

Oklahoma



Total Funds

\$250 million¹

Allocation

75% to the state and 25% to litigating subdivisions

Mechanism

Allocation agreement between the state and local governments ([Memorandum of Understanding Regarding Certain Opioid Litigation Proceeds](#)), legislation (Okla. Stat. tit. 74 Sec. [30.3 - 30.8 as amended](#)),² [Distributors Oklahoma Settlement Agreement](#), and [emergency rules in effect through September 14, 2023](#)

Key Takeaways

Patchwork participation in national settlements. Although Oklahoma is not participating in the national settlement agreement with opioid manufacturer Johnson & Johnson,³ the state has settled with “big three” distributors McKesson, AmerisourceBergen, and Cardinal Health.⁴

75-25 allocation. Oklahoma’s [Memorandum of Understanding Regarding Certain Opioid Litigation Proceeds](#) directs 75% of funds to the state and 25% to litigating political subdivisions, which includes both counties and cities.⁵

Opioid Abatement Board makes grants to subdivisions. The [Opioid Abatement Board](#) is responsible for distributing the state’s share from the Opioid Abatement Revolving Fund to participating political subdivisions through grants.⁶ The first disbursements are allocated by formula,⁷ then subsequent awards are made as “supplemental” grants.⁸

Background

This resource is current as of 5/1/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.

The [Memorandum of Understanding Regarding Certain Opioid Litigation Proceeds](#) (MOU) establishes the 75% to 25% allocation between the state and litigating political subdivisions. The *Political Subdivisions Opioid Abatement Grants Act*⁹ created the Oklahoma Opioid Abatement Revolving Fund to hold the state’s share of monies and the [Opioid Abatement Board](#).¹⁰ The [Distributors Oklahoma Settlement Agreement](#) (Agreement) requires that 85% of all funds paid to Oklahoma be spent on opioid remediation.¹¹

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Background

(Continued)

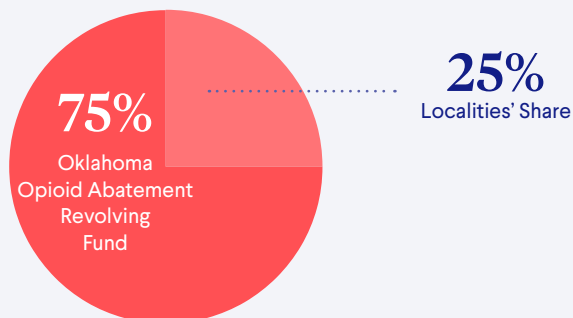
After deducting attorneys' fees and the state's litigation costs,¹² 75% of the state's distributor settlement proceeds are directed to the Attorney General's office,¹³ and 25% is paid to litigating political subdivisions according to percentages in the [MOU's Exhibit B](#).¹⁴ Both state and litigating political subdivision shares must be spent on "approved purposes,"¹⁵ which state law defines as evidence-based and forward-looking, meaning the funds generally may not be used for reimbursement of prior costs.¹⁶ This list of approved purposes is similar to the national settlement agreements' [Approved Uses list](#),¹⁷ including areas such as prevention, treatment, and targeted efforts to address the needs of people who are justice-involved or who are pregnant or parenting and affected by opioid use disorder. The Oklahoma Opioid Abatement Board may also identify opioid abatement uses beyond the specific strategies outlined in state law.¹⁸

Decision-Making Process

OPIOID ABATEMENT BOARD

The nine-member [Opioid Abatement Board](#) is created by state law.²⁶ It includes five members appointed by state officials (the Governor, State Auditor, Treasurer, Attorney General, and Superintendent) and four members appointed by legislative leadership.²⁷ Current members may be found on the Board's [website](#). The Board's purpose is to develop, implement, and monitor a grant process for the disbursement of monies from the Opioid Abatement Revolving Fund to political subdivisions.²⁸

ALLOCATION OF SETTLEMENT FUNDS



75% OKLAHOMA OPIOID ABATEMENT REVOLVING FUND

The Oklahoma Opioid Abatement Revolving Fund (Fund) sits within the state Treasury and holds the state's 75% share of opioid settlement funds.¹⁹ Although the Fund is created "for the Office of the Attorney General"²⁰ in state law, it is the [Opioid Abatement Board](#) (Board) that is empowered to develop grant disbursement, application, and evaluation procedures to distribute monies from the Fund.²¹ The Board first disburses funds as grants to participating political subdivisions using a formula that accounts for both the local impact of the overdose crisis and legal expenses,²² and recipients enter into contracts with the Opioid Abatement Board that govern the awards.²³ The Board can award the remaining funds as "supplemental" grants to participating political subdivisions for approved purposes.²⁴ Participating political subdivisions spend these monies by documenting their decisions in resolutions or "equivalent government action," then submitting adopted actions to the Opioid Abatement Board.²⁵

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Decision-Making Process

(Continued)

25% LOCALITIES' SHARE

After deducting litigation costs and fees,²⁹ the 25% Localities' Share is allocated to litigating political subdivisions directly according to percentages in the [MOU's Exhibit B](#).³⁰ Funds must be spent on the twenty-one (21) approved purposes laid out in state law.³¹ Cities receiving funds may choose to direct their shares to their home counties.³² Decisions about local spending likely will be left to local decisionmakers and funds expended according to normal budget processes.

Tracking Funds and Accountability

- The Opioid Abatement Board oversees monies the political subdivisions receive from the state's Opioid Abatement Revolving Fund, including the establishment of an application process and an appeals procedure for political subdivisions to contest grant application denials, ensuring that grant awards are spent on approved purposes, and suspending payments to political subdivisions that misspend funds.³³
- Oklahoma's various mechanisms contain no explicit promises to publicly report opioid settlement expenditures.³⁴
- This means that Oklahoma is merely subject to the national settlement agreements' bare-minimum mandate that only non-opioid remediation spending – a mere 15% – be reported to the public.³⁵

Engaging in the Process

- Review past meeting minutes of the [Opioid Abatement Board](#) and check the dates for future scheduled meetings.
- Oklahoma has fewer obvious channels to engage on settlement spending than many states. Consider how to engage with the Board and other policymakers for more transparency on funding decisions and public reporting of opioid remediation expenditures from the Opioid Abatement Revolving Fund (i.e., the state's 75% share).
- Send feedback or questions to the Board at OAB@oag.ok.gov, including how members of the public can participate in Board meetings.
- Watch for future regulations on the operation of the Opioid Abatement Board and whether they include provisions on community input or public reporting of expenditures. The current emergency regulations will expire in September 2023.
- Oklahomans seeking treatment can look to the [National Center for Wellness and Recovery](#) at Oklahoma State University's medical campus in Tulsa. The University received \$200 million from Purdue and the Sackler family as part of a 2019 settlement.³⁶

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Additional Resources

OKLAHOMA OFFICE OF THE ATTORNEY GENERAL

[Opioid Abatement Board](#)

[Legislative Report Presentation to the Opioid Abatement Board \(March 2021\)](#)

[Oklahoma Commission on Opioid Abuse](#)

OKLAHOMA HARM REDUCTION ALLIANCE

[OK I'M READY \(WITH TREATMENT, PREVENTION, AND EDUCATIONAL RESOURCES, AS WELL AS A NALOXONE MAIL ORDER REQUEST FORM\)](#) [🔗](#)



References

Last updated May 1, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, and Cardinal Health only. Oklahoma is also participating in several settlements that are likely to be finalized later this year, e.g., CVS, Walgreens, Walmart, Allergan, and Teva. See MOU G.1, AG's January 2023 press re: "[Opioid Manufacturers, Distributors, and Retailers](#)," 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 "Oklahoma" for state-specific participation information), and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. Oklahoma's state law establishing the Oklahoma Opioid Abatement Revolving Fund encompasses "all opioid funds obtained through a settlement or judgment by the Attorney General on behalf of the State of Oklahoma related to opioid litigation involving pharmaceutical supply chain participants ... [d]esignated for deposit in the fund; or ... [a]ppropriated to the fund by the Legislature." Sec. 30.6(A)(1)-(2). Oklahoma's MOU, however, does not apply to settlements previously awarded or entered into by the state, including but not limited to Purdue, Teva, Endo, McKinsey, "and/or" Mallinckrodt. MOU G.1. 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. Oklahoma's 2019 [trial win](#) against Johnson & Johnson, which resulted in a [\\$465 million](#) verdict, was [overturned](#). See also "[Oklahoma Supreme Court Throws Out \\$465 Million Opioid Ruling Against J.&J.](#)," "[Oklahoma AG announces 4 new opioid settlements worth \\$226M](#)" ("In 2019, Oklahoma, under then-Attorney General Mike Hunter, was the [first state to reach a settlement](#) with Purdue Pharma, the maker of OxyContin, for \$270 million. Most of that money was used to establish a National Center for Addiction Studies and Treatment at Oklahoma State University in Tulsa").
4. Visit OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
5. MOU B.1(b)
6. Okla Stat. tit. 74, 30.7(C)
7. Okla Stat. tit. 74, Sec. 30.8(A)(1)(a)-(d). See also Attorney General/Board's Emergency Rules OAC Sec. 75:40-2-3
8. Okla Stat. tit. 74, Sec. 30.8(B). See also Emergency Rules OAC Sec. 75:40-2-4
9. [HB 4138](#), the original Political Subdivisions Opioid Abatement Grants Act, created the Fund and the Board, and [SB 1275](#) amended the Act.
10. Okla Stat. tit. 74, Sec. 30.6(A), 30.7(A).
11. Oklahoma [Distributor](#) Settlement Agreement Sec. IV.B.
12. MOU A.7 and B.3. See also Distributors Oklahoma Settlement Agreement [Sec. V.B.C](#) (describing state fees and costs, participating litigating subdivisions' attorneys' fees and costs) and [Exhibit C](#) (Oklahoma Payment Schedule).
13. MOU B.1 and A.13.
14. MOU B.4. [Exhibit B](#) of the Settlement Agreement, which begins on page 15, provides a list of litigating subdivisions.
15. MOU B.3.
16. MOU B.3. and Okla Stat. tit. 74, Sec.-30.5(1)(a)-(u). Note that there is an exception for reimbursement for law enforcement or emergency responder expenditures "relating to the opioid epidemic," as well as reimbursement of attorney fees and other allowable expenses directly related to opioid litigation incurred as part of agreements entered into before May 21, 2020. See Sec. 30.5(1)(n)-(o). The Oklahoma Opioid Abatement Board may also identify opioid abatement purposes that "occurred on or after January 1, 2015." Sec. 30.5(1)(u).
17. See Distributors Oklahoma Settlement Agreement [Sec. IV.B](#). ("The Oklahoma Abatement Amount paid under this Agreement shall be used as provided for in Section V.B. of Exhibit I [incorporating [Distributor](#) settlement agreement]. In addition, at least eighty-five percent (85%) of the total amount paid under this Agreement, including amounts paid under Section IV.A and amounts paid under Section V, shall be used for Opioid Remediation. Nothing herein shall affect the allocation of the Oklahoma Abatement Amount payments between the State and its Participating Subdivisions, which shall be governed by a separate State-Subdivision Agreement"), [Distributor](#) settlement agreement Sec. I.SS (defining "Opioid Remediation" to mean [Exhibit E](#))



References

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18. Okla Stat. tit. 74, Sec. 30.5(1)(u).
19. Okla Stat. tit. 74, Sec. 30.6(A), MOU B.5(b), MOU D.2. Opioid settlement funds obtained by the Attorney General must be designated for deposit or appropriated to the fund by the legislature. Sec. 30.6(A)(1)-(2). See also Distributors Oklahoma Settlement Agreement Sec. V.B,C (describing state fees and costs, participating litigating subdivisions' attorneys' fees and costs) and [Exhibit C](#) (Oklahoma Payment Schedule).
20. Okla Stat. tit. 74, Sec. 30.6(A)
21. Okla Stat. tit. 74, Sec. 30.7(C)(1)-(5).
22. Okla Stat. tit. 74, Sec. 30.8(A)(1), Sec. 30.8(A)(1)(a)-(d). See also Emergency Rules OAC Sec. 75:40-2-3(b)(1)-(4)
23. Okla Stat. tit. 74, Sec. 30.8(A)(2). See also Emergency Rules OAC Sec. 75:40-2-3(f) ([A]ll recipients shall receive a copy of the Contract, which they must complete and return to the Office of the Attorney General prior to receiving a disbursement of funds.") Appropriations bills that predate the receipt of settlement funds have allocated monies from the Opioid Lawsuit Settlement Fund ("Fund 383") to various state agencies and the Revolving Fund. [HB 2900 \(2021\)](#), [HB 4140 \(2020\)](#).
24. Okla Stat. tit. 74, Sec. 30.8(B). See also Emergency Rules OAC Sec. 75:40-2-4.
25. Okla Stat. tit. 74, Sec. 30.7(D). See also Emergency Rules OAC Sec. 75:40-2-2(a) (describing resolutions as adopted through "publicly cast and recorded vote").
26. Okla Stat. tit. 74, Sec.30.7
27. Okla Stat. tit. 74, Sec.30.7(A)(1)-(7). Members may be removed or replaced by their appointing authorities without cause and are prohibited from voting on any issue in which the member has a direct or indirect financial interest. Sec. 30.7(B)
28. Okla Stat. tit. 74, Sec. 30 (C). This process will include development of an Opioid Abatement Grant Application (OAC 75:40-1-3), as well a Grant Award Quarterly Reporting Form (OAC 75:40-2-5).
29. MOU D.1-2.
30. MOU B.4. [Exhibit B](#) of the Settlement Agreement, provides a list of litigating subdivisions.
31. MOU B.3, Okla Stat. tit. 74, Sec. 30.5(1)(a)-(u).
32. MOU B.4(b). Funds for litigating political subdivisions receiving less than \$500 automatically go to the county for use at the county or regional level. MOU B.4(a).
33. Okla Stat. tit. 74, Sec. 30.7(C). See also Emergency Rules OAC Sec. 75:40-2-1, 75:40-2-3, 75:40-2-4, 74:40-2-5.
34. Emergency Rules OAC Sec. 75:40-2-5(c). Note that OAC Sec. 75:40-2-3(g) describes how quarterly reports must be submitted to the Board by political subdivisions receiving grant funds "for ongoing or future strategies" but there is no indication that these reports will be made publicly available. See also OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures.](#)"
35. Section V.B.2 of the *Distributor* and *Janssen* settlement agreements. See also OpioidSettlementTracker.com's "[Most Settlement Agreements Do Not Require Public Reporting of Opioid Remediation Expenditures.](#)"
36. "[First opioid settlement to fund ambitious addiction research center](#)"