

**DEPARTMENT OF ALCOHOL AND DRUG PROGRAMS**

1700 K STREET  
 SACRAMENTO, CA 95814-4037  
 TDD (916) 445-1942  
 (916) 322-7012



## ADP BULLETIN

Title  Prohibition Regarding Supplantation of Funds		Issue Date: 2-19-04 Expiration Date: Until Notified	Issue No.  04-2
Deputy Director Approval  (Signed by)  JESSE A. McGUINN, MSW Program Operations Division	Function: [ ] Information Management [ ] Quality Assurance [ ] Service Delivery [ X ] Fiscal [ ] Administration	Supersedes Bulletin/ADP Letter No.	

PURPOSE

This bulletin is a reminder of existing federal regulations which prohibit supplantation of funds in state alcohol and other drug (AOD) programs.

DISCUSSION*Federal Regulations*

Federal Regulations prohibit the use of the Substance Abuse Prevention and Treatment (SAPT) Block Grant funds to supplant funding for state-funded AOD programs. Title 45 Code of Federal Regulations (CFR) Section (Sec.) 96.134(a) states SAPT Block Grant funds shall not be used to supplant state funding of AOD prevention and treatment programs. In implementing Sec. 96.134(a), the March 31, 1993, Federal Register, states “. . . it is essential . . . that the Block Grant be expended to increase services, rather than using the funds to maintain the current level of such programs.”

There are also several court cases and decisions explaining supplantation in more detail. If the federal funds were spent on a service that the state would have provided whether or not the federal funding had been received, federal funds were viewed as supplanting state funds. The same criteria would apply in determining if SAPT Block Grant funds were used to supplant non-federal funds for a service that would be provided with or without the federal funds.



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The Department recognizes counties may desire to maximize funds available for treatment of AOD clients by using SAPT Block Grant funds to treat clients in state-funded programs and holding the state funds to facilitate continued funding after the state funding is anticipated to expire. However, the spending requirements of the SAPT Block Grant prohibit the use of federal discretionary funds in this manner.

The Department urges counties to consult with their County Auditor and/or County Counsel for more specific guidance.

#### REFERENCES

1. 45 CFR, Sec. 96.134(a)
2. March 31, 1993, Federal Register
3. Alexander v. Califano, 432 F. Supp. 1182 (N.D. CA. 1977)
4. Hawaii v. Bell, 770 F.2d 1409 (9<sup>th</sup> Cir. 1985)
5. New York v. U.S. Department of Education, 903 F.2d 930 (2d. Cir. 1990)

#### BACKGROUND

Not applicable.

#### QUESTIONS/MAINTENANCE

For further information, please contact Ken DaRosa, Supervisor, Program and Fiscal Policy Branch, at (916) 322-1241, or via e-mail at [kdarosa@adp.state.ca.us](mailto:kdarosa@adp.state.ca.us).

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#### EXHIBITS

None.

#### DISTRIBUTION

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