



## JUDICIAL COUNCIL OF CALIFORNIA

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on January 22, 2015

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Title	Agenda Item Type
Juvenile Dependency: Court-Appointed– Counsel Funding Reallocation	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
N/A	January 22, 2015
Recommended by	Date of Report
Trial Court Budget Advisory Committee Hon. Laurie M. Earl, Chair	January 5, 2015
Judicial Council Staff	Contact
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### **Executive Summary**

The Trial Court Budget Advisory Committee recommends that the Judicial Council approve a process to reallocate those dependency court-appointed–counsel funds that are estimated to remain unspent in fiscal year 2014–2015. The reallocation will be based on the funding need of courts, as calculated by the caseload funding model approved by the council in 2008.

### **Recommendation**

The Trial Court Budget Advisory Committee recommends, effective January 22, 2015, that:

1. The Judicial Council approve a process to reallocate those dependency court-appointed–counsel funds that are estimated to remain unspent in fiscal year (FY) 2014–2015.

2. The courts eligible for the reallocation be those courts whose base dependency counsel funding allocation is less than 90 percent of their funding need, as calculated by the dependency counsel caseload funding model.
3. The formula used to reallocate funding to those eligible courts be based on each eligible court's proportion of actual need. Actual need (in dollars) is calculated by subtracting funding need from base funding.
4. A reallocation be made in January 2015 that will consist of 50 percent of the unencumbered funding in the Dependency Representation, Administration, Funding and Training (DRAFT) program budget, or approximately \$550,000.
5. The reallocation process also be carried out by staff in April 2015 and if necessary in June 2015 based on unspent funding from all courts.
6. The recommendations approved today apply only to FY 2014–2015.

### **Previous Council Action**

The Judicial Council approved a methodology for determining the funding need by court for court-appointed counsel in dependency cases (Caseload Funding Model) at its October 25, 2007, meeting.<sup>1</sup>

### **Rationale for Recommendation**

#### **Need for process to reallocate funding**

The \$103.7 million annual base funding for court-appointed juvenile dependency counsel represents approximately 75 percent of the \$136.8 million needed by the courts to achieve the Judicial Council's caseload standard for dependency counsel of 188 cases per attorney. Individual court allocations for dependency counsel vary widely when the court's juvenile dependency caseload is taken into account: from as little as 10 percent of calculated need to over 150 percent.

Although there is a net funding need statewide, within a fiscal year not all courts are able to spend their entire funding allocation because of changing dependency caseloads in counties, contract negotiations, fluctuating needs for conflict counsel, and extraordinary expenses such as expert witnesses. The committee determined that in FY 2013–2014 the courts did not expend approximately \$1.2 million of the \$103.7 million allocated for court-appointed counsel, or 1 percent of the total. These unspent allocations remained in the Trial Court Trust Fund. At the same time, 18 courts augmented their dependency counsel allocation with a total of \$1.8 million in funds from other sources.

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<sup>1</sup> Center for Families, Children & Cts., Admin. Off. of Cts. (now Judicial Council of Cal.), *DRAFT Pilot Program and Court-Appointed Counsel* (October 26, 2007), [www.courts.ca.gov/documents/102607itemF.pdf](http://www.courts.ca.gov/documents/102607itemF.pdf).

### **Funding available for reallocation**

In fiscal year 2014–2015, approximately \$1.1 million is currently not encumbered for the 20 courts participating in the Dependency Representation, Administration, Funding, and Training (DRAFT) program. A portion of this unencumbered funding needs to be reserved for unbudgeted costs for conflict counsel and extraordinary expenses. Of the 38 courts that manage their dependency counsel expenditures directly, several did not request their full allocation through reimbursement in FY 2013–2014 and left \$603,000 unexpended.

Reallocating 50 percent of the unencumbered DRAFT budget funding, or \$550,000, midyear will leave the program a reserve for conflict counsel and extraordinary expenses of \$550,000, or 0.8 percent of total DRAFT contract costs. This reallocation does not preclude further reallocation of any remaining unencumbered funds later in the year.

An additional reallocation of unspent funds should be made in April 2015 and if necessary again in June 2015. Judicial Council staff will estimate year-end expenditures for all courts to determine if any unspent funds are likely. Reallocations to courts in the DRAFT program will be made through the contracting process. Reallocations to courts using the reimbursement will be made by informing those courts that their base allocation has been supplemented for the current fiscal year.

### **Method for reallocation**

Two methods have been approved by the Judicial Council or by the Executive and Planning Committee for use in determining eligibility for reallocation of dependency counsel funding. In 2008 a method was used to determine potential allocation of funds from the Statewide Appropriation Limit process. Courts eligible for allocations were defined as “those whose baseline funding level totals 90 percent or less of the identified funding need, as determined by application of the compensation model.”<sup>2</sup> A second method was approved in 2013 for the purposes of determining eligibility for courts to receive a share of the juvenile dependency counsel collections revenues. A court is eligible if its proportion of total need exceeds its proportion of the funding base.<sup>3</sup>

When the two definitions of eligible courts were applied, two courts, Butte and Modoc, were eligible under the first method and ineligible under the second method. No courts were eligible under the second method and ineligible under the first method. The committee recommends using the 2008 model, in which those courts receiving less than 90 percent of the need as calculated by the caseload funding model receive any reallocation.

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<sup>2</sup> Report to the Executive and Planning Committee, *Court-Appointed Counsel Compensation Model and Workload-Based Funding Methodology* (June 10, 2008).

<sup>3</sup> Judicial Council of Cal., Advisory Com. Rep., *Juvenile Dependency: Counsel Collections Program Guidelines* (August 23, 2013), [www.courts.ca.gov/documents/jc-20130823-itemF.pdf](http://www.courts.ca.gov/documents/jc-20130823-itemF.pdf).

Three formulas for determining the distribution of reallocated funding were reviewed by the committee. The formula approved in the 2008 report to the Executive and Planning Committee allocated increases to courts eligible for an allocation in proportion to a court’s share of the base funding of all the eligible courts. The formula approved in the 2013 report to the council allocated increases to courts eligible for an allocation in proportion to a court’s share of the estimated total need of all the eligible courts.

The drawback to both these formulas is that an allocation based on proportion of total base, or total need, does not take into account relative need. The first method is not weighted at all to relative need; it simply uses the base funding. The second method does account somewhat for relative need. The formulas are illustrated in Table 1:

**Table 1. Allocation Formulas 1 and 2**

	<b>Base funding</b>	<b>Estimated need</b>	<b>Percent of need met</b>	<b>Formula 1 \$1,000 allocated proportional to base</b>	<b>Formula 2 \$1,000 allocated proportional to estimated need</b>
<b>Court A</b>	\$1,000	\$1,000	100%		
<b>Court B</b>	\$1,000	\$1,500	67%	\$455	\$390
<b>Court C</b>	\$1,000	\$2,000	50%	\$455	\$519
<b>Court D</b>	\$100	\$150	67%	\$45	\$39
<b>Court E</b>	\$100	\$200	50%	\$45	\$52
<b>Totals</b>	\$3,200	\$4,850			
<b>Total courts under 90%</b>	\$2,200	\$3,850		\$1,000	\$1,000

The formula recommended by the committee controls more rigorously for relative need among the courts and allocates funds based on the actual dollars of need represented by the eligible courts. Actual dollars of need is calculated by subtracting estimated funding need from base funding. This is illustrated in Table 2:

**Table 2. Allocation Formula 3**

	<b>Base funding</b>	<b>Estimated need</b>	<b>Percent of need met</b>	<b>Net of estimated need and base (“dollars of need”)</b>	<b>Formula 3 \$1,000 allocated proportional to dollars of need</b>
<b>Court A</b>	\$1,000	\$1,000	100%		
<b>Court B</b>	\$1,000	\$1,500	67%	\$500	\$303
<b>Court C</b>	\$1,000	\$2,000	50%	\$1,000	\$606
<b>Court D</b>	\$100	\$150	67%	\$50	\$30
<b>Court E</b>	\$100	\$200	50%	\$100	\$61
<b>Totals</b>	\$3,200	\$4,850			
<b>Total courts under 100%</b>	\$2,200	\$3,850		\$1,650	\$1,000

To compare the three methods, in all scenarios Court B needs \$500 to reach the estimated funding need, and Court C needs \$1,000. Under the method of distribution proportional to base, Court B receives 91 percent of its needed dollars, and Court C receives 46 percent of those dollars. Under the second scenario, distributing proportional to estimated funding need, Court B receives 78 percent of its needed dollars, and Court C receives 52 percent of those dollars. Under the third scenario, distributing proportional to net dollars needed, Court B receives 61 percent of the dollars needed, and Court C receives 61 percent of dollars needed.

### **Comments, Alternatives Considered, and Policy Implications**

None.

### **Implementation Requirements, Costs, and Operational Impacts**

None.

### **Attachments**

1. Attachment A: Court Appointed Dependency Counsel Mid-Year Funding Reallocations: FY 2014–2015

## STATEWIDE COMPENSATION STANDARD IMPLEMENTATION COSTS

Court Appointed Dependency Counsel Mid-Year Funding Reallocation: FY 2014-2015							
Court	CFM Estimated Funding Need	Base CAC Funding Level	Base/CFM	Eligible for reallocation: base <= 90% of need	Formula 3 Net of need and actual	Formula 3 Share of net	\$550,000 allocated proportional to share of net \$ needed
	A	B	C	D	E	F	G
Alameda	\$3,450,971	\$4,171,032	121%				
Alpine*	\$0	\$0		YES	\$0	0.00%	\$0
Amador	\$85,337	\$120,147	141%				
Butte	\$833,637	\$664,759	80%	YES	\$168,878	0.39%	\$2,157
Calaveras	\$226,027	\$76,519	34%	YES	\$149,508	0.35%	\$1,910
Colusa†	\$50,570	\$0	0%	YES	\$50,570	0.12%	\$646
Contra Costa	\$2,716,648	\$3,120,151	115%				
Del Norte	\$168,567	\$223,090	132%				
El Dorado	\$614,079	\$819,765	133%				
Fresno	\$2,937,651	\$2,958,296	101%				
Glenn	\$166,061	\$55,250	33%	YES	\$110,811	0.26%	\$1,416
Humboldt	\$458,194	\$562,460	123%				
Imperial	\$545,032	\$607,371	111%				
Inyo	\$34,019	\$76,990	226%				
Kern	\$3,108,448	\$2,023,943	65%	YES	\$1,084,505	2.52%	\$13,854
Kings	\$686,525	\$199,672	29%	YES	\$486,852	1.13%	\$6,219
Lake	\$239,289	\$307,076	128%				
Lassen	\$115,953	\$108,374	93%				
Los Angeles	\$57,151,312	\$32,782,704	57%	YES	\$24,368,608	56.60%	\$311,296
Madera	\$586,978	\$53,031	9%	YES	\$533,948	1.24%	\$6,821
Marin	\$247,454	\$408,419	165%				
Mariposa	\$51,592	\$32,243	62%	YES	\$19,349	0.04%	\$247
Mendocino	\$518,940	\$742,022	143%				
Merced	\$1,064,522	\$593,861	56%	YES	\$470,660	1.09%	\$6,012
Modoc	\$20,432	\$16,064	79%	YES	\$4,368	0.01%	\$56
Mono	\$17,875	\$12,329	69%	YES	\$5,546	0.01%	\$71
Monterey	\$667,373	\$329,570	49%	YES	\$337,803	0.78%	\$4,315
Napa	\$294,547	\$176,430	60%	YES	\$118,117	0.27%	\$1,509
Nevada	\$202,963	\$232,799	115%				
Orange	\$6,056,115	\$6,583,082	109%				
Placer	\$743,664	\$418,422	56%	YES	\$325,242	0.76%	\$4,155
Plumas	\$82,240	\$163,291	199%				
Riverside	\$10,235,491	\$4,171,898	41%	YES	\$6,063,594	14.08%	\$77,459
Sacramento	\$4,443,854	\$5,378,190	121%				
San Benito	\$209,882	\$31,885	15%	YES	\$177,998	0.41%	\$2,274
San Bernardino	\$7,983,596	\$3,587,297	45%	YES	\$4,396,299	10.21%	\$56,160
San Diego	\$7,678,775	\$9,749,950	127%				
San Francisco	\$2,951,118	\$3,907,633	132%				
San Joaquin	\$2,542,228	\$3,081,901	121%				
San Luis Obispo	\$781,869	\$707,000	90%				
San Mateo	\$1,050,916	\$323,022	31%	YES	\$727,894	1.69%	\$9,298
Santa Barbara	\$1,318,162	\$1,610,017	122%				
Santa Clara	\$3,340,629	\$4,700,131	141%				
Santa Cruz	\$703,197	\$894,765	127%				
Shasta	\$940,396	\$569,416	61%	YES	\$370,980	0.86%	\$4,739
Sierra	\$3,576	\$14,898	417%				
Siskiyou	\$173,164	\$256,552	148%				
Solano	\$847,816	\$896,319	106%				
Sonoma	\$1,274,378	\$1,150,195	90%				
Stanislaus	\$1,100,152	\$1,130,986	103%				
Sutter	\$272,155	\$84,083	31%	YES	\$188,072	0.44%	\$2,403
Tehama	\$313,635	\$93,909	30%	YES	\$219,726	0.51%	\$2,807
Trinity	\$119,529	\$83,204	70%	YES	\$36,325	0.08%	\$464
Tulare	\$1,598,826	\$658,892	41%	YES	\$939,934	2.18%	\$12,007
Tuolumne	\$210,459	\$63,981	30%	YES	\$146,478	0.34%	\$1,871
Ventura	\$2,010,744	\$755,357	38%	YES	\$1,255,387	2.92%	\$16,037
Yolo	\$565,644	\$333,430	59%	YES	\$232,214	0.54%	\$2,966
Yuba	\$264,659	\$199,732	75%	YES	\$64,927	0.15%	\$829
Unallocated		\$651,641					
<b>Total</b>	<b>\$137,077,862</b>	<b>\$103,725,444</b>			<b>\$43,054,591</b>		<b>\$550,000</b>