

New Title X Rules Take Effect Now

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Enacted by Congress in 1970, the Title X family planning program has served as the nation's only dedicated source of federal funding for family planning, predominantly serving low-income individuals. The central mission of Title X is to make modern methods of acceptable and effective contraception and reproductive health care available to all who desire them. Title X is administered by the Office of Population Affairs (OPA) within the Department of Health and Human Services (HHS).

As reported in the media, the U.S. Court of Appeals for the Ninth Circuit ruled on July 11 that the Trump administration's March 2019 Title X final rule (the Final Rule) can take effect while the administration appeals lower federal court decisions that blocked it.

Among other things, the Final Rule: (1) prohibits the use of Title X funds to refer for, perform, promote, or support abortion as a method of family planning; (2) permits, but no longer requires, nondirective pregnancy counseling, including nondirective counseling on abortion, but mandates that such nondirective counseling be provided by a physician or an Advanced Practice Provider; and (3) requires clear financial and physical separation between Title X and non-Title X activities. The Final Rule explicitly imposes these requirements equally on Title X recipients and subrecipients.

OPA recently notified grantees by email that compliance with the Final Rule, other than the physical separation requirements, became effective July 15, 2019. However, due to the circumstances surrounding the implementation of the Final Rule, OPA has issued further guidance stating that it does not intend to bring enforcement actions against Title X recipients that are making, and continue to make, good-faith efforts to comply with the Final Rule.

If your CAA is a Title X recipient, it should begin working to meet the compliance deadlines specified by OPA in its recent guidance. If your CAA subgrants Title X funds, it should make subrecipients aware that the subgrant is contingent on the subgrantee's compliance with the following deadlines specified by OPA in its recent guidance:

- **By August 19, 2019**

CAAs receiving Title X funds must submit a written assurance stating that the project does not provide abortion and does not include abortion as a method of family planning, and an action plan describing the steps that the project will take to come into compliance with all aspects of the Final Rule. CAAs that subgrant Title X funds should include in their written assurances that subrecipients will also come into

compliance with all aspects of the Final Rule. OPA expects that all CAAs will begin to implement the actions stated in their action plans immediately.

- **By September 18, 2019**

CAAs receiving Title X funds must submit a written statement stating that the grant project is in compliance with the 2019 Title X Final Rule, except for the physical separation requirements. For each requirement, the CAA must (1) describe the steps that were taken to ensure that the grant project is in compliance and (2) provide any relevant documentation needed for OPA to verify compliance (e.g., copies of revised policies, plan for monitoring subrecipients, staff training plan).

- **By March 4, 2020**

CAAs receiving Title X funds must submit a written statement stating that the grant project is in compliance with the requirement for physical separation between Title X services and abortion services (including referrals for abortion as a method of family planning) as stated in the 2019 Title X Final Rule. For the requirement for physical separation between Title X services and abortion services, the CAA must (1) describe the steps that were taken to ensure that the grant project is in compliance and (2) provide any relevant documentation needed for OPA to verify compliance (e.g., copies of revised policies, plan for monitoring subrecipients, staff training plan).

For more information about the Title X Final Rule, see information issued about the Rule in the article, [HHS Releases Final Title X Rule Detailing Family Planning Grant Program](#), and the [crosswalk](#) on the National Family Planning & Reproductive Health Association webpage.