



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on: July 27–28, 2017

Title

Trial Court Allocations: Revisions to the
*Workload-Based Allocation and Funding
Methodology (WAFM) Adjustment Request
Procedures*

Agenda Item Type

Action Required

Effective Date

July 28, 2017

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

July 14, 2017

Recommended by

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

Contact

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Executive Summary

The Judicial Council established the *Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedures* in August 2013 as a means for trial courts to request changes to the WAFM model for factors not included in its calculations and/or to request ongoing adjustments. The Trial Court Budget Advisory Committee recommends that the Judicial Council approve revisions to the WAFM adjustment request procedures to better serve the needs of the trial courts.

Recommendation

The Trial Court Budget Advisory Committee (TCBAC) unanimously recommends that the Judicial Council, effective July 28, 2017, approve the following revisions to the *Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedures*:

1. Make technical changes to reflect organizational changes within the Judicial Council of California;

2. Change the submittal date and review timelines by the Funding Methodology Subcommittee (FMS) and the TCBAC;
3. Formalize that no changes to the WAFM formulae can occur after the March/April Judicial Council meeting if they impact the subsequent fiscal year; and
4. Allow the FMS to take expedited action on the request, if directed by the TCBAC.

The amended WAFM adjustment request procedures are provided in Attachment B.

Previous Council Action

On August 22, 2013, the Judicial Council approved the *Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedures*, which provide trial courts the opportunity to identify factors that are not yet accounted for in WAFM but are essential to the fundamental operation of a trial court, and to request ongoing adjustments to the assessed WAFM funding needs. The approved process is provided in Attachment A.

Rationale for Recommendation

The primary purpose of the WAFM adjustment request process is to provide trial courts the opportunity to identify factors that they believe the WAFM does not yet address, and to assist in the evolution and refinement of WAFM in order to ensure the continued improvement in equity of trial court funding and equal access to justice throughout California.

WAFM is based on the measurement of workload in the trial courts. However, while WAFM accounts for most of the workload of the trial courts, it may not account for all, and there may be factors that are not yet accounted for in WAFM but are essential to the fundamental operation of a trial court. The WAFM adjustment request process is intended to provide trial courts the opportunity to identify those factors not yet accounted for in WAFM, and to request ongoing adjustments to WAFM funding need.

The proposed revisions to the process provide a longer timeline before any changes made to the WAFM model can be applied to a trial court's allocations based on WAFM. This will allow the trial courts more time to prepare and operationalize impacts to their budgets based on adjustments to the WAFM model.

Comments, Alternatives Considered, and Policy Implications

No comments concerning the TCBAC's recommendations were received.

Implementation Requirements, Costs, and Operational Impacts

The implementation requirement for amending this policy includes notifying courts and impacted Judicial Council staff of the policy changes. As noted above, the changes in the

timeline of the WAFM adjustment request process should benefit the trial courts by allowing them more time to prepare for funding changes resulting from approved requests.

Relevant Strategic Plan Goals and Operational Plan Objectives

The Workload-Based Allocation and Funding Methodology is consistent with strategic Goal II, Independence and Accountability, in that the methodology model aims to “[a]llocate resources in a transparent and fair manner that promotes efficiency and effectiveness in the administration of justice, supports the strategic goals of the judicial branch, promotes innovation, and provides for effective and consistent court operations” (Goal II.B.3).

It also meets objective III of the related operational plan, Modernization of Management and Administration, in that a workload-based approach creates “[s]tandards for determining adequate resources for all case types—particularly for complex litigation, civil and small claims, and court venues such as family and juvenile, probate guardianship, probate conservatorship, and traffic; accountability mechanisms for ensuring that resources are properly allocated according to those standards” (Objective III.A.2.c).

Attachments

1. Attachment A: *Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedure*, approved August 22, 2013
2. Attachment B: *Proposed Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedure*

Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedures

The submission, review and approval process shall be under the direction of the Judicial Council and would be as follows:

1. Initial requests shall be submitted to the Administrative Director of the Courts either by the trial court's Presiding Judge or Executive Officer no later than October 15 of each year, commencing October 15, 2013.
2. The Administrative Director of the Courts shall forward the request to the Co-Chairs of the TCBAC. The Director of the AOC Fiscal Services Office, Co-Chair of the TCBAC, in consultation with his/her Co-Chair of the TCBAC shall review each request, obtain additional information from the trial court as needed and submit a preliminary report to the TCBAC's Funding Methodology Subcommittee no later than January 15. The review of WAFM Adjustment Requests shall include a three-step process including:
 - a) initial review to determine whether the factor identified in a court's request should form the basis of a potential modification to WAFM;
 - b) evaluation of whether and how the modification should occur; and
 - c) evaluation of whether, for those circumstances where it is determined that the factor should ultimately be included in the underlying Resource Assessment Study model (RAS), an interim adjustment should be made to a trial court's WAFM funding need pending a more formal adjustment to the RAS model.
3. The Funding Methodology Subcommittee shall review any requests and present its recommendation(s) to the TCBAC no later than March 15.
4. The TCBAC shall make final recommendations to the Judicial Council for consideration at the April Judicial Council meeting. Any requested adjustments that are approved by the Judicial Council shall be included in the July and/or August allocation.
5. Upon approval by the Judicial Council of an adjustment to WAFM, the Director of the Fiscal Services Office, in consultation with the TCBAC, shall notify all trial courts to allow the opportunity to demonstrate eligibility for similar adjustment. (In some circumstances, the nature of the adjustment will automatically apply to all courts, and demonstration of eligibility may not be necessary).

Adjustments to WAFM will impact the funding need for each trial court that is subject to the adjustment, along with the overall statewide funding need. Therefore, final allocations will be implemented consistent with the WAFM allocation implementation plan as approved by the Judicial Council or as amended in the future. Because funding need is currently greater than available funding and because only a portion of trial court funding is currently allocated under the WAFM, allocated funding will not equal, and may be substantially less than, the funding need identified for the adjustment being made, just as the allocated funding is substantially less than the entire WAFM funding need.

Trial courts requesting an adjustment in accordance with the WAFM Adjustment Request Process shall be required to submit detailed information documenting the need for such adjustment. The Director of Fiscal Services shall develop an application form that solicits at minimum, the following information:

1. A description of how the factor is not currently accounted for in WAFM.
2. Identification and description of the basis for which the adjustment is requested.
3. A detailed analysis of why the adjustment is necessary.
4. A description of whether the unaccounted for factor is unique to the applicant court(s) or has broader applications.
5. Detailed description of staffing need(s) and/or costs required to support the factor that is unaccounted for by WAFM.
6. Description of the consequence to the public and access to justice without the funding.
7. Description of the consequences to the requesting court(s) of not receiving the funding.
8. Any additional information requested by the AOC Fiscal Services Office, Funding Methodology Subcommittee, and/or TCBCAC deemed necessary to fully evaluate the request.

Workload-Based Allocation and Funding Methodology (WAFM) Adjustment Request Procedures

The submission, review and approval process shall be under the direction of the Judicial Council and would be as follows:

1. Initial requests shall be submitted to the Administrative Director ~~of the Courts~~ either by the trial court's Presiding Judge or Executive Officer no later than ~~October~~ *January 15* of each year, commencing ~~October~~ *January 15, 2013/2018*.
2. The Administrative Director ~~of the Courts~~ shall forward the request to the ~~Co-Chairs of the TCBAC~~ *Director of Judicial Council Budget Services*. The Director of the ~~AOC Fiscal Judicial Council Budget Services Office, Co-Chair of the TCBAC~~, in consultation with ~~his/her Co-Chair~~ *the Chair of the TCBAC* shall review each request *and refer the request to the Funding Methodology Subcommittee at the April meeting of the TCBAC. obtain additional information from the trial court as needed*
3. *The Funding Methodology Subcommittee shall review the referral from TCBAC and prioritize the request into the proposed annual work plan to be submitted back to TCBAC in July of the new fiscal year.*
4. *Once prioritized, requests will be evaluated by the* ~~and submit a preliminary report to the TCBAC's Funding Methodology Subcommittee. no later than January 15.~~ The review of WAFM Adjustment Requests shall include a three-step process including:
 - a) initial review to determine whether the factor identified in a court's request should form the basis of a potential modification to WAFM;
 - b) evaluation of whether and how the modification should occur; and
 - c) evaluation of whether, for those circumstances where it is determined that the factor should ultimately be included in the underlying Resource Assessment Study model (RAS), an interim adjustment should be made to a trial court's WAFM funding need pending a more formal adjustment to the RAS model.
5. The Funding Methodology Subcommittee shall review any requests and present its recommendation(s) to the TCBAC no later than ~~March 15~~ *January prior to the year proposed for implementation.*
6. The TCBAC shall make final recommendations to the Judicial Council for consideration ~~at the no later than March/April Judicial Council meeting.~~ *Any #Requested adjustments that are approved by the Judicial Council shall be included in the July and/or August allocation based on the timing included in the recommendation. TCBAC will make no further recommendations for changes to the WAFM formulae impacting the next fiscal year after the March/April Judicial Council meeting of the current fiscal year.*

Upon approval by the Judicial Council of an adjustment to WAFM, the Director of the ~~Fiscal Budget Services Office~~, in consultation with the TCBAC, shall notify all trial courts. ~~to allow the opportunity to demonstrate eligibility for similar adjustment.~~ (In some circumstances, the nature

of the adjustment will automatically apply to all courts, ~~and demonstration of eligibility may not be necessary~~).

7. Adjustments to WAFM will impact the funding need for each trial court that is subject to the adjustment, along with the overall statewide funding need. Therefore, final allocations will be implemented consistent with the WAFM allocation implementation plan as approved by the Judicial Council or as amended in the future. Because funding need is currently greater than available funding and because only a portion of trial court funding is currently allocated under the WAFM, allocated funding will not equal, and may be substantially less than, the funding need identified for the adjustment being made, just as the allocated funding is substantially less than the entire WAFM funding need.
8. *This policy does not preclude the Funding Methodology subcommittee from taking expedited action per the direction of the TCBAC committee.*

Trial courts requesting an adjustment in accordance with the WAFM Adjustment Request Process shall be required to submit detailed information documenting the need for such adjustment. The Director of ~~Fiscal~~ Budget Services shall develop an application form that solicits at minimum, the following information:

1. A description of how the factor is not currently accounted for in WAFM.
2. Identification and description of the basis for which the adjustment is requested.
3. A detailed analysis of why the adjustment is necessary.
4. A description of whether the unaccounted for factor is unique to the applicant court(s) or has broader applications.
5. Detailed description of staffing need(s) and/or costs required to support the factor that is unaccounted for by WAFM.
6. Description of the consequence to the public and access to justice without the funding.
7. Description of the consequences to the requesting court(s) of not receiving the funding.
8. Any additional information requested by the ~~AOC Fiscal JCC Budget Services Office~~, Funding Methodology Subcommittee, and/or TCBAC deemed necessary to fully evaluate the request.