

Guidance to Avoid Supplantation and Ensure Proper Use of Rhode Island’s Opioid Settlement Funds

This guidance is issued by the Rhode Island Opioid Settlement Advisory Committee (OSAC) to ensure the proper use of Opioid Settlement Funds as mandated by the national opioid settlement agreements and the Rhode Island Opioid Settlements Memorandum of Understanding (MOU), **which require opioid settlement dollars be used to expand and sustain meaningful, forward-looking responses to the opioid crisis.**

This guidance specifically addresses “supplantation” *i.e.* the inappropriate replacement of—or reduction in—existing federal or state resources with opioid settlement funds. The guidance herein should not replace nor conflict with—but rather is designed to complement—the terms of the MOU. The MOU can be found [here](#) and a full list of the settlement agreements with opioid manufacturers and distributors (including a detailed overview of allowable uses) can be found on the EOHHS Opioid Settlement Advisory Committee [page](#).

In addition to the national settlement agreements and MOU, OSAC also adopted the following John Hopkins Guiding Principles for decision-making that specifically outlines an agreed upon equitable, transparent, and appropriate use of Opioid Settlement Funds. The first principle clearly states that “the Committee should use the funds to enhance rather than replace existing spending”.

John Hopkins Guiding Principles for Decision-Making		
1	Spend money to save lives.	It may be tempting to use the dollars to fill gaps in existing budgets rather than expand needed programs, but the Committee should use the funds to enhance rather than replace existing spending.
2	Use evidence to guide spending.	At this point in the overdose epidemic, researchers, clinicians, and community partners have built a substantial body of evidence demonstrating what works and what does not. States and localities should use this information to make funding decisions.
3	Focus on equity.	This process should be guided by people and families with lived experience and representatives from communities that are disproportionately impacted.
4	Develop a fair and transparent process for funding recommendations.	This process should be guided by public health leaders with the active engagement of people and families with lived experience, clinicians, as well as other key groups.

5	Consider future sustainability in all recommendations.	Although there may be some on-time funding recommendations, the Committee should consider the financial sustainability of all investments and try to plan for investments that can be sustained long-term.
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What is Supplantation?

The OSAC defines “supplantation” in the context of Opioid Settlement Funds as:

To deliberately replace or reduce existing federal, state, or locally allocated funds with Opioid Settlement Funds. Opioid Settlement Funds are to be used to create, maintain, and/or expand program activities. Opioid Settlement Funds are not to be used to replace or reduce existing federal, state, or local funds that have already been appropriated or allocated for the same purpose.

Opioid Settlement Funds are to be Used to Create, Maintain, or Expand -- Not to Supplant

The OSAC strongly recommends that Opioid Settlement Funds are used to create, maintain, or expand effective programming. Supplantation is not an “Approved Purpose” for Opioid Settlement Funds.

Opioid Settlement Funds are available as a result of litigation against, and settlement with, opioid manufacturers, opioid distributors, retail pharmacies, and other companies that contributed to creating and continuing the opioid crisis. All nationwide opioid settlement agreements include a listing of “Approved Purposes” for Opioid Settlement Funds set out in the [Opioid Settlement Agreement](#).

The Rhode Island Memorandum of Understanding (“MOU”) also requires that 100% of Opioid Settlement Funds be used for “forward-looking strategies to abate the opioid epidemic”, and the MOU expressly states that Opioid Settlement Funds be used for the “Approved Purposes” identified in the national opioid settlement agreements.

To help understand what inappropriate supplantation of Opioid Settlement Funds may look like, please see the examples below:

Examples of Inappropriate Supplantation of Opioid Settlement Funds:

- **Offsetting Existing Budgets:** A municipality faces a budget shortfall and takes an existing budget line item of \$20,000 in the budget for an existing co-responder program. The municipality then re-allocates the money to an animal shelter and replaces the re-allocated funds with \$20,000 in Opioid Settlement Funds.
- **Backfilling Cuts:** The state reduces its budget for behavioral health services by \$500,000 and then uses \$500,000 in Opioid Settlement Funds to restore the department to previous funding levels.

- **Paying for Previously Approved Expenses:** The state planned last year to fund peer workforce development programs with tax dollars. The state then substitutes Opioid Settlement Dollars for the tax funds and re-allocates those unexpended tax dollars for road repairs.

Examples of Appropriate Non-Supplantation Uses of Opioid Settlement Funds:

- **Expiration of Temporary Funding:** A public health department received short-term funding from American Rescue Plan Act (ARPA) to fund care coordinators to conduct outreach to vulnerable populations at risk for opioid overdose and connect them to services. The department exhausts all ARPA funds and begins funding the program with Opioid Settlement Funds.
- **Expanding a Program Previously Limited by Budget Constraints:** The state has a harm reduction outreach team funded through state tax revenue that works 3 days a week due to limited funding. The state expands the harm reduction outreach team to operate 5 days a week using Opioid Settlement Funds.
- **Covering Cost After Grant Funding Ends:** The state ran an evidence-based medications for opioid use disorder (MOUD) program funded through a state grant. The state grant expires and there is no opportunity to continue funding, and no other local funds available, so the state uses Opioid Settlement Funds to maintain that program.