

# Virginia



## Total Funds

\$530 million<sup>1</sup>

## Allocation

55% to the Virginia Opioid Abatement Authority's Opioid Abatement Fund, 30% to participating political subdivisions, 15% to the Commonwealth

## Mechanism

Allocation agreement between the state and local governments ([Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding](#)), legislation ([Code of Virginia Title 2.2, Chapter 22, Article 12](#))<sup>2</sup>

## Key Takeaways

**No OAA-funded supplantation.** Fifty-five percent (55%) of Virginia's opioid settlement funds sit in the Opioid Abatement Authority's (OAA) Opioid Abatement Fund.<sup>3</sup> The OAA explicitly prohibits its recipients from using its support to supplant funding for existing programs.<sup>4</sup>

**"Gold Standard" policy.** Localities will receive their monies from two sources: directly from settling companies ("Direct Distribution") and from the Virginia Opioid Abatement Fund ("OAA Distribution"). A ["Gold Standard" policy](#) applies to localities' monies from the OAA Distribution and requires that 100% of funds be used on remediation, 0% supplantation use, and monitoring by the OAA. Localities that spend their Direct Distributions according to these same conditions will receive an additional 25% on top of their standard OAA Distribution for that fiscal year.<sup>5</sup>

**Public reporting.** The [Virginia Opioid Abatement Authority \(OAA\)](#) must submit an annual executive summary containing the Opioid Abatement Fund's 55% share of expenditures to the Governor and legislature, and the legislature will publish this summary on its [website](#).<sup>6</sup>

## Background

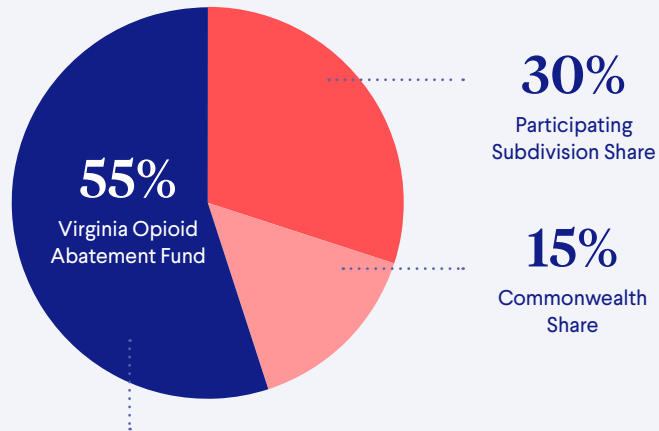
*This resource is current as of 4/6/2023. For the most up-to-date information, please visit <https://www.opioidsettlementtracker.com/settlementspending>.*

The [Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding](#) (MOU) establishes the state's opioid settlement allocations listed above,<sup>7</sup> and a [state law](#) establishes the Virginia Opioid Abatement Fund. The MOU defines "Approved Abatement Purposes" to include efforts to treat, prevent, or reduce opioid use disorder or the misuse of opioids as well as more specific priorities that can be found in the MOU and statute, such as providing connections to care for people with co-occurring substance use disorders, evidence-based drug treatment and recovery courts, and law enforcement programming.<sup>8</sup>

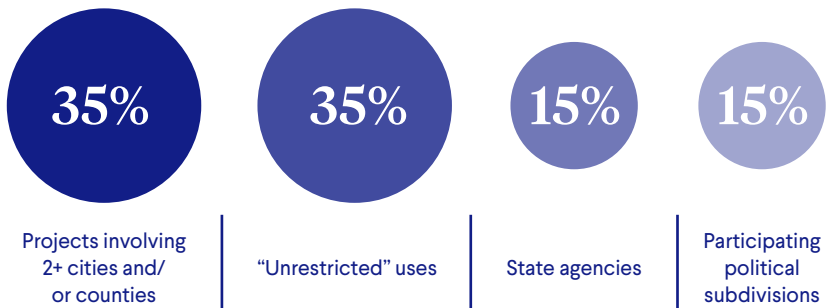


## Decision-Making Process

### ALLOCATION OF SETTLEMENT FUNDS



### OAA DISTRIBUTION SUB-ALLOCATION OF FUNDS



### 55% VIRGINIA OPIOID ABATEMENT FUND

The Virginia Opioid Abatement Fund (Fund) is administered by the Virginia Opioid Abatement Authority (OAA), an independent body governed by an 11-member Board of Directors tasked with establishing awards criteria and evaluating funding requests.<sup>9</sup> The Secretary of Health and Human Resources and the chairs of the state's legislative committees on appropriations are guaranteed three of the eleven seats, while the remaining eight are appointed by the Governor, including representatives from local governments, regional behavioral health authorities, medical professionals, a sheriff, and a representative from the "addiction and recovery community."<sup>10</sup> The list of current Board members may be found [here](#).



## Decision-making Process

(Continued)

An “[OAA Distribution](#)” further sub-allocates the Fund’s monies this way:<sup>11</sup>

- 15% to state agencies
- 15% to participating political subdivisions according to [Exhibit A](#) of the MOU.
  - Per a state-specific “[Gold Standard](#)” policy, participating localities’ OAA distributions must be spent on opioid remediation and may not be used to supplant existing program funding.<sup>12</sup>
- 35% to “projects involving two or more cities and/or counties working together on an opioid abatement/remediation project,” with priority given to:
  - “Programs or organizations with an established record of success (expansion of existing program or implementation in a new city or county);
  - Programs in communities with a high incidence of opioid use disorder or opioid death rate, relative to population;
  - Programs in historically economically disadvantaged communities; and,
  - Applications that include a monetary match from or on behalf of the applicant, with higher priority given to an effort with [ ] larger matching amounts”<sup>13</sup>
- 35% to “unrestricted” uses that may include the OAA’s administrative costs or any of the three aforementioned OAA Distribution uses, including funding for state agencies, participating political subdivisions, and regional efforts.<sup>14</sup>

### 30% PARTICIPATING SUBDIVISION SHARE

Participating political subdivisions’ funds are distributed according to the percentage allocations in the MOU’s [Exhibit A](#).<sup>15</sup> Ultimately, localities will receive their monies from two sources: from the OAA as described above (“[OAA Distributions](#)”) and from the 30% here as direct disbursements. This 30%, “[Direct Distribution](#)” share is divided into two equal components: 15% is restricted to opioid abatement and remediation while 15% is considered “unrestricted.”<sup>16</sup>

- Localities’ monies from the OAA Distribution are subject to a “[Gold Standard](#)” policy – one that requires 100% of funds to be used on remediation, 0% supplantation, and monitoring by the OAA.
- Localities who spend their Direct Distribution share monies in compliance with this “Gold Standard” policy will receive 25% more of their standard OAA distribution for the year.<sup>17</sup>



## Decision-making Process

(Continued)

### 15% COMMONWEALTH SHARE

The Commonwealth's share will be appropriated by the Governor and General Assembly<sup>18</sup> and spent on abatement only as needed to satisfy the national settlement agreements' minimum opioid remediation spending requirements.<sup>19</sup>

## Tracking Funds and Accountability

- The [Virginia Opioid Abatement Authority \(OAA\)](#) must submit an annual executive summary containing the Opioid Abatement Fund's 55% share of expenditures to the Governor and legislature, and the legislature will publish this summary on its [website](#).<sup>20</sup>
- The remaining 45% of funds are unattached to explicit public reporting requirements,<sup>21</sup> though participating political subdivisions must make publicly available the "purposes" for which their 15% Direct Subdivision Abatement Share was used, and only upon request.<sup>22</sup>

## Engaging in the Process

- Subscribe to email updates from the Opioid Abatement Authority (OAA): <https://www.oaa.virginia.gov/news-and-updates/>
- The OAA and the [Virginia Association of Community Services Board \(VACSB\)](#) have hosted public town hall-style listening sessions around the state. (Feedback gathered during these sessions helps inform the OAA's funding priorities and aids in grant decisionmaking.)<sup>23</sup> Notices of future public listening sessions are posted on the [OAA's website](#), which also hosts materials from past meetings.
- 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>24</sup>
- Participating political subdivisions must publicly disclose the uses of their 15% direct abatement share of funds "upon request" (see Tracking Funds and Accountability).<sup>25</sup>

# Virginia



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## Additional Resources

### **VIRGINIA OPIOID ABATEMENT AUTHORITY**

*Overview of Opioid Settlement Funds and the Virginia Opioid Abatement Authority*

*Virginia Opioid Abatement Authority*

### **VIRGINIA ATTORNEY GENERAL'S OFFICE**

*Summary of Key Provisions on the Use of Funds Received from National Opioid Settlements*

### **COMMUNITY EDUCATION GROUP**

*Appalachia Opioid Remediation (AOR) Local Opioid Settlement Spending Database and email list*



## References

Last updated April 6, 2023.

1. From settlements with distributors McKesson, AmerisourceBergen, Cardinal Health and manufacturer Johnson & Johnson only. Virginia 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 "Virginia" for state-specific participation information) and OpioidSettlementTracker.com's [Global Settlement Tracker](#) for more information.
2. The Virginia Opioid Abatement Fund and Settlement Allocation Memorandum of Understanding and state law establishing the Virginia Opioid Abatement Fund apply to all opioid-related settlements. 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. [Va. Code Ann. § 2.2-2374\(A\)](#).
4. MOU C.5(b).
5. See OAA's "[Gold Standard](#)" Policy.
6. [Va. Code Ann. § 2.2-2373](#).
7. MOU B.2.
8. MOU A.9 and see C.4(a)-(j) for the full list. See also [Va. Code Ann. § 2.2-2370\(A\)\(1\)\(a\)-\(j\)](#).
9. MOU C.3.
10. [Va. Code Ann. § 2.2-2367\(A\)](#). After an initial staggering of terms, Board members are appointed to serve four-year terms. § 2.2-2367(B)(1).
11. MOU C.7 and [Va. Code Ann. § 2.2-2374\(D\)\(1\)-\(4\)](#).
12. "Participating cities and counties will only utilize OAA Distributions to fund efforts designed to treat, prevent, or reduce opioid use disorder or the misuse of opioids through evidence-based or evidence-informed methods, programs, or strategies; Participating cities and counties shall not supplant funding of an existing program nor collect indirect costs." See [OAA's "Gold Standard" Policy](#).
13. <https://www.oaa.virginia.gov/about/>
14. MOU C.7(d).
15. MOU B.1.
16. [Virginia Attorney General's Summary of Key Provisions on the Use of Funds Received from National Opioid Settlements](#).
17. See OAA's "[Gold Standard](#)" Policy.
18. <https://www.oaa.virginia.gov/about/>
19. MOU B.4. Under the national settlement agreements, 70% of monies must be spent on prospective or "future" opioid remediation, which by definition excludes reimbursement for past expenditures.
20. "The Authority shall submit to the Governor and the General Assembly an annual executive summary of the interim activity and work of the Authority no later than the first day of each regular session of the General Assembly. The executive summary shall be submitted as a report document as provided in the procedures of the Division of Legislative Automated Systems for the processing of legislative documents and reports and shall be posted on the General Assembly's website. The executive summary shall include information regarding efforts supported by the Authority and expenditures from the Fund." [Va. Code Ann. § 2.2-2373](#).
21. See OpioidSettlementTracker.com's "[States' Initial Promises to Publicly Report Their Opioid Settlement Expenditures](#)."



## References

(Continued)

22. MOU B.5(b). See also AG's [Summary of Key Provisions on the Use of Funds Received from National Opioid Settlements](#) ("The 30% share allocated to the localities is divided into two equal components—15% is restricted to uses for opioid abatement and remediation, and 15% is 'unrestricted.' The 15% share that is restricted to abatement uses is subject to a recordkeeping and transparency requirement, stating that '[u]pon request, a Participating Political Subdivision shall make publicly available information showing the purpose for which the Participating Political Subdivision used Direct Subdivision Abatement Share funds").
23. See [PUBLIC LISTENING SESSIONS REGARDING THE IMPACT OF THE OPIOID EPIDEMIC ON COMMUNITIES IN VIRGINIA](#)
24. AL, GA, KY, MD, MS, NY, NC, OH, PA, SC, TN, VA, WV.
25. MOU B.5 (b) While it isn't clear who does the requesting, it's worth an ask at the next OAA meeting.