Wyatt B., et al. v. Tina Kotek, et al.,
U.S. District Court, District of Oregon (Eugene Division), Case No. 6:19-cv-00556-AA

Initial Review by Neutral Kevin M. Ryan
Submitted July 29, 2025

Introduction and Methodology

Through counsel, children in the care and custody of the Oregon Department of Human Services ("ODHS") reached a Settlement Agreement ("Agreement") in 2024 with the Governor of Oregon and ODHS in longstanding litigation, *Wyatt B. v. Kotek,* to "promote ODHS's efforts to protect child safety, continue to make improvements to Oregon's child welfare system, and support and preserve families."[1]

The Agreement "is structured around a collaborative partnership between ODHS and an experienced Neutral with subject matter expertise." U.S. District Court Judge Ann Aiken appointed Kevin Ryan as the Neutral on June 14, 2024, and approved the Agreement on September 12, 2024. The case was subsequently transferred to Chief U.S. District Court Judge Michael McShane.

The Neutral is charged in the Agreement to conduct an Initial Review of the Oregon child welfare system and "determine Measurements, Ultimate Outcomes, and Timelines" for ODHS performance under this Agreement. This document reflects the culmination of the Initial Review and includes the Measurements, Ultimate Outcomes, and Timelines.

Consistent with Section 3 of the Agreement, the Neutral reviewed thousands of pages of documents, data and information, including all of the parties' expert and rebuttal reports in the litigation, and conducted interviews remotely and/or in Oregon with:

* youth and young adults with previous lived experience in the care and custody of ODHS;
* birth and resource families;
* members of Oregon's Child Placement Review Board panels across the State;
* leaders and staff of Oregon's Court Appointed Special Advocates programs across the State;
* ODHS's provider partners offering residential care and/or supportive services to children;
* members of the Oregon ODHS Advisory Council;
* members of the Oregon Legislature;
* a senior member of Governor Kotek's staff with oversight responsibility for ODHS;
* and advocates for children, youth and families in Oregon.

The Neutral also met separately with representatives for the parties over the previous eight months, approximately monthly, to gather feedback, learn about each party's perspectives on the system's strengths and challenges and develop ideas for the Measurements and Ultimate

[1] *Wyatt B., et al. v. Tina Kotek, et al.,* U.S. District Court, District of Oregon (Eugene Division), Case No. 6:19-cv-00556-AA, Settlement Agreement ("Agreement"), Document 481, (filed May 23, 2024).

Outcomes. The Neutral provided a draft of the Initial Review to the parties on June 23, 2025 and met with each of the parties thereafter to receive and discuss their comments, which informed this final Initial Review. The Neutral provided a revised draft of the Initial Review to the parties on July 20, 2025 and received additional comments from counsel for ODHS, which further informed this final Initial Review.

The parties defined "Measurements" in the Agreement to "mean methods of assessing progress toward Ultimate Outcomes." "Timelines" are defined to "mean specific benchmarks, dates, and/or periods of time by which to achieve Measurements and Ultimate Outcomes." And "Ultimate Outcomes mean specific, concrete, and identifiable metrics that are goals to be met at the conclusion of the term of this Settlement Agreement." Those definitions are binding and incorporated here.

This Initial Review contains ten Ultimate Outcomes, with associated Measurements (Measurements 1-2, 4-11) that delineate the "methods of assessing progress toward" those Outcomes. In addition, there are four Measurements (Measurements 3 and 12-14) which will be assessed annually but do not contain "goals to be met at the conclusion" of the Settlement Agreement. In total, there are 14 Measurements contained in this Initial Review.[2]

No single Measurement or Ultimate Outcome – no matter how strong a state's performance – will comprehensively reflect appropriate care of children and the outcomes they experience. The Measurements, Outcomes and Timelines established in this Initial Review are designed to work together to support system transformation, to which the parties aspire in the Agreement's Recitals Section. In setting these Measurements, Ultimate Outcomes, and Timelines pursuant to Section 3.2 of the Agreement, the Neutral took "into account federal standards and Oregon's performance, practice, and statutory variations relative to national performance," including Oregon's results on the federal Child and Family Services Review ("CFSR") and Oregon's annual case review sampling process. These Measurements and Ultimate Outcomes rely significantly on Oregon's established practice of evaluating and reporting performance in key areas to the federal government as part of the CFSR. Over time, the federal government may shift the methodologies and performance standards in the CFSR, but all references to the CFSR in this Initial Review are fixed according to the methodologies and performance standards established as of June 2025 within CFSR Round 4 and will not change unless agreed in writing by the Neutral and ODHS, following meaningful consultation by the Neutral with both parties.

As the Settlement Agreement establishes in Section 1, the parties disagree on the scope of "children in care," and the dispute is now pending on appeal before the United States Court of Appeals for the Ninth Circuit ("Ninth Circuit"). The Ultimate Outcomes and Measurements in this Initial Review will at all times adhere to the definition of "children in care" as determined by the Ninth Circuit, or the court of final appeal, unless more narrowly defined in the specific Ultimate Outcome and/or Measurement set forth herein.

[2] Agreement Section 2.8 states that "The Categories above will not contain, in total, more than fifteen (15) Measurements."

This final Initial Review is being submitted to the Honorable Michael McShane, Chief Judge of the U.S. District Court for the District of Oregon; the Honorable Stacie F. Beckerman, Magistrate Judge for the District of Oregon; counsel for the parties; and the leadership of ODHS.

Category 1: Rate of Maltreatment of Children in Care (Settlement Agreement Section 2.1)

Measurement 1: Maltreatment in Care. The method for assessing progress toward the Ultimate Outcome will be the federal CFSR Round 4 methodology: "Of all children (as defined in the current federal methodology) in foster care during a 12-month period, what was the rate of victimization, per 100,000 days of care?" The Denominator is: Of children in care during a 12-month period, the total number of days these children were in care as of the end of the 12-month period. The Numerator is: Of children in care during a 12-month period, the total number of substantiated or indicated reports of maltreatment (by any perpetrator) during a foster care episode. Complete foster care episodes lasting fewer than 8 days are not counted in the number of days in foster care, and maltreatment that occurs within those abbreviated episodes is not counted in the number of substantiated or indicated reports. The first 12-month period for the purposes of establishing a baseline shall be October 1, 2024 – September 30, 2025, then annually thereafter. ODHS will report its initial performance by no later than April 1, 2026,[3] and then annually by no later than April 1st of each subsequent year.

Ultimate Outcome: The Rate of Maltreatment of Children in Care per 100,000 days in care is 9.07 or less per 100,000 days.

Timeline: ODHS will aim to achieve the Ultimate Outcome by the end of federal Fiscal Year 2029 - September 30, 2029 - and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 1, reporting annual performance for the 12-month period.

Measurement 2: Maltreatment in Care. The method for assessing progress toward the Ultimate Outcome will be the federal CFSR Round 4 methodology but with a unique exclusion described in this paragraph: "Of all children in foster care during a 12-month period, what was the rate of victimization, per 100,000 days of care?" The Denominator is: Of children in care during a 12-month period, the total number of days these children were in care as of the end of the 12-month period. The Numerator is: Of children in care during a 12-month period, the total number of substantiated or indicated reports of maltreatment (by any perpetrator) during a foster care episode. Complete foster care episodes lasting fewer than 8 days are not counted in the number of days in foster care, and maltreatment that occurs within those abbreviated episodes is not counted in the number of substantiated or indicated reports. The Denominator shall exclude the

[3] When any deadlines set forth in this Initial Review fall on weekends or holidays, the Neutral and ODHS agree that ODHS will submit the information on the following business day.

days a child who is in the legal custody of ODHS is living at home or on a Trial Home Visit, and the Numerator shall exclude substantiated or indicated incidents of maltreatment that occur when a child who is in the legal custody of ODHS is living at home or on a Trial Home Visit. The first 12-month period for the purposes of establishing a baseline shall be October 1, 2024 – September 30, 2025, then annually thereafter. ODHS will report its initial performance by no later than April 1, 2026, and then annually by no later than April 1st of each subsequent year.

Ultimate Outcome: The Rate of Maltreatment of Children in Care per 100,000 days in care is 9.07 or less per 100,000 days.

Timeline: ODHS will aim to achieve the Ultimate Outcome by the end of federal Fiscal Year 2029- September 30, 2029 - and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 2, reporting annual performance for the 12-month period.

Measurement 3: Risk and Safety Assessment. The method for assessing progress toward the Ultimate Outcome will be the CFSR Round 4, Item 3 qualitative case review methodology, with the important distinction that the sample of reviewed cases will include only those children who fall within the definition of "Child(ren) in Care," as defined by the Ninth Circuit Court of Appeals in the pending appeal, and have been in ODHS's custody, for at least 6 continuous months by October of each year of assessment. The question in Item 3 is: Did the agency make concerted efforts to assess and address risk and safety concerns of children in foster care? The baseline for Measurement 3 shall be the strength rating established as part of Oregon's CFSR Round 4 case reviews. ODHS will report its initial performance by no later than April 1, 2026, and then annually by no later than April 1st of each subsequent year. ODHS will make efforts sufficient to achieve a performance of 90 percent of reviewed cases rated as a Strength. Going forward, the periods under review will be the federal fiscal year, October 1st – September 30th annually. The Review: By October 1st of each year, ODHS will identify to the Neutral the names of individuals who will conduct the review, their titles, employer, and if ODHS, their assigned ODHS program. ODHS reviewers may not assess cases within their assigned district. Results: Once the review commences, ODHS will report quarterly[4] (on February 1st, May 1st, August 1st, and November 1st) to the Neutral on the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology). If ODHS alternatively establishes a performance dashboard reporting real-time results, accessible to the Neutral, the Neutral shall rely on the dashboard for quarterly reporting by ODHS.

[4] Quarterly reporting due dates set forth in this Initial Review shall not commence until the first identified date on or after November 1, 2025. ODHS may make a request in writing to the Neutral, copying counsel for the plaintiffs, to alter the quarterly reporting due dates set forth in this Initial Review for any Measurement. The request must set forth the reason(s) for the requested modification and explain how the modification will preserve quarterly data and information sharing within the identified period under review. Following consultation with the parties, the Neutral will notify ODHS whether the request has been approved.

Timeline: Assessed annually for progress until termination of the case unless the Neutral determines that Category 2.1 no longer needs to be part of the Annual Review.

Category 2: Re-entry rate for Children in Care (Settlement Agreement Section 2.2)

Measurement 4: Rate of Re-entry to Foster Care. The method for assessing progress toward the Ultimate Outcome will be the federal CFSR Round 4 methodology: Of all children who exit foster care in a 12-month period to reunification, living with relatives, or guardianship, the percent who reentered care within 12 months of their discharge. The Denominator is the number of children in a 12-month period who discharged to reunification, living with relatives, or guardianship. The Numerator is the number of children in the Denominator who reenter foster care within 12 months of their discharge. Because this is a lag measure, the initial period under review for the purposes of establishing a baseline will focus on children who exited care between October 1, 2023 and September 30, 2024, and annually thereafter. ODHS will report its initial performance by no later than April 1, 2026, and then annually by no later than April 1st of each subsequent year.

Ultimate Outcome: Among children who discharged to permanency (excluding adoption) in a 12-month period, 5.6 percent of children or fewer reentered care within 12 months of exit.

Timeline: ODHS will aim to achieve the Ultimate Outcome by the end of federal Fiscal Year 2028 - September 30, 2028 - and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 4, reporting annual performance for the 12-month period.

Category 3: Timeliness of Initial Case Plans for Children in Care (Settlement Agreement Section 2.3)

Measurement 5: Timely Case Plans. It is a federal requirement that initial case plans should be completed within 60 days of a child's placement in foster care. Each case plan is the "road map" for families and the system, identifying the necessary steps toward family reunification and case closure. The method for assessing progress toward the Ultimate Outcome will be the percentage of children entering care during the 12-month period who were due to have a completed case plan and had a completed plan within 60 days of entry. The timeliness of case plans is measured in accordance with policy allowing up to 60 days to complete a child and family's case plan. For this reason, data for this measure will be reported with a 60-day lag. A case plan must be signed and dated by the supervisor to be considered complete. The Denominator is all children who enter care during the period and remain for at least 60 days, and the Numerator is those children who remain in care for 60 or more days following their entry into care and have a completed case plan within 60 days. The methodology shall be the same that ODHS uses to calculate and report performance in its current 2025 monthly "Child Welfare Division Progress Report to the

Governor," available on the ODHS website.[5] To establish a baseline, the initial period under review will be January 1, 2025 to December 31, 2025, and annually thereafter from January 1st to December 31st. In addition to reporting performance for the 12-month period to the Neutral, ODHS will provide the Denominator and Numerator data to the Neutral for each quarter, statewide and by district during the 12-month period within 30 days of the end of the quarter. For avoidance of doubt, the quarterly reporting is due May 1st, August 1st, November 1st and February 1st. If ODHS establishes a performance dashboard reporting real-time results, statewide and by district, accessible to the Neutral, the Neutral shall rely on the dashboard for quarterly reporting by ODHS. ODHS will report full performance for the 12-month period to the Neutral, statewide and by district, by April 1, 2026, and annually thereafter by April 1st of each successive year.

Ultimate Outcome: At least 90 percent of children entering care during the 12-month period who were due to have a completed case plan (which is required within 60 days of entering care) had a completed plan within 60 days of entry.

Timeline: ODHS will aim to achieve the Ultimate Outcome by April 1, 2028 and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 5, reporting annual performance for the 12-month period.

Category 4: Timeliness to Complete Professional Mental Health and Medical Assessments and Referrals for Reasonable and Necessary Medical and Mental Health Care, Services, and Treatment for a Child in Care (OAR 413-015-0465) (Settlement Agreement Section 2.4)

Measurement 6: Nursing Assessments. The method for assessing progress toward the Ultimate Outcome will be the percentage of children entering substitute care during the period (the calendar year) who receive a complete ODHS nursing assessment[6] within 10 days of entry into substitute care, excluding children who enter and exit substitute care within 10 days, during the 12-month period. The Denominator is all children who enter substitute care during the calendar year and remain for at least 10 days. The Numerator is all children who enter substitute care during the calendar year and receive a complete ODHS nursing assessment within 10 days of entry to substitute care.[7] In Oregon, when a child is placed in substitute care, a nursing assessment is required. This assessment, conducted by a DHS-contracted nurse, is part of the intake process for the child and is outlined in Oregon Administrative Rules. The assessment helps determine the

[5] See https://www.oregon.gov/odhs/child-welfare-transformation/progressreports/cw-progress-report-2025-03.pdf

[6] The Nursing Assessment means an assessment conducted by a DHS-contracted or DHS-employed nurse, and includes all aspects defined in the ODHS Policy and Procedures Manual, Chapter 5, Section 48, effective May 20, 2025. The Nursing Assessment includes all forms provided by ODHS to the Neutral via email on March 7, 2025, in Appendix D to the ODHS Wyatt B. Collaborative Agreement Packet submission, pp. 37-55.

[7] Children who enter substitute care in late December of a calendar year may receive their timely nursing assessments in the following calendar year, since performance may lag up to 10 days following entry.

child's health needs and ensures they receive appropriate medical care. To establish a baseline, the initial period under review will be January 1, 2025 to December 31, 2025, and annually thereafter from January 1st to December 31st. In addition to reporting performance for the 12-month period to the Neutral, ODHS will provide the Denominator and Numerator data to the Neutral for each quarter, statewide and by district, during the 12-month period. For avoidance of doubt, the quarterly reporting is due on May 1st, August 1st, November 1st and February 1st. If ODHS establishes a performance dashboard reporting real-time results, statewide and by district, accessible to the Neutral, the Neutral shall rely on the dashboard for quarterly reporting by ODHS. The quarterly or dashboard data will include the total number of children who entered substitute care in the quarter and timelines for completion of their Nursing Assessments (i.e., within 10 days, 11-20 days, or 21 or more days). The quarterly or dashboard data will also include a list of all children who entered substitute care in the quarter by case number (and not by identifying name), date of entry to substitute care, and if applicable the date of exit from substitute care. The quarterly or dashboard data will also identify by case number (and not by identifying name) those children who received the completed nursing assessment within 10 days of entry, and those who did not, presented by district and statewide (i.e., within 10 days, 11-20 days, or 21 or more days). ODHS will report full performance for the 12-month period to the Neutral, statewide and by district, by April 1, 2026, and annually thereafter by April 1st of each successive year. The Neutral may select a random sample of nursing assessments for review to confirm the accuracy of the aggregated data results.[8] ODHS will within 30 days submit to the Neutral, or provide the Neutral access to, the completed nursing assessments for the selected cases, redacting the children's names but preserving case numbers, in order for the Neutral to review and confirm the accuracy of the aggregated data.[9]

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[8] Agreement Section 3.10.1 states that "The Neutral shall only have access to child-specific data and documents (other than ODHS's case review sampling process described in Section 2.5.1), if the Neutral makes a showing of substantial need. Substantial need includes, but is not limited to, examining issues indicative of system- wide concerns or confirming the accuracy of the aggregate data. Substantial need does not include information needed to intervene in individual cases."

In the Final Fairness Hearing in this matter, the Neutral apprised the U.S. District Court that he did not intend to validate the State's data and information, "I won't be integrating into my work an independent validation process, not unless there comes to the parties' attention or my attention that there is a reason to mistrust that. But the default here is that this data and case reading system is trustworthy and is a very important platform for the improvement work that will go forward." Transcript, Final Fairness Hearing, *Wyatt B., et al. v. Tina Kotek, et al.,* U.S. District Court, District of Oregon (Eugene Division), Case No. 6:19-cv-00556-AA, (September 12, 2024) pp. 90-91.

The U.S. District Court in that hearing and prior to approving the Settlement Agreement, requested the Neutral validate State data and information: "THE COURT: I guess I'm going to say personally I would like you to, in your first report, validate that information one way or the other, or ask for the resources that you need. My concern is, having been a juvenile judge in '95, we didn't have any -- they were paper files. There wasn't -- data wasn't collected. There wasn't that system available. So it's only these last couple of decades we've even had that resource, and I just want to make sure that we have not just adequate but excellent data to work with. So I hope that you will address that early on that those representations were, in fact, accurate, and Oregon is even or ahead in terms of our data collection. That would be important, because I'm a big believer in measurables." Transcript, Final Fairness Hearing, *Wyatt B., et al. v. Tina Kotek, et al.,* U.S. District Court, District of Oregon (Eugene Division), Case No. 6:19-cv-00556-AA, (September 12, 2024) p. 91.

Ultimate Outcome: At least 90 percent of children entering substitute care will receive a completed ODHS nursing assessment within 10 days of entry to substitute care.

Timeline: ODHS will aim to achieve the Ultimate Outcome by December 31, 2028 and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 6, reporting annual performance for the 12-month period.

Measurement 7: Mental Health Assessments. The method for assessing progress toward the Ultimate Outcome will be the percentage of children aged 3 years and older who enter substitute care and receive age-appropriate mental health assessments within 60 days of entering substitute care. The Denominator is all children aged 3 years and older who enter substitute care during the period (the calendar year) and remain for at least 60 days, and the Numerator is those children who remain in substitute care for 60 or more days following their entry into substitute care and received a completed age-appropriate mental health assessment[10] within 60 days of entry. To establish the baseline, the initial period under review will consist of children entering substitute care from January 1, 2025 to December 31, 2025, and annually thereafter from January 1st to December 31st.[11] In addition to reporting performance for the 12-month period to the Neutral statewide and by district, ODHS will provide the data statewide and by district to the Neutral for each quarter during the 12-month. For avoidance of doubt, because this data and information will be reported on a lag following children's entry to substitute care during the calendar year, the quarterly reporting will be due June 1st, September 1st, December 1st and March 1st. If ODHS establishes a performance dashboard reporting real-time results, statewide and by district, accessible to the Neutral, the Neutral shall rely on the dashboard for quarterly reporting by ODHS. The quarterly or dashboard data will include the total number of children aged 3 years and older who entered substitute care in the quarter and the timeline for completion of their age-appropriate mental health assessments, by district and statewide (i.e., within 60 days or more than 60 days). The quarterly or dashboard data will also include a list of children aged 3 years and older who entered substitute care in the quarter by case number (and not by identifying name) including date of entry to substitute care, if applicable the date of exit from substitute care, if applicable the date of the age-appropriate mental health assessments, by district and statewide (i.e., within 60 days or more than 60 days). ODHS will report full performance for the 12-month period to the Neutral, statewide and by district, by April 1, 2026, and annually thereafter by April 1st of each successive year.

[10] A mental health assessment includes a comprehensive evaluation conducted by a community based Qualified Mental Health Professional (QMHP) that includes an interview to assess symptoms, behaviors and overall mental health status and a review of relevant medical and mental health records. A Child and Adolescent Needs and Strengths (CANS) screening is not a mental health assessment. Although Oregon does not presently use a Child and Adolescent Trauma Screen (CATS), the CATS is not a mental health assessment.

[11] Children who enter substitute care in November and December of a calendar year may receive their timely mental health assessments in the following calendar year, since performance may lag up to 60 days following entry.

In reporting results, ODHS will identify the Denominator, Numerator and performance calculation for the quarter and the year. The Neutral may select a random sample of up to 25 mental health assessments annually for review to confirm the accuracy of the aggregated data results.[12] ODHS will within 30 days submit to the Neutral, or provide the Neutral access to, the complete mental health assessments for the selected cases, redacting the children's names but preserving case numbers and dates of birth, in order for the Neutral to conduct the review and confirm the accuracy of the aggregated data.

Ultimate Outcome: At least 90 percent of children aged 3 years and older who enter substitute care and remain in substitute care for at least 60 days will receive age-appropriate mental health assessments within 60 days of entry to substitute care.

Timeline: ODHS will aim to achieve the Ultimate Outcome by December 31, 2029 and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 7, reporting annual performance for the 12-month period.

Measurement 8: Complete Medical Assessments. The method for assessing progress toward the Ultimate Outcome will be the percentage of children who receive a complete medical assessment with a primary health provider (PHP) within 60 days of the child entering substitute care.[13] The

[12] Agreement Section 3.10.1 states that "The Neutral shall only have access to child-specific data and documents (other than ODHS's case review sampling process described in Section 2.5.1), if the Neutral makes a showing of substantial need. Substantial need includes, but is not limited to, examining issues indicative of system- wide concerns or confirming the accuracy of the aggregate data. Substantial need does not include information needed to intervene in individual cases."

In the Final Fairness Hearing in this matter, the Neutral apprised the U.S. District Court that he did not intend to validate the State's data and information, "I won't be integrating into my work an independent validation process, not unless there comes to the parties' attention or my attention that there is a reason to mistrust that. But the default here is that this data and case reading system is trustworthy and is a very important platform for the improvement work that will go forward." Transcript, Final Fairness Hearing, *Wyatt B., et al. v. Tina Kotek, et al.,* U.S. District Court, District of Oregon (Eugene Division), Case No. 6:19-cv-00556-AA, (September 12, 2024) pp. 90-91.

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[13] A complete medical assessment of a foster child means an assessment by a healthcare provider within the child's CCO Medical Home. The assessment includes a thorough examination of the child's physical health and developmental status, as well as screenings for potential health issues and referrals for specialized care. It also

Denominator is all children who enter substitute care during the period and remain for at least 60 days, and the Numerator is those children who remain in substitute care for 60 or more days following their entry into substitute care and had a complete medical assessment with a primary health provider (PHP) within 60 days of the child entering substitute care. To establish the baseline, the initial period under review will be January 1, 2025 to December 31 2025, and annually thereafter from January 1st to December 31st.[14] In addition to reporting performance for the 12-month period to the Neutral, ODHS will provide data to the Neutral for each quarter during the 12-month period within 60 days of the end of the quarter. For avoidance of doubt, because this data and information will be reported on a lag following children's entry to substitute care during the calendar year, the quarterly reporting will be due June 1st, September 1st, December 1st and March 1st. If ODHS establishes a performance dashboard reporting real-time results, statewide and by district, accessible to the Neutral, the Neutral shall rely on the dashboard for quarterly reporting by ODHS. The quarterly or dashboard data will include the total number of children who entered substitute care in the quarter and the timeline for completion of their complete medical assessments with a primary health provider (PHP), by district and statewide (i.e., within 60 days or more than 60 days). The quarterly or dashboard data will also include a list of children by case number, (and not by identifying name), date of entry to substitute care, if applicable the date of exit from substitute care, and if applicable the date of the complete health assessment with a primary health provider (PHP), by district and statewide (i.e., within 60 days or more than 60 days). ODHS will report full performance for the 12-month period to the Neutral, statewide and by district, by April 1, 2026, and annually thereafter by April 1st of each successive year.

In reporting results, data, and information, ODHS shall identify those children by case number who received the complete health assessment with a PHP within 60 days of entry to substitute care, and those who did not, statewide and by district. ODHS will identify the Denominator, Numerator and performance calculation for the quarter and the year. The Neutral may select a random sample of up to 25 complete health assessments annually for review to confirm the accuracy of the aggregated data results. ODHS will within 30 days submit to the Neutral, or provide the Neutral access to, the complete health assessments with a PHP for the selected cases, redacting the children's names but preserving case numbers, in order for the Neutral to review and confirm the accuracy of the aggregated data.[15]

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involves reviewing available medical records, assessing immunization status, and developing a treatment plan and well child visit schedule.

[14] Children who enter substitute care in November and December of a calendar year may receive their complete medical assessments in the following calendar year, since performance may lag up to 60 days following entry.

[15] Section 3.10.1 of the Settlement Agreement states that "The Neutral shall only have access to child-specific data and documents (other than ODHS's case review sampling process described in Section 2.5.1), if the Neutral makes a showing of substantial need. Substantial need includes, but is not limited to, examining issues indicative of system-wide concerns or confirming the accuracy of the aggregate data. Substantial need does not include information needed to intervene in individual cases."

In the Final Fairness Hearing in this matter, the Neutral apprised the U.S. District Court he did not intend to validate the State's data and information, "I won't be integrating into my work an independent validation process, not unless there comes to the parties' attention or my attention that there is a reason to mistrust that. But the default here is

Ultimate Outcome: At least 90 percent of children who enter substitute care and remain in substitute care for at least 60 days will receive a complete health assessment with a primary health provider (PHP) within 60 days of entry to substitute care.

Timeline: ODHS will aim to achieve the Ultimate Outcome by December 31, 2029 and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 8, reporting annual performance for the 12-month period.

Category 5: Appropriateness and Quality of Placements and Services for Children in Care (Settlement Agreement Section 2.5): This shall be qualitatively evaluated by the Neutral through access to ODHS's existing case review sampling process.[16]

Measurement 9: Appropriateness and Quality of Placements. The method for assessing progress will be the CFSR Round 4, Item 4 qualitative case review methodology: Is the child in foster care in a stable placement and were any changes in the child's placement in the best interests of the child and consistent with achieving the child's permanency goal(s)? The baseline for Measurement 9 shall be the strength rating established as part of Oregon's CFSR Round 4 case reviews. The annual period under review will be the federal fiscal year – October 1st to September 30th and ODHS will report its initial performance by no later than April 1, 2026, and then annually by no later than April 1st of each subsequent year. ODHS will make efforts sufficient to achieve a performance of 90 percent of reviewed cases rated as a Strength. The Review: The review process, including the sampling methodology, will be the same as ODHS's CFSR case review sampling process as existed on May 23, 2024, the date that the executed Agreement in this matter was filed.[17] Each year when ODHS reports its annual performance to the Neutral, ODHS will certify in

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that this data and case reading system is trustworthy and is a very important platform for the improvement work that will go forward." Transcript, Final Fairness Hearing, *Wyatt B., et al. v. Tina Kotek, et al.,* U.S. District Court, District of Oregon (Eugene Division), Case No. 6:19-cv-00556-AA, (September 12, 2024) pp. 90-91.

The U.S. District Court in that hearing and prior to approving the Settlement Agreement, requested the Neutral validate State data and information: "THE COURT: I guess I'm going to say personally I would like you to, in your first report, validate that information one way or the other, or ask for the resources that you need. My concern is, having been a juvenile judge in '95, we didn't have any -- they were paper files. There wasn't -- data wasn't collected. There wasn't that system available. So it's only these last couple of decades we've even had that resource, and I just want to make sure that we have not just adequate but excellent data to work with. So I hope that you will address that early on that those representations were, in fact, accurate, and Oregon is even or ahead in terms of our data collection. That would be important, because I'm a big believer in measurables." Transcript, Final Fairness Hearing, *Wyatt B., et al. v. Tina Kotek, et al.,* U.S. District Court, District of Oregon (Eugene Division), Case No. 6:19-cv-00556-AA, (September 12, 2024) p. 91.

[16] Agreement Section 2.5.1.

[17] *Wyatt B., et al. v. Tina Kotek, et al.,* U.S. District Court, District of Oregon (Eugene Division), Case No. 6:19-cv-00556-AA, Document 481, (May 23, 2024).

writing that it used a review process, including the sampling methodology, that was the same as ODHS's CFSR case review sampling process as existed on May 23, 2024, the date that the executed Agreement was filed in this matter.[18] By October 1st of each year, ODHS will identify to the Neutral the names of individuals who will conduct the review, their titles, employer, and if ODHS, their assigned ODHS program. ODHS reviewers may not assess cases within their assigned district. Results: Once the review commences, ODHS will report quarterly to the Neutral on the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology) listing each reviewed case's identification number and its final assigned rating. For avoidance of doubt, the quarterly reporting is due February 1st, May 1st, August 1st, and November 1st. ODHS may establish a performance dashboard reporting real-time results - the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology) listing each reviewed case's identification number and its final assigned rating - accessible to the Neutral, in which case the Neutral shall rely on the dashboard for quarterly reporting by ODHS.

The Neutral will have access to ODHS's case review sampling process and will randomly select a sample of completed reviews to qualitatively evaluate this Measurement consistent with the Settlement Agreement.[19] When the Neutral selects cases for a qualitative review by the Neutral and/or the Neutral's team, ODHS will within 30 days submit to the Neutral, or provide the Neutral access to, all associated data and information used for the case reviews of the selected cases in order for the Neutral to conduct the qualitative review. If the Neutral disagrees with the rating assigned in the initial review of a case, the Neutral will notify ODHS.

Ultimate Outcome: At least 90 percent of qualitatively reviewed cases annually shall be rated as a Strength.

Timeline: ODHS will aim to achieve the Ultimate Outcome by April 1, 2028 and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 9, reporting annual performance for the 12-month period.

Measurement 10: Physical Health Needs. The method for assessing progress will be the CFSR Round 4, Item 17 qualitative case review methodology: Did the agency address the physical health needs of children, including dental health needs? The baseline for Measurement 10 shall be the strength rating established as part of Oregon's CFSR Round 4 case reviews. ODHS will make efforts sufficient to achieve a performance of 90 percent of reviewed cases rated as a Strength. ODHS will report its initial performance by no later than April 1, 2026 and annually by April 1st of each subsequent year. Going forward, the periods under review will be the federal fiscal year, October 1st – September 30th annually. The Review: The review process, including the sampling

[18] Agreement Section 2.5.1 states, "This shall be qualitatively evaluated by the Neutral through access to ODHS's *existing* case review sampling process." (emphasis added)

[19] Agreement Section 2.5.1.

methodology, will be the same as ODHS's CFSR case review sampling process as existed on May 23, 2024, the date that the executed Agreement was filed.[20] Each year when ODHS reports its annual performance to the Neutral, ODHS will certify in writing that it used a review process, including the sampling methodology, that was the same as ODHS's CFSR case review sampling process as existed on May 23, 2024, the date that the executed Agreement was filed in this matter. By October 1st of each year, ODHS will identify to the Neutral the names of individuals who will conduct the review, their titles, employer, and if ODHS, their assigned ODHS program. ODHS reviewers may not assess cases within their assigned district. Results: Once the review commences, ODHS will report quarterly to the Neutral on the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology) listing each reviewed case's identification number and its final assigned rating. For avoidance of doubt, the quarterly reporting is due February 1st, May 1st, August 1st, and November 1st. ODHS may establish a performance dashboard reporting real-time results - the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology) listing each reviewed case's identification number and its final assigned rating - accessible to the Neutral, in which case the Neutral shall rely on the dashboard for quarterly reporting by ODHS.

The Neutral will have access to ODHS's case review sampling process and will randomly select a sample of completed reviews to qualitatively evaluate this Measurement consistent with the Settlement Agreement.[21] When the Neutral selects cases for a qualitative review by the Neutral and/or the Neutral's team, ODHS will within 30 days submit to the Neutral, or provide the Neutral access to, all associated data and information used for the case reviews of the selected cases in order for the Neutral to conduct the qualitative review. If the Neutral disagrees with the rating assigned in the initial review of a case, the Neutral will notify ODHS.

Ultimate Outcome: At least 90 percent of qualitatively reviewed cases annually shall be rated as a Strength.

Timeline: ODHS will aim to achieve the Ultimate Outcome by April 1, 2028 and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 10, reporting annual performance for the 12-month period.

Measurement 11: Mental/Behavioral Health of the Child. The method for assessing progress will be the CFSR Round 4, Item 18 qualitative case review methodology: Did the agency address the mental/behavioral health needs of children? The baseline for Measurement 11 shall be the strength rating established as part of Oregon's CFSR Round 4 case reviews. ODHS will report its initial performance by no later than April 1, 2026, and then annually by no later than April 1st of

[20] Agreement Section 2.5.1 states, "This shall be qualitatively evaluated by the Neutral through access to ODHS's *existing* case review sampling process." (emphasis added)

[21] Agreement Section 2.5.1.

each subsequent year. ODHS will make efforts sufficient to achieve a performance of 90 percent of reviewed cases rated as a Strength. ODHS will report its initial performance by no later than April 1, 2026 and annually by April 1st of each subsequent year. Going forward, the periods under review will be the federal fiscal year, October 1st – September 30th annually. The Review: The review process, including the sampling methodology, will be the same as ODHS's CFSR case review sampling process as existed on May 23, 2024, the date that the executed Agreement was filed.[22] Each year when ODHS reports its annual performance to the Neutral, ODHS will certify in writing that it used a review process, including the sampling methodology, that was the same as ODHS's CFSR case review sampling process as existed on May 23, 2024, the date that the executed Agreement was filed in this matter. By October 1st of each year, ODHS will identify to the Neutral the names of individuals who will conduct the review, their titles, employer, and if ODHS, their assigned ODHS program. ODHS reviewers may not assess cases within their assigned district. Results: Once the review commences, ODHS will report quarterly to the Neutral on the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology) listing each case review ID number and its final assigned rating. For avoidance of doubt, the quarterly reporting is due May 1st, August 1st, November 1st and February 1st. ODHS may establish a performance dashboard reporting real-time results - the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology) listing each reviewed case's identification number and its final assigned rating - accessible to the Neutral, in which case the Neutral shall rely on the dashboard for quarterly reporting by ODHS.

The Neutral will have access to ODHS's case review sampling process and will randomly select a sample of completed reviews to qualitatively evaluate this Measurement consistent with the Settlement Agreement.[23] When the Neutral selects cases for a qualitative review by the Neutral and/or the Neutral's team, ODHS will within 30 days submit to the Neutral, or provide the Neutral access to, all associated data and information used for the case reviews of the selected cases in order for the Neutral to conduct the qualitative review. If the Neutral disagrees with the rating assigned in the initial review of a case, the Neutral will notify ODHS.

Ultimate Outcome: At least 90 percent of qualitatively reviewed cases annually shall be rated as a Strength.

Timeline: ODHS will aim to achieve the Ultimate Outcome by April 1, 2028 and sustain performance for three consecutive years. "Sustain performance" will be measured using the same methodology set forth in Measurement 11, reporting annual performance for the 12-month period.

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[22] Agreement Section 2.5.1 states, "This shall be qualitatively evaluated by the Neutral through access to ODHS's *existing* case review sampling process." (emphasis added)

[23] Agreement, Section 2.5.1.

Measurement 12: Needs Assessment and Services for Children. The method for assessing progress will be the CFSR Round 4, Item 12(a) qualitative case review methodology: Did the agency make concerted efforts to assess the needs of and provide services to children, to identify the services necessary to achieve case goals and adequately address the issues relevant to the agency's involvement with the child and family? The baseline for Measurement 12 shall be the strength rating established as part of Oregon's CFSR Round 4 case reviews. ODHS will make efforts sufficient to achieve a performance of 90 percent of reviewed cases rated as a Strength. ODHS will report its initial performance by no later than April 1, 2026 and annually by April 1st of each subsequent year. Going forward, the periods under review will be the federal fiscal year, October 1st – September 30th annually. The Review: The review process, including the sampling methodology, will be the same as ODHS's CFSR case review sampling process as existed on May 23, 2024, the date that the executed Agreement was filed.[24] Each year when ODHS reports its annual performance to the Neutral, ODHS will certify in writing that it used a review process, including the sampling methodology, that was the same as ODHS's CFSR case review sampling process as existed on May 23, 2024, the date that the executed Agreement was filed in this matter. By October 1st of each year, ODHS will identify to the Neutral the names of individuals who will conduct the review, their titles, employer, and if ODHS, their assigned ODHS program. ODHS reviewers may not assess cases within their assigned district. Results: Once the review commences, ODHS will report quarterly to the Neutral on the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology) listing each case review ID number and its final assigned rating. For avoidance of doubt, the quarterly reporting is due February 1st, May 1st, August 1st, and November 1st. ODHS may establish a performance dashboard reporting real-time results - the final rating assigned to completed case reviews (which shall be "Strength" or "Needs Improvement" consistent with the federal methodology) listing each reviewed case's identification number and its final assigned rating - accessible to the Neutral, in which case the Neutral shall rely on the dashboard and for quarterly reporting by ODHS.

The Neutral will have access to ODHS's case review sampling process and will randomly select a sample of completed reviews to qualitatively evaluate this Measurement consistent with the Settlement Agreement.[25] When the Neutral selects cases for a qualitative review by the Neutral and/or the Neutral's team, ODHS will within 30 days submit to the Neutral, or provide the Neutral access to, all associated data and information used for the case reviews of the selected cases in order for the Neutral to conduct the qualitative review. If the Neutral disagrees with the rating assigned in the initial review of a case, the Neutral will notify ODHS.

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[24] Agreement, Section 2.5.1 states, "This shall be qualitatively evaluated by the Neutral through access to ODHS's *existing* case review sampling process." (emphasis added)

[25] Agreement Section 2.5.1.

Timeline: Assessed annually for progress until termination of the case unless the Neutral determines that Category 2.5 no longer needs to be a part of the Annual Review.

Category 6: Notification of Maltreatment (Settlement Agreement Section 2.6)

Measurement 13: Notifications of Reports of Abuse of Children in Care. The Settlement requires the Neutral to "assess ODHS's efforts, policies, and practices" regarding notifications and providing records about maltreatment in care as required by applicable Oregon statutes, including ORS 419B.015, 419B.035, and ORS 418.259. Pursuant to ORS 419B.015 (3) "(a) When a report alleging that a child or ward in substitute care may have been subjected to abuse is received by the department, the department shall notify the attorney for the child or ward, the child's or ward's court appointed special advocate, the parents of the child or ward and any attorney representing a parent of the child or ward that a report has been received. (b) The name and address of and other identifying information about the person who made the report may not be disclosed under this subsection. Any person or entity to whom notification is made under this subsection may not release any information not authorized by this subsection. (c) The department shall make the notification required by this subsection within three business days of receiving the report of alleged child abuse. (d) Notwithstanding the obligation imposed by this subsection, the department is not required under this subsection to notify the parent or parent's attorney that a report of alleged child abuse has been received if the notification may interfere with an investigation or assessment or jeopardize the child's or ward's safety."

Assessing ODHS's efforts, policies, and practices to make the notifications of reports that a child in care may have been abused within 3 days as required by law, will be informed by (1) ODHS's reporting by May 1 and November 1 each year on its efforts, policies and practices to improve performance regarding notifications and providing records about maltreatment in care (as required by applicable Oregon statutes, including ORS 419B.015, ORS 419B.035, and ORS 418.259 and (2) a qualitative case record review conducted by ODHS to assess performance with respect to ORS 419B.015. The qualitative case record review will identify the date of such report; identify the date, and form of any required notices; and assess the efforts that ODHS made to notify all of the following of the report within the statutorily designated time frame: the attorney for the child, the child's court appointed special advocate, the parents of the child and any attorney representing a parent of the child.

Because the tool and methodology for this review does not currently exist, ODHS shall develop and submit to the Neutral by November 15, 2025 a proposed tool, a detailed methodology description, and definitions dictionary for terms used in the tool. The tool will be used to both (A) report whether ODHS made the required notifications in the timeframe set forth in statute and (B) report on ODHS's efforts to make the required notifications in the timeframe set forth in statute using the "strength" and "area in need of improvement" framework, consistent with federal methodology and current reporting processes on other items measured during the CFSR process. The Neutral will review ODHS's proposed tool, methodology description, and definitions

dictionary for terms used in the tool, and provide feedback to ODHS following consultation with the parties. The tool, methodology description, and definitions dictionary for terms used in the tool must be approved by the Neutral prior to implementation for this Measurement, and the Neutral and ODHS will work together collaboratively to have in place a final approved tool, detailed methodology description, and definitions dictionary for terms used in the tool by May 1, 2026. The methodology will include a sampling of 100 reports annually, randomly selected by the Neutral, from the complete list of all reports received by ODHS during the preceding calendar fiscal year, January 1 to December 31, alleging that a child or ward in substitute care may have been subjected to abuse.

ODHS will aim to make sufficient efforts such that 90 percent of cases qualitatively reviewed each year shall be rated as Strength. The definition of child abuse used in this Measurement is the same as defined by Oregon statute(s).

ODHS will train reviewers and pilot the tool beginning by June 1, 2026.

For (1) above, ODHS will report on its efforts to implement technology updates, training, and tools for staff, and to track all statutorily required notifications, in all districts, in its Efforts Report on May 1st of each year. For (2) above, to establish a baseline, the initial 12-month period under review will be January 1, 2027 to December 31, 2027, and ODHS will report its initial performance by no later than April 1, 2028, and annually by April 1st thereafter. To conduct the review in 2027, ODHS will provide the Neutral by January 31, 2027, with a complete list of reports received in 2026 alleging that a child or ward in substitute care may have been subjected to abuse. Reports will be listed by date received and identification number. Within 30 days of receiving the list of reports, the Neutral will independently select and provide ODHS with a sample of 100 reports to be reviewed using the approved tool and methodology. Annually thereafter, ODHS will provide the Neutral by January 31st with a complete list of reports received in the preceding calendar year alleging that a child or ward in substitute care may have been subjected to abuse. Reports will be listed by date received and identification number. Within 30 days of receiving the list of reports, the Neutral will provide ODHS with a sample of 100 reports to be reviewed using the approved tool and methodology. Reviewers: By February 1st of each year, beginning February 1, 2027, ODHS will identify to the Neutral the names of individuals who will conduct the review, their titles, employers, and if ODHS, their assigned ODHS program. ODHS reviewers may not assess cases within their assigned district.

Timeline: Assessed annually for progress until termination of the case unless the Neutral determines that Category 2.6 no longer needs to be a part of the Annual Review.

Category 7: Core Strategies and Efforts Reporting (Settlement Agreement Section 2.7)[26]

Measurement 14: Beginning in 2026, by May 1st and November 1st of each year, ODHS will submit to the Neutral a detailed semi-annual Efforts Report delineating, and assessing the effectiveness of, the agency's efforts to substantially achieve the Measurements and Ultimate Outcomes, identifying the agency's core strategies for each Measurement and Ultimate Outcome, as well as detailed, data-informed plans, including timelines, to refine, add, or alter Core Strategies. The Efforts Report will also analyze relevant performance data, identify systemic, statewide or district-specific barriers to improved performance, and assess the effectiveness of ODHS's efforts to substantially achieve the Measurements and Ultimate Outcomes. The Efforts Reports shall identify circumstances outside of the control of ODHS that affect ODHS's ability to substantially achieve the Measurements and Ultimate Outcomes. Performance is based on completion and submission of the semi-annual Effort Reports, as described, by May 1st and November 1st.

Timeline: Assessed annually until termination of the case unless the Neutral determines that Category 2.5 no longer needs to be a part of the Annual Review.

[26] Agreement Section 2.7 states, "The Neutral may recommend no more than two (2) additional Categories in total, provided that such Category must be within the scope of claims and relief in this case that are actionable under the United States Constitution Fourteenth Amendment Substantive Due Process Clause or the Americans with Disabilities Act and recommended within two (2) years of the Effective Date. Any dispute between the Neutral and Defendants regarding this provision shall be submitted to the Arbitrator per Section 9.