

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE NEW MEXICO CHILDREN, YOUTH AND FAMILIES DEPARTMENT, THE
OFFICE OF FAMILY REPRESENTATION AND ADVOCACY, AND
THE NEW MEXICO ADMINISTRATIVE OFFICE OF THE COURTS**

THIS MEMORANDUM OF UNDERSTANDING ("Memorandum") is made by and between the New Mexico Children, Youth and Families Department ("CYFD"), The Office of Family Representation and Advocacy, and the New Mexico Administrative Office of the Courts ("AOC"), which will hereafter be known as the "Parties."

RECITALS

WHEREAS, CYFD is a state governmental agency created by §9-2A-4 NMSA 1978; is responsible for the child welfare and juvenile justice systems in New Mexico pursuant to the New Mexico Children's Code §§32A-1-1 et seq., NMSA, and Title 8 of the New Mexico Administrative Code; possesses the authority to act in the best interest of the children in its care, including participating in initiatives that promote educational stability for children in its custody; and is required to collaborate with the courts to "... jointly plan for the sharing of all relevant data and information ..." pursuant to the Deficit Reduction Act of 2005. (42 U.S.C. 629(h)(a));

WHEREAS, the Office of Family Representation and Advocacy (OFRA), a state governmental adjunct agency created by §32A-27-1 NMSA 1978 et seq., is responsible for providing legal representation to eligible adults under the Fostering Connections Act [Chapter 32A, Article 26 NMSA 1978] and for children and parents, custodians or guardians whose children are, or are at risk of being placed, in the legal custody of CYFD. It is tasked with working closely with the CYFD to leverage federal funding pursuant to Title IV-E, which includes conducting evaluations, collecting data for data cross-referencing and data sharing, and collaborating with the CYFD and AOC;

WHEREAS, the AOC, under the guidance of the Director, supervises all matters relating to the administration of the courts; examines fiscal matters of the courts; and secures information as to the courts' need of assistance and provides the New Mexico Supreme Court with statistical data and reports as to the business of the courts pursuant to §34-9-3 NMSA 1978;

WHEREAS, the Children's Court Improvement Commission (CCIC) is an advisory board to the New Mexico Supreme Court; is funded through the Court Improvement Program and grant, created as part of the Omnibus Budget Reconciliation Act (OBRA) of 1993 and found in Section 428 of the Social Security Act; and is charged with the improvement of New Mexico's Children's Courts by collaborating with other agencies and stakeholders to develop well-being outcome measures for children in CYFD's custody. The CIP and CCIC are tasked with creating new mechanisms for data cross-referencing and data sharing and providing reports that include critical measures from the courts and child welfare through a federally submitted Strategic Plan;

WHEREAS, CYFD, OFRA, and AOC require such information necessary to provide non-personally identifiable outcome data in the aggregate to the Children's Bureau, the Children's Court Improvement Commission, and the New Mexico Legislature in order to 1) identify substantive areas in need of improvement for both the Courts, OFRA, and CYFD; 2) determine location(s) of particular concern that will inform decisions by CYFD, OFRA, the Courts, the Court Improvement Program, and the Children's Court Improvement Commission; 3) promote agency collaboration and problem solving; and 4) comply with Federal requirements;

WHEREAS, the nature of data required for this collaborative effort would necessitate the exchange of data from the Results Oriented Management (ROM) System through the University of Kansas and the State-Administered Child Welfare Information System/Comprehensive Child Welfare Information System used by CYFD, child welfare data stored in the Odyssey Case Management System at the Judicial Information Division (JID) of the AOC, and data stored in the LegalServer Case Management System at the OFRA;

WHEREAS, the purpose of this Memorandum is for CYFD, OFRA and AOC to share information in a manner consistent with the Family Educational Rights and Privacy Act, the Health Insurance Portability and Accountability Act, and the New Mexico Children's Code in order to collaborate, plan and implement initiatives outlined in the Court Improvement Project (CIP) Strategic Plan submitted in 2021 CYFD's Program Improvement Plan, OFRA's legislative and IV-E reporting requirements and strategic plan, CIP/CCIC's strategic plan and other initiatives or federal requirements;

WHEREAS, all records and information regarding children under CYFD's jurisdiction are confidential and not to be intentionally and unlawfully released under penalty of law §§ 32A-2-32 NMSA 1978 and 32A-4-33 NMSA 1978;

NOW, THEREFORE, IT IS AGREED as follows:

I. TERM OF MEMORANDUM

This Memorandum shall take effect between all three parties upon signature by the authorized representatives of CYFD, OFRA and AOC.

OFRA and AOC further agree that the Memorandum becomes effective as to their mutual obligations immediately upon signature by both of their authorized representatives.

This Memorandum is renewable biennially, in writing, thirty days prior to the date of expiration, and shall remain in effect until the sooner of **May 1, 2027**, or being terminated by CYFD, OFRA or AOC, upon thirty days written notice pursuant to Paragraph V herein. Within thirty (30) days of termination of this Memorandum, CYFD, OFRA and AOC shall provide assurances to each other by letter and agree that all individually identifiable data obtained under this Memorandum will be promptly destroyed or returned in accordance with the requirements of 34 CFR §

99.35(b).

II. DEFINITIONS AND ABBREVIATIONS

"Disclose" or "disclosure" means the release of information, with or without the consent of the individuals or employing party to whom the information pertains. Disclosure includes all forms of electronic methods for the transmittal of information and may be in any media or by any means mutually agreeable to the Parties. Further disclosure of any individually identifiable information released to the CYFD, OFRA, AOC or their respective authorized representative by CYFD, OFRA, or AOC is prohibited by this Memorandum in that it constitutes an impermissible re-disclosure of information. 34 CFR 99.33.

III. JOINT RESPONSIBILITIES

CYFD, OFRA and AOC shall comply with the provisions of the Children's Code, and all other pertinent state and federal law in all respects. Nothing in this Memorandum may be construed to allow any signatory to this Memorandum to maintain, use, disclose or share child or family information in a manner not allowed by federal or state law or regulation. CYFD, OFRA, and AOC shall identify at least one authorized representative for processing and responding to data requests from the other Parties.

1. CYFD, OFRA or AOC may seek to review or seek written assurances, regarding the use of data transmitted under this Memorandum.
2. Specifically, CYFD will provide the OFRA Director and/or designee, the CIP Data Analyst, and CIP and/or CAAP Director designee at the AOC a login for the Results Oriented Management System (ROM) for purposes of producing comprehensive data reports for CIP/CCIC, CYFD, OFRA and the AOC including, but not limited to:
 - a. Foster Care/Permanency Outcomes;
 - b. Racial Proportionality and Disparate Impacts Related to Race;
 - c. Federal Indicators.

The data accessed by CIP/CCIC, OFRA, and the AOC through the ROM system will be limited to aggregated summary data unless case-level data is requested for the purposes of specific research or evaluation purposes. In this instance, case-level data will include only those data elements that meet specific parameters as necessary for the research or evaluation and transferred to the requesting agency using a secure file transfer protocol approved by CYFD.

Additionally, as required for compliance with the Children's Bureau's requests, CYFD will cooperate with CIP and OFRA to facilitate necessary interviews for Child and Family Service Review compliance.

3. Once OFRA's case management system is operational, OFRA shall regularly share at least quarterly with the Parties data reports regarding abuse and neglect cases within each OFRA district including case numbers and other relevant data from the districts OFRA serves. AOC or CYFD may request that a particular district be broken down by county. To the extent that OFRA's case management system collects the following data, OFRA shall produce reports describing the following measures, including but not limited to:
 - a. Number of Attorneys a client is assigned in the life of a case;
 - b. Number of contract attorneys;
 - c. Number of in-house attorneys;
 - d. Attorney caseloads;
4. AOC shall regularly share at least quarterly data reports regarding abuse and neglect cases within each judicial district from the courts case management system, Odyssey, with the CYFD Data Bureau and the OFRA Director Designee. CYFD or OFRA may request that a particular district be broken down by county. The reports shall include data describing the following measures, including but not limited to:
 - a. Permanency Outcomes
 - b. Time to Custody Hearing
 - c. Time to Adjudication Hearing Commenced
 - d. Time to Adjudication Completed
 - e. Time to First Permanency Hearing
 - f. Time from Petition to Termination of Parental Rights
 - g. Time from Termination of Parental Rights to Adoption
 - h. Days to Legal Permanency
5. CYFD, OFRA or the AOC may request data about different or additional measures than listed in Paragraphs 3, 4, 5, and 6. If the data complies with this Memorandum, CYFD, OFRA or the AOC may produce the requested data.
6. Each party to this Memorandum agrees to share at a time agreed upon by the Parties, identifiable Indian Child Welfare Act (ICWA) and Indian Family Protection Act (IFPA) data. The intent of this provision is to better identify and track Alaskan Native/American Indian Children to further examine court and CYFD compliance with ICWA requirements. All parties recognize the importance of being able to track ICWA/IFPA cases and children.
7. Each party to this Memorandum agrees to assure that aggregated data in areas of such a size that could potentially reveal personally identifiable data are protected from disclosure using the appropriate statistical techniques.
8. The ability to access or maintain data under this Memorandum shall not under any

circumstances transfer from or be assigned to any other individual, institution, organization or entity.

9. Procedures and systems will be established and agreed to, in writing, by each agency to ensure that all confidential data processed, stored, and/or transmitted under the provisions of this Memorandum shall be maintained in a secure manner that prevents further disclosure of the data, including the interception, diversion, duplication, or other unauthorized access to said data.
10. Each party to this Memorandum agrees to abide by the confidentiality requirements pursuant to state and federal law, including all applicable provisions of the New Mexico Children's Code, and the policies of each party to protect the identity of those children and parties for whom data is collected, shared, transmitted, and aggregated for reporting.
11. Each party to this Memorandum agrees that for reasons set forth in the Recitals herein, all parties shall share data for the purposes of assisting each agency better serve children in the Department's custody and families involved in cases under the Children's Code, and contributing to "Continuous Quality Improvement" (CQI). All parties to this Memorandum agree to work toward these goals by agreeing to identify the responsibility of each agency to provide identified data points that may be combined using a mechanism or program mutually agreed to by the Parties.
12. The Parties understand and agree to share data using a system consistent with "Continuous Quality Improvement" by which data points and collection mechanisms or programs may be changed as the data sharing among agencies develops. In doing so, the Parties agree that this Memorandum allows for adding data points, secure transmission of data, and data storage and their incorporation into this Memorandum by reference and without creating a new Memorandum.
13. The AOC and OFRA shall inform CYFD when any employee or contractor with access to the FACTS portal ceases employment with AOC, CIP/CCIC or OFRA, or as a contractor for AOC, CIP/CCIC or OFRA, within in 24 hours to allow CYFD to terminate their access.
14. The AOC and OFRA shall inform CYFD of incidents of breach of the security of any information received from CYFD pursuant to this Memorandum.
15. The AOC and OFRA agree that access to information will be restricted to authorized employees or contractors who require the information in furtherance of this Memorandum.
16. All parties will communicate via each agency's designee as listed below, and agree upon any production of the referenced data in this Memorandum, for purposes of sharing outside of CYFD, OFRA, the Judiciary or the Children's Court Improvement

Commission. If a new designee is identified by either agency, an amended Memorandum shall be executed to include the new designee.

CYFD: Sarah Meadows
Director of Performance and
Accountability
Sarah.Meadows@cyfd.nm.gov
(505) 469-7156

OFRA: Beth Gillia
Executive Director
Beth.gillia@ofra.nm.gov
(505) 231-9864

AOC: Alison Pauk
Administrative Office of the Courts
aocabp@nmcourts.gov
(505) 470-6558

IV. SCOPE OF MEMORANDUM

This Memorandum incorporates all the understandings between and among CYFD, OFRA and AOC and their respective authorized agents and designees, concerning the subject matter hereof. No prior Memorandum, verbal representations, or understandings relevant to data sharing between AOC, OFRA and CYFD shall be valid, incorporated, or enforceable unless embodied in this Memorandum. This does not include or affect other memorandums that may be in place with other agencies.

V. TERMINATION OF MEMORANDUM


This Memorandum may be terminated by CYFD, OFRA or AOC, upon written notice delivered to the other parties not less than thirty (30) days prior to the intended termination date. By such termination notice, CYFD, OFRA or AOC, shall not negate obligations already incurred or required to be performed prior to the effective date of termination. CYFD, OFRA or AOC may terminate the Memorandum immediately upon confirmation of fraud, negligence or abuse or compromise of confidentiality restrictions. This Memorandum shall terminate automatically on December 1, 2027, unless extended by a written agreement.

VI. LIABILITY

Each party shall be solely liable for its own acts or failure to act in accordance with this Memorandum and will be solely responsible for the actions of its own officers, agents and employees within the strict limits of the New Mexico Tort Claims Act, NMSA 1978, 41-4-1 et seq.

IN WITNESS WHEREOF, the Parties have caused this Memorandum to be executed on the year and date indicated, with the effective date being the most recent signature.

CHILDREN YOUTH & FAMILIES DEPARTMENT



Cabinet Secretary or Designee

7/21/24
Date

**Reviewed as to legal form and sufficiency
Children Youth & Families Department:**



General Counsel or Designee

6/18/24
Date

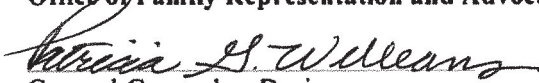
OFFICE OF FAMILY REPRESENTATION AND ADVOCACY

Beth Gillia
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Date: 2024.07.22 10:09:17 -06'00'

Beth Gillia
Director or Designee

Date

**Reviewed as to legal form and sufficiency
Office of Family Representation and Advocacy:**



General Counsel or Designee

7-19-24
Date

ADMINISTRATIVE OFFICE OF THE COURTS



Arthur W. Pepin
Director or Designee

08/21/2024
Date

**Reviewed as to legal form and sufficiency
Administrative Office of the Courts, Office of General Counsel**



General Counsel or Designee

7/24/2024
Date