



JUDICIAL COUNCIL OF CALIFORNIA

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REPORT TO THE JUDICIAL COUNCIL

For business meeting on June 26, 2015

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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 | June 26, 2015 |
| Recommended by | Date of Report |
| Trial Court Budget Advisory Committee Hon. Laurie M. Earl, Chair | June 10, 2015 |
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Executive Summary

The Trial Court Budget Advisory Committee recommends that the Judicial Council approve revisions to the council's children's waiting room policy, including placing a cap on the amount of children's waiting room fund balance that courts can accumulate and, in specific circumstances, requiring courts to return their children's waiting room fund balance to the Trial Court Trust Fund and discontinuing the children's waiting room distribution to those courts.

Recommendation

On May 18, 2015, the Trial Court Budget Advisory Committee (TCBAC) unanimously adopted the following recommendation, which it is now proposing for Judicial Council adoption, effective June 26, 2015:

1. The Judicial Council should approve the proposed revisions, as provided in Attachment 1, to the council's children's waiting room (CWR) distribution policy, which would place a cap on the amount of CWR fund balance that courts can accumulate and, in specific circumstances,

require courts that temporarily or permanently cease operating any CWRs to return CWR fund balance to the Trial Court Trust Fund and discontinue those courts' CWR distributions.

Previous Council Action

The council first adopted a policy and procedure on court requests for CWR distributions on June 27, 2014. On December 12, 2014, the council amended the process for courts to request CWR distributions 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. In addition, it amended the process for courts to request CWR distributions 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.

Rationale for Recommendation

CWR distributions to trial courts from first paper filing fee revenues deposited into the Trial Court Trust Fund (TCTF) can be spent only on costs associated with operating a CWR. CWR distributions that are not needed by a court would otherwise 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. New section D of the revised policy requires courts to monitor their CWR distribution amount per filing to ensure it is adequate to meet their CWR needs without accumulating an amount in excess of a cap that is equal to their highest annual CWR distribution within the three most recent fiscal years (see lines 72–74 of Attachment 1). As proposed, effective July 1, 2015, courts whose CWR fund balance exceeds the cap by the end of a given fiscal year would be required to return the amount above the cap to the TCTF, unless the council approves a court's request for a cap adjustment. If there is a dispute between a court and Judicial Council 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 end of the applicable fiscal year.¹

The TCBAC is recommending that the current policy's section C, which requires courts that are not operating any CWRs to apply for a continued distribution in certain situations, be replaced with a revised section C and a new section E for the following reasons. First, the current section C is silent on whether courts that received a CWR distribution prior to June 27, 2014 but have not operated a CWR since June 27, 2014 should be required to return CWR fund balance to the TCTF if they do not apply for a continued CWR distribution but instead only request that their CWR distribution be discontinued. Section E requires those courts to either apply for a continued distribution by September 26, 2015 or have their distributions discontinued and return any CWR fund balance by October 2015. Second, since the policy is meant to address a historical situation, to avoid confusion it should be separated from policy that is meant to address

¹ The version reviewed by the TCBAC at its May 18, 2015 meeting contained an error regarding the start of the 90-day resolution period. It used the language for section C, in which the start of the 90-day resolution period for disputes between Judicial Council staff and a court is the CWR cessation date.

future situations; therefore, the revised policy places the language in a new standalone section, section E. Third, the current section C does not address the general situation in which a court ceases operating any CWRs. The current section C applies only to courts that (1) received a CWR distribution prior to June 27, 2014 but have not operated a CWR since June 27, 2014 or (2) had a distribution approved on or after July 1, 2014 and did not operate a CWR six months after the planned opening date (see lines 34–37 of Attachment 1). The proposed revised section C would (1) discontinue the CWR distribution for any courts that permanently cease operating any CWRs and would require them to return any CWR fund balance to the TCTF and (2) require courts that temporarily cease operating any CWRs to either apply for a continued distribution within 60 days of ceasing operating any CWRs or return any CWR fund balance to the TCTF and have their CWR distribution discontinued. Courts that cease operating any CWRs would be required to notify the director of the Judicial Council Finance Office within 60 days of the cessation date. If there is a dispute between a court and Judicial Council 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.

Based on an opinion from Judicial Council legal staff, the TCBAC believes there is no prohibition on courts returning CWR fund balance to the TCTF and that returned CWR fund balance becomes unrestricted revenue when deposited into the TCTF. The return of CWR fund balance would be accomplished through the TCTF distribution process.

Comments, Alternatives Considered, and Policy Implications

No public comments were received when the recommendations of the Children’s Waiting Room Working Group were considered by the TCBAC at its May 18, 2015 public meeting.

Attachments

1. Attachment 1: Proposed Children’s Waiting Room Distribution and Fund Balance Policy

Proposed Revised 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. Applying to Continue Receiving a CWR Distribution While Not Operating a CWR~~

- ~~• Courts must apply to continue receiving a CWR distribution if they:

 - are currently receiving a distribution but have not operated a CWR since June 27, 2014.
 - received a distribution effective July 1, 2014 or after but have not operated a CWR six months after their planned opening date of the CWR.~~
- ~~• The request must follow the process for requesting a new distribution (see A above). In addition, a court must include in its request the amount of any unspent distributions.~~
- ~~• The TCBAC will make a recommendation to the council on each court's request.~~
- ~~• For courts that apply and whose application is denied by the council, the council reserves the option of directing courts to return any unspent CWR distributions to the Trial Court Trust Fund (TCTF).~~

C. Temporarily or Permanently Ceasing CWR Operations

- 46 • Courts that cease operating all CWRs must notify the director of the JC Finance Office
47 within 60 days of the cessation date. Unless a court provides notification and submits
48 an application to continue receiving distributions while not operating a CWR within 60
49 days of the cessation date, the court's CWR distributions will be stopped either January
50 1 or July 1, whichever is earlier, and the court will be required to return any CWR fund
51 balance to the TCTF.
- 52 • For courts that are required to return all of their remaining CWR fund balance to the
53 TCTF, the return of the CWR fund balance will occur on the February trial court
54 distribution for those courts that the CWR distribution stopped on January 1, and on the
55 August distribution for those courts that the CWR distributions stopped on July 1.
- 56 • If there is a dispute between a court and JC staff over the amount of CWR fund balance
57 that should be returned to the TCTF, the dispute will be brought before the TCBAC and
58 the Judicial Council if the two parties cannot come to a resolution within 90 days of the
59 cessation date.
- 60 • An application for a continued distribution must include all the information required of
61 courts applying for a new distribution (see section A above) as well as the amount of
62 any CWR fund balance.
- 63 • The TCBAC will make a recommendation to the Judicial Council on each court's
64 application.
- 65 • For courts that apply and whose application is denied by the Judicial Council, any
66 CWR fund balance shall be returned to the TCTF.

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68 D. Cap on CWR Fund Balance

- 69 • Courts shall monitor the CWR distribution amount per filing to ensure it is adequate to
70 meet the CWR needs of the court without accumulating an amount in excess of the cap
71 described below.
- 72 • Effective July 1, 2015, there shall be a cap on the amount of CWR fund balance that
73 courts can carry forward from one fiscal year to the next. The cap shall be the amount
74 of the highest annual distribution within the three most recent fiscal years.
- 75 • Courts that have a CWR fund balance greater than the cap (as described above) at the
76 end of the fiscal year will be required to return to the TCTF the amount above the cap
77 in the subsequent fiscal year.
- 78 • For courts that are required to return the portion of their CWR fund balance above the
79 cap to the TCTF, the return of the CWR fund balance will occur on the August trial
80 court distribution.
- 81 • If there is a dispute between a court and JC staff over the amount of CWR fund balance
82 that should be returned to the TCTF, the dispute will be brought before the TCBAC and
83 the Judicial Council if the two parties cannot come to a resolution within 90 days of the
84 end of the applicable fiscal year.
- 85 • The cap applies only to courts that have received at least 12 months of distributions in a
86 fiscal year while operating a CWR.
- 87 • If a court wants a cap adjustment, it must submit a request explaining the extenuating
88 circumstance and including its CWR expenditure plan to the director of the JC Finance
89 Office for consideration by the TCBAC and the Judicial Council. The request must be
90 received by the Finance Director within 60 days of the end of the fiscal year for which
91 the adjustment is being requested.

92 • JC staff will report any return of CWR fund balance through the trial court distribution
93 process to the TCBAC and the Judicial Council.

94

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

96 • Courts that received distributions between January 1, 2006 and June 30, 2014 but did
97 not operate a CWR during that time period must either apply for a continued
98 distribution by September 26, 2015 or have their distributions stopped and return to the
99 TCTF any CWR fund balance.

100 • For courts that are required to return all of their remaining CWR fund balance to the
101 TCTF, the return will occur on the October 2015 trial court distribution.

102 • If there is a dispute between a court and JC staff over the amount of CWR fund balance
103 that should be returned to the TCTF, the dispute will be brought before the TCBAC and
104 the Judicial Council if the two parties cannot come to a resolution within 90 days of the
105 cessation date.