

California



Total Funds

\$2.05 billion¹

Allocation

85% to local governments
and 15% to the state

Mechanism

Allocation agreement between the state and local governments ([California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds](#)),² legislation ([Government Code, Title 2, Division 3, Part 2, Chapter 6, Article 2, Section 12534](#))³

Key Takeaways

Local emphasis. The [California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds](#) (SSA) divides California's opioid settlements into three funds: 15% to the State Fund, 15% to a CA Subdivision Fund, and 70% to the CA Abatement Accounts Fund.⁴ The 70% CA Abatement Accounts Fund will be distributed to participating subdivisions,⁵ meaning localities will control most of California's total settlement dollars.

Public reporting and annual meetings. California will publicly report expenditures of its 15% state share on [DHCS's website](#), and DHCS must host an annual meeting to discuss the state's and participating subdivisions' opioid remediation activities.⁶

Background

The [California State-Subdivision Agreement Regarding Distribution and Use of Settlement Funds](#) (SSA) provides for California's allocation above, which leans heavily toward localities. Both the state and local share must be spent on "Opioid Remediation" such as to expand harm reduction and treatment services.⁷ However, subdivisions must spend at least half of the monies they receive from the 70% CA Abatement Accounts Fund on the Department of Health Care Services' (DHCS) five "High Impact Abatement Activities,"⁸ which include [Behavioral Health Continuum Infrastructure Program \(BHCIP\)](#) matching funds, expansions to SUD treatment infrastructure, addressing the needs of vulnerable populations and communities of color, diversion programming (including restorative justice and harm reduction), and youth prevention interventions.

This resource is current as of 4/6/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.



Decision-Making Process

LOCAL PLANNING EXAMPLE

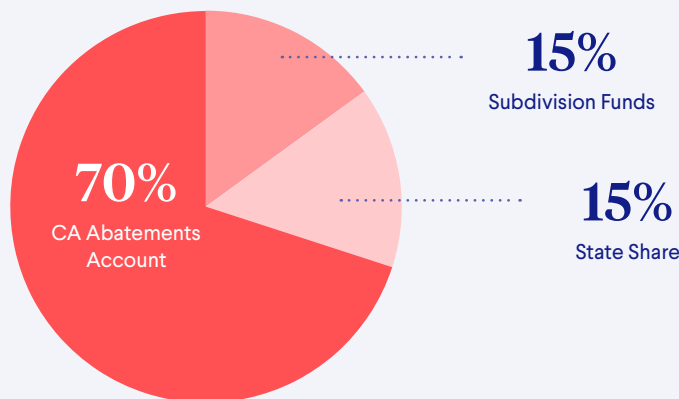
Los Angeles created the Opioids Settlement Trust Fund in the city's treasury. The [Administrative Code](#)²⁰ authorizes the City Controller to oversee and disperse dollars from the fund, in line with plans adopted by the City Council. The same section mandates that spending must be consistent with the California State-Subdivision Agreement.

70% CA ABATEMENTS ACCOUNT

The 70% allocation to the CA Abatement Accounts Fund is distributed to participating subdivisions by county⁹ and must be spent on forward-looking opioid remediation activities (i.e., may not be spent on reimbursements for past expenditures),¹⁰ with at least 50% spent on DHCS-specified High Impact Abatement Activities listed [here](#).¹¹ Localities will use their normal budgeting and decision-making processes to expend these funds.¹² Distribution to subdivisions by percentage are available [here](#).

- Unless a participating city requests to receive its "Local Allocation" share directly,¹³ those monies are not required to be spent exclusively within that city and will be spent on county abatement initiatives.¹⁴

ALLOCATION OF SETTLEMENT FUNDS



15% SUBDIVISION FUNDS

Subdivisions that sign onto the MOU will receive no less than half of the 15% Subdivision Fund, which they may use on future opioid-related projects or to reimburse past opioid-related expenses.¹⁵ Localities will use their normal budgeting and decision-making processes to expend this share of funds as well.¹⁶

15% STATE SHARE

The state government's share must be used for forward-looking opioid remediation activities (i.e., may not be spent on reimbursements for past expenditures).¹⁷ [SB 184](#),¹⁸ enacted in 2022, creates the Opioid Settlements Fund (OSF) that houses the state's share of settlement funds. This Fund sits in the Treasury and is appropriated by the legislature but ultimately overseen and administered by the Department of Health Care Services (DHCS).¹⁹

California



Tracking Funds and Accountability

- The California Department of Health Care Services (DHCS) must annually report the state's use of its 15% share of funds and publish this information on its [website](#).²¹ DHCS must also host an annual public meeting to discuss the report and the state's and subdivisions' opioid remediation activities.²²
- The remaining 85% share of expenditures is subject to intrastate reporting only: subdivisions must annually report uses of funds received from the 70% CA Abatement Accounts and 15% Subdivision shares to DHCS.²³
- DHCS ultimately oversees the CA Abatement Accounts Fund's activities, but California's localities can hold the state responsible for misspent settlement funds as well.²⁴ However, the power to enforce the terms of California's state-local agreement belongs only to the state and local governments themselves, not to non-profit organizations or community advocates.²⁵

Engaging in the Process

- DHCS will host annual meetings to discuss both the state's and participating subdivisions' opioid remediation activities,²⁶ but it is unclear whether these meetings will be open to the public. Email OSF@dhcs.ca.gov and ask DHCS to commit to a public meeting date, accessible virtually, and encourage DHCS to post these recordings on their [website](#).
- Review and share the state's annual report of opioid settlement expenditures, which the state will make available online on [DHCS' website](#) each year.
- Encourage DHCS to designate additional High Impact Abatement Activities. Though DHCS may not remove strategies from this list, it is able to add to it after consulting stakeholders and subdivisions.²⁷
- Funded with \$15 million in opioid settlement dollars during the 2022-2023 fiscal year, the [Naloxone Distribution Project](#) provides free naloxone to organizations across the state. Consider applying for your organization.



Additional Resources

DEPARTMENT OF HEALTH CARE SERVICES (DHCS)

California's Opioid Settlements

Webinar on Janssen & Distributors Settlement Allowable Expenses - January 26, 2023 PowerPoint

Frequently Asked Questions: Janssen and Distributors Settlement Funds

CALIFORNIA OVERDOSE PREVENTION NETWORK:

COPN Q & A on the Opioid Settlements in California

References

Last updated April 6, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. California is also participating in several settlements that are likely to be finalized later this year, e.g., CVS, Walgreens, Walmart, Allergan, and Teva. See KHN's "[The Right to Know: Where Does Your State Stand on Public Reporting of Opioid Settlement Cash?](#)" interactive transparency map (located mid-article; click "California" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. A [separate but largely identical](#) state-subdivision agreement exists for the Janssen settlement.
3. California's state-subdivision agreements and settlement legislation explicitly apply only to the settlements with Johnson & Johnson, Janssen Pharmaceuticals, McKesson, Cardinal Health, and AmerisourceBergen. This is similar to many states' mechanisms for opioid settlement spending that were designed to comply with the requirements of the [Distributor](#) and [Janssen](#) settlement agreements, which require (among other provisions) that a minimum of 85% of settlement funds be spent on opioid remediation expenditures. *Section V.B.1*. Subsequent settlements require varying thresholds of opioid remediation spend; the [CVS](#) and [Walgreens](#) agreements, for instance, require a minimum of 95.5% and 95% opioid remediation spending, respectively. *Section V.B.1*. Keep an eye out for the ways states will amend their spending mechanisms, if at all, to comply with subsequent settlement terms.
4. SSA 4.
5. SSA 4.B.ii(a)-(c).
6. SSA 5(e).
7. The SSA defines "Opioid Remediation" by reference to [Exhibit E](#) of the Distributor and Janssen Settlement Agreements
8. SSA 4.B.ii(b)(1)-(5).
9. SSA 4.B.(i)(c).
10. SSA 4.B.(ii)(a).
11. Enumerated also in SSA 4.B(ii)(b). Cal. Gov. Code Sec. 12534(e) speaks to DHCS' power to designate additional high-impact abatement activities.



References

(Continued)

12. "Unless otherwise exempt, Subdivisions' expenditures and uses of CA Abatement Accounts Funds and other Settlement Funds will be subject to the normal budgetary and expenditure process of the Subdivision." SSA 5(c).
13. At least 60 days prior to a payment date, per SSA 4.B(i)(c).
14. See also SSA 4.B(ii)(a) ("A Local Allocation share allocated to a city but paid to a county is not required to be spent exclusively for abatement activities in that city, but will become part of the county's share of the CA Abatement Accounts Funds, which will be used in accordance with Section 4.B.ii (Use of CA Abatement Accounts Funds) and reported on in accordance with Section 4.B.iii (CA Abatement Accounts Fund Oversight)").
15. "[A]cceptance of this CA Distributor Allocation Agreement is a requirement to be an Initial Participating Subdivision." SSA 1. "[N]o less than 50%" of the Abatement Accounts Fund are distributed to Initial Participating Subdivisions on a formula basis per [Appendix 1](#), while the remaining may be used to cover fees and costs associated with the opioid litigation. SSA 4.C(i)(a)-(c).
16. "Unless otherwise exempt, Subdivisions' expenditures and uses of CA Abatement Accounts Funds and other Settlement Funds will be subject to the normal budgetary and expenditure process of the Subdivision." SSA 5(c).
17. SSA 4.A.
18. Cal. Gov. Code Sec. 12534.
19. Cal. Gov. Code Sec. 12534(a),(c),(d).
20. Sec. 5.115.17.
21. "DHCS will prepare an annual written report regarding the State's use of funds from the settlement until those funds are fully expended and for one year thereafter. These reports will be made publicly available on the DHCS web site." SSA 5(a).
22. SSA 5(e).
23. SSA 4.B.iii, 5(b).
24. "The State or any CA Participating Subdivision may bring a motion or action in the court where the State has filed its Consent Judgment to enforce the requirements of this CA Distributor Allocation Agreement. Before filing such a motion or action the State will meet and confer with any CA Participating Subdivision that is the subject of the anticipated motion or action, and vice versa." SSA 6(a).
25. "Except as provided in the Distributor Settlement Agreement, this CA Distributor Allocation Agreement is not enforceable by any party other than the State and the CA Participating Subdivisions. It does not confer any rights or remedies upon, and shall not be enforceable by, any third party." SSA 6(b).
26. SSA 5(e).
27. SSA 4.B.ii(c).