



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue • San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

Item No.: 20-151

For business meeting on: July 24, 2020

Title

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

Agenda Item Type

Action Required

Effective Date

July 24, 2020

Rules, Forms, Standards, or Statutes Affected

None

Date of Report

June 28, 2020

Recommended by

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

Contact

Catrayel Wood, 916-643-7008
catrayel.wood@jud.ca.gov

Executive Summary

The Trial Court Budget Advisory Committee recommends changes to the Children's Waiting Room Distribution and Fund Balance Policy to streamline the review process, including eliminating the requirement for annual reporting by courts that have Judicial Council-approved adjustments to their Children's Waiting Room fund balance caps.

Recommendation

The Trial Court Budget Advisory Committee unanimously recommends that, effective July 24, 2020, the Judicial Council adopt the following revisions to the Children's Waiting Room Distribution and Fund Balance Policy:

1. Direct that recommendations to the council on each court's Children's Waiting Room request come directly from the Fiscal Planning Subcommittee;
2. Remove the requirement for annual reporting by courts that receive a Children's Waiting Room cap adjustment; and

3. Direct Judicial Council Budget Services staff to revise forms that meet policy requirements based on action taken by the Judicial Council when considering Trial Court Budget Advisory Committee recommendations.

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, 2014.¹ 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.²

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.³

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.

At its business meeting on January 17, 2020, the council approved updates to the timing of when CWR fund balance cap reductions will occur, removed language that was no longer relevant, and made other technical revisions to clarify language in the policy and the timeline for submissions (Attachment A).

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

² 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), <https://www.courts.ca.gov/documents/jc-20141212-itemD.pdf>; Judicial Council of Cal., mins. (Dec. 11–12, 2014), pp. 15–16, <https://www.courts.ca.gov/documents/jc-20141212-minutes.pdf>.

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

Analysis/Rationale

The following was considered by the Trial Court Budget Advisory Committee (TCBAC) at its meeting on June 11, 2020 (Attachment B):

- A. Have recommendations on each court's CWR request originate from the Fiscal Planning Subcommittee (FPS) instead of TCBAC.
 - i. As subcommittee to the TCBAC, the FPS reviews requests for Funds Held on Behalf of Trial Courts and makes recommendations directly to the Judicial Council as a consent item. The FPS also reviews CWR policy changes, requests, biennial and annual reports, and makes recommendations to the TCBAC.
 - ii. Recommendations for CWR distribution requests that go directly from the FPS to the council would provide relief to the current process, further simplifying it. CWR policy change recommendations heard by the FPS would still go to the TCBAC for recommendation to the council for consideration.
- B. Remove language specifying that "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 using a template provided by JC Budget Services staff."
 - i. Action taken adding annual reporting for courts that retain excess funding for multiyear contracts was made in concert with amending the review and adjustments of CWR fund balances from annual to biennial. Annual reporting was adopted to ensure excess funds are being used appropriately, or changes to operations or expenditures are reported.
 - ii. Courts requesting a cap adjustment during the biennial review provide justification and substantiate their need with detailed financial information including:
 - Three years of historical CWR revenue, expenditures, and fund balance;
 - Three years of projected CWR revenue, expenditures, and fund balance; and
 - Detailed expenditure plan for three subsequent fiscal years.
 - iii. Those courts that receive a cap adjustment must then submit subsequent annual reports updating the financial information provided in their cap adjustment request, which are provided to the TCBAC as an informational item.
 - iv. Annual reporting of excess funds for multiyear contracts impacts only four of the participating CWR courts. Removing this administrative requirement would

alleviate annual reporting requirements for trial courts, a process that has proven thus far to produce zero action.

- v. Courts provide detailed information that demonstrates the need for a cap adjustment, which is currently considered through the TCBAC to the Judicial Council. Cap adjustments are relatively small in relation to a court's overall operating budget (e.g., for one court it represents .003% of its operating budget), and there has not been proven justification for continuing to monitor courts with a cap adjustment more often than those without one.

Policy implications

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

Comments

This item was not circulated for comment. Public comment was not received for 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 as the policy changes will provide relief to courts, committees, and Judicial Council staff while maintaining appropriate oversight.

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

A. Applying for a New CWR Distribution

- 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 JC 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 must be approved by the Judicial Council and the request can be implemented by JC 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 Budget Services within 60 days of the cessation date. Unless a court provides notification and 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 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 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.

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

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 fiscal years ending with an odd number will be required to return the amount above the cap to the TCTF in the subsequent fiscal year.
- If a court wants to seek a cap adjustment, it must submit a request explaining the extenuating circumstance(s) and include 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 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 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.
- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- 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 using a template provided by JC Budget Services staff.

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 (JC) Budget Services office 70 business days prior to the date of the council meeting at which the court is requesting consideration.

A. Applying for a New CWR Distribution

- 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 JC Budget Services to provide an estimate of annual distributions.
- The Fiscal Planning Subcommittee (FPS) ~~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 must be approved by the Judicial Council and the request can be implemented by JC 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 Budget Services within 60 days of the cessation date. Unless a court provides notification and 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 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 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

- 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 ~~FPS 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 fiscal years ending with an odd number will be required to return the amount above the cap to the TCTF in the subsequent fiscal year.
- If a court wants to seek a cap adjustment, it must submit a request explaining the extenuating circumstance(s) and include its CWR expenditure plan to the director of JC Budget Services for consideration by the ~~FPS 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 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 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.
- The cap applies only to courts that have received at least 12 months of distributions in a fiscal year while operating a CWR.
- JC Budget Services staff will report any return of CWR fund balance through the trial court distribution process to the ~~FPS 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 using a template provided by JC Budget Services staff.~~