



Total Funds

\$1.33 billion¹

Allocation

46.11% to local governments,
36.99% to the Opioid Settlement
Fund, and 17.5% to the state

Mechanism

Allocation agreement between
the state and local governments
([New York Opioid Settlement
Sharing Agreement](#)), legislation
([N.Y. Mental Hyg. Law § 25.18](#), [N.Y.
State Fin. Law § 99-nn](#))²

Key Takeaways

Opioid Settlement Fund (Fund): no supplantation. Fund monies are spent on programs overseen by OASAS and other relevant state agencies.³ The Opioid Settlement Fund Advisory Board (OSFAB) makes non-binding spending recommendations to the legislature; the legislature ultimately appropriates Fund monies for use or distribution by state agencies.⁴ Monies from the Fund must be used to supplement rather than supplant existing funding for prevention, treatment, recovery, or harm reduction programs.⁵

Harm reduction values. New York embeds harm reduction throughout its settlement structure. For example, state law highlights the provision of harm reduction services as one of the Fund's spending priorities,⁶ specifies harm reduction as a type of expertise for members of the OSFAB,⁷ and annual reports on the use of Fund monies must include an analysis of how expenditures advanced harm reduction.⁸

Public reporting. Annual reports on the expenditure of Fund monies will be published online,⁹ and [New York City](#) has independently promised to report its expenditures.¹⁰ However, shares belonging to the direct share subdivisions, Nassau County, and Suffolk County are not subject to similar public reporting requirements.¹¹

Background

This resource is current as of 5/8/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.

New York state law establishes the Opioid Settlement Fund (Fund),¹² defines eligible expenditures of Fund monies,¹³ and creates the [Opioid Settlement Fund Advisory Board](#) (OSFAB).¹⁴ The [New York Opioid Settlement Sharing Agreement](#) (Agreement) allocates 46.11% of state settlement monies to counties and New York City,¹⁵ 36.39% of monies to the [Fund](#) for the [Office of Addiction Services and Supports](#) (OASAS) regional and discretionary abatement spending,¹⁶ and 17.5% to the State Share.¹⁷



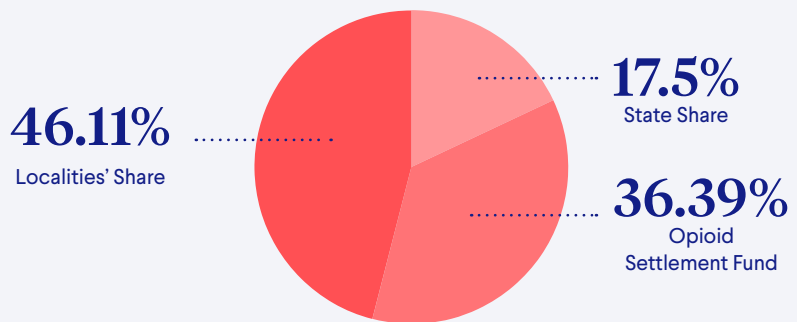
Background

(Continued)

[Schedule C](#), the statewide list of approved uses,¹⁸ is similar to the national settlement agreements' [Exhibit E](#) approved uses list and includes treatment, prevention, harm reduction, and recovery supports.¹⁹ The OSFAB may recommend that the legislature and governor add or remove approved uses from Schedule C and the list of eligible expenditures in state law, but may only recommend deletions with approval from $\frac{3}{4}$ of present OSFAB members.²⁰ Fund monies must be used for a [specific subset of eligible expenditures](#) that include youth-focused prevention campaigns, statewide anti-stigma campaigns, treatment and recovery programs, harm reduction services, recovery and supportive housing, programs to reduce the likelihood of justice-system involvement for people with or at risk of having a substance use disorder, support for pregnant people and new parents, and vocational and educational trainings for people with or at risk for a substance use disorder.²¹ These Fund monies also must be used to supplement, not supplant, existing substance use disorder prevention, treatment, recovery, and harm reduction funding streams.²²

Decision-Making Process

ALLOCATION OF SETTLEMENT FUNDS



46.11% LOCALITIES' SHARE

The Localities' Share is distributed [directly to local governments](#) as follows:²³

- 6.68% to Nassau County for spending on approved uses.²⁴
- 8.63% to Suffolk County for spending on approved uses.²⁵
- 10.8% to all participating counties except Nassau and Suffolk (“Direct Share Subdivisions”) according to the percentages in [Schedule A](#),²⁶ with non-participating counties’ amounts reallocated amongst participating counties.²⁷ Localities must spend at least half of this share (5.4%) on approved uses, while the other half of funds (5.4%) are unrestricted.²⁸
- 20% to New York City for spending on approved uses.²⁹



Decision- Making Process

(Continued)

Direct Share Subdivisions, the counties of Nassau and Suffolk, and New York City must annually certify that any expenditures from these shares were for approved uses.³⁰ This certification requirement does not apply to the unrestricted 5.4% share distributed to Direct Share Subdivisions.³¹ Localities will otherwise likely use their normal budgeting and decision-making processes to allocate and spend their shares of funds.

LOCAL SPENDING EXAMPLE

New York City will spend \$150 million in settlement funds over five years to expand treatment support staff, strengthen supports for families of people who died from overdoses, and expand harm reduction community services, including support for the City's overdose prevention centers and mobile harm reduction clinics.³²

36.39% OPIOID SETTLEMENT FUND

New York state law establishes the [Opioid Settlement Fund](#) (Fund).³³ Fund monies are appropriated by the state legislature for use on programs and services overseen by the Office of Addiction Services and Supports (OASAS) and other state agencies.³⁴ State law requires that Fund monies supplement, not supplant, existing funding streams and be spent on the [eligible expenditures](#) enumerated in state law.³⁵ The Opioid Settlement Fund Advisory Board (OSFAB) provides the governor and legislature with non-binding recommendations on spending Fund monies.³⁶ If the state chooses not to follow an OSFAB recommendation, the state must provide a public, written explanation for its decision and provide the OSFAB an opportunity to respond.³⁷ Funding decisions must prioritize programs that are culturally, linguistically, and gender competent; trauma-informed; evidence-based; and employ people with lived experience “where appropriate.”³⁸

Forty-five percent (45%) of Fund monies – 16.39% of New York's total settlement funds – are allocated for [regional spending](#) on approved uses according to the percentages in [Schedule B](#),³⁹ with at least 1.89% of the state's total settlement funds set aside for cities with a population of more than 90,000.⁴⁰ Participating subdivisions may apply for these funds and, as a condition of receipt, must comply with reporting requirements and annually certify that all funds were spent on approved uses.⁴¹ The remaining 55% of Fund monies – 20% of the state's total settlement funds – are set aside for discretionary spending on state projects that qualify as approved uses; up to 5% of Fund monies from this share may be used to cover oversight and administrative expenses.⁴²



Decision- Making Process

(Continued)

OPIOID SETTLEMENT FUND ADVISORY BOARD (OSFAB)

The Opioid Settlement Fund Advisory Board (OSFAB) is established under OASAS and tasked with making non-binding recommendations for statewide and regional expenditures via an annual report sent to the governor and legislature,⁴³ which OASAS is also required to make public.⁴⁴ In developing its recommendations, the OSFAB must account for gaps in access to services, incorporate mechanisms to assess the effectiveness of spending, and suggest areas of opioid remediation research.⁴⁵ The OSFAB must hold at least quarterly public meetings to ensure its recommendations are updated and consistent with the state's needs.⁴⁶

The OSFAB's 21 members serve three-year terms.⁴⁷ Specific appointments include the commissioners of OASAS and other state agencies, who serve as non-voting members;⁴⁸ six members appointed by legislative leadership; two members appointed by the governor; and one appointment each by the attorney general and mayor of New York City.⁴⁹ Seven members appointed to represent New York's counties are selected by the governor and legislative leadership from a list of nominees provided by the New York State Association of Counties.⁵⁰ Appointing authorities must make "every effort to ensure a balanced and diverse board."⁵¹ Board members must include experts in public health, behavioral health, substance use disorder treatment, harm reduction, criminal justice, public finance, or drug policy, as well as individuals with lived experience and professionals that serve communities disproportionately affected by the criminalization of and punitive responses to addiction.⁵² The chair and vice chair are selected from and by OSFAB's members.⁵³ Current OSFAB members are listed on its website.⁵⁴

OASAS SPENDING EXAMPLE

In April 2023, OASAS awarded \$5.8 million to twelve providers across the state to establish comprehensive integrated outpatient treatment programs. This expenditure follows from OSFAB's first set of recommendations, issued in November 2022, which highlighted treatment and harm reduction services as top priorities.⁵⁵

17.5% STATE SHARE

Seventeen and one-half percent (17.5%) of settlement monies are allocated to the state, and a portion of these monies may be allocated to localities at the state attorney general office's discretion.⁵⁶



Tracking Funds and Accountability

- OASAS must oversee, monitor, and audit projects and programs that receive Fund monies.⁵⁷
- State agency commissioners, including the OASAS commissioner, must report Fund expenditures to the governor, various legislative leaders, and the [OSFAB](#),⁵⁸ and subdivisions receiving Fund monies also must report a detailed accounting of their spending.⁵⁹ These reports will be published as a "consolidated dashboard" on the various state agencies' websites.⁶⁰ Subdivisions that do not comply with the reporting requirements may have future funds withheld.⁶¹
- New York City has [independently committed](#) to public reporting of its settlement expenditures.⁶²
- Shares belonging to the Direct Share Subdivisions, Nassau County, and Suffolk County are not subject to public reporting requirements.⁶³ However, these subdivisions must comply with certain intrastate reporting requirements.⁶⁴
- OSFAB is subject to New York's [open meetings laws](#).⁶⁵

Engaging in the Process

- Attend OSFAB meetings, which must be publicized to facilitate attendance.⁶⁶ Past meeting minutes and recordings can be found on OSFAB's [website](#). Meetings include a dedicated public comment period.⁶⁷ Upcoming meetings are listed [here](#), but it is not clear how to participate virtually. Write to OSFAdvisoryBoard@oasas.ny.gov for this and other information.
- You can also send questions to the state attorney general's office at opiodsettlement@ag.ny.gov.
- Offer feedback during a community input meeting that OASAS holds periodically to gather feedback about funding initiatives. [Questions and answers](#) from and a [recording](#) of the March 2023 session are available on the OSFAB website.
- Apply for funding! Monitor OASAS' [procurement page](#) for current opportunities.
- Check out Community Education Group's [Appalachia Opioid Remediation \(AOR\) Local Opioid Settlement Spending Database](#) and sign up for their AOR email alerts [here](#). CEG's AOR initiative provides opioid settlement spending updates from the 13 states of Appalachia.⁶⁸



Additional Resources

OPIOID SETTLEMENT FUND ADVISORY BOARD

Annual Report (November 2022)

Public Participation Guidance

Videoconferencing

Bylaws

NEW YORK OFFICE OF ADDICTION SERVICES AND SUPPORTS

Opioid Settlement Funding Initiatives

*Opioid Settlement Fund Regional Abatement - County,
Five Large Cities, and Other Litigating Entities Planned
Use of Funds Request*

*Opioid Settlement Fund - Regional Abatement Frequently
Asked Questions (April 2023)*

NEW YORK STATE ATTORNEY GENERAL

Opioid settlements

NEW YORK STATE SENATE

Opioid Settlement Funds



References

Last updated May 8, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. New York is also participating in several settlements that are likely to be finalized later this year, e.g., CVS, Walgreens, Walmart, 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 "New York" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. Neither New York's Agreement nor its state law creating the Opioid Settlement Fund are limited in their applications to the Distributor and Janssen Settlements. See Agreement II.A (applying terms to "all Statewide Opioid Settlement Agreements entered into with an Opioid Supply Chain Participant on or after June 19, 2021") and N.Y. State Fin. Law § 99-NN(4) (providing that the Fund consists of "money received by the state pursuant to any statewide opioid settlement agreements as defined in section 25.18 of the mental hygiene law," i.e., "agreements of statewide applicability entered into on or after June first, two thousand twenty-one by the office of the attorney general, including but not limited to consent judgments, consent decrees filed or unfiled, and related agreements or documents between the state and certain opioid manufacturers, distributors, dispensers, consultants, chain pharmacies, related entities, and/or the New York subdivisions"). Note that many states' mechanisms for opioid settlement spending 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.
3. N.Y. State Fin. Law § 99-NN(5). See also N.Y. Mental Hyg. Law § 25.18(a)(4).
4. N.Y. State Fin. Law § 99-NN(4)-(5); N.Y. Mental Hyg. Law § 25.18(a)(4); Agreement V.B.
5. N.Y. State Fin. Law § 99-NN(3). See also N.Y. Mental Hyg. Law § 25.18(c)(10).
6. N.Y. Mental Hyg. Law § 25.18(a)(1)(iv).
7. N.Y. Mental Hyg. Law § 25.18(c)(5).
8. N.Y. Mental Hyg. Law § 25.18(c)(10).
9. N.Y. Mental Hyg. Law § 25.18(c)(10).
10. NYC's [Int 0404-2022](#) requires the city's Department of Health to report its usage of settlement funds, "where this money is being spent," "the number of New Yorkers benefitting from the fund."
11. See OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures.](#)" Direct Share Subdivisions, Nassau County, Suffolk County, and New York City are, however, required to annually certify that any settlement funds expended in the previous year were spent on approved uses and provide "a detailed accounting of the spending of such funds as well as analysis and evaluation of the projects and programs they have funded." Agreement III.B.
12. N.Y. State Fin. Law § 99-nn(1).
13. N.Y. Mental Hyg. Law § 25.18(a)(1).
14. N.Y. Mental Hyg. Law § 25.18(c)(1).
15. Agreement II.B(4)-(8), III.A. All but 5.4% of settlement funds directly allocated to local governments are restricted to approved uses. See Agreement II.B(4) (describing sole subdivision share not restricted to approved uses).
16. Agreement II.B(2)-(3), I.B; N.Y. State Fin. Law § 99-nn(4)-(5).
17. Agreement II.B(1) ("The Office of the Attorney General shall have the discretion to allocate a portion of these funds to local governments not listed in the annexed allocation chart.")
18. Agreement I.A, IV.B.
19. New York's Schedule C, for example, adds a [Post Mortem](#) section that includes approved uses like autopsies in case of overdose death and synthetic opioid toxicology tests in overdose deaths. Schedule C III.E(1), (3).
20. Agreement IV.B; N.Y. Mental Hyg. Law § 25.18(c)(2).
21. N.Y. Mental Hyg. Law § 25.18(a)(1).
22. N.Y. State Fin. Law § 99-NN(3).
23. Agreement II.D.
24. Agreement II.D, II.B(6).
25. Agreement II.D, II.B(7).
26. Agreement II.B(4)-(5), III.A.



References

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27. Agreement II.C.
28. Compare Agreement II.B(5) (“5.4% to the Direct Share Subdivisions for spending on Approved Uses”) with II.B(4) (“5.4% to the Direct Share Subdivisions as ‘Direct Unrestricted Funds.’”)
29. Agreement II.B(8).
30. Agreement III.B (“These certifications shall be made by August 1 of each year following the year in which such funds were spent and shall be accompanied by a detailed accounting of the spending of such funds as well as analysis and evaluation of the projects and programs they have funded.”) See also Agreement II.E (participating localities attorneys’ fees will be paid according to their respective contingency agreements).
31. Agreement II.B(4), III.B (certification requirement applicable only to funds “distributed to [a locality] pursuant to Sections II.B.5, 6, 7 and 8 of this Agreement....”)
32. [New York City Mayor’s 6/22 press](#). Elected leaders from Staten Island, on the other hand, contend that the borough did not receive an adequate portion of these funds. [“NYC opioid settlement \\$\\$: Assemblyman says Staten Island is being ‘blatantly deprived’ of the funds”](#)
33. N.Y. State Fin. Law § 99-NN(1) (the Fund is a special fund “established in the joint custody of the state comptroller and the commissioner of taxation and finance.”)
34. N.Y. State Fin. Law § 99-NN(5); N.Y. Mental Hyg. Law § 25.18(a)(4), (b). These agencies include “the department of health, the office of mental health, the division of housing and community renewal or any other agency that may oversee an appropriate program or service that is considered an eligible expenditure.” N.Y. State Fin. Law § 99-NN(5)
35. N.Y. State Fin. Law § 99-NN(3), (5); N.Y. Mental Hyg. Law § 25.18(a)(1), (b)(1)-(2), (c)(10).
36. N.Y. Mental Hyg. Law § 25.18(c)(9); Agreement V.B.
37. Agreement V.B.
38. N.Y. State Fin. Law § 99-NN(5).
39. Agreement II.B(2), IV.A(1). These funds must be spent in each region and each city with a population of more than 90,000, excluding New York City, Nassau County, and Suffolk County. Agreement IV.A(1). New York City, Nassau County, and Suffolk County receive settlement monies directly through other shares. Agreement II.B(6)-(8). See also OASAS’ [Opioid Settlement Fund Regional Abatement County, Five Large Cities, and Other Litigating Entities Planned Use of Funds Request](#).
40. Agreement IV.A(1)
41. Agreement IV.A(1); N.Y. Mental Hyg. Law § 25.18(b)(2)-(3).
42. Agreement IV.A(2). OSFAB also monitors these “permitted administrative expenses.” Agreement V.B.
43. N.Y. Mental Hyg. Law § 25.18(c)(1), (c)(9); Agreement V.A. See also Agreement V.B (“The Advisory Board shall have additional advisory responsibilities, including reporting on projects and programs related to addressing the opioid epidemic, developing priorities, goals and recommendations for spending on such projects and programs, working with the Lead State Agency to develop measurable outcomes for such projects and programs, and making recommendations for policy changes.”)
44. Agreement IV.E. See, e.g., Opioid Settlement Fund Advisory Board: [Annual Report \(November 2022\)](#)
45. N.Y. Mental Hyg. Law § 25.18(c)(1); Agreement V.D. OSFAB also “may take into consideration federal, state or local initiatives and activities that have shown to be effective in preventing and treating substance use disorders as well as maintaining recovery and assisting with the collateral effects of substance use disorders for individuals and their families or support system.” N.Y. Mental Hyg. Law § 25.18(c)(1). See also Agreement V.B.
46. N.Y. Mental Hyg. Law § 25.18(c)(8); Agreement V.A(2).
47. N.Y. Mental Hyg. Law § 25.18(c)(3)-(4); Agreement V.A, V.A(1). Note that Agreement V.A and V.A(1) describe a 19-member advisory board, but state law and the OSFAB’s [bylaws](#) provide for 21 members (there are also 21 individuals [currently listed](#) as OSFAB members).
48. N.Y. Mental Hyg. Law § 25.18(c)(3)(i) (“the commissioner of addiction services and supports, the commissioner of mental health, the commissioner of health, and the director of the division of budget, or their designees”); Agreement V.A(1).
49. N.Y. Mental Hyg. Law § 25.18(c)(3)(i)-(vi). Note that Agreement V.A(1) differs from state law regarding who would appoint certain OSFAB members, providing that the governor, attorney general, speaker of the assembly, and temporary president of the senate would each appoint 2 members with the mayor of New York City appointing one member.
50. N.Y. Mental Hyg. Law § 25.18(c)(3)(vii). Note that Agreement V.A(1) differs from state law regarding who would appoint the OSFAB members representing New York counties, providing that the



References

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- Temporary President of the Senate and Speaker of the Assembly would each appoint two such members, with the minority senate leader, minority assembly leader, and attorney general each appointing one such member.
51. N.Y. Mental Hyg. Law § 25.18(c)(5) (“Every effort shall be made to ensure a balanced and diverse board, representing the geographic regions and racial and ethnic demographics of the state as well as those with lived experiences of a substance use disorder.”)
 52. N.Y. Mental Hyg. Law § 25.18(c)(5); Agreement V.A(1).
 53. N.Y. Mental Hyg. Law § 25.18(c)(6).
 54. See also [Governor's 6/16/2022 press.](#)
 55. [Governor's 4/24/2023 press.](#)
 56. Agreement II.B(1) (“The Office of the Attorney General shall have the discretion to allocate a portion of these funds to local governments not listed in the annexed allocation chart.”)
 57. Agreement IV.C. See also N.Y. Mental Hyg. Law § 19.07(n) (“[OASAS] in consultation with the office of mental health, the department of health, the division of housing and community renewal and any other agency that may oversee an appropriate program or service shall monitor and ensure funds appropriated pursuant to section ninety-nine-nn of the state finance law are expended for services and programs in accordance with such section.”)
 58. N.Y. Mental Hyg. Law § 25.18(c)(10).
 59. N.Y. Mental Hyg. Law § 25.18(b)(3).
 60. N.Y. Mental Hyg. Law § 25.18(c)(10).
 61. Agreement IV.D.
 62. NYC’s [Int 0404-2022](#) requires the city’s Department of Health to report its usage of settlement funds, “where this money is being spent,” “the number of New Yorkers benefitting from the fund.”
 63. See OpioidSettlementTracker.com’s “[States’ Initial Promises to Publicly Report Their Opioid Settlement Expenditures.](#)”
 64. Agreement III.B (“Each year, the Direct Share Subdivisions, the City of New York and the Counties of Nassau and Suffolk shall certify to the Lead State Agency and the Advisory Board that all funds distributed to them pursuant to ... this Agreement, which were spent during the preceding year, were spent on projects and programs that constitute Approved Uses. These certifications shall be made by August 1 of each year following the year in which such funds were spent and shall be accompanied by a detailed accounting of the spending of such funds as well as analysis and evaluation of the projects and programs they have funded.”)
 65. N.Y. Mental Hyg. Law § 25.18(c)(8); Agreement V.A(2).
 66. Agreement V.A(2).
 67. See, e.g., [New York State Opioid Settlement Fund Advisory Board Meeting Agenda - March 2023](#)
 68. AL, GA, KY, MD, MS, NY, NC, OH, PA, SC, TN, VA, WV.