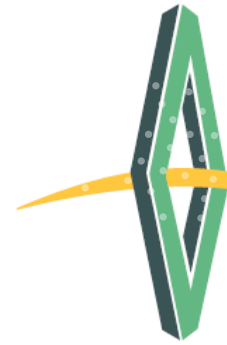# Navigating Requirements for Supplementing v Supplanting Funds (and why it matters to your organization)

Roberta Braneck, MA

David Collier, JD

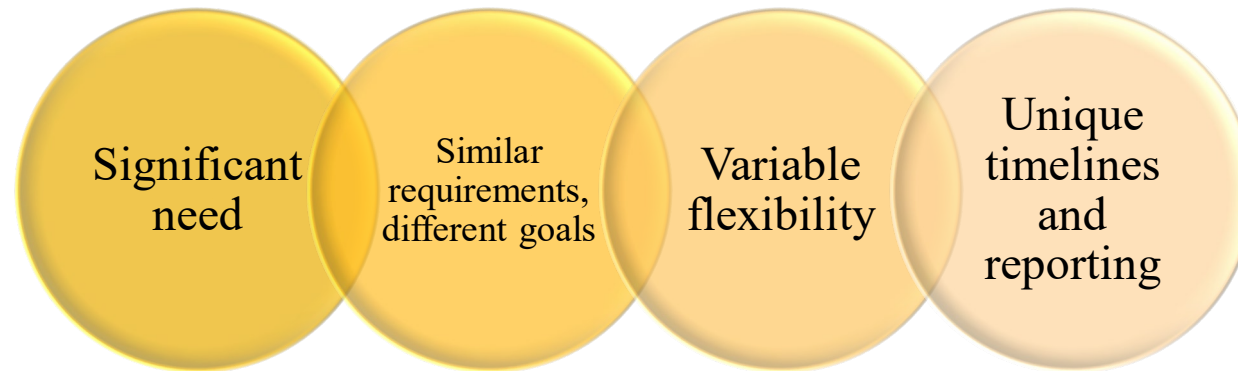Jodi Manz, MSW

August 28, 2024

# Welcome!

- Please be sure to keep your lines muted

- Put questions the chat or save them to the end of today's presentations

- Today's slides and the recording of the webinar will be posted to the SC Center of Excellence in Addiction website

# Today's Discussion

Prevention and mitigation of the challenges that come along with administering multiple funding sources for the same or a similar set of activities

Significant need

Similar requirements, different goals

Variable flexibility

Unique timelines and reporting

# Braided funds: combining good work with good work



1) Build on established foundations of approaches that are most effective

2) Identify the value of additional components to those approaches

3) Braid in distinct funding to support those components

- When funds are braided well:
  - ✓ Reports are more accurate and easier to complete
  - ✓ Inputs, outputs, and outcomes are clearly identifiable
  - ✓ Programs are more sustainable
  - ✓ Diversified funding sources can generate revenue (for entities that deliver billable services)

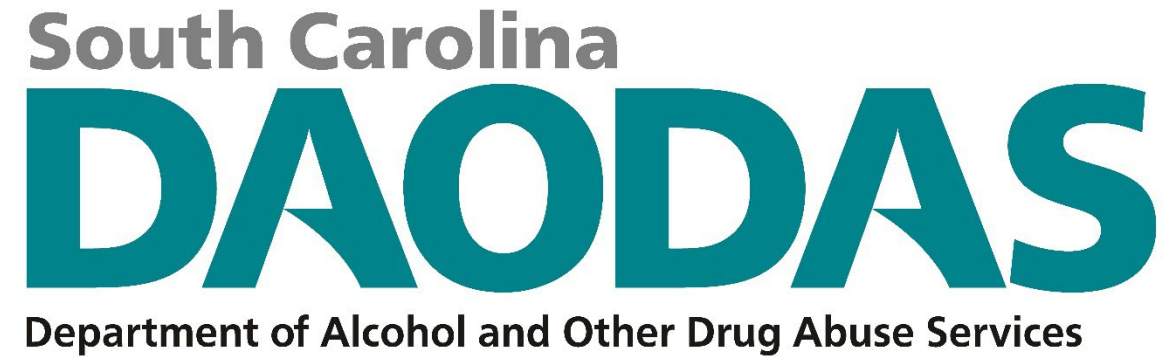SOUTH CAROLINA CENTER *of* EXCELLENCE *in* ADDICTION

# Today's Speakers
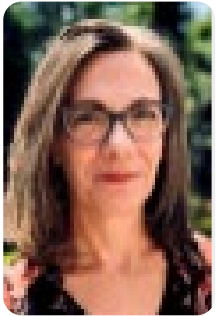


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Services (DAODAS)

# Grant Funding & Non-Supplantation

**David Collier, General Counsel**

**August 28, 2024**

South Carolina DAODAS
South Carolina Department of Alcohol and Other Drug Abuse Services

# Housekeeping

- This presentation will be recorded and archived.

- Citations to Authority (current as of 8/28/2024)

- This material is for informational purposes only. It is not intended to be legal advice. Nothing herein should be relied upon or used without consulting a lawyer to consider your specific circumstances, possible changes to applicable laws, rules and regulations and other legal issues.

# Purpose of this Presentation

- General Definition of Supplanting

- Difference between Supplanting and Supplementing

- Sources of Supplanting Rules & Regulations

- SAMHSA Grants and Non-Supplantation Rules

- Consequences of Supplanting

- Applying Supplanting Rules to Example Scenarios

# What is Supplanting?

- **Supplanting** occurs when a grantee or awardee *replaces existing funds* for an activity with grant funds (the existing funds are the funds being supplanted, not the grant funds themselves).

- Common prohibition regarding almost all federal grants and many non-federal grants.

- Rationale is that supplanting would defeat the purpose of the grant.

- Each grant or program might define "supplanting" slightly differently, but the general prohibition is largely applied in the same manner.

# Supplanting vs. Supplementing

- While Supplanting is prohibited, using grant funds to **Supplement** existing programs or activities is generally permitted.

- Question of whether grant funds are being used to either supplement or supplant is often fact dependent. There are generally no bright line rules or safe harbors.

- When a question arises, a grantee must demonstrate that a reduction in non-grant resources occurred for reasons other than the receipt or expected receipt of grant funds.

# Sources of Supplanting Rules

- Grant Funding Announcements

- Grant Terms and Conditions

- Grant Award Notices

- Federal Regulations

- Federal Statutes

- Guidance Documents Issued by Grantor (policy statements, letters, memos, FAQ's, etc.)

# SAMHSA



U.S. Dept. of Health and Human Services (HHS)

Substance Abuse and Mental Health Administration (SAMHSA)

Other Agencies & Offices within HHS (CMS, FDA, CDC, etc.)

Center for Substance Abuse Prevention (allots SUBG funding to States)

Center for Substance Abuse Treatment (allots SUBG funding to States)

Center for Mental Health Services (allots MHBG funding to States)

Other Divisions within SAMHSA

# Non-Supplantation & SAMHSA Grants

- "The [Substance Use Prevention Treatment and Recovery Services] Block Grant will not be used to supplant State funding of alcohol and other drug prevention and treatment programs . . .." 45 CFR § 96.123(10).

- "Supplanting consists of using federal funds to replace existing federal, state, local or agency funds.  <u>This practice is prohibited</u>." *A Primer on Maintenance of Effort Requirements for Substance Abuse Prevention and Treatment Block Grant Community Mental Health Services Block Grant* (2020).

- "Federal award funds must supplement, not replace (supplant) non-federal funds. All recipients . . . must ensure that federal funds do not supplant funds that have been budgeted for the same purpose through nonfederal sources." *SAMHSA FY24 Standard Terms and Conditions (Condition #6)*.

- These requirements "flow down" to all subgrantees/subrecipients. *(Condition #4)*

# Consequences of Supplanting

- Suspension of grant funding.

- Termination of funding.

- Barred from receipt of future grant funding.

- Repayment of funds.

- Civil penalties.

- Criminal penalties.

# Scenario #1

A health clinic receives grant funding to purchase new computers.  They typically allocate $10,000 from their budget for this purpose every year.  Upon receiving the grant, they decide to use the grant money for the computers and spend their usual $10,000 on other clinic expenses.

Supplanting?

## Scenario #1

A health clinic receives grant funding to purchase new computers.  They typically allocate $10,000 from their budget for this purpose every year.  Upon receiving the grant, they decide to use the grant money for the computers and spend their usual $10,000 on other clinic expenses.

<u>Supplanting</u> because the grantee replaced their own, usual funding with grant funding.

# Scenario #2

A health clinic receives grant funding to purchase new computers. They typically allocate $10,000 from their budget for this purpose every year. Upon receiving the grant, they decide to combine the grant money with their typical expenditure and spend $20,000 total on new computers.

Supplanting?

# Scenario #2

A health clinic receives grant funding to purchase new computers. They typically allocate $10,000 from their budget for this purpose every year. Upon receiving the grant, they decide to combine the grant money with their typical expenditure and spend $20,000 total on new computers.

Supplementing because the clinic did not reduce its typical funding and it used the grant funding to increase the total expenditure.

## Scenario #3

From 2004 to 2014 a library allocated $100,000 from their annual budget to operate an after school program.  Due to budget cuts the library discontinued the program in 2015.  In 2024 the library received grant funding of $100,000 to operate the after school program.

Supplanting?

# Scenario #3

From 2004 to 2014 a library allocated $100,000 from their annual budget to operate an after school program.  Due to budget cuts the library discontinued the program in 2005.  In 2024 the library received grant funding of $100,000 to operate the after school program.

Probably <u>not supplanting</u>.  There is no specific timeframe for how long an activity must have been dormant before grant funds can be used to resurrect it, but, the more time that has passed, the more likely that the use of funds is permissible.  In this case 10 years is likely enough time.

# Scenario #4

From 2013 to 2022 a library allocated $100,000 from their annual budget to operate an after school program.  In 2023 library leaders decided to stop funding the program in anticipation of applying for grant funding in 2024 so the program could be resurrected.  The library received the grant funding and rebooted the program in 2024.

Supplanting?

## Scenario #4

From 2013 to 2022 a library allocated $100,000 from their annual budget to operate an after school program.  In 2023 library leaders decided to stop funding the program in anticipation of applying for grant funding in 2024 so the program could be resurrected.  The library received the grant funding and rebooted the program in 2024.

Supplanting because: (1) the grantee stopped using its own funding to operate the program in *anticipation* of receiving grant funding, and (2) one-year hiatus is probably not enough time for the program to be considered new in 2024.

## Scenario #5

A hospital receives a $50,000 grant to hire a full-time Peer Support Specialist to work in its emergency department. The hospital hires the Peer Support Specialist and charges $50,000 to the grant (representing 100% of the PSS salary & benefits). The hospital also receives a different, $20,000 grant to pay a part-time harm reduction advocate to distribute naloxone in its emergency department. The Peer Support Specialist takes on the naloxone distribution duties and the hospital charges $20,000 to the second grant.

Supplanting?

## Scenario #5

A hospital receives a $50,000 grant to hire a full-time Peer Support Specialist to work in its emergency department. The hospital hires the Peer Support Specialist and charges $50,000 to the grant (representing 100% of the PSS salary & benefits). The hospital also receives a different, $20,000 grant to pay a part-time harm reduction advocate to distribute naloxone in its emergency department. The Peer Support Specialist takes on the naloxone distribution duties and the hospital charges $20,000 to the second grant.

This is an example of <u>Duplication</u> which is not permitted. This occurs when the same costs are charged to multiple grants. Unintentional duplication can lead to overspending and misrepresentation of grant expenditures. <u>If an organization intentionally duplicates costs it could be considered fraud</u>.

# South Carolina Opioid Recovery Funds

**The South Carolina Opioid Recovery Fund is divided into the Guaranteed Political Subdivision SubFund and the Discretionary Subfund.**

**Guaranteed Political Subdivisions-GPS**
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.

**Discretionary SubFund-DSF**
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.

For more information visit the website at: https://scorf.sc.gov/

# South Carolina Opioid Recovery Funds

**SCORF dollars must be spent to support new programs and activities or to expand existing programs and activities.**

New Programs and Activities: monies are used to create opportunities in the areas of Prevention, Treatment, Harm Reduction, and/or Recovery.

Existing Programs and Activities: monies are intended to provide **additional support to existing foundational elements.** Meaning, to build upon foundations laid by other fundings, e.g. federal and private grants, state funding, in the areas of Prevention, Treatment, Harm Reduction, and/or Recovery.



SOUTH CAROLINA
OPIOID RECOVERY
FUND BOARD

*"Building Stronger Communities"*

# Planning Tools

**Approved opioid remediation uses – categorized into 'core abatement strategies and approved uses'**

**Core Abatement Strategies**
- Naloxone or Other FDA-Approved Drug to Reverse Opioid Overdoses;
- Medication-Assisted Treatment ("MAT") Distribution and Other Opioid-   Related Treatment;
- Pregnant and Postpartum Women;
- Expanding Treatment for Neonatal Abstinence Syndrome ("NAS");
- Expansion of Warm Handoff Programs and Recovery Services;
- Treatment for Incarcerated Population;
- Prevention Programs;
- Expanding Syringe Service Programs; and
- Evidence-Based Data Collection and Research Analyzing the Effectiveness of the Abatement Strategies within the State.

**The Approved Uses are evidence-based or evidence-informed programs or strategies divided into the following three categories**:
- Treatment,
- Prevention,
- Other Strategies.                                    https://scorf.sc.gov/opioid-recovery-fund-uses

SOUTH CAROLINA
OPIOID RECOVERY
FUND BOARD

# Planning Tools

**Comprehensive long-term opioid remediation plans:**

This is an opportunity for political subdivisions to bring together stakeholders to prioritize addressing the opioid crisis in their communities and develop a community action plan based on the approved opioid abatement strategies.

Political subdivisions must submit a Letter of Intent to develop and implement a community action plan to the Board seeking $25,000 of their allocated funds to support the development of the community action plan. This Letter of Intent must be signed by a chief elected official or chief administrative official for the political subdivision.

  J. Leadership. Planning and Coordination:
    Statewide, regional, local, or community regional planning to identify root causes of addiction and overdose, goals for reducing harms related to the opioid epidemic, and areas and populations with the greatest needs for treatment intervention services, and to support training and technical assistance and other strategies to abate the opioid epidemic described in this opioid abatement strategy list.

# Further Resources

DAODAS
- [Upcoming trainings](#)

SCORF
- Coffee Chat: First Fridays of each month, 9:30 am
- Archived Coffee Chat [presentations](#)

COE
- ECHO: Every other Friday, 12 pm; [sign up here](#)
- [Previous webinars](#)
- Technical Assistance [request form](#)

# Questions & Contacts

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- Jodi Manz: jmanz@daodas.sc.gov

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