

Title X Regulations
Comparison of Current Title X Regulations and 2019 Final Rule – With Implementation Dates
(March 4, 2019)

*New language in RED; proposed deletions are struck through

Subpart A—Project Grants for Family Planning Services

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Current Regulations (42 CFR Part 59; https://www.hhs.gov/opa/sites/default/files/final-rules-42-cfr-59.pdf)	2019 Final Rule (https://s3.amazonaws.com/public-inspection.federalregister.gov/2019-03461.pdf)	Implementation Dates
<p>§ 59.1 To what programs do these regulations apply? The regulations of this subpart are applicable to the award of grants under section 1001 of the Public Health Service Act (42 U.S.C. 300) to assist in the establishment and operation of voluntary family planning projects. These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children.</p>	<p>§ 59.1 To what programs do these regulations apply? (a) The regulations of this subpart are applicable to the award of grants under section 1001 of the Public Health Service Act (42 U.S.C. 300) to assist in the establishment and operation of voluntary family planning projects. These projects shall consist of the educational, comprehensive medical, and social services necessary to aid individuals to determine freely the number and spacing of their children. Unless otherwise specified, the requirements imposed by these regulations apply equally to grantees and subrecipients, and grantees shall require and ensure that subrecipients (and the subrecipients of subrecipients) comply with the requirements contained in these regulations pursuant to their written contracts with such subrecipients. (b) Except for §§ 59.4, 59.8, and 59.10, the regulations of this subpart are also applicable to the execution of contracts under section 1001 of the Public Health Service Act (42 U.S.C. 300) to assist in the establishment and operation of voluntary family</p>	<p>60 days</p>

	<p>planning projects, and will be applied in accordance with the applicable statutes, procedures and regulations that generally govern Federal contracts. To this extent, the use of the terms “grant”, “award,” , “grantee” and “subrecipient” in applicable regulations of this subpart will apply similarly to contracts, contractors and subcontractors, and the use of the term “project” or “program” will also apply to a project or program established by means of a contract.</p>	
<p>§ 59.2 Definitions. As used in this subpart: <i>Act</i> means the Public Health Service Act, as amended. <i>Family</i> means a social unit composed of one person, or two or more persons living together, as a household.</p>	<p>§ 59.2 Definitions. As used in this subpart: <i>Act</i> means the Public Health Service Act, as amended. <i>Family</i> means a social unit composed of one person, or two or more persons living together, as a household. <i>Advanced Practice Provider</i> means a medical professional who receives at least a graduate level degree in the relevant medical field and maintains a license to diagnose, treat, and counsel patients. The term Advanced Practice Provider includes physician assistants and advanced practice registered nurses (APRN). Examples of APRNs that are an Advanced Practice Provider include certified nurse practitioner (CNP), clinical nurse specialist (CNS), certified registered nurse anesthetist (CRNA), and certified nurse-midwife (CNM). <i>Family planning</i> means the voluntary process of identifying goals and developing a plan for the number and spacing of children and the means by which those goals may be achieved. These means include a broad range of acceptable and effective family planning methods and services, which may range from choosing not to have sex to the use of other family planning methods and services to limit or enhance the likelihood of conception (including contraceptive methods and natural family planning or other fertility awareness-based methods) and the management of infertility, including information about or referrals for adoption. Family planning services include preconception counseling, education, and general reproductive and fertility health care, in order to improve maternal and infant outcomes, and the health of women, men, and adolescents who seek family planning services, and the prevention, diagnosis, and treatment of infections and diseases which may threaten childbearing capability or the health of the individual, sexual partners, and potential future children. Family planning methods and services are never to be coercive and must always be strictly voluntary. Family planning does not include postconception care (including obstetric or prenatal care) or abortion as a method of family planning. Family planning, as supported under this subpart, should reduce the incidence of abortion. <i>Grantee</i> means the entity that receives Federal financial assistance by means of a grant, and assumes legal and financial responsibility and accountability for the awarded funds, for the performance of the</p>	<p>60 days</p>

Low income family means a family whose total annual income does not exceed 100 percent of the most recent Poverty Guidelines issued pursuant to 42 U.S.C. 9902(2). “Low-income family” also includes members of families whose annual family income exceeds this amount, but who, as determined by the project director, are unable, for good reasons, to pay for family planning services. For example, unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources.

Nonprofit, as applied to any private agency, institution, or organization, means that no part of the entity's net earnings benefit, or may lawfully benefit, any private shareholder or individual.

activities approved for funding and for reporting required information to the Office of Population Affairs.

Low income family means a family whose total annual income does not exceed 100% percent of the most recent Poverty Guidelines issued pursuant to 42 U.S.C. 9902(2). **The project director may find that** “Low income family” also includes members of families whose annual family income exceeds this amount, but who, as determined by the project director, are unable, for good reasons, to pay for family planning services. For example:-

(1) Unemancipated minors who wish to receive services on a confidential basis must be considered on the basis of their own resources, **provided that the Title X provider has documented in the minor's medical records the specific actions taken by the provider to encourage the minor to involve her/his family (including her/his parents or guardian) in her/his decision to seek family planning services, except that documentation of such encouragement is not to be required if the Title X provider has documented in the medical record:**

(i) That it suspects the minor to be the victim of child abuse or incest; and

(ii) That it has, consistent with, and if permitted or required by, applicable State or local law, reported the situation to the relevant authorities.

(2) For the purpose of considering payment for contraceptive services only, where a woman has health insurance coverage through an employer that does not provide the contraceptive services sought by the woman because the employer has a sincerely held religious or moral objection to providing such coverage, the project director may consider her insurance coverage status as a good reason why she is unable to pay for contraceptive services. In making that determination, the project director must also consider other circumstances affecting her ability to pay, such as her total income. The project director may, for the purpose of considering whether the woman is from a “low income family” or is eligible for a discount for contraceptive services on the schedule of discounts provided for in § 59.5, consider her annual income as being reduced by the total annual out-of-pocket costs of contraceptive services she uses or seeks to use. The project director may determine those costs, or estimate them at \$600.

Nonprofit, as applied to any private agency, institution, or organization, means that no part of the entity's net earnings benefit, or may lawfully benefit, any private shareholder or individual.

Program and project are used interchangeably and mean a plan or sequence of activities that is funded to fulfill the requirements elaborated in a Title X funding announcement; it may be comprised of, and

<p><i>Secretary</i> means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.</p> <p><i>State</i> includes, in addition to the several States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, the U.S. Outlying Islands (Midway, Wake, <i>et al.</i>), the Marshall Islands, the Federated State of Micronesia and the Republic of Palau.</p>	<p>implemented by, a single grantee or subrecipient(s), or a group of partnering providers who, under a grantee or subrecipient, deliver comprehensive family planning services that satisfy the requirements of the grant within a service area.</p> <p><i>Secretary</i> means the Secretary of Health and Human Services and any other officer or employee of the Department of Health and Human Services to whom the authority involved has been delegated.</p> <p><i>State</i> includes, in addition to the several States, the District of Columbia, Guam, the Commonwealth of Puerto Rico, the Northern Mariana Islands, the U.S. Virgin Islands, American Samoa, the U.S. Outlying Islands (Midway, Wake, <i>et al.</i>), the Marshall Islands, the Federated State of Micronesia and the Republic of Palau.</p> <p><i>Subrecipient</i> means any entity that provides family planning services with Title X funds under a written agreement with a grantee or another subrecipient. These entities may also be referred to as “delegates” or “contract agencies.”</p>	
<p>§ 59.3 Who is eligible to apply for a family planning services grant?</p> <p>Any public or nonprofit private entity in a State may apply for a grant under this subpart.</p>	<p>§ 59.3 Who is eligible to apply for a family planning services grant or contract?</p> <p>Any public or nonprofit private entity in a State may apply for a family planning grant or contract under this subpart.</p>	60 days
<p>§ 59.4 How does one apply for a family planning services grant?</p> <p>(a) Application for a grant under this subpart shall be made on an authorized form.</p> <p>(b) An individual authorized to act for the applicant and to assume on behalf of the applicant the obligations imposed by the terms and conditions of the grant, including the regulations of this subpart, must sign the application.</p> <p>(c) The application shall contain—</p> <p>(1) A description, satisfactory to the Secretary, of the project and how it will meet the requirements of this subpart;</p> <p>(2) A budget and justification of the amount of grant funds requested;</p> <p>(3) A description of the standards and qualifications which will be required for all personnel and for all facilities to be used by the project; and</p> <p>(4) Such other pertinent information as the Secretary may require.</p>	NO CHANGE	NO CHANGE
<p>§ 59.5 What requirements must be met by a family planning project?</p> <p>(a) Each project supported under this part must:</p> <p>(1) Provide a broad range of acceptable and effective medically approved family planning methods (including natural family planning methods) and services (including infertility services and services for adolescents). If an organization offers only a single method of family planning, it may participate as part of</p>	<p>§ 59.5 What requirements must be met by a family planning project?</p> <p>(a) Each project supported under this part must:</p> <p>(1) Provide a broad range of acceptable and effective medically approved family planning methods (including contraceptives, natural family planning or other fertility awareness-based methods) and services (including infertility services, information about or referrals for adoption, and services for adolescents). If an organization offers only a single method of family</p>	(a)(1): 60 days

<p>a project as long as the entire project offers a broad range of family planning services.</p> <p>(2) Provide services without subjecting individuals to any coercion to accept services or to employ or not to employ any particular methods of family planning. Acceptance of services must be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other services, assistance from or participation in any other program of the applicant.</p> <p>(3) Provide services in a manner which protects the dignity of the individual.</p> <p>(4) Provide services without regard to religion, race, color, national origin, handicapping condition, age, sex, number of pregnancies, or marital status.</p> <p>(5) Not provide abortion as a method of family planning. A project must:</p> <p>(i) Offer pregnant women the opportunity to be provided information and counseling regarding each of the following options:</p> <p>(A) Prenatal care and delivery;</p> <p>(B) Infant care, foster care, or adoption; and</p> <p>(C) Pregnancy termination.</p> <p>(ii) If requested to provide such information and counseling, provide neutral, factual information and nondirective counseling on each of the options, and referral upon request, except with respect to any option(s) about which the pregnant woman indicates she does not wish to receive such information and counseling.</p> <p>(6) Provide that priority in the provision of services will be given to persons from low-income families.</p> <p>(7) Provide that no charge will be made for services provided to any persons from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized to or is under legal obligation to pay this charge.</p> <p>(8) Provide that charges will be made for services to persons other than those from low-income families in accordance with a schedule of discounts based on ability to pay, except that charges to persons from families whose annual income exceeds 250 percent of the levels set forth in the most recent Poverty Guidelines issued pursuant to 42 U.S.C. 9902(2) will be made in accordance with a schedule of fees designed to recover the reasonable cost of providing services.</p> <p>(9) If a third party (including a Government agency) is authorized or legally obligated to pay for services, all reasonable efforts must be made to obtain the third-party payment without application of any discounts. Where the cost of services is to be reimbursed under</p>	<p>planning, it may participate as part of a project Such projects are not required to provide every acceptable and effective family planning method or service. A participating entity may offer only a single method or a limited number of methods of family planning as long as the entire project offers a broad range of such family planning methods and services.</p> <p>(2) Provide services without subjecting individuals to any coercion to accept services or to employ or not to employ any particular methods of family planning. Acceptance of services must be solely on a voluntary basis and may not be made a prerequisite to eligibility for, or receipt of, any other services, assistance from or participation in any other program of the applicant.</p> <p>(3) Provide services in a manner which protects the dignity of the individual.</p> <p>(4) Provide services without regard to religion, race, color, national origin, handicapping condition, age, sex, number of pregnancies, or marital status.</p> <p>(5) Not provide, promote, refer for, or support abortion as a method of family planning. A project must:</p> <p>(i) Offer pregnant women the opportunity to be provided information and counseling regarding each of the following options:</p> <p>(A) Prenatal care and delivery;</p> <p>(B) Infant care, foster care, or adoption; and</p> <p>(C) Pregnancy termination.</p> <p>(ii) If requested to provide such information and counseling, provide neutral, factual information and nondirective counseling on each of the options, and referral upon request, except with respect to any option(s) about which the pregnant woman indicates she does not wish to receive such information and counseling.</p> <p>(6) Provide that priority in the provision of services will be given to persons from low-income families.</p> <p>(7) Provide that no charge will be made for services provided to any persons from a low-income family except to the extent that payment will be made by a third party (including a government agency) which is authorized to or is under legal obligation to pay this charge.</p> <p>(8) Provide that charges will be made for services to persons other than those from low-income families in accordance with a schedule of discounts based on ability to pay, except that charges to persons from families whose annual income exceeds 250 percent of the levels set forth in the most recent Poverty Guidelines issued pursuant to 42 U.S.C. 9902(2) will be made in accordance with a schedule of fees designed to recover the reasonable cost of providing services.</p> <p>(9) If a third party (including a Government agency) is authorized or legally obligated to pay for services, all reasonable efforts must be made to obtain the third-party payment without application of any discounts. Where the cost of services is to be reimbursed under</p>	<p>(a)(2) – (4): NO CHANGE</p> <p>(a)(5): 60 days</p> <p>(a)(6) – (9): NO CHANGE</p>
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<p>(2) Provide for social services related to family planning, including counseling, referral to and from other social and medical services agencies, and any ancillary services which may be necessary to facilitate clinic attendance.</p> <p>(3) Provide for informational and educational programs designed to—</p> <p>(i) Achieve community understanding of the objectives of the program;</p> <p>(ii) Inform the community of the availability of services; and</p> <p>(iii) Promote continued participation in the project by persons to whom family planning services may be beneficial.</p> <p>(4) Provide for orientation and in-service training for all project personnel.</p> <p>(5) Provide services without the imposition of any durational residency requirement or requirement that the patient be referred by a physician.</p> <p>(6) Provide that family planning medical services will be performed under the direction of a physician with special training or experience in family planning.</p> <p>(7) Provide that all services purchased for project participants will be authorized by the project director or his designee on the project staff.</p> <p>(8) Provide for coordination and use of referral arrangements with other providers of health care services, local health and welfare departments, hospitals, voluntary agencies, and health services projects supported by other federal programs.</p> <p>(9) Provide that if family planning services are provided by contract or other similar arrangements with actual providers of services, services will be provided in accordance with a plan which establishes rates and method of payment for medical care. These payments must be made under agreements with a schedule of rates and payment procedures maintained by the grantee. The grantee must be prepared to substantiate, that these rates are reasonable and necessary.</p> <p>(10) Provide, to the maximum feasible extent, an opportunity for participation in the development, implementation, and evaluation of the project by persons broadly representative of all significant elements of the population to be served, and by others in the community knowledgeable about the community's needs for family planning services.</p>	<p>59.14(a), and provide for the effective usage of contraceptive devices and practices.</p> <p>(2) Provide for social services related to family planning, including counseling, referral to and from other social and medical services agencies, and any ancillary services which may be necessary to facilitate clinic attendance.</p> <p>(3) Provide for informational and educational programs designed to—</p> <p>(i) Achieve community understanding of the objectives of the program;</p> <p>(ii) Inform the community of the availability of services; and</p> <p>(iii) Promote continued participation in the project by persons to whom family planning services may be beneficial.</p> <p>(4) Provide for orientation and in-service training for all project personnel.</p> <p>(5) Provide services without the imposition of any durational residency requirement or requirement that the patient be referred by a physician.</p> <p>(6) Provide that family planning medical services will be performed under the direction of a physician with special training or experience in family planning.</p> <p>(7) Provide that all services purchased for project participants will be authorized by the project director or his designee on the project staff.</p> <p>(8) Except as provided in § 59.14(a), pProvide for coordination and use of referral arrangements with other providers of health care services, local health and welfare departments, hospitals, voluntary agencies, and health services projects supported by other federal programs.</p> <p>(9) Provide that if family planning services are provided by contract or other similar arrangements with actual providers of services, services will be provided in accordance with a plan which establishes rates and method of payment for medical care. These payments must be made under agreements with a schedule of rates and payment procedures maintained by the grantee. The grantee must be prepared to substantiate, that these rates are reasonable and necessary.</p> <p>(10) Provide, to the maximum feasible extent, an opportunity for participation in the development, implementation, and evaluation of the project by persons broadly representative of all significant elements of the population to be served, and by others in the community knowledgeable about the community's needs for family planning services.</p>	<p>(b)(2) – (7): NO CHANGE</p> <p>(b)(8): 120 days</p> <p>(b)(9) – (10): NO CHANGE</p>
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<p>§ 59.6 What procedures apply to assure the suitability of informational and educational material?</p> <p>(a) A grant under this section may be made only upon assurance satisfactory to the Secretary that the project shall provide for the review and approval of informational and educational materials developed or made available under the project by an Advisory Committee prior to their distribution, to assure that the materials are suitable for the population or community to which they are to be made available and the purposes of title X of the Act. The project shall not disseminate any such materials which are not approved by the Advisory Committee.</p> <p>(b) The Advisory Committee referred to in paragraph (a) of this section shall be established as follows:</p> <p>(1) <i>Size.</i> The Committee shall consist of no fewer than five but not more than nine members, except that this provision may be waived by the Secretary for good cause shown.</p> <p>(2) <i>Composition.</i> The Committee shall include individuals broadly representative (in terms of demographic factors such as race, color, national origin, handicapped condition, sex, and age) of the population or community for which the materials are intended.</p> <p>(3) <i>Function.</i> In reviewing materials, the Advisory Committee shall:</p> <p>(i) Consider the educational and cultural backgrounds of individuals to whom the materials are addressed;</p> <p>(ii) Consider the standards of the population or community to be served with respect to such materials;</p> <p>(iii) Review the content of the material to assure that the information is factually correct;</p> <p>(iv) Determine whether the material is suitable for the population or community to which is to be made available; and</p> <p>(v) Establish a written record of its determinations.</p>	<p>NO CHANGE</p>	<p>NO CHANGE</p>
<p>§ 59.7 What criteria will the Department of Health and Human Services use to decide which family planning services projects to fund and in what amount?</p> <p>(a) Within the limits of funds available for these purposes, the Secretary may award grants for the establishment and operation of those projects which will in the Department's judgment best promote the purposes of section 1001 of the Act, taking into account:</p> <p>(1) The number of patients, and, in particular, the number of low-income patients to be served;</p> <p>(2) The extent to which family planning services are needed locally;</p> <p>(3) The relative need of the applicant;</p> <p>(4) The capacity of the applicant to make rapid and effective use of the federal assistance;</p> <p>(5) The adequacy of the applicant's facilities and staff;</p>	<p>§ 59.7 What criteria will the Department of Health and Human Services use to decide which family planning services projects to fund and in what amount?</p> <p>(a) Within the limits of funds available for these purposes, the Secretary may award grants for the establishment and operation of those projects which will, in the Department's judgment, best promote the purposes of statutory provisions applicable to the Title X program, and ensure that no Title X funds are used where abortion is a method of family planning.section 1001 of the Act, taking into account:</p> <p>(b) Any grant applications that do not clearly address how the proposal will satisfy the requirements of this regulation shall not proceed to the competitive review process, but shall be deemed ineligible for funding. The Department will explicitly summarize each requirement of the Title X regulations or include the Title X regulations in their entirety within the Funding</p>	<p>120 days</p>

<p>may be made for less than 90 percent of the project's costs, as so estimated, unless the grant is to be made for a project which was supported, under section 1001, for less than 90 percent of its costs in fiscal year 1975. In that case, the grant shall not be for less than the percentage of costs covered by the grant in fiscal year 1975.</p> <p>(c) No grant may be made for an amount equal to 100 percent for the project's estimated costs.</p>	<p>for a project which was supported, under section 1001, for less than 90 percent of its costs in fiscal year 1975. In that case, the grant shall not be for less than the percentage of costs covered by the grant in fiscal year 1975.</p> <p>(ee) No grant may be made for an amount equal to 100 percent for the project's estimated costs.</p>	
<p>§ 59.8 How is a grant awarded?</p> <p>(a) The notice of grant award specifies how long HHS intends to support the project without requiring the project to recompetete for funds. This period, called the project period, will usually be for three to five years.</p> <p>(b) Generally the grant will initially be for one year and subsequent continuation awards will also be for one year at a time. A grantee must submit a separate application to have the support continued for each subsequent year. Decisions regarding continuation awards and the funding level of such awards will be made after consideration of such factors as the grantee's progress and management practices, and the availability of funds. In all cases, continuation awards require a determination by HHS that continued funding is in the best interest of the government.</p> <p>(c) Neither the approval of any application nor the award of any grant commits or obligates the United States in any way to make any additional, supplemental, continuation, or other award with respect to any approved application or portion of an approved application.</p>	NO CHANGE	NO CHANGE
<p>§ 59.9 For what purpose may grant funds be used?</p> <p>Any funds granted under this subpart shall be expended solely for the purpose for which the funds were granted in accordance with the approved application and budget, the regulations of this subpart, the terms and conditions of the award, and the applicable cost principles prescribed in 45 CFR part 75, subpart E.</p>	NO CHANGE	NO CHANGE
<p>§ 59.10 What other HHS regulations apply to grants under this subpart?</p> <p>Attention is drawn to the following HHS Department-wide regulations which apply to grants under this subpart. These include: <i>(note: citations omitted in this document)</i></p>	NO CHANGE	NO CHANGE
<p>§ 59.11 Confidentiality.</p> <p>All information as to personal facts and circumstances obtained by the project staff about individuals receiving services must be held confidential and must not be disclosed without the individual's documented consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.</p>	<p>§ 59.11 Confidentiality.</p> <p>All information as to personal facts and circumstances obtained by the project staff about individuals receiving services must be held confidential and must not be disclosed without the individual's documented consent, except as may be necessary to provide services to the patient or as required by law, with appropriate safeguards for confidentiality; concern with respect to the confidentiality of information, however, may not be used as a rationale for noncompliance with laws requiring notification or</p>	60 days

	reporting of child abuse, child molestation, sexual abuse, rape, incest, intimate partner violence, human trafficking, or similar reporting laws. Otherwise, information may be disclosed only in summary, statistical, or other form which does not identify particular individuals.	
§ 59.12 Additional conditions. The Secretary may, with respect to any grant, impose additional conditions prior to or at the time of any award, when in the Department's judgment these conditions are necessary to assure or protect advancement of the approved program, the interests of public health, or the proper use of grant funds.	NO CHANGE	NO CHANGE
	§ 59.13 Standards of compliance with prohibition on abortion. A project may not receive funds under this subpart unless the grantee provides assurance satisfactory to the Secretary that the project does not provide abortion and does not include abortion as a method of family planning. Such assurance must also include, at a minimum, representations (supported by documentary evidence where the Secretary requests it) as to compliance with this section and each of the requirements in §§ 59.14 through 59.16. A project supported under this subpart must comply with such requirements at all times during the project period.	120 days
	§ 59.14 Requirements and limitations with respect to post-conception activities. (a) <i>Prohibition on referral for abortion.</i> A Title X project may not perform, promote, refer for, or support abortion as a method of family planning, nor take any other affirmative action to assist a patient to secure such an abortion. (b) <i>Information about prenatal care.</i> (1) Because Title X funds are intended only for family planning, once a client served by a Title X project is medically verified as pregnant, she shall be referred to a health care provider for medically necessary prenatal health care. The Title X provider may also choose to provide the following counseling and/or information to her: (i) Nondirective pregnancy counseling, when provided by physicians or advanced practice providers; (ii) A list of licensed, qualified, comprehensive primary health care providers (including providers of prenatal care); (iii) Referral to social services or adoption agencies; and/or (iv) Information about maintaining the health of the mother and unborn child during pregnancy. (2) In cases in which emergency care is required, the Title X project shall only be required to refer the client immediately to an appropriate provider of medical services needed to address the emergency. (c) <i>Use of permitted lists or referrals to encourage abortion.</i>	120 days

	<p>(1) A Title X project may not use the provision of any prenatal, social service, emergency medical, or other referral, of any counseling, or of any provider lists, as an indirect means of encouraging or promoting abortion as a method of family planning.</p> <p>(2) The list of licensed, qualified, comprehensive primary health care providers (including providers of prenatal care) in paragraph (b)(1)(ii) of this section may be limited to those that do not provide abortion, or may include licensed, qualified, comprehensive primary health care providers (including providers of prenatal care), some, but not the majority, of which also provide abortion as part of their comprehensive health care services. Neither the list nor project staff may identify which providers on the list perform abortion.</p> <p><i>(d) Provision of medically necessary information.</i> Nothing in this subpart shall be construed as prohibiting the provision of information to a project client that is medically necessary to assess the risks and benefits of different methods of contraception in the course of selecting a method, provided that the provision of such information does not promote abortion as a method of family planning.</p> <p><i>(e) Examples.</i> (1) A pregnant client of a Title X project requests prenatal health care services. Because the provision of such services is outside the scope of family planning supported by Title X, the client is referred for prenatal care and may be provided a list of licensed, qualified, comprehensive primary health care providers (including providers of prenatal care). Provision of a referral for prenatal health care is consistent with this part because prenatal care is a medically necessary service.</p> <p>(2) A Title X project discovers an ectopic pregnancy in the course of conducting a physical examination of a client. Referral arrangements for emergency medical care are immediately provided. Such action complies with the requirements of paragraph (b) of this section.</p> <p>(3) After receiving nondirective counseling at a Title X provider, a pregnant woman decides to have an abortion, is concerned about her safety during the procedure, and asks the Title X project to provide her with a referral to an abortion provider. The Title X project tells her that it does not refer for abortion, but provides the following: A list of licensed, qualified, comprehensive primary health care providers (including providers of prenatal care), which is not presented as a referral for abortion, but as a list of comprehensive primary care and prenatal care providers that does not identify which providers perform abortion, and the project staff member does not identify such providers on the list; and information about maintaining her health and the health of her unborn child during pregnancy. Such actions comply with paragraphs (a) through (c) of this section.</p>	
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	<p>(4) A pregnant woman asks the Title X project to provide her with a list of abortion providers in the area. The project tells her that it does not refer for abortion, and provides her a list that consists of hospitals and clinics and other providers, all of which provide comprehensive primary health care (including prenatal care), as well as abortion as a method of family planning. Although there are several licensed, qualified, comprehensive primary health care providers (including providers of prenatal care) in the area that do not provide abortion as a method of family planning, none of these providers is included on the list. Provision of the list is inconsistent with paragraphs (a) and (c) of this section.</p> <p>(5) A pregnant woman requests information on abortion and asks the Title X project to refer her for an abortion. The counselor tells her that the project does not consider abortion a method of family planning and, therefore, does not refer for abortion. The counselor offers her nondirective pregnancy counseling, which may discuss abortion, but the counselor neither refers for, nor encourages, abortion. The counselor further tells the client that the project can help her to obtain prenatal care and necessary social services and offers her the list of licensed, qualified, comprehensive primary health care providers (including providers of prenatal care), assistance, and information for pregnant women described in paragraph (b) of this section. None of the providers on the list provide abortions. Such actions are consistent with paragraphs (a) through (c) of this section.</p> <p>(6) Title X project staff provide contraceptive counseling to a client in order to assist her in selecting a contraceptive method. In discussing oral contraceptives, the project counselor provides the client with information contained in the patient package insert accompanying a brand of oral contraceptives, referring to abortion only in the context of a discussion of the relative safety of various contraceptive methods and in no way promoting abortion as a method of family planning. The provision of this information is consistent with paragraph (d) of this section and this section generally and does not constitute an abortion referral.</p>	
	<p>§ 59.15 Maintenance of physical and financial separation.</p> <p>A Title X project must be organized so that it is physically and financially separate, as determined in accordance with the review established in this section, from activities which are prohibited under section 1008 of the Act and §§ 59.13, 59.14, and 59.16 of these regulations from inclusion in the Title X program. In order to be physically and financially separate, a Title X project must have an objective integrity and independence from prohibited activities. Mere bookkeeping separation of Title X funds from other</p>	<p>Physical separation: one year</p> <p>Financial separation: 120 days</p>

	<p>monies is not sufficient. The Secretary will determine whether such objective integrity and independence exist based on a review of facts and circumstances. Factors relevant to this determination shall include:</p> <ul style="list-style-type: none"> (a) The existence of separate, accurate accounting records; (b) The degree of separation from facilities (e.g., treatment, consultation, examination and waiting rooms, office entrances and exits, shared phone numbers, email addresses, educational services, and websites) in which prohibited activities occur and the extent of such prohibited activities; (c) The existence of separate personnel, electronic or paper-based health care records, and workstations; and (d) The extent to which signs and other forms of identification of the Title X project are present, and signs and material referencing or promoting abortion are absent. 	
	<p>§ 59.16 Prohibition on activities that encourage, promote or advocate for abortion.</p> <p>(a) <i>Prohibition on activities that encourage abortion.</i></p> <p>(1) A Title X project may not encourage, promote or advocate abortion as a method of family planning. This restriction prohibits actions in the funded project that assist women to obtain abortions for family planning purposes or to increase the availability or accessibility of abortion for family planning purposes.</p> <p>(2) Prohibited actions include the use of Title X project funds for the following:</p> <ul style="list-style-type: none"> (i) Lobbying for the passage of legislation to increase in any way the availability of abortion as a method of family planning; (ii) Providing speakers or educators who promote the use of abortion as a method of family planning; (iii) Attending events or conferences during which the grantee or subrecipient engages in lobbying; (iv) Paying dues to any group that, as a more than insignificant part of its activities, advocates abortion as a method of family planning and does not separately collect and segregate funds used for lobbying purposes; (v) Using legal action to make abortion available in any way as a method of family planning; and (vi) Developing or disseminating in any way materials (including printed matter, audiovisual materials and web-based materials) advocating abortion as a method of family planning. <p>(b) Examples.</p> <p>(1) Clients at a Title X project are given brochures advertising a clinic that provides abortions, or such brochures are available in any fashion at a Title X clinic (sitting on a table or available or visible within the same space where Title X services are provided). Provision or availability of the brochure violates paragraph (a)(2)(vi) of this section.</p>	60 days

	<p>(2) A Title X project makes an appointment for a pregnant client for an abortion for family planning purposes. The Title X project has violated paragraph (a)(1) of this section.</p> <p>(3) A Title X project pays dues with project funds to a State association that, among other activities, lobbies at State and local levels for the passage of legislation to protect and expand the legal availability of abortion as a method of family planning. The association spends a significant amount of its annual budget on such activity and does not separately collect and segregate the funds for such purposes. Payment of dues to the association violates paragraph (a)(2)(iv) of this section.</p> <p>(4) An organization conducts a number of activities, including operating a Title X project. The organization uses non-project funds to pay dues to an association that, among other activities, engages in lobbying to protect and expand the legal availability of abortion as a method of family planning. The association spends a significant amount of its annual budget on such activity. Payment of dues to the association by the organization does not violate paragraph (a)(2)(iv) of this section.</p> <p>(5) An organization that operates a Title X project engages in lobbying to increase the legal availability of abortion as a method of family planning. The project itself engages in no such activities, and the facilities and funds of the project are kept separate from prohibited activities. The project is not in violation of paragraph (a)(2)(i) of this section.</p> <p>(6) Employees of a Title X project write their legislative representatives in support of legislation seeking to expand the legal availability of abortion, in their personal capacities and using no project funds to do so. The Title X project has not violated paragraph (a)(2)(i) of this section.</p> <p>(7) On her own time and at her own expense, a Title X project employee speaks before a legislative body in support of abortion as a method of family planning. The Title X project has not violated paragraph (a)(2)(i) of this section.</p> <p>(8) A Title X project uses Title X funds for sex education classes in a local high school. During the course of the class, information is distributed to students that includes abortion as a method of family planning. The Title X project has violated paragraph (a)(2)(vi) of this section.</p>	
	<p>§ 59.17 Compliance with reporting requirements.</p> <p>(a) Title X projects shall comply with all State and local laws requiring notification or reporting of child abuse, child molestation, sexual abuse, rape, incest, intimate partner violence or human trafficking (collectively, “State notification laws”).</p> <p>(b) A project may not receive funds under this subpart unless it provides appropriate documentation or other assurance satisfactory to the Secretary that it:</p>	120 days

	<p>(1) Has in place and implements a plan to comply with State notification laws. Such plan shall include, at a minimum, policies and procedures that include:</p> <ul style="list-style-type: none"> (i) A summary of obligations of the project or organizations and individuals carrying out the project under State notification laws, including any obligation to inquire about or determine the age of a minor client or of a minor client's sexual partner(s); (ii) Timely and adequate annual training of all individuals (whether or not they are employees) serving clients for, or on behalf of, the project regarding State notification laws; policies and procedures of the Title X project and/or provider with respect to notification and reporting of child abuse, child molestation, sexual abuse, rape, incest, intimate partner violence and human trafficking; appropriate interventions, strategies, and referrals to improve the safety and current situation of the patient; and compliance with State notification laws. (iii) Protocols to ensure that every minor who presents for treatment is provided counseling on how to resist attempts to coerce them into engaging in sexual activities; and (iv) Commitment to conduct a preliminary screening of any minor who presents with a sexually transmitted disease (STD), pregnancy, or any suspicion of abuse, in order to rule out victimization of a minor. Projects are permitted to diagnose, test for, and treat STDs. <p>(2) Maintains records to demonstrate compliance with each of the requirements set forth in paragraph (b)(1) of this section, including which:</p> <ul style="list-style-type: none"> (i) Indicate the age of minor clients; (ii) Indicate the age of the minor client's sexual partners if such age is an element of a State notification law under which a report is required; and (iii) Document each notification or report made pursuant to such State notification laws. <p>(c) Continuation of grantee or subrecipient funding for Title X services is contingent upon demonstrating to the satisfaction of the Secretary that the criteria have been met.</p> <p>(d) The Secretary may review records maintained by a grantee or subrecipient for the purpose of ensuring compliance with the requirements of this section, the requirement to encourage family participation in family planning decisions, or any other section of this rule.</p>	
	<p>§ 59.18 Appropriate use of funds.</p> <p>(a) Title X funds shall not be used to build infrastructure for purposes prohibited with these funds, such as support for the abortion business of a Title X grantee or subrecipient. Funds shall only be used for the purposes, and in direct implementation of, the funded project, expressly permitted by this regulation and authorized within section 1001 of the Public Health Service Act, that is, to offer family planning methods and services. Grantees must use the majority of grant funds to</p>	120 days

	<p>provide direct services to clients, and each grantee shall provide a detailed plan or accounting for the use of grant dollars, both in their applications for funding, and in any annually required reporting. Any significant change in the use of grant funds within the grant cycle shall not be undertaken without the approval of the Office of Population Affairs.</p> <p>(b) Title X funds shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for office.</p> <p>(c) Each project supported under Title X shall fully account for, and justify, charges against the Title X grant. The Department shall put additional protections in place to prevent possible misuse of Title X funds through misbilling or overbilling, or any other unallowable expense.</p>	
	<p>§ 59.19 Transition provisions; compliance</p> <p>(a) <i>Compliance date concerning physical and financial separation.</i> The date by which covered entities must comply with the physical separation requirements contained in § 59.15, is [INSERT DATE ONE YEAR AFTER PUBLICATION IN THE FEDERAL REGISTER]. The date by which covered entities must comply with the financial separation requirements contained in § 59.15, is [INSERT DATE 120 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER.]</p> <p>(b) <i>Compliance date concerning applications.</i> The date by which covered entities must comply with § 59.7 and 59.5(a)(13) (as it applies to grant applications), is the date on which competitive or continuation award applications are due, where that date occurs after [INSERT DATE 120 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].</p> <p>(c) <i>Compliance date concerning reporting, assurance, and provision of service requirements.</i> The date by which covered entities must comply with §§ 59.5(a)(12), 59.5(a)(13) (as it applies to all required reports), 59.5(a)(14), (b)(1) and (8), 59.13, 59.14, 59.17, and 59.18, is [INSERT DATE 120 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER].</p>	N/A