

## MEMORANDUM

TO: Governing Council, CSC Leon  
Cecka Rose Green, Executive Director  
FROM: Chris Roe, General Counsel  
DATE: September 11, 2023  
SUBJECT: Children's Services Councils; supplantation

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Overview: Federal grant funding for state and local programs may in some cases be subject to a "*supplement not supplant*" requirement pursuant to which the federal funding must supplement the programs and services offered with state and local funds, and may not be used to supplant the state and local funds used to offer those programs and services. The Florida legislature has created a similar requirement for children's services councils by which the funding awarded by a council to a community service provider must be spent to improve children's services and cannot be used as a substitute for funding already available to the service provider.

Discussion: Certain federal grant programs, including Title I, Part A (Title I) of the Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act (ESEA), include a *supplement not supplant* requirement. The purpose of Title I is to "provide all children significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps." To realize this purpose, there has been a longstanding requirement that Title I funds must supplement, and not supplant, funding already available to state and local and local educational agencies participating in Title I programs.<sup>1</sup> Without this requirement, federal dollars could simply be used to replace state and local dollars that would otherwise be made available.<sup>2</sup>

Guidance for compliance with the Title I requirement published by the Florida Department of Education indicates that "federal funds must supplement (increase, add to, enhance, expand, extend) the programs and services offered with state and local funds, and that federal funds are not permitted to be used to supplant (take the place of, replace) the state and local funds used to offer those programs and services."<sup>3</sup>

Children's services councils are not recipients of Title I funding and are therefore not subject to the Title I non-supplantation requirements. However, the state law governing children's services councils, section 125.901, Florida Statutes, includes the equivalent of a non-supplantation requirement, as follows:

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<sup>1</sup> The federal statute provides that "[a] state educational agency or local educational agency shall use federal funds received under Title I, Part A only to supplement the funds that would, in the absence of such federal funds, be made available from state and local sources for the education of students participating in programs assisted under Title I, Part A, and not to supplant such funds." ESEA Section 1118(b)(1).

<sup>2</sup> <https://oese.ed.gov/files/2020/02/snsfinalguidance06192019.pdf>

<sup>3</sup> <https://www.fldoe.org/core/fileparse.php/7767/urlt/AoF-SupplementNotSupplant.pdf>

"It is the intent of the Legislature that the funds collected pursuant to the provisions of this section shall be used to support improvements in children's services and that such funds shall not be used as a substitute for existing resources or for resources that would otherwise be available for children's services." Section 125.901(8), Florida Statutes.

The state statute uses the terms "support improvements in" instead of "supplement," and "substitute" instead of "supplant," but the intent of non-supplantation is the same as that found in the federal requirements applicable to Title I grant funding. The statute therefore requires that funding awarded by CSC Leon to community service providers should support (i.e. be in addition to, augment) the provider's existing resources and should not be used as a substitute for existing resources. The premise is similar to the concept of "force multiplier," whereby a factor or action dramatically increases the effectiveness of a group undertaking, thereby giving the group the ability to accomplish greater things than they could without the multiplying factor.

Section 125.901(8) does not elaborate upon or define what constitutes an improvement in children's services. A plain reading of the statute suggests enhancements in service which could be either quantitative or qualitative and which result in better outcomes for children in the community than would otherwise occur in the absence of council funding. By way of example, a council may determine in a given year to award funding in support of summer programs. If an applicant is able to serve a certain number of children through its existing resources, then any additional funding awarded by the council should (1) allow the provider to increase the number of children served, and/or (2) enhance the quality or range of services conveyed by the provider's summer program. In this example, the council funding could not be used to pay for staff salary increases, or the replacement of equipment, facilities or materials, which are unrelated to improvements in children's services.

Conclusion: In order to observe the non-supplantation requirement applicable to children's services councils, CSC Leon should continue to ensure that (1) competitive procurement documents describe this requirement, (2) applications for funding explain the applicant's proposal for achieving quantitative and/or qualitative improvements in children's services, and (3) monitoring and outcome reporting demonstrate the improvements that were actually achieved. As in the federal grant context, failure of a CSC Leon funding recipient to demonstrate compliance with the non-supplantation requirement could disqualify the recipient from eligibility for future grant awards, and/or result in the recapture of awarded funds back to CSC Leon.