

ADVISORY OPINION 01-01

QUESTIONS

What are the definitions of “supplement” and “supplant” as used in the Children and Families Act of 1998 (“the Act”)? Can funds collected pursuant to the Act be used to fund any existing levels of service?

CONCLUSION

The definition of “supplement” is to add to or augment something that currently exists, while “supplant” is defined as taking the place of something. As used in the Act, all moneys raised pursuant to the Act shall be appropriated and expended only to supplement existing levels of services. In contrast, the Act specifically prohibits appropriation and expenditure of such moneys to supplant state or local General Fund money. Further, monies are prohibited to be used to fund any existing levels of service.

ANALYSIS

Revenue and Taxation Code section 30131.4 identifies the specific manner in which moneys raised by the Act shall be appropriated and expended. Section 30131.4 not only requires that expenditures must be for the purposes expressed in the Act, but such moneys “shall be used only to supplement existing levels of service and not to fund existing levels of services. No moneys in the California Children and Families Trust Fund shall be used to supplant state or local General Fund money for any purpose.”

A. Supplement and Supplant

Random House Webster’s Unabridged Dictionary, 2nd Edition, defines “supplement” as “something added to complete a thing, supply a deficiency, or reinforce or extend a whole...to complete, add to, or extend by a supplement.” In contrast, Webster defines “supplant” as “to take the place of...to replace by something else.”

When the language is clear, the plain meaning of the statute should be followed. (*Great Lakes Properties, Inc. v. City of El Segundo* (1977) 19 Cal.3d 152. The definitions of “supplement” and “supplant” as used in section 30131.4 are straightforward; it is clear that the intent of the Act is that no moneys expended are to be used to take the place of any existing funding that currently exists for any purposes. Rather, moneys collected by the Act are to be used to add to existing levels of services that currently exist to supplement those levels.

It should be noted that numerous statutes require funding, grants, services, and/or programs to supplement, not supplant, existing functions. This language can be found in the Business and Professions Code (i.e. sections 19605.7, 19610.2), the Education Code (i.e. sections 8483.7,

11021(f), 44774), the Government Code (i.e. sections 8846, 30062), the Health and Safety Code (i.e. sections 11970(e), 53275(4)), the Penal Code (i.e. section 6045.4), the Public Resources Code (i.e. section 25449), the Revenue and Taxation Code (i.e. section 7286.59, 18743), and the Welfare and Institutions Code (i.e. section 749.23).

Further, similar language can be found at Education Code section 69731 (funding shall “augment, and not supplant...”), Penal Code section 13825.3 (funds shall “enhance, and not supplant...”), and Revenue and Taxation Code section 7286.65 (funds are “in addition to, and not to supplant...”). In other words, statutes have substituted the words “augment,” “enhance” and “in addition to” to effectuate the same intended result as the word “supplement.”

B. Existing Levels of Services

In addition to prohibiting expenditure to be used to supplant state or local General Fund money, section 30131.4 specifically states that moneys shall not be used to fund existing levels of service. This language is broad in application; in other words, unlike the qualifying language found regarding supplantation (i.e. state and local General Fund money), there is no such qualification for funding existing levels of service. Thus, it is clear that the legislature meant that moneys cannot be used to fund *any* existing levels of service, including federal, state or local funding.

In short, the legislature intended the moneys raised pursuant to the Act to be used only to supplement existing levels of services. In other words, the moneys are to augment, add to or enhance existing programs, funds, grants and/or services. These moneys shall not be used to supplant state or local General Fund moneys. Further, moneys can in no way be used to fund any levels of service that were or are currently in existence at the time of the purported expenditure.