



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 17, 2020

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**Title**

Trial Courts: Update to Children's Waiting Room Distribution and Fund Balance Policy

**Agenda Item Type**

Action Required

**Effective Date**

January 17, 2020

**Rules, Forms, Standards, or Statutes Affected**

None

**Date of Report**

December 20, 2019

**Recommended by**

Trial Court Budget Advisory Committee  
Hon. Jonathan B. Conklin, Chair

**Contact**

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### Executive Summary

The Trial Court Budget Advisory Committee recommends changes to the Children's Waiting Room Distribution and Fund Balance Policy, including an update to the timing of when children's waiting room fund balance cap reductions will occur, removal of language that is no longer relevant, other technical revisions to clarify language in the policy, and the timeline for submissions.

### Recommendation

The Trial Court Budget Advisory Committee unanimously recommends that the Judicial Council adopt the following revisions to the Children's Waiting Room Distribution and Fund Balance Policy, effective January 17, 2020:

1. Move the submission requirement from Section A to above Section A of the policy to clarify that the requirement pertains to all types of children's waiting room requests;
2. Change the number of days for submissions from 45 days to 70 business days before the council meeting to allow sufficient time for consideration of requests by the Fiscal Planning Subcommittee and the Trial Court Budget Advisory Committee to the council;

3. Change from August to October the distribution month that returns of funds in excess of the children's waiting room fund balance cap be implemented through a reduction to trial court distribution; and
4. Make technical language revisions and clarifications.

### **Relevant Previous Council Action**

Government Code section 70640 authorizes the Judicial Council to provide monthly children's waiting room (CWR) distributions to each court where a CWR has been established or where the court has elected to establish such a service. CWR distributions for individual courts are made from the respective court's first paper civil filing fee collections, which would otherwise support all courts' Trial Court Trust Fund (TCTF) base allocations. The distribution to a court must be no less than \$2 and no more than \$5 per paid first paper civil filing fee.

The Judicial Council first adopted a policy and procedure on court requests for CWR distributions at its business meeting on June 27, 2014.<sup>1</sup> The council has since adopted various revisions to the policy, including clarification on when distributions may be requested in advance of a CWR planned opening and when distributions will end for temporary or permanent closures.<sup>2</sup> Additionally, effective June 26, 2015, the policy specified a cap on the amount of CWR fund balance that courts can carry forward from one fiscal year to the next, based on the highest annual distribution within the most recent three fiscal years. Courts that have a CWR fund balance in excess of the calculated CWR cap would have their allocation reduced by the amount above the cap in the subsequent fiscal year.<sup>3</sup>

At its business meeting on March 24, 2017, the council approved a revision to the policy to extend the review and adjustment of CWR fund balances from an annual to a biennial schedule and require annual reporting for courts that retain excess funding for multiyear contracts (Attachment A).

### **Analysis/Rationale**

Recommended changes to the CWR Distribution and Fund Balance policy (Attachment B) were considered by the Trial Court Budget Advisory Committee (TCBAC) at its meeting on November 21, 2019. The current policy states that the return of funds in excess of the CWR fund

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<sup>1</sup> Judicial Council of Cal., Advisory Com. Rep., *Trial Court Allocations: Children's Waiting Room Distribution* (June 27, 2014), [www.courts.ca.gov/documents/jc-20140627-itemK.pdf](http://www.courts.ca.gov/documents/jc-20140627-itemK.pdf); Judicial Council of Cal., mins. (June 26–27, 2014), pp. 10–11, [www.courts.ca.gov/documents/jc-20140627-minutes.pdf](http://www.courts.ca.gov/documents/jc-20140627-minutes.pdf).

<sup>2</sup> Judicial Council of Cal., Advisory Com. Rep., *Trial Courts: Distribution Request Process for Children's Waiting Rooms and Distribution Request from a Court* (Nov. 26, 2014), [www.courts.ca.gov/documents/jc-20141212-itemD.pdf](http://www.courts.ca.gov/documents/jc-20141212-itemD.pdf); Judicial Council of Cal., mins. (Dec. 11–12, 2014), pp. 15–16, [www.courts.ca.gov/documents/jc-20141212-minutes.pdf](http://www.courts.ca.gov/documents/jc-20141212-minutes.pdf).

<sup>3</sup> Judicial Council of Cal., Advisory Com. Rep., *Trial Courts: Children's Waiting Room Policy* (June 26, 2015), [www.courts.ca.gov/documents/jc-20150626-itemH.pdf](http://www.courts.ca.gov/documents/jc-20150626-itemH.pdf); Judicial Council of Cal., mins. (June 25–26, 2015), p. 22, [www.courts.ca.gov/documents/jc-20150626-minutes.pdf](http://www.courts.ca.gov/documents/jc-20150626-minutes.pdf).

balance cap will be accomplished through a reduction in the court's August trial court distribution. The recommended changes to the policy would update this time frame to the October trial court distribution to allow sufficient time for:

1. Courts to close the fiscal year and fund balances to be finalized, typically in late July;
2. Total distributions for the fiscal year to be known, given that the final distribution #14 in August is scheduled for August 30th of each year;
3. Budget Services staff to calculate the estimated reduction and distribute this information to the courts;
4. Confirmation and agreement from the courts on the amount to be reduced; and
5. Courts to submit a fund balance cap adjustment. Requests for a cap adjustment must be received by Budget Services within 60 days of the end of the fiscal year for which the adjustment is being requested.

Technical changes include removing language specifying that the biennial review will occur "every other fiscal year (beginning with fiscal year 2016–2017)" to reflect "fiscal years ending with an odd number." Other notable changes include clarification that if a court has submitted a request for a cap adjustment that is pending Judicial Council consideration, the requesting court will not have its allocation reduced in October, but instead will have action taken in the next scheduled distribution following Judicial Council approval or denial of the fund balance cap adjustment request.

In addition, the recommendation includes elimination of Section E of the CWR policy because this section is no longer relevant. This section was related to courts that received a distribution between January 1, 2006, and June 30, 2014, but never operated a CWR. For these courts, this section required that the courts apply for continued distribution by September 26, 2015, or their distributions would end on January 1, 2016, with any remaining fund balance returned to the TCTF by October 2015.

Finally, further refinements to the policy include:

- Moving submission requirements above Section A of the policy to provide clarity that the requirement pertains to all types of CWR requests; and
- Changing the number of days for submissions from 45 days to 70 business days before the council meeting to allow sufficient time for consideration of requests by the Fiscal Planning Subcommittee and TCBAC to the council.

### **Policy implications**

Implementation requirements for amending this policy include notifying trial courts and impacted Judicial Council staff of policy changes.

**Comments**

No public comments were received on this item.

**Alternatives considered**

None.

**Fiscal and Operational Impacts**

No costs are associated with implementing this policy proposal. Operational impacts are likely to be beneficial to courts and Judicial Council staff because policy changes allow time to process CWR cap reductions and requests and provide clarification on policy direction.

**Attachments and Links**

1. Attachment A: Current Children's Waiting Room (CWR) Distribution and Fund Balance Policy
2. Attachment B: Proposed Children's Waiting Room (CWR) Distribution and Fund Balance Policy

## **Current Children's Waiting Room (CWR) Distribution and Fund Balance Policy**

### **A. Applying for a New CWR Distribution**

- A court's presiding judge or executive officer must submit a request to the director of the Judicial Council Finance Office 45 days prior to the date of the council meeting at which the court is requesting consideration.
- The request must include the following information:
  - Date of the council meeting at which the court is requesting consideration.
  - Requested effective date of the distribution (July 1 or January 1). If a court wants to begin receiving distributions more than one year in advance of the planned opening date of a CWR, the request should include an explanation of the extenuating circumstance(s).
  - The scheduled opening date of the CWR(s).
  - Description of the CWR(s).
  - The date when the court intends to make expenditures related to operating its CWR(s).
  - The requested distribution amount between \$2 and \$5. Courts can request the Judicial Council Finance Office to provide an estimate of annual distributions.
- The Trial Court Budget Advisory Committee (TCBAC) will make a recommendation to the council on each court's request.
- If the council approves that distributions begin prior to the operating of a CWR but the court does not operate a CWR six months after their planned opening date, the court must apply for a continued distribution.

### **B. Requesting a Decreased CWR Distribution Amount**

- Any court's request to decrease its existing CWR distribution is approved by the Judicial Council and the request can be implemented by Judicial Council staff, effective either January 1 or July 1.

### **C. Temporarily or Permanently Ceasing CWR Operations**

- Courts that cease operating all CWRs must notify the director of the JC Finance Office within 60 days of the cessation date. Unless a court provides notification and submits an application to continue receiving distributions while not operating a CWR within 60 days of the cessation date, the court's CWR distributions will be stopped either January 1 or July 1, whichever is earlier, and the court will be required to return any CWR fund balance to the TCTF.
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return of the CWR fund balance will occur on the February trial court distribution for those courts that the CWR distribution stopped on January 1, and on the August distribution for those courts that the CWR distributions stopped on July 1.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

## **Current Children's Waiting Room (CWR) Distribution and Fund Balance Policy**

- An application for a continued distribution must include all the information required of courts applying for a new distribution (see section A above) as well as the amount of any CWR fund balance.
- The TCBAC will make a recommendation to the Judicial Council on each court's application.
- For courts that apply and whose application is denied by the Judicial Council, any CWR fund balance shall be returned to the TCTF.

### **D. Cap on CWR Fund Balance**

- Courts shall monitor the CWR distribution amount per filing to ensure it is adequate to meet the CWR needs of the court without accumulating an amount in excess of the cap described below.
- Effective July 1, 2015, there shall be a cap on the amount of CWR fund balance that courts can carry forward from one fiscal year to the next. The cap shall be the amount of the highest annual distribution within the three most recent fiscal years.
- Courts that have a CWR fund balance greater than the cap (as described above) at the end of the every other fiscal year (beginning with fiscal year 2016–2017) will be required to return to the TCTF the amount above the cap in the subsequent fiscal year.
- For courts that are required to return the portion of their CWR fund balance above the cap to the TCTF, the return of the CWR fund balance will occur on the August trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.
- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- If a court wants a cap adjustment, it must submit a request explaining the extenuating circumstance and including its CWR expenditure plan to the director of the JC Finance Office for consideration by the TCBAC and the Judicial Council. The request must be received by the Finance Director within 60 days of the end of the fiscal year for which the adjustment is being requested.
- JC staff will report any return of CWR fund balance through the trial court distribution process to the TCBAC and the Judicial Council.
- For courts that have Judicial Council–approved adjustments to their CWR caps, annual reporting will be required 60 days after the end of each fiscal year for courts that have an adjustment to their CWR cap approved by the Judicial Council, using a template provided by Judicial Council staff.

### **E. Courts that have Received a Distribution but Never Operated a CWR**

- Courts that received distributions between January 1, 2006 and June 30, 2014 but did not operate a CWR during that time period must either apply for a continued

## **Current Children's Waiting Room (CWR) Distribution and Fund Balance Policy**

distribution by September 26, 2015 or have their distributions stopped on January 1, 2016 and return to the TCTF any CWR fund balance.

- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return will occur on the October 2015 trial court distribution.
- If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

## Proposed Children's Waiting Room (CWR) Distribution and Fund Balance Policy

A court's presiding judge or executive officer must submit a request to the director of Judicial Council Budget Services office 70 business days before the date of the council meeting at which the court is requesting consideration.

### A. Applying for a New CWR Distribution

- ~~A court's presiding judge or executive officer must submit a request to the director of Judicial Council Finance Office 45 days prior to the date of the council meeting at which the court is requesting consideration.~~
- The request must include the following information:
  - Date of the council meeting at which the court is requesting consideration.
  - Requested effective date of the distribution (July 1 or January 1). If a court wants to begin receiving distributions more than one year in advance of the planned opening date of a CWR, the request should include an explanation of the extenuating circumstance(s).
  - The scheduled opening date of the CWR(s).
  - Description of the CWR(s).
  - The date when the court intends to make expenditures related to operating its CWR(s).
  - The requested distribution amount between \$2 and \$5. Courts can request ~~the~~ Judicial Council ~~Finance Office~~ Budget Services to provide an estimate of annual distributions.
- The Trial Court Budget Advisory Committee (TCBAC) will make a recommendation to the council on each court's request.
- If the council approves that distributions begin prior to the operating of a CWR but the court does not operate a CWR six months after their planned opening date, the court must apply for a continued distribution.

### B. Requesting a Decreased CWR Distribution Amount

- Any court's request to decrease its existing CWR distribution is must be approved by the Judicial Council, and the request can be implemented by Judicial Council Budget Services staff, effective either January 1 or July 1.

### C. Temporarily or Permanently Ceasing CWR Operations

- Courts that cease operating all CWRs must notify the director of JC ~~Finance Office~~ Budget Services within 60 days of the cessation date. Unless a court provides notification and ~~submits an application~~ applies to continue receiving distributions while not operating a CWR within 60 days of the cessation date, the court's CWR distributions will be stopped either January 1 or July 1, whichever is earlier, and the court will be required to return any CWR fund balance to the Trial Court Trust Fund (TCTF).
- For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return of the CWR fund balance will occur on the February trial court distribution for those courts that the CWR distribution stopped on January 1, and on



## Proposed Children's Waiting Room (CWR) Distribution and Fund Balance Policy

- the August distribution for those courts that the CWR distributions stopped on July 1. Courts may also request return of any remaining CWR fund balance at any time.
- If there is a dispute between a court and JC Budget Services staff over the amount of CWR fund balance ~~that should~~ to be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.
  - An application for a continued distribution must include all the information required of courts applying for a new distribution (see section A above) as well as the amount of any CWR fund balance.
  - The TCBAC will make a recommendation to the Judicial Council on each court's application.
  - For courts that apply and whose application is denied by the Judicial Council, any CWR fund balance shall be returned to the TCTF.

### D. Cap on CWR Fund Balance

- Courts shall monitor the CWR distribution amount per filing to ensure it is adequate to meet the CWR needs of the court without accumulating an amount in excess of the cap described below.
- Effective July 1, 2015, there shall be a cap on the amount of CWR fund balance that courts can carry forward from one fiscal year to the next. The cap shall be the amount of the highest annual distribution within the three most recent fiscal years.
- Courts that have a CWR fund balance greater than the cap (as described above) at the end of ~~the every other fiscal year (beginning with fiscal year 2016–2017)~~ fiscal years ending with an odd number will be required to return the amount above the cap to the TCTF ~~the amount above the cap~~ in the subsequent fiscal year.
- If a court wants to seek a cap adjustment, it must submit a request explaining the extenuating circumstances, along with its CWR expenditure plan, to the director of JC Budget Services for consideration by the TCBAC and the Judicial Council. The request must be received by the director of JC Budget Services within 60 days of the end of the fiscal year for which the adjustment is being requested.
- For courts that are required to return the portion of their CWR fund balance above the cap to the TCTF, the return of the CWR fund balance will occur on the ~~August~~ October trial court distribution, unless the court has a request for a cap adjustment pending Judicial Council consideration.
- Courts that have submitted a request for a cap adjustment will have action taken on their fund balance in the next scheduled distribution following Judicial Council consideration of the cap adjustment request.
- If there is a dispute between a court and JC Budget Services staff over the amount of CWR fund balance ~~that should~~ to be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.

## Proposed Children's Waiting Room (CWR) Distribution and Fund Balance Policy

- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- ~~If a court wants a cap adjustment, it must submit a request explaining the extenuating circumstance and including its CWR expenditure plan to the director of the JC Finance Office for consideration by the TCBAC and the Judicial Council. The request must be received by the Finance Director within 60 days of the end of the fiscal year for which the adjustment is being requested.~~
- JC Budget Services staff will report any return of CWR fund balance through the trial court distribution process to the TCBAC and the Judicial Council.
- For courts that have Judicial Council-approved adjustments to their CWR caps, annual reporting will be required 60 days after the end of each fiscal year ~~for courts that have an adjustment to their CWR cap approved by the Judicial Council~~, using a template provided by ~~Judicial Council~~ JC Budget Services staff.

### ~~E. Courts that have Received a Distribution but Never Operated a CWR~~

- ~~Courts that received distributions between January 1, 2006 and June 30, 2014 but did not operate a CWR during that time period must either apply for a continued distribution by September 26, 2015 or have their distributions stopped on January 1, 2016 and return to the TCTF any CWR fund balance.~~
- ~~For courts that are required to return all of their remaining CWR fund balance to the TCTF, the return will occur on the October 2015 trial court distribution.~~
- ~~If there is a dispute between a court and JC staff over the amount of CWR fund balance that should be returned to the TCTF, the dispute will be brought before the TCBAC and the Judicial Council if the two parties cannot come to a resolution within 90 days of the cessation date.~~