



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on March 24, 2017

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Title	Agenda Item Type
Trial Courts: Children's Waiting Room Policy	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
None	March 24, 2017
Recommended by	Date of Report
Trial Court Budget Advisory Committee	March 8, 2017
Hon. Jonathan B. Conklin, Chair	Contact
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### Executive Summary

The Judicial Council revised its *Children's Waiting Room (CWR) Distribution and Fund Balance Policy* on June 26, 2015, placing a cap on the amount of fund balance that courts can accumulate. Courts with fund balances that exceed the cap are required to return the amount above the cap to the Trial Court Trust Fund (TCTF) by the end of the fiscal year, unless the council approves a court's request for a cap adjustment. The Trial Court Budget Advisory Committee (TCBAC) recommends that the Judicial Council approve revisions to the policy to extend the review and adjustment of CWR fund balances from an annual to a biennial schedule.

### Recommendation

The Trial Court Budget Advisory Committee unanimously recommends that the Judicial Council, effective March 24, 2017, approve the following revisions to the *Children's Waiting Room (CWR) Distribution and Fund Balance Policy* to:

1. Extend the review and adjustment of CWR fund balances from an annual to a biennial schedule (ending in odd-numbered fiscal years); and

2. Require annual reporting for courts that retain excess funding for multiyear contracts.

A copy of the amended CWR policy is attached at pages 5–7.

### **Previous Council Action**

Before June 27, 2014, the only requirement adopted by the Judicial Council related to operating a children’s waiting room appeared to be the following standard:

Each court should endeavor to provide a children’s waiting room located in the courthouse for the use of minors under the age of 16 who are present on court premises as participants or who accompany persons who are participants in court proceedings. The waiting room should be supervised and open during normal court hours. If a court does not have sufficient space in the courthouse for a children’s waiting room, the court should create the necessary space when court facilities are reorganized or remodeled or when new facilities are constructed.

(Cal. Stds. Jud. Admin., std. 10.24.)

On June 27, 2014, the Judicial Council adopted a policy and procedure on court requests for CWR distributions under Government Code section 70640 (Attachment A). On December 12, 2014, the council amended the policy to specify that courts applying for new CWR distributions can request that distributions begin no more than one year in advance of the planned opening date of the CWR, unless there are extenuating circumstances. The council further amended the policy to specify that once any court’s request to decrease its existing CWR distribution is approved by the Judicial Council, the request can be implemented by Judicial Council staff effective either January 1 or July 1.

On June 26, 2015, the Judicial Council revised its CWR distribution policy, placing a cap on the amount of CWR fund balance that courts can accumulate. The cap equals the highest annual distribution within the three most recent fiscal years, and a court wanting a cap adjustment must submit a request explaining the extenuating circumstances and including its CWR expenditure plan for consideration by the Trial Court Budget Advisory Committee and the Judicial Council.

CWR distributions to trial courts from first paper filing fee revenues deposited into the Trial Court Trust Fund can only be spent on costs associated with operating a CWR. CWR distributions that are not needed by a court would be retained in the TCTF and used to support trial court operations allocations or become unrestricted fund balance that could be allocated by the council for other purposes. The revised policy requires courts to monitor their CWR distribution amounts per filing to ensure they are adequate to meet CWR needs without accumulating an amount in excess of a cap that is equal to the highest annual CWR distribution within the three most recent fiscal years. As approved, effective July 1, 2015, a court whose CWR fund balance exceeds the cap by the end of a given fiscal year is required to return the amount above the cap to the TCTF, unless the council approves a court’s request for a cap adjustment. The full policy, including revisions, is attached at pages 5–7.

## **Rationale for Recommendation**

At its February 9, 2017, meeting, the TCBAC discussed options brought forward by Judicial Council Budget Services staff as a result of the Fiscal Planning Subcommittee's recommendation that the TCBAC review and clarify, if necessary, the *Children's Waiting Room (CWR) Distribution and Fund Balance Policy* regarding CWR cap adjustment requests covering more than one fiscal year.

The TCBAC chose to amend the review and adjustment of CWR fund balances to a biennial schedule in an effort to give courts the opportunity to better plan with a set fund balance cap spanning two fiscal years. The TCBAC discussed a review and adjustment schedule that mirrored the number of years of multiyear contracts; however, it concluded that an extended, but regular, review period would prove to be more prudent.

In addition, the TCBAC decided to add a requirement of annual reporting for those courts that retain excess funding for multiyear contracts. Judicial Council Budget Services staff will develop a simplified form as an aid to court staff, thus adding to court financial transparency without adding additional burden.

## **Comments, Alternatives Considered, and Policy Implications**

A public comment related to the Fiscal Planning Subcommittee's recommendation to the TCBAC was provided at the committee's October 12, 2016, Action by E-mail Between Meetings, and is included as Attachment B. Options were considered by the TCBAC and are discussed in the Rationale for Recommendation section of the report.

## **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 that extend the fund balance cap review and adjustment period and add an annual reporting requirement.

Judicial Council Budget Services staff will see a slight increase in workload to develop an annual reporting template and review process.

Operational impacts will likely prove to be relief for courts and Judicial Council staff because the extension of the fund balance cap review and adjustment period will allow courts another year to submit any potential cap adjustment requests, and relief for Judicial Council staff from having to review fund balance caps and make adjustments back to the TCTF annually.

## **Relevant Strategic Plan Goals and Operational Plan Objectives**

The Judicial Council–approved *Children's Waiting Room (CWR) Distribution and Fund Balance Policy* is consistent with Goal II, Independence and Accountability, in that it helps courts 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).

### **Attachments and Links**

1. *Children’s Waiting Room (CWR) Distribution and Fund Balance Policy*, at pages 5–7
2. Attachment A: Government Code section 70640
3. Attachment B: Public comment dated October 12, 2016

## **Proposed 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.

- 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 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.

**Government Code Section 70640**

(a) It is the policy of the state that each court shall endeavor to provide a children's waiting room in each courthouse for children whose parents or guardians are attending a court hearing as a litigant, witness, or for other court purposes as determined by the court. To defray that expense, monthly allocations for children's waiting rooms shall be added to the monthly apportionment under subdivision (a) of Section 68085 for each court where a children's waiting room has been established or where the court has elected to establish that service.

(b) The amount allocated to each court under this section shall be equal to the following: for each first paper filing fee as provided under Section 70611, 70612, 70613, 70614, or 70670, and each first paper or petition filing fee in a probate matter as provided under Section 70650, 70651, 70652, 70653, 70654, 70655, 70656, or 70658, the same amount as was required to be collected as of December 31, 2005, to the Children's Waiting Room Fund under former Section 26826.3 in the county in which the court is located when a fee was collected for the filing of a first paper in a civil action under former Section 26820.4.

(c) Notwithstanding any other provision of law, the court may make expenditures from these allocations in payment of any cost, excluding capital outlay, related to the establishment and maintenance of the children's waiting room, including personnel, heat, light, telephone, security, rental of space, furnishings, toys, books, or any other item in connection with the operation of a children's waiting room.

(d) If, as of January 1, 2006, there is a Children's Waiting Room Fund in the county treasury established under former Section 26826.3, the county immediately shall transfer the moneys in that fund to the court's operations fund as a restricted fund. By February 15, 2006, the county shall provide an accounting of the fund to the Administrative Office of the Courts.

(e) After January 1, 2006, the court may apply to the Judicial Council for an adjustment of the amount distributed to the fund for each uniform filing fee. A court that wishes to establish a children's waiting room, and does not yet have a distribution under this section, may apply to the Judicial Council for a distribution. Applications under this subdivision shall be made according to trial court financial policies and procedures authorized by the Judicial Council under subdivision (a) of Section 77206. Adjustments and new distributions shall be effective January 1 or July 1 of any year beginning January 1, 2006.

(f) The distribution to a court under this section per each filing fee shall be not less than two dollars (\$2) and not more than five dollars (\$5).

(Amended by Stats. 2007, Ch. 130, Sec. 135. Effective January 1, 2008.)



## Attachment B

**From:** Parker, Darrel [<mailto:dparker@sbcourts.org>]  
**Sent:** Wednesday, October 12, 2016 9:00 AM  
**To:** TCBAC <[TCBAC@jud.ca.gov](mailto:TCBAC@jud.ca.gov)>  
**Subject:** Children's Waiting Room Public Comment

Thank you for the opportunity to provide comment on today's meeting.

During the last meeting I listened to questions about requests spanning more than one year. There was a recommendation that courts be required to return in subsequent years and re-justify their cap adjustment request.

I suggest an alternative to that proposal.

I support the committee's recommendation to adjust the caps for those courts seeking an adjustment. However, a requirement that court's would need to re-justify their cap adjustments in subsequent years would confound an effort to engage in a multi-year contract with any agency providing services for the children's waiting room. Our court is engaged in a contract with a community based organization to provide supervision. If the source of funds associated with paying for those services is subject to review each year it creates a difficulty in engaging in a multi-year contract with the CBO.

Alternatively, the committee may consider authorizing the cap as requested and thereafter require an annual report on the status of the court's children's waiting room operations to ensure that the money is still being used appropriately, or report on any changes to the operation or expenditures. In this manner the court can engage in multi-year contracts and the committee can be assured that the revenues are being used appropriately in each subsequent year. If a courts circumstance changes the committee would have an opportunity each year to reconsider the authorization without interfering with a courts contractual operation in those instances where no change is reported.

Thanks for the opportunity to comment.

Respectfully,

Darrel E. Parker  
Court Executive Officer/Jury Commissioner  
Superior Court of California  
County of Santa Barbara