

# South Carolina



## Total Funds

\$300 million<sup>1</sup>

## Allocation

50-85% to participating subdivisions, 15-50% to a statewide fund<sup>2</sup>

## Mechanism

Allocation agreement between the state and local governments ([South Carolina Opioid Settlement Allocation Agreement](#)), legislation ([Sec. 11-58-10 to 11-58-100](#))<sup>3</sup>

## Key Takeaways

**Guaranteed Political Subdivision Subfund (50-85%), Discretionary Subfund (15-50%).** The South Carolina Opioid Recovery Fund is divided into two primary subfunds: the Guaranteed Political Subdivision Subfund (GPSS) and Discretionary Subfund.<sup>4</sup> Although the South Carolina Opioid Recovery Fund Board (SCORF Board) exercises substantial discretion over funds in the Discretionary Subfund,<sup>5</sup> its role is limited with respect to the GPSS.<sup>6</sup> More specifically, the SCORF Board *must* approve any GPSS funding request from a political subdivision that meets the criteria in state law.<sup>7</sup>

**SCORF Board expertise, staff accessibility.** All SCORF Board members must “be academic, medical, licensed health, or other professionals with significant experience in opioid prevention, treatment, or intervention or who can represent the interest of the victims and families of victims of opioid overuse or misuse.”<sup>8</sup> The SCORF Board’s staff also host Friday morning “[coffee chats](#)” twice a month to field questions and provide updates.

**100% public reporting.** The SCORF Board must annually publish a report containing the South Carolina Opioid Recovery Fund’s expenditures and program outcomes on its [website](#).<sup>9</sup>

## Background

*This resource is current as of 5/11/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.*

The [South Carolina Opioid Settlement Allocation Agreement \(Agreement\)](#) establishes the state’s allocation of settlement funds and describes its uses. All monies are initially paid to the Treasurer.<sup>10</sup> Eighteen (18%) of settlement monies received by the state through 2027 are held in the South Carolina Opioid Fee Fund for use on attorneys’ fees and unreimbursed litigation costs.<sup>11</sup> The remaining 82% of settlement funds received through 2027 and 100% of funds received thereafter are disbursed by the Treasurer to the South Carolina Opioid Recovery Fund (Recovery Fund) and administered by the South Carolina Opioid Recovery Fund Board (SCORF Board).<sup>12</sup>

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## Background

(Continued)

The South Carolina Opioid Recovery Fund is further subdivided into three subfunds: the Guaranteed Political Subdivision Subfund, Discretionary Subfund, and Administrative Subfund.<sup>13</sup> The Guaranteed Political Subdivision Subfund will initially receive 85% of settlement monies, with the remaining 15% going into the Discretionary Subfund.<sup>14</sup> Beginning in 2030, however, settlement funds will be split evenly between the Guaranteed Political Subdivision Subfund and Discretionary Subfund.<sup>15</sup> Up to 2% of monies in the South Carolina Opioid Recovery Fund may be allocated to the Administrative Subfund for the SCORF Board’s administrative expenses.<sup>16</sup>

Except for the up to 2% for administrative expenses, all settlement funds, regardless of allocation, must be spent on Approved Abatement Strategies,<sup>17</sup> which are defined as the opioid remediation uses listed in [Exhibit C](#).<sup>18</sup> Exhibit C is identical to the national settlement agreements’ [Exhibit E](#), which outlines approved uses such as prevention, harm reduction, treatment, and recovery services. The SCORF Board website breaks out approved abatement strategies by “Core Abatement Strategies” and “Approved Uses” [here](#).

## Decision-Making Process

### LOCAL SPENDING EXAMPLES

Berkeley County [approved](#) just over \$1 million in funding to seven organizations pursuing a range of approved abatement strategies, including community groups and the county coroner’s office.<sup>26</sup>

Charleston County plans to spend its share to expand Narcan distribution, train first responders, increase treatment access, and develop a dashboard to help identify community needs.<sup>27</sup>

### ALLOCATION OF SETTLEMENT FUNDS

**50-85%**

Guaranteed Political Subdivision Fund

**15-50%**

Discretionary Subfund

**Up to 2%**

Administrative Subfund

### 50-85% – GUARANTEED POLITICAL SUBDIVISION SUBFUND

State law required the state Treasurer to establish the Guaranteed Political Subdivision Subfund (GPSS) as a subfund of the South Carolina Opioid Recovery Fund (Recovery Fund).<sup>19</sup> The GPSS will receive 85% of settlement funds through 2029 and 50% of funds thereafter.<sup>20</sup> Participating subdivisions are allocated monies from the GPSS according to the percentages in [Exhibit B](#).<sup>21</sup> If a participating subdivision does not spend allocated funds within four years, the funds will be transferred to the Discretionary Subfund described below.<sup>22</sup> Any amounts assigned to a non-participating subdivision will also be allocated to the Discretionary Subfund.<sup>23</sup> Participating subdivisions may elect to have some or all of their GPSS funds transferred to the Discretionary Subfund,<sup>24</sup> and are encouraged to apply for funding from the Discretionary Subfund to supplement their projects funded using their GPSS funds.<sup>25</sup>

# South Carolina



## Decision- Making Process

(Continued)

The [South Carolina Opioid Recovery Fund Board \(SCORF Board\)](#) is responsible for statewide distribution of the South Carolina Opioid Recovery Fund as a whole, including the GPSS.<sup>28</sup> However, the SCORF Board's duties and roles vis-à-vis the GPSS are limited.<sup>29</sup> Both subdivisions and entities approved by a subdivision's governing body may apply to receive GPSS funds,<sup>30</sup> and the SCORF Board must approve disbursements if the application meets specified criteria, including that the funding is sought for one or more of the approved abatement strategies listed in [Exhibit C](#).<sup>31</sup> The SCORF Board must approve or reject GPSS funding applications within 45 days, and upon approval, the SCORF Board must disburse funds as directed by the applicant.<sup>32</sup> If the Board denies a request, the Board must promptly notify the subdivision of its reasoning.<sup>33</sup>

### **SOUTH CAROLINA OPIOID RECOVERY FUND BOARD (SCORF BOARD)**

*The [South Carolina Opioid Recovery Fund Board \(SCORF Board\)](#) is an independent, quasi-governmental entity created by state law.<sup>34</sup> The nine-member SCORF Board is appointed by the governor and legislative leaders with input from the [South Carolina Association of Counties](#) and [South Carolina Municipal Association](#).<sup>35</sup> All SCORF Board members must have significant professional experience in opioid interventions, treatment, or prevention, and the appointing authorities will make their "best efforts" to appoint one or more members representing those with lived experience.<sup>36</sup> The appointing authorities will also consider appointees' race, gender, national origin, and other demographic factors "to ensure nondiscrimination to the greatest extent possible."<sup>37</sup> The initial term of the chair and four of the members selected by the Governor from the list provided by the [South Carolina Association of Counties](#) is six years; all other terms are for four years, and members may be reappointed.<sup>38</sup> An attorney appointed by the state Attorney General serves as the SCORF Board's non-voting legal counsel to, among other duties, ensure that Recovery Fund monies are spent only on approved abatement strategies.<sup>39</sup> State law required the SCORF Board to create [application rules](#) and [bylaws](#) at its first meeting.<sup>40</sup> Current members can be found on the group's [website](#).*

### **15-50% DISCRETIONARY SUBFUND**

State law required the state Treasurer to establish the Discretionary Subfund as a subfund of the South Carolina Opioid Recovery Fund (Recovery Fund).<sup>41</sup> The Discretionary Subfund will receive 15% of settlement funds through 2029 and 50% of funds thereafter.<sup>42</sup> The SCORF Board exercises substantial discretion over the allocation and use of monies in the Discretionary Subfund.<sup>43</sup> More specifically, the SCORF Board must ensure not only that funding requests align with the state's list of approved abatement strategies, but also that the request is "an appropriate, reasonable, and merited use of funds to help address issues caused by opioids."<sup>44</sup>



## Decision- Making Process

(Continued)

The SCORF Board has developed [eligibility criteria](#) for funding from the Discretionary Subfund.<sup>45</sup> Any entity that meets these eligibility requirements – including non-profit organizations, state agencies, medical and mental healthcare providers, researchers, legal services providers, and others – may apply for funds from the Discretionary Subfund to support one or more of the approved abatement strategies listed in [Exhibit C](#).<sup>46</sup> In evaluating funding requests, the SCORF Board must consider a non-exhaustive list of criteria, including whether the proposal is regional or otherwise cooperative in nature, the socioeconomic status of the area, the amount of direct payments received by municipalities within a county, and other unique abatement needs.<sup>47</sup> Upon approval, the SCORF Board authorizes payments from the Discretionary Subfund to the requesting entity,<sup>48</sup> and recipients of monies are subject to the SCORF Board’s oversight, regulation, and inspection to ensure that funds are only spent on approved purposes.<sup>49</sup> The SCORF Board is not required to explain its decision to reject a request for funds from the Discretionary Subfund and its funding decisions are not subject to appeal.<sup>50</sup>

### UP TO 2% ADMINISTRATIVE SUBFUND

State law required the state Treasurer to establish the Administrative Subfund as a subfund of the South Carolina Opioid Recovery Fund.<sup>51</sup> Funds may be spent by the SCORF Board and the [State Fiscal Accountability Authority](#).<sup>52</sup> The SCORF Board must budget for and publish all administrative costs and expenditures.<sup>53</sup> Administrative expenses may include staff time spent on grant review, grant administration, public reporting, educational activities, and meeting-related costs.<sup>54</sup> The SCORF Board may also authorize the treasurer to transfer monies from the Administrative Subfund to the South Carolina Opioid Recovery Fund at any time.<sup>55</sup>

## Tracking Funds and Accountability

- Watch out for the SCORF Board’s first annual report! The SCORF Board must annually publish a report containing the South Carolina Opioid Recovery Fund’s expenditures and program outcomes on its [website](#), and its first report must be published “no later than July 1, 2023.”<sup>56</sup>
- The SCORF Board’s website also publishes a [list of fund recipients](#) under “[Accountability](#)” and is required to develop outcome reporting metrics to evaluate the success of programs funded by Recovery Fund monies.<sup>57</sup> More than \$4.5 million was awarded to 18 South Carolina cities and counties in its first GPSS funding round.<sup>58</sup>
- The SCORF Board is subject to state open meetings and public information laws, including the state’s Freedom of Information Act.<sup>59</sup> Its commitments to the state’s Freedom of Information Act are presented in a user-friendly and engaging way; steps for submitting a request are listed [here](#).
- The State Auditor’s Office will annually audit the Recovery Fund and the SCORF Board’s bank accounts and report its findings to the SCORF Board and the State Fiscal Accountability Authority.<sup>60</sup>

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## Engaging in the Process

- Attend meetings of the SCORF Board, which must occur at least four times each year and generally must be open to the public.<sup>61,62</sup> Meeting information is posted on the Board's [website](#), and previous meetings have been held virtually. Past meeting minutes can be found [here](#).
- Join a “[coffee chat](#)” with the SCORF Board staff on the first and third Friday of the month. Ask questions and hear announcements about the opioid settlement funds.
- Non-profits are eligible to apply for funding. Bookmark [this page](#) and watch for future opportunities. Review the SCORF Board website’s “How to Apply” [section](#) and its “[Technical Proposal Requirements](#)” guidance to better prepare for future funding rounds.
- 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.<sup>63</sup>

## Additional Resources

### **[SOUTH CAROLINA OPIOID RECOVERY FUND BOARD](#)**

*[Bylaws \(July 2022\)](#)*

*[Answers to Frequently Asked Questions \(FAQ\)](#)*

*[SCORF Overview – Coffee Chat Presentation \(April 2023\)](#)*

### **[SOUTH CAROLINA ATTORNEY GENERAL](#)**

*[SC Opioid Settlement and Legislation - presentation to the South Carolina Association of Counties \(October 2022\)](#)*

### **[SOUTH CAROLINA INSTITUTE OF MEDICINE AND PUBLIC HEALTH \(IMPH\) AND SOUTH CAROLINA DEPARTMENT OF ALCOHOL AND OTHER DRUG ABUSE SERVICES \(DAODAS\)](#)**

*[Resource Guide for Investing Opioid Settlement Funds](#)*



## References

*Last updated May 11, 2023.*

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. South Carolina 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 "South Carolina" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. The 85% to 15% allocation between participating subdivisions (Guaranteed Political Subdivision Subfund) and the statewide fund (Discretionary Fund) applies to settlement monies received in 2021 through 2029. Agreement II.5(a). Beginning in 2030, settlement monies are split evenly between the Guaranteed Political Subdivision Subfund and the Discretionary Subfund. Agreement II.5(b).
3. South Carolina's allocation agreement's operative provisions are specific to the Distributor, Janssen, Purdue, and Mallinckrodt Settlements See Agreement II.4(a)-(b) and I.13; see also II.5(a)-(b). The state law establishing the Opioid Recovery Fund encompasses these proceeds and anticipates the receipt of "future opioid-related settlements or judgments." See S.C. Code Ann. § 11-58-30(B) (specifying that AG and participating political subdivisions "may" direct these "future" settlements to the Fund). 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.
4. Agreement II.5; S.C. Code Ann. §§ 11-58-40(A), 11-58-50(A).
5. Agreement Ex. A II.B; See also S.C. Code Ann. § 11-58-40(C) ("The board may approve, deny, or defer any request.")
6. Agreement Ex. A II and Ex. A.II.A. See also S.C. Code Ann. § 11-58-50(B).
7. S.C. Code Ann. § 11-58-50(B), Agreement Ex. A II.A. These criteria are that: (1) "the request complies with all application requirements set out by the board"; (2) "the request is for an approved abatement strategy"; (3) "the request is made by the governing body of a participating political subdivision or another entity with written authorization from the governing body of a participating political subdivision"; and (4) there are "sufficient funds to pay the request are in the Guaranteed Political Subdivision Subfund and set aside for use by that participating political subdivision." S.C. Code Ann. § 11-58-50(B)(1)-(4).
8. S.C. Code Ann. § 11-58-70(C)(1). See also [SCORF Board: About Us](#).
9. S.C. Code Ann. § 11-58-70(J). Its first report must be published "no later than July 1, 2023." Agreement Ex. A II.B.
10. Agreement II.3.
11. Agreement II.4(b)(i). See also Agreement III.5 (limiting total attorney's fees).
12. Agreement II.4(a)(i)-(ii). South Carolina's allocation addresses only proceeds from the Distributor, Janssen, Purdue, and Mallinckrodt Settlements. Agreement II.4(a)-(b) and I.13. See also II.5(a)-(b).
13. Agreement II.5; S.C. Code Ann. §§ 11-58-30(A), 11-58-40(A), 11-58-50(A), 11-58-60(A). Additional restitution amounts from the Jansen settlement are allocated across the Recovery Fund's subfunds as well, with 80% going to Discretionary Subfund and 20% for the "sole and exclusive use" of the Kershaw County Hospital Board. Agreement II.8(a)-(b).
14. Agreement II.5(a).
15. Agreement II.5(b).
16. S.C. Code Ann. § 11-58-30(C). This statutory language appears to increase the 1% set-aside discussed in the Agreement. Regardless the size of the set-aside, though, administrative costs are subject to public reporting requirements. Agreement Ex. A I.D, S.C. Code Ann. § 11-58-80(E).
17. S.C. Code Ann. § 11-58-30(C), Agreement Ex. A II.A-B.
18. Agreement I.2. See also S.C. Code Ann. § 11-58-20(2).
19. S.C. Code Ann. § 11-58-50(A).
20. Agreement II.5.
21. Agreement Ex. A II.A.





## References

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22. "Any money allocated to a Political Subdivision in a given year which is unused at the end of that year will remain available to that Political Subdivision for three (3) additional years, after which the money shall be moved to the Discretionary Subfund." Agreement Ex. A II.A.
23. Agreement Ex. A II.A.
24. Agreement Ex. A II.A.
25. Agreement Ex. A II.B.
26. The original applications for funding may be viewed [here](#).
27. [Charleston County's 4/12/2023 press](#). See also "[\\$900K coming to Charleston Co. to expand opioid treatment, prevention programs](#)."
28. Agreement Ex. A I.C(1).
29. Agreement Ex. A II, S.C. Code Ann. § 11-58-50(B).
30. Agreement Ex. A II.A; S.C. Code Ann. § 11-58-50(B)(3). "South Carolina counties and municipalities who participated in opioid-related settlements ... must submit requests seeking funding for approved abatement strategies from their available allocation of the Guaranteed Political Subdivision Subfund. All other qualified applicants, including nonprofits, hospitals, state agencies, educational providers, and any other person or entity working to help address the opioid epidemic may apply for funds from the Discretionary Subfund." SCORF Board: [Apply for Opioid Recovery Funds](#).
31. Agreement Ex. A II and II.A; S.C. Code Ann. § 11-58-50(B). These criteria are that: (1) "the request complies with all application requirements set out by the board"; (2) "the request is for an approved abatement strategy"; (3) "the request is made by the governing body of a participating political subdivision or another entity with written authorization from the governing body of a participating political subdivision"; and (4) there are "sufficient funds to pay the request are in the Guaranteed Political Subdivision Subfund and set aside for use by that participating political subdivision." S.C. Code Ann. § 11-58-50(B)(1)-(4). The SCORF Board website lists its approved abatement strategies [here](#).
32. Agreement Ex. A II.A.
33. S.C. Code Ann. § 11-58-50(C). See also S.C. Code Ann. § 11-58-50(D) (addressing legal challenge to denial of an application for GPSS funds).
34. S.C. Code Ann. § 11-58-70(A). The SCORF Board has general rulemaking authority to establish its own governing documents and bylaws, but it may not exercise any authority beyond the Agreement and statutes, e.g., modify the agreement's allocation provisions. Agreement Ex A I.C(3), S.C. Code Ann. § 11-58-70(I).
35. S.C. Code Ann. § 11-58-70(B). More specifically, the Governor appoints one person to serve as chair; the President of the Senate and Speaker of the House each appoint one member; and the Governor, President of the Senate, and Speaker of the House select five members from a list provided by the [South Carolina Association of Counties](#), with at least one member from each of the [Department of Health and Environmental Controls' Public Health Regions](#). S.C. Code Ann. § 11-58-70(B)(1)-(4). Finally, the Governor selects one member from a list provided by the [South Carolina Municipal Association](#). S.C. Code Ann. § 11-58-70(B)(5).
36. Agreement Ex. A I.A(1); S.C. Code Ann. § 11-58-70(C)(1). SCORF Board members also "must not have been convicted of a felony or a crime of moral turpitude." S.C. Code Ann. § 11-58-70(C)(1).
37. S.C. Code Ann. § 11-58-70(C)(2).
38. S.C. Code Ann. § 11-58-70(F), Agreement Ex. A I.B.
39. S.C. Code Ann. § 11-58-80(D), Agreement Ex. A I.A(3).
40. S.C. Code Ann. § 11-58-70(G)(2)-(3).
41. S.C. Code Ann. § 11-58-40(A).
42. Agreement II.5. Additional restitution amounts from the Jansen settlement are allocated across the Recovery Fund's subfunds as well, with 80% going to Discretionary Subfund and 20% for the "sole and exclusive use" of the Kershaw County Hospital Board. Agreement II.8(a)-(b).
43. Agreement Ex. A II.B.
44. S.C. Code Ann. § 11-58-40(B)(1)-(4).
45. Agreement Ex. A II.B; S.C. Code Ann. § 11-58-40(C) (authorizing SCORF board to develop criteria for evaluating competing funding requests). See also S.C. Code Ann. § 11-58-70(P) ("Before authorizing payments from the Discretionary Subfund to a requesting entity, the board may require that the entity has the appropriate financial, material, equipment, facility, and personnel resources and expertise, or the ability to obtain them, necessary to indicate its ability to meet all requirements established by the board; a satisfactory record of performance; and a satisfactory record of integrity.")



## References

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46. Agreement Ex. A II.B. This contrasts with the GPSS, which is limited to funding requests from political subdivisions and entities approved by a political subdivision. Agreement Ex. A II.A; S.C. Code Ann. § 11-58-50(B)(3). However, participating subdivisions also are encouraged to apply for funding from the Discretionary Subfund “for additional projects and to supplement projects funded by the Guaranteed Political Subdivision Subfund.” Agreement Ex. A II.B.
47. Agreement Ex. A II.B(1)-(6).
48. S.C. Code Ann. § 11-58-40(B).
49. S.C. Code Ann. §§ 11-58-70(Q) (“The board has the duty and authority to regulate the expenditure by requesting entities of authorized payments from the Discretionary Subfund to ensure authorized payments are used only for approved purposes, to facilitate accountability for their use, and to prevent fraud, waste, abuse, mismanagement, and misconduct.”), (R) (“The board may enter assistance agreements with each requesting entity approved to receive authorized payments from the Discretionary Subfund. These agreements are enforceable. Without limitation, such agreements may impose restrictions on the appropriate use of payments and penalties for the misuse of such payments. In addition, such agreements may impose payment, purchasing, accounting, auditing, record keeping, performance and financial reporting, and compliance requirements. Without limitation, the application requirements adopted by the board may include the acceptance of such agreements by the requesting entity. The board may inspect, audit, and examine any requesting entity receiving authorized payments from the Discretionary Subfund.”)
50. S.C. Code Ann. § 11-58-40(C)-(D).
51. S.C. Code Ann. § 11-58-60(A).
52. S.C. Code Ann. § 11-58-60(B). The State Fiscal Accountability Authority is responsible for the SCORF Board’s administrative operations. S.C. Code Ann. § 11-58-80(A).
53. S.C. Code Ann. § 11-58-60(B), S.C. Code Ann. § 11-58-80(E).
54. Agreement Ex. A I.D.
55. S.C. Code Ann. § 11-58-60(C).
56. S.C. Code Ann. § 11-58-70(J), Agreement Ex. A II.B.
57. Agreement Ex. A II.B.
58. View the recipients and strategies funded [here](#).
59. Agreement Ex. A I.C(2), S.C. Code Ann. § 11-58-70(K).
60. S.C. Code Ann. § 11-58-30(D), Agreement Ex. A II.D.
61. Agreement Ex. A I.C(2)(a); S.C. Code Ann. § 11-58-70(G).
62. Agreement Ex. A I.C(2)(a).
63. AL, GA, KY, MD, MS, NY, NC, OH, PA, SC, TN, VA, WV.