversee substitute care review boards in their monitoring of children placed in the custody of the children, youth and families department to identify systemic policy issues regarding substitute care. Also, per the Act, the Council received advice on matters related to substitute care from its SFY 26 Advisory Committee of volunteers listed on page two.

During SFY 26, the Council held regular meetings in August and October 2025 and January and April 2026. During these meetings the Council met its annual obligations regarding establishing priority criteria for case reviews, training requirements for volunteers; adopting its Open Meeting Act Resolution; distributing an annual report and meeting with its Advisory Committee. In addition, the Council received regular updates from the Secretary of CYFD and distributed an SFY 26 interim report in April 2026.

ADMINISTRATIVELY ATTACHED

Per the Act, the Council is administratively attached to the Regulation Licensing Department, hereinafter "RLD", in accordance with the provisions of Section 9-1-7 NMSA 1978. Since the onset of this arrangement 10 years ago, there have been ongoing challenges which have been described in Council reports, and which have not been resolved.

Although the draft Memorandum of Understanding, hereinafter "MOU", between the Council and RLD provided in June 2025 has been revised to include changes requested

**REGULATION LICENSING DEPARTMENT HAS
NOT ENTERED INTO A MEMORANDUM OF
UNDERSTANDING WITH THE COUNCIL**

by RLD, as of the date of this report, over 16 months later, RLD has not signed the revised MOU and has not given indication it will do so.

The legislature created the New Mexico Office of Child Advocate, hereinafter "OCA", in 2025; however, the legislature administratively attached the OCA to the NM Department of Justice rather than establish it as an adjunct agency pursuant to NM Stat § 9-1-6 as the legislature did with the Office of Family Representation and Advocacy (OFRA).

Transformation of our child protection system would include revising the Office of Child Advocate Act, changing its administratively attached status to an adjunct agency; and revising the Citizen Substitute Care Review Act, changing its administratively attached status from RLD to the NM Office of Child Advocate.

FUNDING

As it did in 2025, the 2026 legislature appropriated \$450,000 to RLD for specific use by the Council as well as an expected \$100,000 from the interagency transfer of federal Title IV-E funds from CYFD to RLD for use by the Council. In 2025 and 2026, HB 2 included the requirement for RLD to establish an MOU with CYFD to *reimburse federal Title IV-E eligible expenses associated with the Council*, although a Joint Powers Agreement (JPA) has been in place effective July 2016 to allow this transfer of funds.

Efforts to establish a MOU for the transfer of funds began in June 2025. Despite multiple attempts to finalize and enact the MOU, as of the date of this report, over 16 months later, CYFD has not signed an MOU to transfer federal flow through funds for use by the Council. Nor is the JPA being utilized for the interagency transfer of funds.

**CYFD HAS NOT ENTERED INTO A
MEMORANDUM OF
UNDERSTANDING TO TRANSFER
FUNDS FOR THE COUNCIL'S USE**

As such, funds the legislature expected to support the Council were not forthcoming in SFY 26 and are not on track to be so in SFY 27.

STAFFING

The funds provided by the legislature allowed the hiring for one professional position in SFY 26. This position was filled in July 2025 and resulted in a 19% increase in the number of children/youths reviewed in SFY 26.

Council staff and Substitute Care Review Board volunteers met monthly for a “virtual get-together” and attended the virtual session of the Children’s Law Institute in April 2026 for required annual training. Monthly virtual get-togethers provide opportunities to share information, including guest speakers from CYFD and service providers.

The Council Director serves on the Children’s Court Improvement Commission and its work groups; the NM Child Fatality Review Child Abuse-Neglect Panel administered through the Department of Health; and the National Citizen Review Panel Advisory Board.

In SFY 26, the Council Director participated in workgroups established by CYFD to develop program improvement plans and participated as a guest reviewer for CYFD’s internal CFSR review for counties of Cibola, San Juan, Sandoval, Torrance and Valencia.

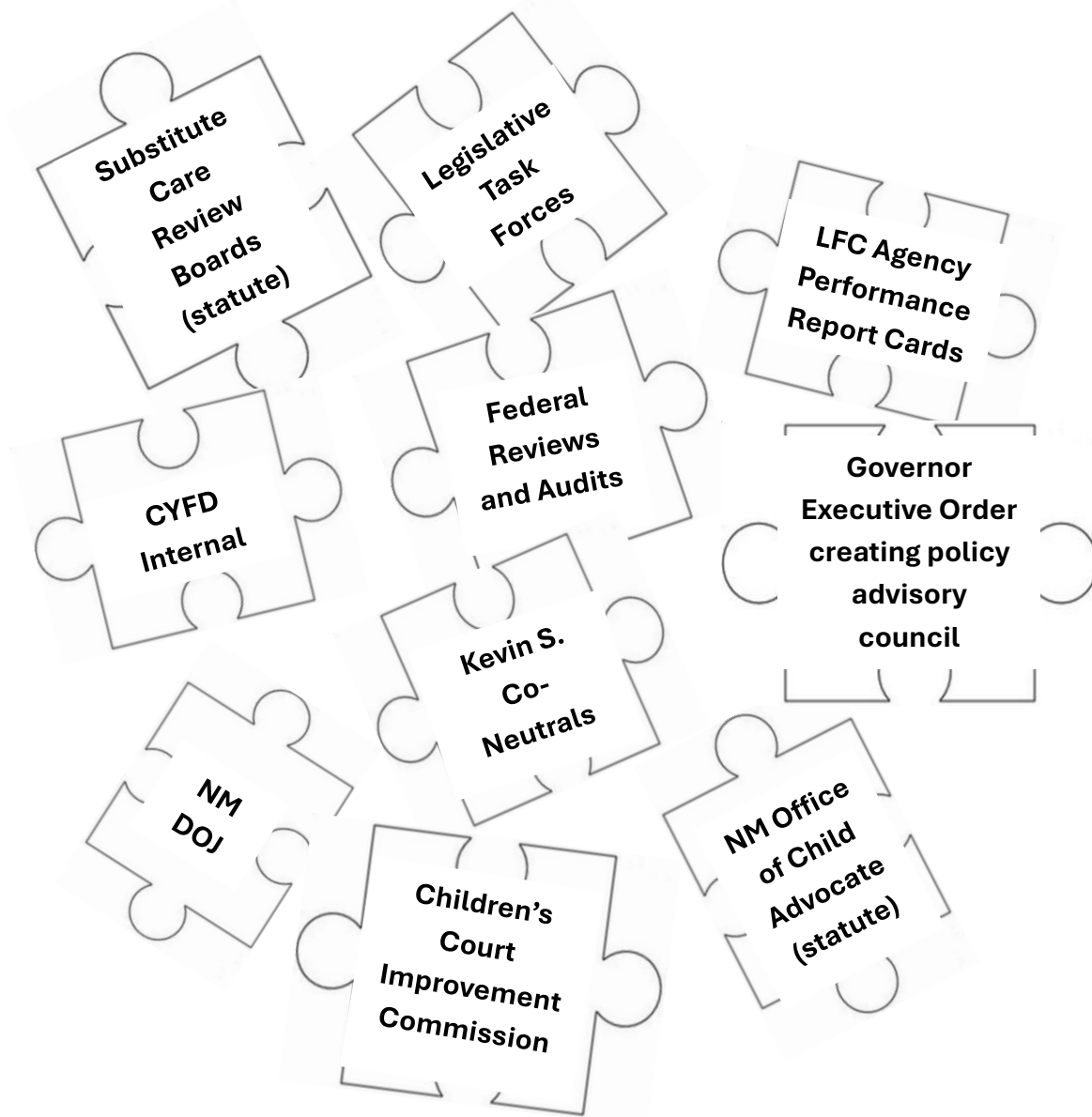
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MONITORING OF NEW MEXICO'S CHILD PROTECTION RESPONSE SYSTEM

**NEW MEXICO STILL DOES NOT HAVE AN INSTITUTIONALIZED MONITORING SYSTEM
WHICH COORDINATES INFORMATION FROM EVALUATING AND REPORTING
ENTITIES AND COLLABORATES TO IDENTIFY, IMPLEMENT AND MONITOR SOLUTIONS
TO IMPROVE ITS CHILD PROTECTION SYSTEM**

As included in Council reports, there are various entities providing reviews of CYFD's performance and recommendations to improve performance. In SFY 26, the Council observed **there still has not been any coordination between these evaluating and reporting entities to share and interpret their wealth of information, nor is there any collaboration to reach consensus on what needs improvement and how best to remedy.**

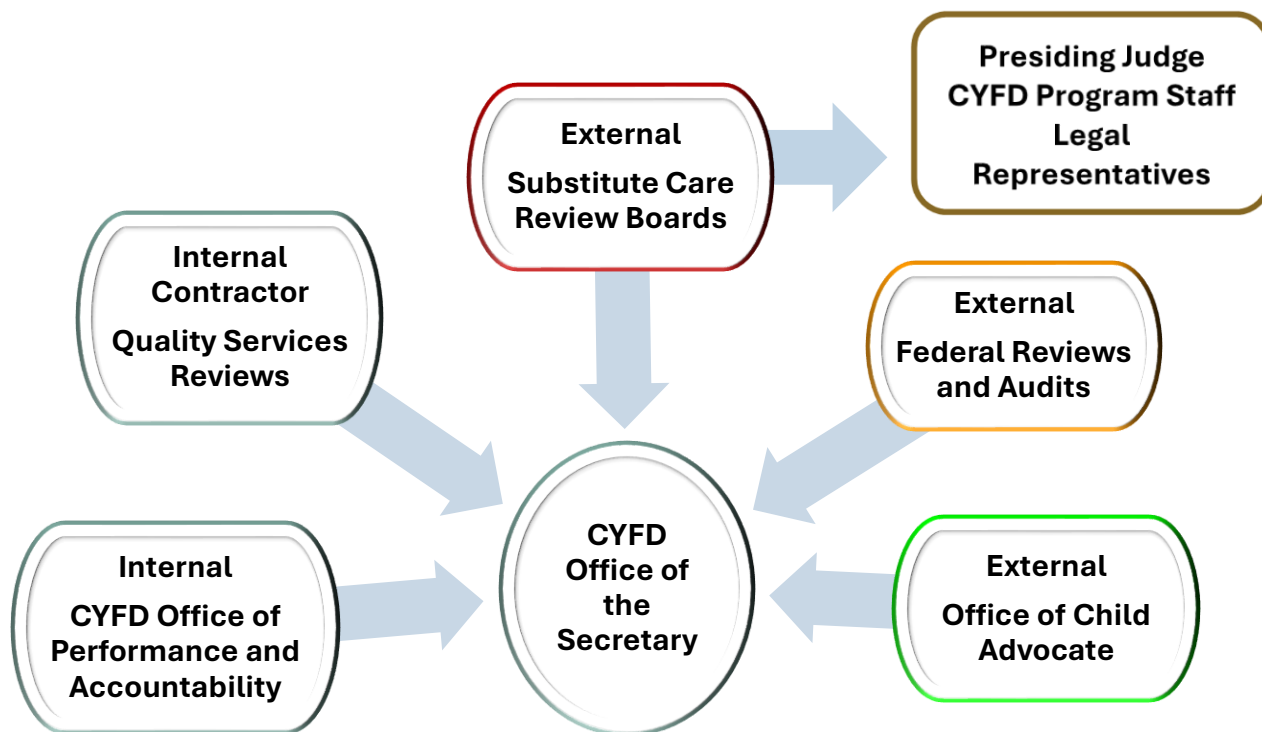


The Council has noted we must first examine existing oversight/monitoring processes and establish an institutionalized monitoring system which results in the coordination of information gathered, collaboration on identifying, implementing and monitoring solutions to improve New Mexico's child protection response system before any reform efforts are attempted; however, this has not occurred.

Although a monitoring system has not been established which brings together all evaluating and reporting entities, the Council reported recently that efforts were being made between the Council and CYFD to share information to identify trends in delivery of service, areas for improvement and to develop a workplan to monitor implementation.

In SFY 26 the Council Director and the Deputy Director of CYFD's Office of Performance and Accountability met regularly. There has been a sharing of information, and the Council Director has served as a guest reviewer for CYFD internal reviews. The synthesizing of the shared information is underway to result in proposed workplans for recommendations to the CYFD Office of the Secretary to adopt for implementation and monitoring.

To date, the entities below have been identified as having case reviews as part of their evaluation and reporting responsibilities which inform system recommendations. The Substitute Care Review Boards are the only entity providing specific case review information to the presiding judge, CYFD program staff and legal representatives on a case. All other reviews and reports, including Council reports, aggregates data which, by its very nature, depersonalizes and maybe even desensitizes the impact the system has on a child/youth.



CYFD INTERNAL

CYFD's Office of Performance and Accountability, (OPA), has multiple units under the leadership of the OPA Deputy Director who has nine years of experience designing and implementing quality assurance (QA) reviews at the state and federal level.

Three units within OPA focus on quality assurance reviews with recommendations included in final reports.

FEDERAL COMPLIANCE QA UNIT

The Federal Compliance QA Unit conducts annual area specific reviews. For example, annual reviews have been conducted for placement, legal and Statewide Central Intake (SCI). These reviews assess, as relevant to the specific area, compliance with Federal Title IV-E foster care licensing requirements; relevant Child and Family Services Review (CFSR) outcomes and systemic factors; CYFD licensing and resource parent policy requirements; and applicable measures required under the Kevin S. Settlement Agreement; compliance with Title IV-E of the Social Security Act, statutory timeframes and permanency requirements under the Adoption and Safe Families Act (ASFA), and the procedural mandates outlined in the New Mexico Administrative Code (NMAC).

The placement review incorporates multiple sources of data to evaluate licensing timeliness, provider maintenance, placement appropriateness, and placement stability, with particular attention to safety and risk considerations.

The SCI review evaluates compliance with practice requirements related to intake documentation, screening decisions, prioritization, cross-reporting, notifications, and other applicable intake procedures. The review also examines whether the information documented during the intake supports the screening and prioritization decisions made by SCI. This review looks at both screened-in reports and screened-out reports.

PRACTICE IMPROVEMENT QA UNIT

The Practice Improvement QA Unit conducts reviews related to compliance with CYFD policy, procedures, directives and practice standards for specific areas. Annual reviews have been conducted for completeness of case records, children placed in out of state clinical congregate care settings, children placed in an out of state residential treatment center, medical necessity determinations for placements in congregate care settings, best interest determinations for placements to congregate settings and children who have remained in a non-preferred placement for 30 days or more.

CRITICAL INCIDENT SAFETY REVIEW QA UNIT

The Critical Incident Safety Review QA Unit conducts reviews on fatalities, near fatalities and serious injuries as requested by CYFD leadership and the Office of General Counsel, or that meet the criteria for Kevin S. Settlement Agreement requirements and/or the Safe Systems Improvement Tool (SSIT). This unit also does ad hoc reviews as requested (Safe Sleep Reviews, Safety/Risk-Investigation Reviews, Maltreatment in Care Reviews, Foster Parent Protocol Reviews etc.). In SFY 27, this unit will be assisting the Federal Compliance QA unit with the piloted Prevention Services Reviews for both investigations and multi-level response.

It is noted the NM Department of Justice April 2026 report, *Systemic Failures: How CYFD Endangers the Children It's Meant to Protect*⁶, includes a recommendation to create a dedicated team within PSD to investigate fatalities and other critical incidents of children in state custody, with investigative findings provided to the CYFD Secretary and the Office of Child Advocate. As described above, this dedicated team already exists within CYFD. In addition, the Department of Health facilitates multi-disciplinary panels to review child deaths in the state of New Mexico, including children who were in the care of CYFD. Information from the panels is aggregated and included in published reports which include recommendations.

QUALITY SERVICES REVIEW

In SFY 26, the Center of Innovation for Behavioral Health and Wellbeing at New Mexico State University was contracted to conduct Quality Services Reviews (QSR) on protective services cases.

Per its website,

Quality Service Review (QSR) is an inquiry-based review of practice, results, and working conditions used to both evaluate and stimulate practice development through an Action Learning process. QSR looks at individuals who are currently receiving agency services and identifies both strengths and areas for improvement in the agency's practice.

QSR focuses on the status indicators of the last 30 days, practice indicators of the last 90 days and provides a prognosis for the next 180 days.

It is not known if contracting for QSR reviews for protective services cases will continue in SFY 27.

⁶ <https://nmdoj.gov/publications/cyfd-report/>.

EXTERNAL

FEDERAL REVIEWS

CYFD is subject to various federal reviews and audits. While these reviews may not be as routinized as CYFD's internal reviews and Substitute Care Review Board reviews, the information provided is valuable, nonetheless.

Council reports noted the federal 2025 Children Family and Services Review (CSFR) report following a review of cases. Findings of areas needing improvement are consistent with the areas noted for improvement in Council reports for which recommendations were provided to CYFD, the judiciary and the legislature to remedy. The 2025 CFSR report includes commentary on the role and performance of the court in child abuse/neglect cases.

OFFICE OF CHILD ADVOCATE

Created by the legislature in 2025, the New Mexico Office of Child Advocate (OCA) is administratively attached to the NM Department of Justice and began operations in March 2026. In its FY 26 Annual Report⁷, the OCA has established its mission and purpose:

The OCA provides an independent, uniquely situated place for children, families, caregivers, professionals, and members of the public to raise questions and concerns about the child welfare system. The Office reviews those concerns objectively, seeks information from all relevant sources, advocates to resolve problems when possible, monitors serious incidents involved CYFD-involved children, and identifies opportunities and makes recommendations to improve the systems that serve New Mexico's children.

In addition, the OCA's report states its intent to *work in partnership with others toward a child welfare system that better serves, supports, and protects New Mexico's children.*

Page 12 of this report remarks that the legislature did not establish the OCA as an adjunct agency as it did with the NM Office of Family Representation and Advocacy (OFRA); **a transformed child protection system would revise the Office of Child Advocate Act as an adjunct agency and administrative attach the Substitute Care Advisory Council to the Office of Child Advocate.**

SUBSTITUTE CARE REVIEW BOARDS

The general purpose of the Substitute Care Advisory Council is to oversee the functioning of the Substitute Care Review Boards, hereinafter "SCRB". The Citizen Substitute Care Review

⁷ <https://s3.documentcloud.org/documents/28593656/oca-fy26-annual-report.pdf>.

Act authorizes the monitoring of children placed in custody of CYFD through specific case reviews via an SCRB. Each SCRB is formed of trained volunteers and facilitated by trained Council staff.

Following the adapted QSR model, case reviews include research of documents, examination of CYFD procedures, the Children’s Code, Children’s Court Rules, best practices, and confidential individual perspectives.

**THE SCRB IS THE ONLY ENTITY IN
NEW MEXICO PROVIDING
SPECIFIC CASE REVIEW REPORTS
WITH RECOMMENDATIONS
DIRECTLY TO THE PRESIDING
JUDGE, CYFD PROGRAM STAFF
AND LEGAL REPRESENTATIVES TO
IMPROVE PRACTICES**

At least one case is reviewed each quarter in each of the thirteen judicial districts. One case represents one or more children/youths.

SCRB case reviews are unique in that all children in a case are reviewed; other case review entities, i.e., CYFD internal and contracted reviews, federal reviews may only review a “target child” in each case and not siblings. In addition, SCRB reviews include observations on the actions of the court.

***The SCRB model is a good
one and it serves an
important purpose in making
a sequestered system both
transparent and accountable.***

ATTORNEY

In evaluating CYFD’s discharge of its child protection responsibilities, the role of the court must be considered as:

The Children’s Code established the children’s court as a division of the district court, with subject-matter jurisdiction over proceedings arising under the Code in which a child is alleged to be abused or neglected. Typically, it is the courts themselves that make the biggest decisions in those children’s lives. Along with the decision-making role have come duties and responsibilities—to protect the constitutional rights of parents, to protect the

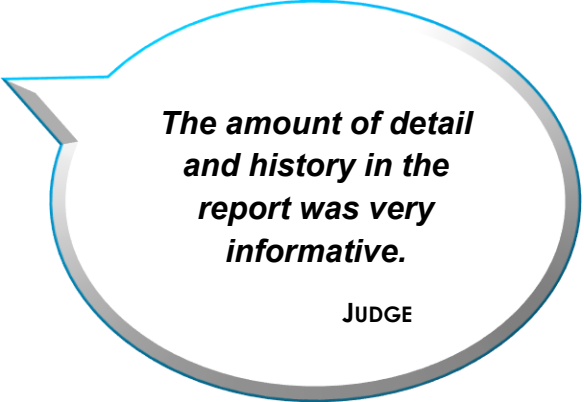
rights and best interests of the child, to ensure the agency is engaging in reasonable efforts and otherwise doing its job, and to see that the Indian Child Welfare Act is applied in cases involving Indian Children.⁸

In its 2025 Child and Family Services Review report for New Mexico, federal reviewers noted:

...in some cases the court appeared to take an active role in charting the direction of the case; however, more often the court left the direction of the case to the agency. The court was not directing necessary action that would serve to move the case forward.

Each report from each SCRB review is provided to the presiding judge, CYFD program staff and attorneys on the case. It includes demographics, narrative history, references, strengths, concerns and recommendations to improve service at case and system levels.

SCRB specific case review reports are matchless by any other entity.



***The amount of detail
and history in the
report was very
informative.***

JUDGE

ROLE OF COURT APPOINTED SPECIAL ADVOCATE (CASA)

A discussion on case reviews would not be complete without including the role of the Court Appointed Special Advocate (CASA).

CASAs are appointed by the presiding judge *to assist in any abuse and neglect, families in need of court-ordered services, or fostering connections proceedings.*⁹ The focus of a CASA is the best interest of a child or sibling group. Typically, a CASA volunteer has one child or sibling group assigned through the life of a case.

CASAs are granted authority to review records, interview a child and others with relevant information, with a report with recommendations submitted to the court. The report is to be filed at least five days prior to a hearing and provided to all parties in a case.

CASA reports are not usually provided prior to adjudication but can be; reports provided after adjudication may, according to Children's Court Rule, *include any information or recommendations related to the child's best interest and the needs of the family.*

⁸ New Mexico Child Welfare Handbook A Legal Manual on Child Abuse and Neglect, 2018, 1.2 Children's Court and 4.1 Children's Court Judge Introduction. Published by the Corinne Wolfe Center for Child and Family Justice, © 2000, 2003, 2007, 2011, 2014, 2018 by the Institute of Public Law, University of New Mexico School of Law.

⁹ Children's Court Rule 10-164. Court-appointed special advocates in child welfare cases.

The New Mexico CASA Association¹⁰ refers to CASAs as *Best-Interest Advocacy* in that volunteers advocate for the best interests of children who have experienced abuse or neglect.

It also notes that *CASA is the only program of its kind with volunteers empowered directly by the courts to provide children with one-on-one advocacy.*

Some CASAs may provide resources for a child such as *school supplies, clothes, books, toiletries, gift cards, camp funds, infant supplies, birthday parties.*¹¹

SCRB reviews have highlighted CASA assignment as a strength in a case, especially when the advocate remains on the case long-term and serves as a stable adult in the child's life.

Conversely, SCRБ reviews have included a concern when CASA doesn't exist in a county, or a once active CASA is in abeyance, or a CASA isn't assigned to a child/youth.

SCRБ reviews observe that:

- CASA reports are not always provided to SCRБ routinely or upon request; and,
- Assigned CASAs may not respond to SCRБ requests for input on specific case reviews.

CYFD ORGANIZATIONAL HIERARCHY

CYFD's organization is a typical top-down traditional hierarchy. In recent years CYFD reorganized its structure into silos but kept it top-down; it has since eliminated silos but retained top-down hierarchy. In this organizational model, the individuals receiving the services are missing. The NM Department of Justice April 2026 report, *Systemic Failures: How CYFD Endangers the Children It's Meant to Protect*, concludes that *CYFD has wholly abandoned child safety as its guiding principal.*



In 1992, Charles Rapp and John Poertner advocated in their textbook *Social Administration: The Consumer-Centered Approach* of implementing an inverted hierarchy framework where clients are the primary focus.

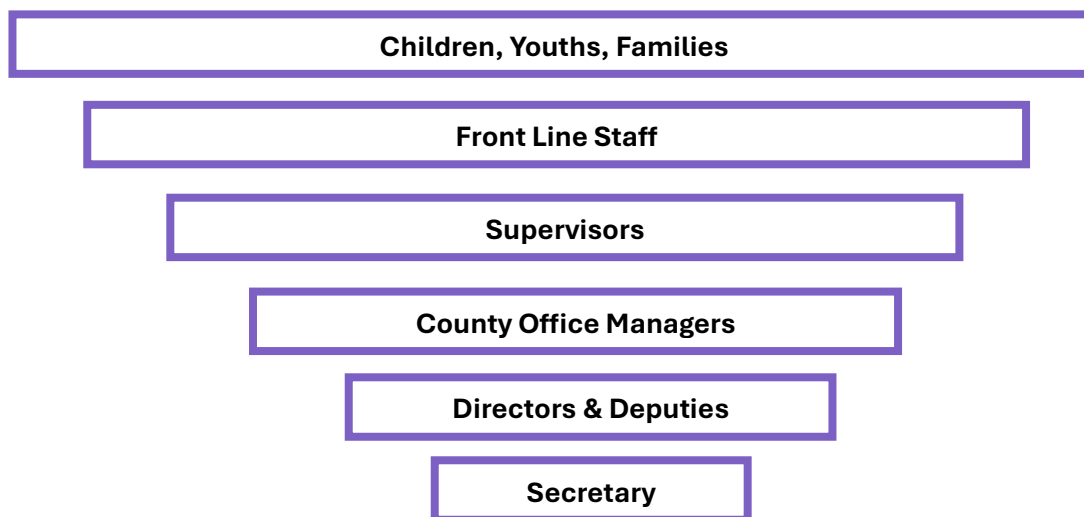
This client-centered approach isn't limited to social service organizations; in 2023 Forbes published an article *How The Inverted Pyramid Leadership Structure Can Drive Better*

¹⁰ <https://newmexicocasa.org>

¹¹ CASA First Fiscal Year 2024-2025 Impact Report.

Results and Empower Employees noting the concept isn't new, just that businesses aren't taking advantage of it. Neither are state child welfare agencies.

A transformed child protection system includes an inverted organizational hierarchy for CYFD similar to this model.



This leadership approach requires a concerted effort for leaders to change philosophy from controlling and commanding to identifying what tools (education, training, knowledge, resources) front-line workers need to do their job and providing them.

It requires retraining of leaders on how to support. While leaders may believe they are supporting front-line workers to provide services to clients, it is not evident in the current top-down model. Consulting with an entity with demonstrated success in transforming a large organization to an organization with client-centered leadership will be well worth the investment.

PERMANENCY PLANNING WORKER RESPONSIBILITIES

As this hierarchical transformation is underway, CYFD must take a hard look at the responsibilities of front-line staff, particularly the position of permanency planning worker and transform front-line position responsibilities.

CYFD is known to change title of positions of staff responsible for the administration of child protection responsibilities to children/youths in its care. The acronym "PPW" is used in accordance with CYFD procedures which defines PPW as *"Permanency Planning Worker"* or *"PPW" may apply to any Protective Services Division worker acting in the capacity of a PPW and who meets the qualifications to perform the job duties assigned to a PPW.* Presently, position title for permanency planning responsibilities is CPS Permanency Coordinator.

Per the State of New Mexico Kevin S. Settlement Agreement Data Validation Plan approved by the Co-Neutrals on 16 February 2022, caseload standards for new and seasoned permanency planning workers are:

no more than 15 children on a caseload at a time; assigned as primary for no more than 5 children at a time for first 2 months after completion of NET (only transferred cases), no more than 8 primary assignments at a time during months 3-4 after NET (can include new cases), no more than 12 primary assignments at a time during month 5-6 after NET (New Employee Training).

The number of children/youths on a caseload impacts the worker's ability to fulfill position responsibilities. However, the Child Welfare League of America (CWLA) notes *most stakeholders tend to focus only on the caseload size standards, not what it takes to do the work and what a reasonable workload should be.*¹² Thus, rather than caseload size, the focus must be on workload.

Most stakeholders tend to focus only on the caseload size standards, not what it takes to do the work and what a reasonable workload should be.

CHILD WELFARE LEAGUE OF AMERICA

In addition, the CWLA recommends child welfare agencies have a process for evaluating *the efficacy of each person's workload.*

The position responsibilities of the permanency planning worker include global activities without defining what it takes to successfully fulfill each responsibility. Per the NM SPO position announcements in October 2026, CYFD permanency planning worker responsibilities are as follows, but not limited to:

Provide permanency planning services for children served by the agency to promote the safety and permanency of children by conducting ongoing assessments to determine child safety, permanency, and well-being. On a rotating basis, provide after-hours response to emergencies. For assigned cases, conduct ongoing case activities to collect information necessary to create appropriate plans to provide safety, timely permanency and enhanced well-being for children. Provide case management services for children served by the agency. Provide quality services to children served by the agency and assume limited administrative responsibility for unit and other duties as assigned to achieve agency mission by working with management to identify positive practice issues, areas needing improvement, and

¹² Child Welfare League of America, Caseload & Workload, Practice Excellence Center.

participating in local reviews. Work is performed in an office setting: late hours, weekends, on-call and callback work may be required. Will be exposed to regular periods of video display terminal and keyboard usage and stressful situations. Travel may be required. Possible exposure to irate clientele. Incumbent will work under stress and frequent time constraints. Incumbent will be required to furnish a personal vehicle for carrying out assignments which may include transporting clients including children.¹³

The position of permanency planning worker as described is designed for failure for the worker and for children/youths.

Transformation of our child protection response system must include redesigning the permanency planning worker responsibilities, establishing a reasonable workload and providing funding for positions.

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¹³ CPS Case Worker (CYFD/PSD #8966).



SFY 26 CASE REVIEWS

61 CASES

28 COUNTIES

123 CHILDREN/YOUTH

654 INTERVIEWS

3154 DOCUMENTS

While any child/youth in the care of CYFD is eligible for SCRB review, the Council annually establishes priority criteria for specific case reviews. Priority criteria for specific case reviews in SFY 26 were: placement in a CYFD office (current or past); youth aged 13-18; placement in an institution or congregate care; number of changes in placement; follow up to previous review or requested by an interested party or community member.

When a case is designated for review, the Council Director coordinates with CYFD County Office Managers and CYFD legal staff for contact information and documents related to the case. CYFD is required to submit a report to the court for each hearing; Council reports have noted CYFD's report template is burdensome.

CYFD reports to the court include narrative comments as well as case plans which are to be updated prior to each hearing¹⁴. SCRB reports may include concern when CYFD reports contain errors/discrepancies; when case plans are not individualized or do not contain behavioral goals related to the reason for a child's removal from their home and when court orders adopt CYFD reports as fact and case plans as reasonable without ensuring information in the CYFD report is accurate and complete.

SCRB reports may also include concern when court orders find that CYFD has made reasonable efforts towards a child/youth's permanency plan even though the supporting statements for this finding do not address efforts towards achieving a permanency plan.

In addition, SCRB reports may include concern when CYFD has not provided documentation of requirements related to its discharge of child protection responsibilities and court orders provided do not address these omissions.

Although court orders reviewed by SCRB did not include court documentation of instances when CYFD failed to discharge its child protection responsibilities, the NM Department of Justice, in its April 2026 report, *Systemic Failures: How CYFD Endangers the Children It's Meant to Protect*, references CYFD's disregard of *accountability efforts from the judiciary*. The April 2026 report shares information from interviews which reveal that while the court may fine CYFD for infractions such as *failing to appear or submitting reports late* it *rarely enforces any penalties*.

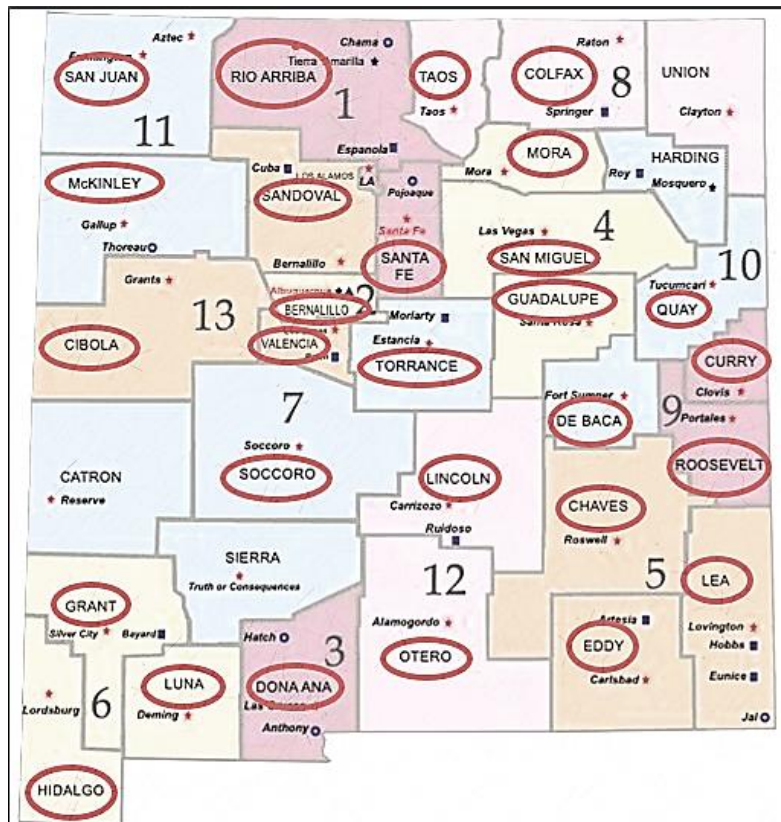
How the court monitors penalty assessments and receipt of payment from CYFD or how CYFD reports penalties assessed and paid is not known at the time of this report. It is not known if the presiding judge assesses penalties to others involved in a case, such as the Office of Family Representation and Advocacy (OFRA) which has been ordered to provide representation to respondents, children and youths, or if assessed to individuals.

¹⁴ 8.10.8 NMAC PR 12 Case Planning.

In SFY 26, 61 cases were reviewed representing 123 children/youths, a 19% increase of children/youths reviewed in SYF 25. Nineteen cases were follow-up to previous SCRB reviews. In addition to reviewing CYFD policy, procedures, directives, the Children's Code and Children's Court rules, Council staff conducted 654 confidential interviews and reviewed over 3,150 case documents.

The 28 counties which had cases reviewed are circled in this map depicting all thirteen judicial districts. In SYF 26, CYFD's monthly lists of children/youths

in its care did not include a child/youth from Catron or Harding County; a child/youth in Los Alamos County after August 2025 and did not include a child/youth in Sierra County until April 2026.



CYFD INVOLVEMENT PRIOR TO THIS EPISODE OF CUSTODY

State and federal law require reasonable efforts to be made prior to removing a child from the home due to safety concerns and these efforts must be provided to the court to support an order to place a child/youth in the care of CYFD.

A Use Note for Children's Court Rule 10-311, 10-504 and 10-505/A approved and amended by Supreme Court Order No. 14-8300-009 explains that there must be a *factually specific sworn statement that details the efforts made to prevent removal of the children from the home, even if such efforts were ultimately unsuccessful*. Therefore, the history of CYFD's involvement with the family should be detailed in the affidavit, to include but not limited to specifics of prior investigations, outcomes, services referred or delivered as well as CYFD's internal review when a family has had more than two investigations.

The purpose of PR 8.10.3.18 is to implement PSD's policy on how to handle investigations on families who have previously been referred to PSD more than

twice. All cases with more than two referrals must have a pre-initiation staffing completed prior to the investigation worker initiating the investigation.

The pre-initiation staffing includes the supervisor and investigator and a thorough review of the family's prior history with CYFD. Documentation of the pre-initiation staffing is the responsibility of the supervisor via a pre-initiation staffing form or the supervisory narrative. While documentation of the pre-initiation staffing was not provided in documents reviewed during SCRB reviews, the NM Department of Justice included a recommendation to mandate supervisory compliance with pre-initiation staffings in its April 2026 report, *Systemic Failures: How CYFD Endangers the Children It's Meant to Protect*.

**INFORMATION ON REASONABLE EFFORTS IN
AFFIDAVITS FOR EX PARTE CUSTODY
CONTINUES TO BE INCONSISTENT ACROSS
THE STATE**

In SFY 26, of the 61 affidavits reviewed, four did not include information to determine if CYFD did or did not have involvement with a family prior to requesting child/youth removal; six indicated CYFD did not have knowledge of the family prior to the

investigation leading to a request for a child/youth removal; and 51 had varying degrees of information regarding CYFD's involvement with a family prior to the current request for removal. Not one of the affidavits which indicated two or more previous investigations had occurred included information of a CYFD internal review. Council reports have noted concern that CYFD's procedure in reviewing two or more previous investigations was flawed and documentation had not been provided that the reviews were occurring.

On 12 August 2026, CYFD re-issued the same directive issued 5 June 2026 regarding expectations for investigations. Included in this directive is the requirement to:

Refer all high-risk cases - which include: three or more previous investigations, teen parents, children 0-5 years of age, and/or parents/guardians living in a hotel/motel – to Family Services Division (PSD)/In-Home Services for follow-up and service provision. The caseworker must document that referral in CYFD'S case management system within 3 business days.

Nearly all children who are placed in the care of the state have had missed opportunities for intervention to prevent abuse and/or neglect within their communities as well as referrals of concerns to CYFD for further investigation and referrals to services. For families with prior CYFD involvement, it was not uncommon for affidavits to note families had been referred to specific services which the families may or may not have participated in.

Council reports included the Children’s Code Reform Taskforce proposed amendments to NM Stat § 32A-3B, Families in Need of Court-Ordered Services, commonly referred to as FINCOS. The recommendations, provided in two reports, June 2024 and January 2025, included amendments which would encourage the use of the statute as a tool for prevention. **The legislature did not act upon the taskforce recommendations.** In its April 2026 report, *Systemic Failures: How CYFD Endangers the Children It’s Meant to Protect*, the NM Department of Justice includes the recommendation of:

Pursue court-ordered services when families refuse currently voluntary services and statutory criteria are met. CYFD should treat service referrals as essential to parental rehabilitation—not mere formalities—and seek custody when caregivers fail to engage with available resources and abusive or neglectful conditions persist.

Council reports have noted preventive efforts across the state were not coordinated, such as the Family Services Division of CYFD which supports *families before a crisis or before a situation creates an unsafe environment for children*, and the NM Children’s Cabinet and the Anna Age 8 Institute which had initiatives regarding the provision of services to prevent child maltreatment.

These efforts are still not coordinated but would be part of a child protection system transformation.

SCRB reviews will continue to assess the affidavit for reasonable efforts CYFD has made with a family prior to requesting removal of a child/youth, to include requesting CYFD documentation of pre-initiation staffing and referrals to its Family Services Division.

GENDER, RACE/ETHNICITY AND CYFD INVOLVEMENT PRIOR TO CUSTODY

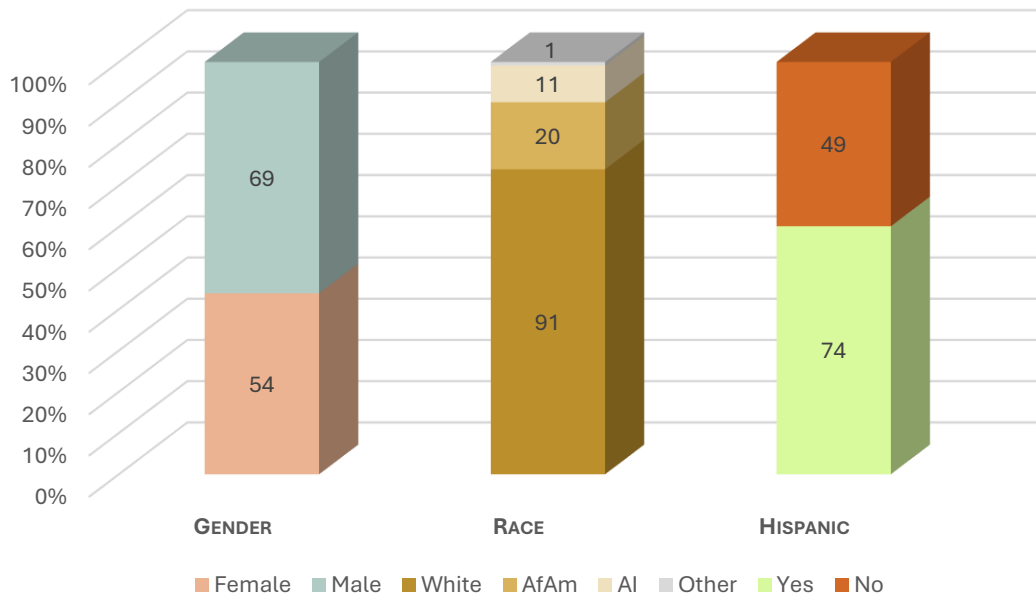
CYFD provides a monthly list of children/youth in its custody; data provided includes gender of a child/youth as female or male; race and if a child/youth is of Hispanic ethnicity.

If, during SCRБ specific case reviews, discrepancies are noted in the data provided, Council staff notifies the CYFD Office of Performance Accountability which in turn researches the discrepancy and corrects as needed.

Of the children/youths reviewed in SFY 26, 44% are female; 56% are male. Seventy-four percent (74%) are White; 16% are African-American; 9% are American Indian and 1% were other. Sixty percent (60%) are of Hispanic ethnicity.

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GENDER, RACE, ETHNICITY



AGE AT TIME OF CUSTODY AND AT TIME OF REVIEW

Of the children/youths reviewed in SFY 26, the age of child/youth at time of this episode of custody ranged from 1 day to 16 years 9 months. At the time of review, the age of children/youths ranged from 2 months to 17 years 11 months.

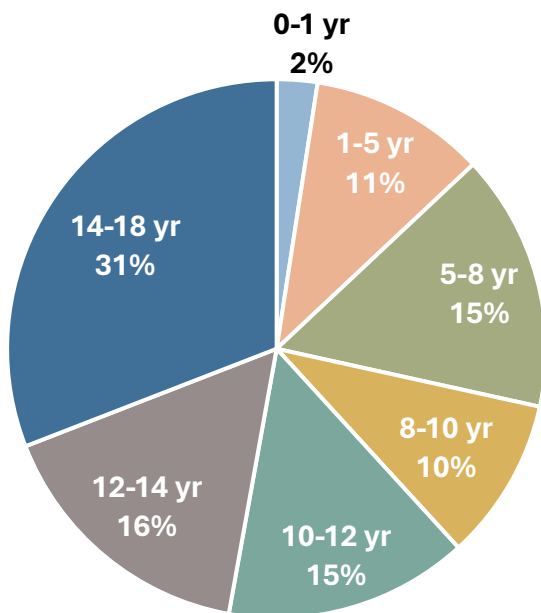
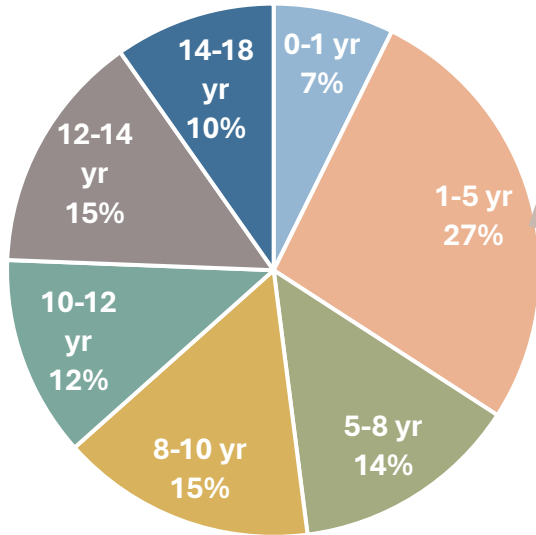
As Council reports have noted, children are being raised in the care of the state; of the children/youths reviewed in SFY 26, the number of months each had been in custody ranged from 2 months to 11 years.

The child who had been in custody for two months at the time of the SCRB review was placed in the care of CYFD at 4 days of age, joining siblings who had been in custody for seven months with permanency plans of Reunification.

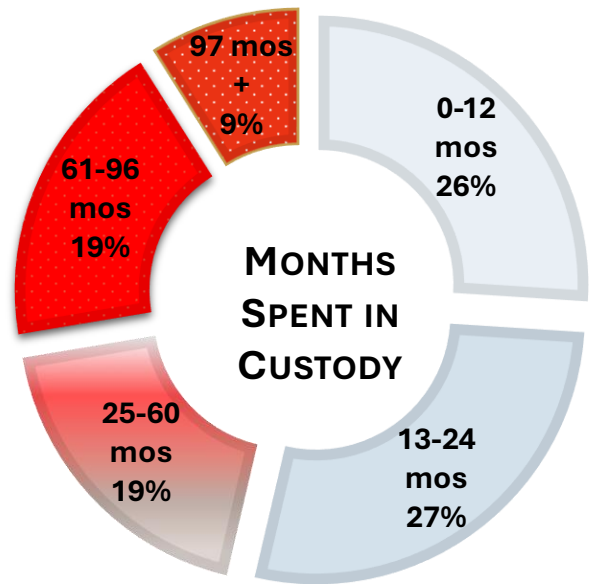
The youth who had been in custody 132 months (11 years) was placed in the care of CYFD at age 4 years 4 months; at the time of review the youth had been residing in an out of state institution for over 17 months, the youth's 58th placement. A discharge plan was not provided nor was an Individualized Adoption Plan provided to support the youth's permanency goal of Adoption.

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AGE AT TIME OF CUSTODY

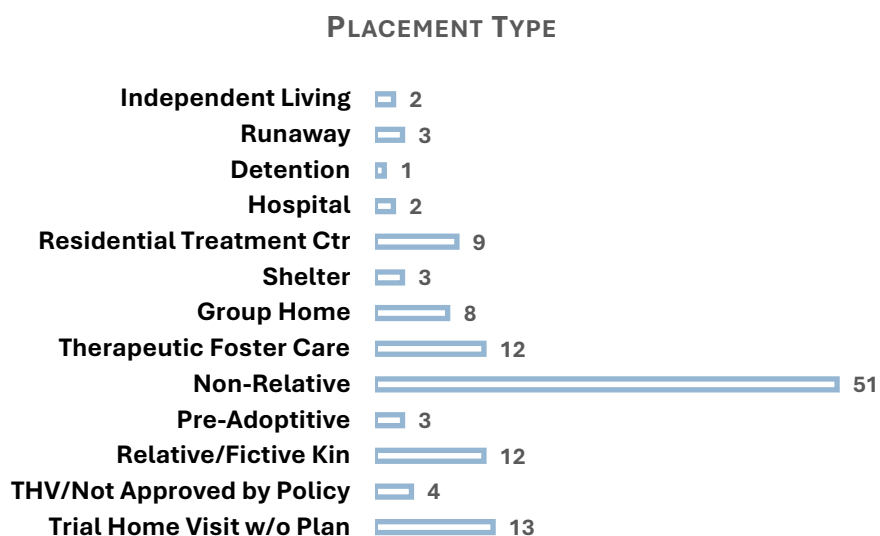


AGE AT TIME OF REVIEW



PLACEMENT TYPE AND LOCATION

The types of placement children/youths were in at the time of review ranged from Trial Home Visit, hereinafter “THV”, without a Transition Home Plan, to no placement as the youth was on runaway status. SCRB case specific review reports and Council reports have noted concern of THVs taking place without a transition home plan submitted to the court, hence the placement type included in the chart of “Trial Home Visit w/o Plan”. In one instance SCRB observed that children in New Mexico’s custody with reunification as a permanency plan did not have a transition home plan submitted to the court prior to a THV and were placed with a bio-parent out of state without an Interstate Compact Agreement¹⁵ at the direction of CYFD leadership.



In another instance CYFD had reported 4 children with a placement type of “maintain at home”, leading to the placement type in the chart of “THV/Not Approved by Policy”. These children were removed from their home by court order due to allegations of abuse and neglect by their bio-parents, placed in a CYFD office, then a relative home. The court determined the bio-parents should not be the children’s educational decision makers and ordered implementation of an Initial Assessment Plan.

Despite CYFD reporting *higher management approved the children going home and the department is working on the plan as a maintain at home plan*, “maintain at home” is not a permanency placement option. 8.10.8 NMAC Permanency Planning Procedures do not

¹⁵ 8.10.8 NMAC PR 21 Interstate Compact for the Placement of Children (ICPC) notes *all out-of-state placements must be approved through the Compact (#5)* and that Children in PSD custody may be placed out of state in licensed relative or non-relative foster family homes, or with parents, in accordance with the requirements of the Safe and Timely Interstate Placement of Foster Children Act of 2006 and ICPC (#6).

include protective supervision as one of its placement types or a type of permanency plan. There are no procedures regarding “maintain at home” as a placement type for permanency planning; “maintain at home” is only mentioned in Investigation Procedures and In-home Services/Home-Based Procedures. In this instance, the court did not provide any oversight of CYFD’s actions as CYFD filed a notice of dismissal of allegations in the abuse/neglect petition 4 months later. Documentation has not been provided that the order appointing Educational Decision Makers other than the bio-parents was vacated.

Nine children/youths were placed in an out of state institutional setting at the time of review. Seven, who were placed in the care of CYFD with court oversight at 2, 4, 5 and 9 years of age, now find themselves in an out of state institution with multiple diagnoses and medication prescribed. None of the nine children/youths had a discharge plan in accordance with CYFD procedures. No court orders provided addressed these omissions.

- ✚ Age 7 years 11 months: 16th placement in 42 months; part of as sibling group.
- ✚ Age 9 years 11 months: 31st placement in 87 months; part of a sibling group.
- ✚ Age 11 years 3 months: 13th placement in 20 months; part of a sibling group.
- ✚ Age 12 years 4 months: 33rd placement in 79 months; part of a sibling group.
- ✚ Age 14 years 1 month: 44th placement in 98 months; part of a sibling group.
- ✚ Age 15 years 5 months: 58th placement in 132 months; originally part of a sibling group.
- ✚ Age 16 years 5 months: 13th placement in 11 months.
- ✚ Age 16 years 6 months: 24th placement in 131 months; part of a sibling group.
- ✚ Age 17 years 4 months: 10th placement in 22 months.

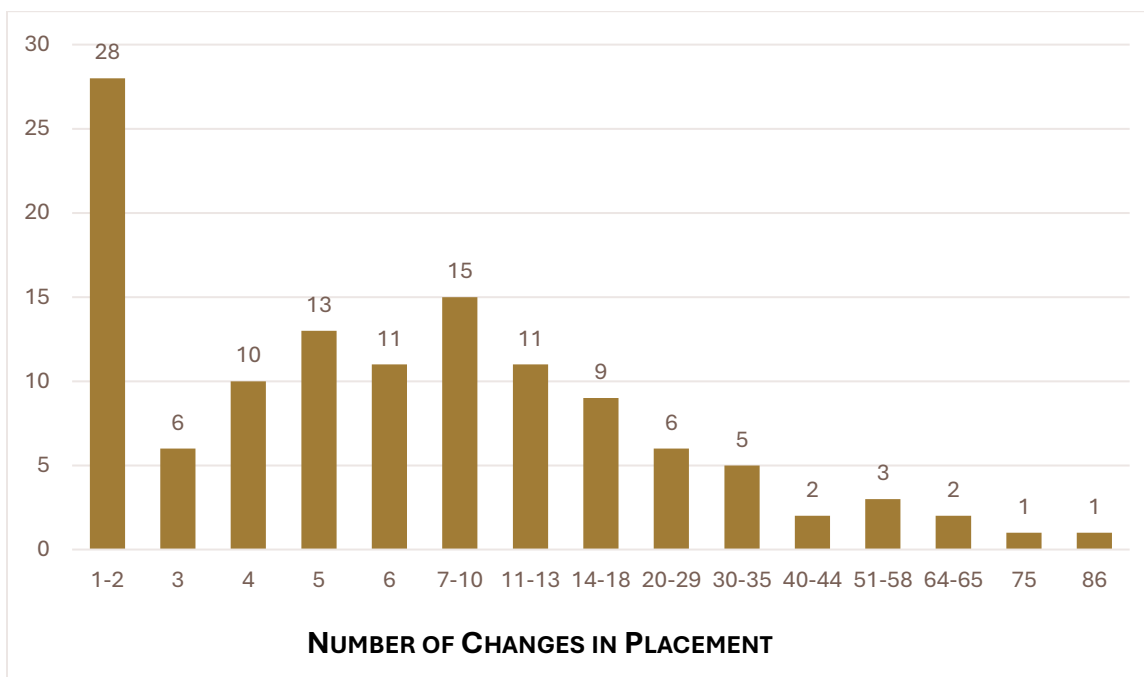
Fifty-five percent of the children/youth reviewed were placed outside of their county of jurisdiction with 16% placed out of state, adding barriers to maintaining family connections and monitoring placements.

NUMBER OF CHANGES IN PLACEMENT

CYFD provides the number of federal changes in placement a child/youth has experienced while in custody. Temporary absences, such as visitation with a sibling, relative, or other caretaker (i.e., preplacement visits with a subsequent foster care provider or pre-adoptive parents), hospitalization for medical treatment, acute psychiatric episodes or diagnosis, respite care, day or summer camps, trial home visits and runaway episodes should not be counted as a change in placement.

In February 2026, CYFD changed the algorithm for reporting the number of changes in placement to align with the federal definition of a placement change. The new algorithm does not include acute hospitalizations of less than 15 days.

Of the 123 children/youth reviewed, changes in placement ranged from 1 change in 52 months of custody to 86 changes in 103 months of custody. Thirty-six percent of the children/youth reviewed had 4 or less changes in placement at the time of review; 16% had 20 or more changes in placement. Note the chart includes only the numbers/ranges experienced by the children/youths.



The Children’s Code, Children’s Court Rules and CYFD procedures require notice when there has been a change of placement for a child/youth. Written notice is required 10 days prior to a placement change unless an emergency exists then written notice is required within three days of the change in placement. Children’s Court Rules require CYFD to *notify the court of any change in the child’s placement, including when the change is made at the request of the child’s foster parents or substitute care provider*. While written notice is not required for temporary changes, such as respite care, CYFD is required to provide oral notice of this change.

All notices of changes of placement are still not provided in accordance with the Children’s Court Rules. No court orders provided addressed these omissions.

In cases reviewed in SFY 26 it was not unusual to observe a child/youth in a desperation

placement, a placement seen as a last resort in the moment as there was not a resource to meet the needs of the child/youth. It was also not unusual to observe treatment foster care agencies were allowed to give a child/youth back to CYFD due to its providers not having the training to meet the higher needs of a child/youth.

CYFD began a Foster Care Plus program which provides more funds and resources to foster families providing care for children/youth in their homes. This concept should be the minimum standard for any foster home providing care to a child/youth who has been placed in the care of CYFD with court oversight. Yet this program is limited in availability and funding.

A state must have a sufficient number and types of placements to meet the needs of the children/youths in its custody. While many hold CYFD solely accountable for this, resources to provide for children and youth placed in the custody of the state is more than CYFD's responsibility alone.

**EFFORTS UNDERWAY PURSUANT TO THE 2020
KEVIN S. SETTLEMENT AGREEMENT HAVE
NOT RESULTED IN SUFFICIENT HOMES IN NEW
MEXICO TO PROVIDE FOR THE
CHILDREN/YOUTH IN THE CARE OF THE STATE**

Child protection system transformation efforts, to include the professionalizing of parents with adequate compensation and resources to provide care for traumatized children/youths removed from their home could result in sufficient stable placements for our children and youth.

SIBLING GROUPS

Children who are removed from their home and placed in the care of the state as part of a sibling group are likely to experience additional trauma if the system does not have the placement providers, trained workers, attorneys and judges and permanent resources to respond to sibling groups.

Further challenges arise when siblings may enter custody at different times and when a sibling group is blended, such as having the same mother but different fathers. It is not uncommon for children who were being raised together to experience abrupt separation, sometimes permanent, when some children in a sibling group are placed in the care of the state while another child or children may be placed with a non-custodial parent.

In SFY 26, SCRB case specific review included 29 groups of siblings ranging from groups of two to groups of five. Of the 29 sibling groups reviewed, six sibling groups were placed together.

When siblings are not placed together, CYFD's procedures require the coordination of

visitation *between children in PSD custody and their siblings who are not in PSD custody including adult siblings*. Documentation reviewed did not demonstrate that CYFD was adhering to this procedure, especially in regard to contact with siblings who were not in custody of CYFD.

PERMANENCY PLANS

Permanency Plans of the children/youth reviewed included Reunification, Permanent Guardianship, Adoption and Planned Permanent Living Arrangement (PPLA) for youth age 16 and older.

Court reviews of progress towards achieving permanency plans are required. Per NM Stat § 32A-4-25(B),

the court shall conduct subsequent periodic judicial reviews of the dispositional order within six months of the conclusion of the permanency hearing, or if a motion has been filed for termination of parental rights or permanent guardianship, within six months of the decision on that motion and every six months thereafter.

**DOCUMENTATION WAS NOT
PROVIDED TO DEMONSTRATE
JUDICIAL/PERMANENCY REVIEWS
WERE HELD TIMELY FOR ALL
CHILDREN/YOUTH**

The June 2025 federal CFSR report found that CYFD and the courts were not making concerted efforts to achieve permanency timely for children/youth with permanency plans of reunification, permanent guardianship and adoption. Documentation was not provided in all SFY 26 specific case reviews that required permanency

hearings/judicial reviews were held timely. At times SCRB reviews noted that resultant orders were not filed timely when judicial/permanency reviews were held.

In addition, status hearings/conferences may have been held in some cases; however, there are no Children's Court Rules regarding this practice resulting in differing practices across the state, raising concerns regarding the use of status conferences/hearings and the impact on required judicial and permanency reviews.

Of the 53 children/youths with a permanency plan for reunification, 13 were on THV at the time of the SCRB review. The Children's Code requires a transition home plan submitted to the court at the Initial Permanency Hearing if the court adopts a permanency plan of reunification. None had transition home plans submitted at the Initial Permanency Hearing or prior to a THV beginning.

**CYFD REPORTS TO THE COURT FOR INITIAL PERMANENCY REVIEW
HEARINGS DID NOT INCLUDE A TRANSITION HOME PLAN AND
COURT ORDERS PROVIDED DID NOT ADDRESS THIS OMISSION**

On 2 July 2026, CYFD issued PSD Directive 2026-006 providing expectations to utilize its Structured Decision Making (SDM) reunification assessment tool it finalized in 2025.

The family reunification assessment consists of components used to evaluate safety, case plan progress, and caregiver–child interactions. Results are used to inform issues to be addressed in the transition home plan and help guide decisions regarding beginning a trial home visit.

Per the directive, CYFD staff is to complete the tool prior to the Initial Judicial Review, which in theory should occur before the Initial Permanency Hearing, and at least every 90 days thereafter. The results of the tool are uploaded into CYFD’s case management system, and a copy is placed in the case file. Results should be incorporated into case plans. The tool also includes guidance on best practices for transition home plans. The directive includes expectations for CYFD visits to the home when a child/youth is placed on a trial home visit.

Intending to improve service delivery to children/youth and families and to facilitate determinations of the feasibility of reunification permanency plans, SCRB will include monitoring of the use of this tool in case specific reviews.

ADOPTION

When a child/youth is placed in custody of CYFD with court oversight, a determination may be made to terminate the rights of biological/adoptive parents which in turn create legal orphans. CYFD and the courts take this action regardless of a child/youth having an identified adoption resource.

Of the 53 children/youth with adoption as a permanency plan, only 3 were identified as being in a pre-adoptive home.

-  An 11-year-old was expected to have adoption by a non-relative finalized after being in custody 26 months and 12 months after parental rights were terminated. Based on information and belief this has occurred.
-  A 14-year-old was expected to have adoption by a relative finalized after being in custody 131 months and over 9 years after parental rights were terminated. Based on information and belief this has occurred. This youth was part of a sibling group of 4;

two siblings were adopted separately; one sibling remains in the care of CYFD without an identified resource for adoption. Sibling contact has not been maintained for the sibling group who entered custody together.

- ✚ A 7-year-old was expected to have adoption by a relative finalized after being placed in custody for the second time 61 months ago and three years after termination of parental rights upheld upon appeal. Based on information and belief, this adoption has not been finalized.

Of the remaining 50 children/youth with adoption as a permanency plan, 32 are legally free for adoption. Not one had a timeline to permanency. When a child has adoption as a permanency plan and does not have an adoptive resource identified, CYFD procedures require the development of an Individualized Adoption Plan¹⁶. No Individualized Adoption Plans were provided in these instances.

In contrast, in an instance of a sibling group of 5 being placed together in a home which expressed interest in adoption, CYFD and the court have not taken action to legally free these children although 4 had been in the care of CYFD for 75 months and 1 had been in the care of CYFD 52 months at the time of review.

EDUCATIONAL DECISION MAKER

The court is responsible for appointing an Educational Decision Maker, hereinafter “EDM”, for every child, regardless of age, in custody of CYFD. Should the court determine the appointment of a respondent(s) is not in a child’s best interest, the court appoints an individual following determination the individual meets the criteria to serve as the child’s EDM. EDM appointments must be reviewed at each stage of abuse/neglect proceedings, and a separate order must be filed for each appointment. An EDM remains in effect until a new EDM is appointed by court order.

Appointed at the custody hearing, EDMs can be the child/youth’s parent, foster parent, or other qualified individual, including a person designated by the child/youth. Children’s Court Rules provide further guidance in the individual best appointed:

The individual appointed to be the education decision maker should be a person who knows the child, is willing to accept responsibilities for making educational decisions, does not have a personal or professional interests that conflict with the interests of the child, and is able to make any necessary educational decisions, including decisions related to whether the child is a child with a disability under the federal Individuals with Disabilities Education

¹⁶ 8/26/2 NMAC PR 22: Best Interest Adoption Placement #6.4.

Act.

Along with Guardians ad Litem, CYFD workers may not be appointed as EDM. While a CYFD employee may not serve as an EDM, the CYFD permanency planning worker:

supports the child or youth in connecting with the education decision maker to ensure the child or youth is a partner in the decision making process for the child/youth's education. In addition, CYFD procedures require the PSD caseworker to notify the court of any changes to the educational decision maker, especially when there is a change of placement for the child or youth.¹⁷

This is clearly a challenge to the CYFD permanency planning worker. New Mexico's children and youth in the care of the state experience more changes in placement than the national average. Added to this challenge, notifications of placement changes are not always provided and when notice is provided, information is not included such as the number of changes in educational settings, the name of the current EDM and if a new appointment is needed.

Further, EDM's do not receive notice of changes of placement or notices of court hearings unless they are serving in the role of placement provider or CASA. In addition, procedures do not exist to guide CYFD staff, the court or the appointed EDM regarding role and responsibilities and documentation of the EDM's involvement in meeting the child/youth's educational needs, to include the child/youth and the ability to provide input.

The Children's Court Improvement Commission has a workgroup developing guidance on the appointment of EDMs. SCRB specific case reviews will continue to monitor the appointment of EDMs.

DOCUMENTATION WAS NOT PROVIDED FOR EACH CHILD/YOUTH OF AN APPOINTED EDM IN ACCORDANCE WITH CHILDREN'S COURT RULES

MEDICATION OVERSIGHT

CYFD Permanency Planning Procedures (8.10.8 NMAC) PR 17 Medical and Behavioral Health requires *Any medications, prescribed or over-the-counter medications, administered must be clearly documented in every court report filed.* Specific medication information related to psychotropic medications is required in CYFD's reports to the court in response to the Kevin S. Settlement Agreement.

¹⁷ Child Protective Services Permanency Planning Procedures (8.10.8 NMAC) PR 18 – Education, 8.

Permanency planning workers are required to respond to 24 questions, and the presiding judges have been provided with considerations regarding children and youths who are prescribed psychotropic medications. In theory, this information and potential action by the presiding judge is to lead to a child/youth reduction in reliance on psychotropic medications.

However, **CYFD permanency planning workers and judges do not have specialized knowledge required to fulfill a critical role of psychotropic medication oversight.** More concerning is that the CYFD permanency planning worker is expected to make decisions regarding medication without this specialized knowledge. With neither the CYFD permanency planning worker nor the judge having the specialized knowledge needed, this is likely a factor why SCRB reports, and Council reports repeatedly note CYFD's failure to provide this information and court orders not addressing this omission.

YOUTH SERVICES

Per federal and state requirements, youth services, including life skills assessment and planning are required for youth age 14 and older in the care of the state, regardless of permanency plan or placement type.

Per CYFD procedures¹⁸, at age 13 and a half, an independent living assessment is completed which will serve as the foundation for an individualized life skills plan for the youth. At age 14, a youth is required to have a Life Skills Plan which is developed in consultation with the youth. A Life Skills Plan is a written document outlining the activities necessary to support the youth in acquiring the knowledge, skills and abilities to successfully promote self-sufficiency and prioritize those life domains in which the youth requires the most assistance and training. The Life Skills Plan is to be submitted to the court at the first hearing following the youth's 14th birthday and submitted at every subsequent permanency hearing/judicial review to be reviewed by the court¹⁹.

The Life Skills Plan is a component within the youth's case plan and is based on the youth's strengths, needs and goals with recommendations to achieve the goals, is not limited to what is available through CYFD and is reviewed every six months, or more often at the request of the youth.

This individualized plan includes but is not limited to life domains of, secondary academic support services, post-secondary educational support services, career preparation services, employment programs or vocational training services, budget and financial

¹⁸ CYFD procedures regarding Youth Services include PR 8.10.9 and within PR 08.08.08.

¹⁹ 8.10.9.11 A includes *PSD shall present the life skills plan to the court prior to the first hearing after the youth's 14th birthday and every subsequent hearing, regardless of the youth's permanency plan.* And C: *The plan shall be included in the youth's case plan and is reviewed by the court at every judicial review or permanency hearing.*

management services, house education and home management training services health education and risk prevention services, family support and health relationship education services, mentoring, financial assistance needs, such as education related expenses, rent assistance or start-up expenses.

The Life Skills Plan is critical as it serves as the foundation for developing a Toolkit for Adulthood/Transition Plan which is to be submitted to the court at the first hearing following the youth's 17th birthday.

With CYFD's implementation of its Fostering Connections Program, procedures were not updated to result in clarity as to the roles of the CYFD permanency planning worker, the youth transition specialist (YTS) and the fostering connections specialist.

For example, one procedure states the CYFD permanency planning worker is responsible for the planning, provision and oversight of development of life skills and the YTS is responsible for provision and oversight of life skills development for youth over the age of 18²⁰. Yet one of CYFD's procedures states that the Life Skills Plan at age 14 is developed in conjunction with the YTS²¹. The youth is to be informed of

THE COUNCIL RECOMMENDATION OF ASSIGNING CYFD YOUTH SERVICES RESPONSIBILITIES TO THE YOUTH SPECIALISTS IN THE CYFD FAMILY SERVICES DIVISION AND THE LEGISLATURE FUNDING ADDITIONAL POSITIONS HAS NOT BEEN ACTED UPON OR RESPONDED TO

CYFD's Fostering Connections Program by the YTS at the transition meeting required to be held after the youth's 16th birthday. Other procedures/directives refer to Fostering Connections Specialists²². If CYFD has developed policy/procedures specific to its Fostering Connections program, it has not provided these procedures nor are policies or procedures found on the NMAC or CYFD websites.

CYFD may provide a *Fostering Connections Transition Plan for Older Youth*. However, there is lack of clarity when this plan is to be developed and if it meets the requirements of the Toolkit for Adulthood/Transition Plan or if it serves as a transition plan to those youth who have indicated interest in continuing into the Foster Connections Program after age 18. When these plans are provided, SCRБ reviews have observed plan forms may be incomplete, may be outdated and may not provide specific steps to reach goals or obtain

²⁰ P8/10.9 NMAC PR 12 Life Skills Development #7.

²¹ 8.10.9 NMAC PR 11 Life Skills Plan #5.1.

²² 8.10.8 NMAC PR 11 Voluntary Placements #7.3 and 11.2; CYFD PSD Directive 04-2022-#4 issued 05 April 2022; CYFD PSD Directive 2024-003 effective 01 February 2024, both appear to still be in effect.

documents and documentation has not been provided that plans are submitted to the court at the first hearing after the youth's 17th birthday.

Despite SCRB case specific reports provided to the presiding judge, CYFD and Youth Attorneys and Council reports highlighting the failure to delivery youth services, SFY 26 reviews continued to note this failure.

Of the 38 youths reviewed in SFY 26 eligible for youth services, none had documentation of a Life Skills Plan, nor was documentation provided demonstrating the youth was involved in case plans submitted to the court. **Court orders provided do not address these omissions.**

CYFD PERMANENCY PLANNING WORKER CASELOAD

CYFD, in response to the Kevin S. Settlement Agreement, determined a reasonable caseload of 15 children/youths per permanency planning worker. This report has already mentioned the need to redesign the position of permanency planning worker and establish workload standards versus caseload standards. In theory, if a worker has 15 or less children/youth on their caseload, outcomes will be met.

SCRB reviews in SFY 26 did not find that permanency planning workers with 15 or less children/youths on their case correlated with better service delivery.

Again, it is not the number of children/youths a permanency planning worker is responsible for, it is the effort required to provide services to each child/youth and the education, training, knowledge and resources needed by the permanency planning worker to do the work successfully.

Within SCRB specific case reviews, the CYFD permanency planning workers self-report the number of children on their caseload. This information is included in each report to the presiding judge, CYFD and legal representatives on a case.

In SFY 26,

-  15 workers reported the number of children on their caseload **under the maximum** of 15 with ranges from 6 to 14.
-  7 workers reported the number of children on their caseload **at the maximum** of 15.
-  36 workers reported the number of children on their caseload **over the maximum** of 15 with ranges from 17 to 47.
-  In reviews of 3 cases, caseload information was not provided.