

# An Overview of the 2021 Title X Family Planning Program Regulations

## January 31, 2023

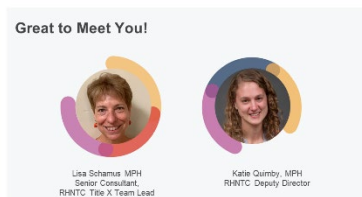
### Transcript

#### Slide 1



- [Katie] Good afternoon, everyone. Welcome. This is Katie Quimby with the Reproductive Health National Training Center, and I am delighted to welcome you all to today's webinar, which provide an overview of the 2021 Title X Family Planning Program Regulations. Just a few announcements before we get started, first, everyone today is muted, given the large number of participants. We have some time to answer questions at a few points during today's webinar. So at any time, you can feel free to drop your questions in the chat. A recording of today's webinar, the slide deck, and a transcript will be available on RHNTC.org within the next few days. And finally, this presentation was supported by the Office of Population Affairs. Its contents are solely the responsibility of the authors and do not necessarily represent the official views of OPA or HHS.

#### Slide 2



So I am the Deputy Director of the RHNTC and I'm delighted to be joined today by my colleague Lisa Schamus. Lisa is the Title X Training and Technical Assistance Team Lead for the RHNTC. We are also joined today by a number of staff from the Office of Population Affairs who will be here to receive and answer your questions.

### Slide 3

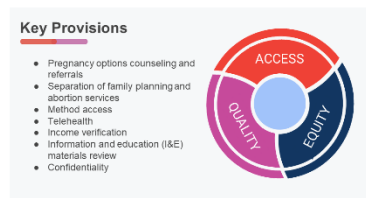


**2021 Regulations**

- Went into effect on November 4, 2021
- Repealed the 2019 regulations, readopted 2000 regulations with revisions
- Reinforce the program's central tenets of **quality, equity, and access** for all individuals who seek Title X services and modernizes the more than 50-year old program to better reflect the current healthcare system

Before we get started, I did just want to start with a poll and get a sense of the familiarity of those of you who are on the call today with the Title X regulations. There is no wrong answer. We just want to get a sense of the range of familiarity of those of you who are in the room. So would you say you are not very familiar, which is totally fine, that's why we're here today, or very familiar, or somewhere in the middle. We'll give folks another few seconds to respond and then show you the range of folks that we have in the room today. So it looks like we do have a wide range, which is great. About a fifth of you are, kind of, in the one to two range. Like I said, that's totally, that's great. That's why we're here today talking about the regs. A number of you are in, kind of, the middle and that's great, too. And we have some folks who are very familiar, and we welcome you jumping in, too. If you think you're very familiar with your reflections, you'll see, we have not just questions but reflections built in, about anything that you're finding surprising or have had a chance to reflect on as it relates to some of the changes in the regulations. So let's dive into these regulations. As you may know, the regulations went into effect on November 4th, 2021. These regulations repealed the Trump administration 2019 regulations and readopted the original 2000 regulations, however, with a number of revisions that were made to reinforce the program's central tenets of quality, equity, and access for all individuals seeking Title X services.

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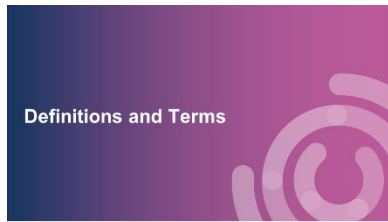


**Key Provisions**

- Pregnancy options counseling and referrals
- Separation of family planning and abortion services
- Method access
- Telehealth
- Income verification
- Information and education (I&E) materials review
- Confidentiality

We do not have time to cover all of the regulations today, but we do want to focus on key updates and provisions of the new regulations or new provisions of these regulations. Some of these key updates in the 2021 regulations are related to pregnancy options, counseling, and referrals, separation of family planning and abortion services, method access, telehealth, income verification, the information and education materials review or I&E materials review process, as well as confidentiality. And these are what we'll be discussing in detail today. I'm going to hand it over now to Lisa to start with some important definitions that were outlined in the regulations.

## Slide 5



- [Lisa] Thanks, Katie. The 2021 regulations include a new section on definitions and terms and also revised language throughout the regulations to be more inclusive. You may hear these terms in the remaining provisions, so we wanted to start with them so that we have a shared understanding.

## Slide 6



Health equity is defined in the Title X regulations as "when all persons have the opportunity to attain their full health potential and no one is disadvantaged from achieving this potential because of social position or other socially determined circumstances". And the Title X regulations reinforce that Title X services should be equitable. By the way, you'll notice that at the bottom of each slide we include the citation to the Code of Federal Regulations, or CFR, where this language comes from, for your reference.

## Slide 7



Family planning services is defined in the regulations in a way that aligns with QFP recommendations. QFP was revolutionary in that it defined the scope of family planning services. It was developed in 2014 and is currently undergoing revision. It complements other national guidelines like US Medical Eligibility Criteria, or MEC, US Selected Practice Recommendations, or SPR, and sexually-transmitted infection treatment guidelines. Per QFP, family planning services include a broad range of medically approved services, which includes FDA-approved contraceptive products and natural family planning methods for clients who want to prevent pregnancy and space births, pregnancy testing and counseling, assistance to achieve pregnancy, basic infertility services, STI services, and other preconception health

services. It's important to remember that abortion must not be provided as a method of family planning as part of the Title X project.

## Slide 8

**Definitions: Client-centered & culturally and linguistically appropriate**

Requires provision of "services in a manner that is client-centered, culturally and linguistically appropriate, inclusive, and trauma-informed; protects the dignity of the individual; and ensures equitable and quality service delivery consistent with nationally recognized standards of care."

**Client-centered care** is respectful of, and responsive to, individual client preferences, needs, and values; client values guide all clinical decisions.

**Culturally and linguistically appropriate services** are respectful of and responsive to the health beliefs, practices and needs of diverse patients.

42 CFR 59.2 "Culturally and linguistically appropriate services" & "Client centered care"

So the 2021 regulations include definitions for client-centric services, culturally and linguistically appropriate, inclusive, and trauma-informed services. And the regulations require provision of "services in a manner that is client-centered, culturally and linguistically appropriate, inclusive, and trauma-informed, protects the dignity of the individual, and ensures equitable and quality service delivery consistent with nationally recognized standards of care." Client-centered care is respectful of, and responsive to, individual client preferences, needs, and values, and client values guide all clinical decisions. Culturally and linguistically appropriate services are respectful of and responsive to the health beliefs, practices and needs of diverse patients.

## Slide 9

**Definitions: Inclusive and Trauma-Informed**

**Inclusive** is when all people are fully included and can actively participate in and benefit from family planning, including, but not limited to, individuals who belong to underserved communities, such as Black, Latino, and Indigenous and Native American persons, Asian Americans and Pacific Islanders and other persons of color, members of religious minorities, lesbian, gay, bisexual, transgender, and queer (LGBTQ+) persons, persons with disabilities, persons who live in rural areas, and persons otherwise adversely affected by persistent poverty or inequality.

A program, organization, or system that is **trauma-informed** realizes the widespread impact of trauma and understands potential paths for recovery, recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system, and responds by fully integrating knowledge about trauma into policies, procedures, and practices, and seeks to actively resist re-traumatization.

42 CFR 59.2 "Inclusive" & "Trauma Informed"

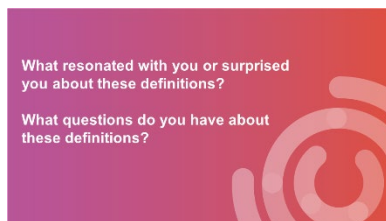
So inclusive is when all people are fully included and can actively participate in and benefit from family planning, and a program, organization, or system that is trauma-informed realizes the widespread impact of trauma and understands potential paths for recovery, recognizes the signs and symptoms of trauma in clients, families, staff, and others involved with the system, and responds by fully integrating knowledge about trauma-informed policies, procedures, and practices, and seeks to actively resist re-traumatization.

## Slide 10



The last definition that we wanted to call out is adolescent-friendly health services, which is defined as services that are accessible, acceptable, equitable, appropriate, and effective for adolescents.

## Slide 11



- [Katie] This is going to be our first opportunity for questions and reflections. We'll pause here. I think we have time for two or three questions or comments. You know, you notice in the first question here we're interested in what resonated with you or surprised you about these definitions, or and what questions do you have about these definitions. Again, for those of you who may be hearing this for the first time, welcome your questions, and for those of you who've had more time to reflect on this, we're particularly interested in what is resonating or surprising to you. We do have a few questions already which we'll get started with as you think about your own reflections. First question, as we're thinking about regulations and how they've changed is, and I'm going to direct these questions to OPA who will respond, "Is there a crosswalk that identifies the changes from the previous Title X regulations?"

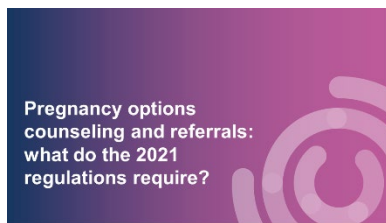
- [Iris] This is Iris. Hi, everybody. I'm one of the Title X POs, so I'll jump in. Yes, there is a crosswalk doing exactly that. So I'm going to drop the link into our chat here. It's very comprehensive. It goes through each section of the final rule.

- [Katie] Thanks, Iris. Second question for OPA, "What was the process that OPA used to identify and refine these definitions?"

- [Iris] I'll jump in again. So we use a number of resources, like the QFP, definitions from other federal agencies, and major medical associations to help us add or revise these definitions from the 2000 regulations. And then as part of the rule-making process, we also published this for the public and collected their comments, and then incorporated their feedback.

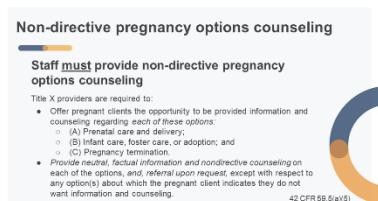
- [Katie] Great. Okay. I'm looking for other questions. I think we will move on. We will have some time for questions later on as well. But again, not just interested in your questions, also interested in any reflections you have as you're thinking about these provisions. Okay, I'm going to turn it back over to Lisa.

## Slide 12



- [Lisa] Great, thanks, Katie.

## Slide 13



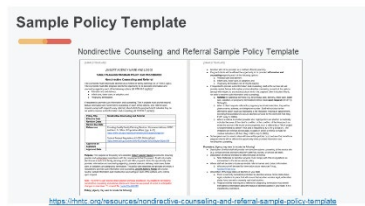
So let's dive into what the 2021 regulations require regarding pregnancy options, counseling and referrals. The 2021 regulations requires staff to provide non-directive pregnancy options counseling. And as you may recall, the 2019 regulations repeal this requirement. But importantly the 2021 regs have reinstated this fundamental component of the program. Staff working in Title X-funded settings are required to offer pregnant clients the opportunity to be provided information and counseling regarding prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination. Staff must provide neutral, factual information and non-directive counseling on each of these options and referral upon request, except with respect to any options about which the pregnant client indicates that they do not want information and counseling.

## Slide 14



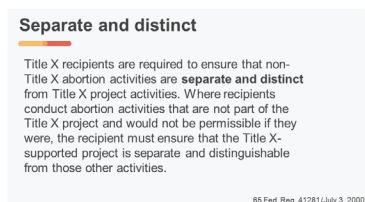
Staff must provide referral for abortion upon request. And we know that there can be questions about what this looks like. And here is the guidance directly from OPA on this question. A Title X project may, upon request from the client, provide a referral for abortion, which may include providing a patient with the name, address, telephone number, and other relevant factual information, such as whether the provider accepts Medicaid, and/or charges, et cetera, about an abortion provider. Having said that, clients must obtain their own transportation, make their own appointments, and make their own financial arrangements for pregnancy termination, except in cases where referral is being made for medical indication, such as if the client's life is in danger. Staff may provide information about abortion funds.

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So a common question that we get on this topic is do you have a sample policy template that we can adapt? And yes, we do. The RHNTC's non-directive counseling and referral sample policy template can be adapted by Title X agencies to demonstrate compliance with these counseling and referral requirements. And we'll be chatting out the links to some of the resources that we've mentioned, and we'll also be providing a list of the resources at the end of the slides, as well.

## Slide 16



So the 2021 Title X regulation eliminates the burdensome requirement established under the 2019 Title X rule for providers to maintain strict physical and financial separation for abortion services. Note that again I am using language that comes directly from OPA for this. Title X recipients are required to ensure that non-Title X abortion activities are separate and distinct from Title X project activities. Where recipients conduct abortion activities that are not part of the Title X project and would not be permissible, the recipient must ensure that the Title X-supported project is separate and distinguishable from those other activities. So what must be looked at is whether the abortion element is so large and so intimately related to all aspects of the program as to make it difficult or impossible to separate out the Title X-eligible and non-eligible costs. The Title X project is the set of activities the recipient agreed to perform in the relevant grant documents as a condition of receiving Title X funds. The grant applicant may include both project and non-project activities in the grant application and so long as these are properly distinguished from each other and prohibited activities are not reflected in the amount of the total approved budget, no problem is created. Which of course leads naturally to the question, how does one sufficiently properly distinguish between Title X program activities and abortion-related activities?

## Slide 17



**Separation of services**

Separation of Title X from abortion activities does **not** require separate recipients or even a separate health facility.

Separate bookkeeping entries alone will not satisfy the spirit of the law. Mere technical allocation of funds, attributing federal dollars to non-abortion activities, is not a legally supportable avoidance of section 1008.

65 Fed. Reg. 41281 (July 3, 2000)

Again, this guidance comes directly from OPA. Separation of Title X from abortion activities does not require separate recipients or even a separate health facility. But separate bookkeeping entries alone will not satisfy the spirit of the law. Mere technical allocation of funds, attributing federal dollars to non-abortion activities, is not a legally supportable avoidance of section 1008.

## Slide 18



**Separation of services cont'd**

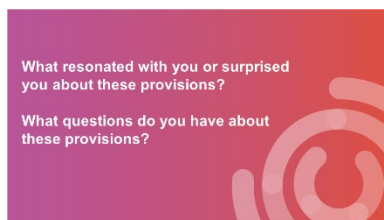
Certain kinds of shared facilities are permissible, so long as it is possible to distinguish between the Title X supported activities and non-Title X abortion-related activities:

- a common waiting room is permissible, as long as costs are properly prorated;
- common staff is permissible, so long as salaries are properly allocated, and all abortion related activities of the staff members are performed in a program which is entirely separate from the Title X project;
- a hospital offering abortions for family planning purposes and also housing a Title X project is permissible, as long as the abortion activities are sufficiently separate from the Title X project; and
- maintenance of a single file system for abortion and family planning patients is permissible, so long as costs are properly allocated.

65 Fed. Reg. 41281 (July 3, 2000)

Certain kinds of shared facilities are permissible so long as it's possible to distinguish between the Title X-supported activities and non-Title X abortion-related activities. As long as costs are properly prorated, it is permissible to have a common waiting room, common staff, and a single filing system. A hospital offering abortions for family planning purposes and also housing a Title X project is permissible as long as the abortion activities are sufficiently separate from the Title X project. One other note, OPA sees no issue with providing post-abortion contraception under Title X provided that these visits are separate. So separation of Title X from non-Title X activities is handled at the administrative and fiscal level in organizations and our recommendation is that agencies state in their policy how they are separating services and that sub-recipients communicate with their grantee organizations about the grantee's policy.

## Slide 19



What resonated with you or surprised you about these provisions?

What questions do you have about these provisions?

- [Katie] Great, so let's pause here for some more questions. We've received a few, which I'm going to start with, but for other questions you may have or reflections, take a minute and drop those in the chat. We'll start with this question. "What is the best way to ensure you have received adequate training to provide non-directive options counseling to patients?"



- [Iris] So I'll jump in. If anyone from my team wants to jump in afterwards, feel free. I'm going to plug RHNTC here. There's a lot of resources available. There's a non-directive counseling and referral job aid, and the "Establishing and Providing Effective Referrals for Clients, a Toolkit for Family Planning Providers." So I'll copy the links in the chat, properly this time, in a bit. And then if you're a current Title X grantee, I would also recommend reaching out to your liaison, so you can get one-on-one TA, and make sure that you're getting all the training that you need.

- [Katie] Thanks, Iris. This next question is about services for pregnant clients, and wondering if you can elaborate on what services Title X providers can provide to pregnant clients.

- [Tisha] Do you want me to go, Iris?

- [Iris] Sure.

- [Tisha] I'll be glad to. Okay, the Title X program handbook talks about this under the provision of high-quality family planning services, specifically that's expectation number 9, on page 19. "Offer pregnant" patient, I'm sorry, "pregnant clients, the opportunity to be to be provided information and counseling regarding each of the following options, prenatal care and delivery, infant care, foster care, or adoption, and pregnancy termination. If requested to provide such information and counseling, provide neutral, factual information and non-directive counseling on each of the options and referral upon request, except with the respect to any options about which the pregnant client indicates they do not wish to receive such information and counseling." So if I'm the pregnant client and I say I'd like to hear about adoption and prenatal care, then you wouldn't talk to me about foster care or pregnancy termination, as an example.

- [Katie] Thanks, Tisha. Another clarifying question, someone brought up the question of just can we confirm that we're talking about 2021 regulations, that these are the current regulations, since we are currently in 2023. So I see nodding, but Iris or Tisha, do one of you want to say anything more about that?

- [Tisha] I'll go ahead. So typically these rules are named by the year that they are put into effect and to distinguish them from the previous rules. So that's why it's called 2021. But until or unless something further comes along, that's the regulation that you'll follow. Hopefully, we'll keep it for a long time. We kept the 2000 for 19 years, so who knows? Keep your fingers crossed.

- [Katie] Thanks, Tisha. Our next question, which is very timely as we know folks are working in different state contexts, is, "What if state laws make referring a patient to abortion services questionably legal as referring may be considered assisting in an abortion?" What if state laws conflict with Title X regulations regarding your requirements around abortion referrals?

- [Tisha] There is a long established precedent that federal regulations and law trump state regulations and law. With Dobbs, of course, we are in a strange time. So, of course, as the federal agency, we expect that you'll follow the federal guidelines. If you have a question or a concern, I'd definitely recommend that you reach out to your project officer so that your project officer can then elevate that up to leadership that could help you find clarity. You may also wish to consult your own independent counsel or look for some sort of advocate to help you with that. We can't make those answers for you, but we do support the Title X regulation and that is what is expected of all Title X grantees. So you really would need to bring your specific situation to your project officer to get really clarifying answers. Does that sound round to everybody?

- [Katie] Thanks, Tisha. We'll do one more question before we move on to the next section here. And this question is about referring to abortion funds. "It was stated that it is allowable to refer to abortion funds, but is that in writing from anywhere from OPA?" Is that something OPA can elaborate on?

- [Nena] Again, just like Tisha noted, if there is a specific instance or a specific organization or a specific situation that you would like clarity on, I would suggest that you reach out to your project officer. There are instances where, you know, something may be appropriate and sometimes they are not. And without more information, I wouldn't feel comfortable giving a affirmative or no. Yeah, I just would need more information to provide some additional guidance there. But if you

reach out to your project officer, your project officer will definitely be able to provide you with guidance, assistance, even if we have to get it from our leadership. But that's what the project officers are here for.

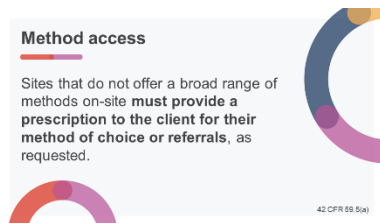
- [Katie] Thanks, Nena. Okay, I know we have more questions but we will move forward and we'll have another opportunity for questions at the end and get to some of these more general questions, ones that are not as specifically related to the counseling and referral piece that we were just talking about.

## Slide 20



So Lisa covered some of the key components of the Title X, of the 2021 regulations, but let's talk about a few more provisions, starting with method access.

## Slide 21



So the 2021 regulations stipulated that sites that do not offer a broad range of methods on site must provide a prescription to the client for their method of choice or referrals as requested.

## Slide 22



The 2021 regulations also codified the allowability of telehealth for Title X family planning services. Previously, telehealth provided services were not countable as a family planning visit, but now they are. And the regulations state that Title X providers must provide for medical services related to family planning in person or via telehealth.

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**Income verification**

**Income verification must not impede access.**

Title X providers are required to:

- Take reasonable measures to verify client income, without burdening clients from low-income families.
- Recipients that have lawful access to other valid means of income verification because of the client's participation in another program may use those data rather than re-verify income or rely solely on client's self-report.
- If a client's income cannot be verified after reasonable attempts to do so, charges are to be based on the client's self-reported income.

42 CFR 59.5(a)(9)

The 2021 regulations added a statement that income verification must not impede access. Title X providers are required to take reasonable measures to verify client income without burdening clients from low-income families. Recipients that have lawful access to other valid means of income verification because of the client's participation in another program may use those data rather than re-verify income or rely solely on client's self-report. If a client's income cannot be verified after reasonable attempts to do so, charges are to be based on the client's self-reported income.

## Slide 24

**Q&A**

<p><b>INCLUSIONS*</b></p> <ul style="list-style-type: none"><li>• Wages, salaries, tips, bonuses, other payments for personal services, etc.</li><li>• Disability income</li><li>• Dividends</li><li>• Health, medical, dental, or offsets of state and local health care costs, health care cost reductions—only for forms 1040 instructions</li><li>• Allowance for qualified tuition payments received</li><li>• Business income for loss</li><li>• Capital gains/loss</li><li>• Other gains or losses such as assets used in a trade or business that are not reported on self-employment tax returns</li><li>• IRA distributions, including qualified employee pension and savings investment plan for withdrawal RMD</li><li>• Rental and other property and annuity payments</li><li>• Complanations, trusts, etc.</li><li>• Child support (if not reported on 1040)</li></ul>	<ul style="list-style-type: none"><li>• Unemployment compensation and workers' compensation payments</li><li>• Taxable amount of Social Security benefits</li><li>• Other income includes prizes and awards, gambling, interest or other earnings, jury duty fees, Alaska Permanent Fund Dividend, distributions of an annuity, retirement, pension plan, or other plan, the rental of property if not in the business of renting such property and income from an activity not engaged in for profit</li></ul> <p><b>EXCLUSIONS</b></p> <ul style="list-style-type: none"><li>• Child support</li><li>• Money or property that was inherited, gifted, or given as a gift</li><li>• Life insurance proceeds received as a result of someone's death</li><li>• Foster care payments</li><li>• Home care benefits such as public housing, Medicaid, and nutrition assistance</li></ul> <p><small>*As reported on Form 1040/1040-EZ</small></p>
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<https://rhntc.org/resources/defining-family-income-06e-x-charges-billing-and-collections-job-aid>

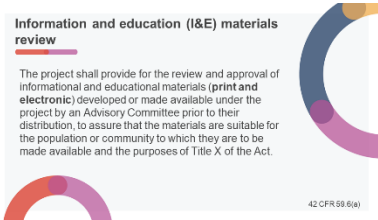
And a common question that we get on this section on income verification is what income should be included to determine family income. So this answer comes from an approved income verification job aid that the RHNTC created. There is no standard definition of income to determine eligibility for all federally-funded programs. But when considering IRS form 1040 guidance regarding what constitutes income, the following inclusions and exclusions are recommended to calculate family income for Title X visits. And you'll see we just chatted that out in the chat of where this comes from, this FAQ on income verification. Just as far as definitions go, family as it relates to family income is defined as a social unit comprised of one person or two or more persons living together as a household. And as a reminder for something I know you all know, that clients must not be denied project services or be subjected to any variation in quality of services because of an inability to pay. We know many of you have agency-specific guidance for this. So this resource is something that you can use to consider as part of developing your agency-specific guidance. And Lisa's going to talk next about some updates around expectations around the I&E materials review process.

## Slide 25

**Information and education (I&E) materials review**

The project shall provide for the review and approval of informational and educational materials (print and electronic) 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.

42 CFR 89.6(a)



- [Lisa] One of my favorite topics, so the 2021 regulations provide some new language and guidance around the information and education materials review process. And one update is that the regulations now make it clear that electronic educational materials are subject to the I&E materials review process.

## Slide 26

**Q&A**

**Q.** Do social media posts on platforms such as Facebook, Twitter, and Instagram need to go through the I&E materials review process?

**A.** No. While I&E materials shared on social media must undergo an I&E Advisory Committee approval process, social media posts themselves do not require I&E Advisory Committee approval and are instead subject to the Title X agency's social media policy.

<https://itntrc.org/resources/i-e-materials-review-frequently-asked-questions-faq>

A question we've gotten a lot about this update is, Do social media posts on platforms such as Facebook, Twitter, and Instagram need to go through the I&E materials review process? And the answer is, no. While I&E materials shared on social media must undergo an I&E advisory committee approval process, social media posts themselves don't require I&E advisory committee approval and are instead subject to the Title X agency's social media policy.

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**I&E materials review cont.**

**Size:** The committee shall consist of no fewer than five members and up to as many members as the recipient determines, except that this provision may be waived by the Secretary for good cause shown.

**Function:** In reviewing materials, the Advisory Committee shall:

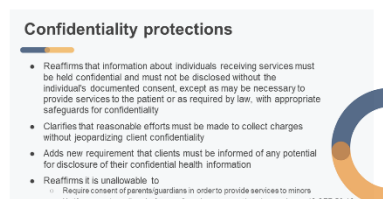
- (i) Consider the educational, cultural, and diverse backgrounds of individuals to whom the materials are addressed;
- (ii) Consider the standards of the population or community to be served with respect to such materials;
- (iii) Review the content of the material to assure that the information is factually correct, medically accurate, culturally and linguistically appropriate, inclusive, and trauma informed;
- (iv) Determine whether the material is suitable for the population or community to which it is to be made available; and
- (v) Establish a written record of its determinations.

42 CFR 89.6(b)

So the 2021 regulations also updated the committee requirements and many of you will be happy to hear that there's no longer an upper limit to the number of members on the committee. The updated regulations state that the committee shall consist of no fewer than five members and up to as many members as the recipient determines, except that this provision may be waived by the Secretary for good cause. In terms of function, when reviewing the materials, the advisory committee shall: Consider the educational, cultural, and diverse backgrounds of individuals to whom the materials are addressed. Consider the standards of the population or community to be served with respect to such materials. Review the content of the material to assure that the information is factually correct, medically accurate, culturally and linguistically appropriate, inclusive and trauma informed. And by the way, the reference to trauma-informed review is new and the RHNTC has created a job aid to help Title X agencies integrate a trauma-

informed review into their I&E process. So when reviewing the materials, the advisory committee shall also determine whether the material is suitable for the population or community to which it is to be made available, and establish a written record of its determinations. The RHNTC does have an I&E materials review toolkit with resources to facilitate I&E materials review, which we will chat the link out for. And with that I'm going to hand it back over to Katie.

## Slide 28



**Confidentiality protections**

- Reaffirms that information 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
- Clarifies that reasonable efforts must be made to collect charges without jeopardizing client confidentiality
- Adds new requirement that clients must be informed of any potential for disclosure of their confidential health information
- Reaffirms it is unallowable to
  - Require consent of parents/guardians in order to provide services to minors
  - Notify parents/guardians before or after minors request/receive services - 42 CFR 59.10

- [Katie] Thanks, Lisa. Just a couple more provisions, the 2021 regulations reaffirm the Title X program's commitment to confidentiality, that information 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. The regulations clarify that reasonable efforts must be made to collect charges without jeopardizing client confidentiality, and added a new requirement that clients must be informed of any potential for disclosure of their confidential health information. The regs reaffirm that it is unallowable to require consent of parents or guardians in order to provide services to minors or notify parents or guardians before or after minors request or receive services. We know there are questions that have come up about this as a result of Deanda ruling and OPA is going to say a little bit more about that during the Q and A section that's coming up.

## Slide 29



**Clinical services providers**

Enables a broader range of clinical services providers\* to direct Title X services and provide consultation for medical services.

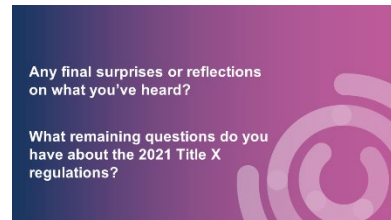
\*Clinical services provider includes physicians, physician assistants, nurse practitioners, certified nurse midwives, and registered nurses with an expanded scope of practice who are trained and permitted by state-specific regulations to perform all aspects of the user (male and female) physical assessments recommended for contraceptive, related preventive health, and basic infertility care.

Title X providers must:

- Provide that family planning medical services will be performed under the direction of a clinical services provider, with services offered within their scope of practice and allowable under state law, and with special training or experience in family planning
- Provide for medical services related to family planning including consultations by clinical services provider...

And finally, the 2021 regs enable a broader range of clinical services providers to direct Title X services and provide consultation for medical services. The regulations expanded to allow family planning medical services to be performed under the direction of a clinical services provider, with services offered within their scope of practice and allowable under state law, instead of where previously this was stated as to be solely under the direction of a physician. As such, the direction of Title X services can now be done by staff such as physician assistants, nurse practitioners, certified nurse midwives, and registered nurses with an expanded scope of practice who are trained and permitted by state-specific regulations.

## Slide 30



So as we move to the next and final Q and A section, another opportunity for your reflections or surprises or remaining questions that you have, and we've received several, so I'm going to dive in with some additional questions that we've received so far. And let's start with coming back to the Deanda ruling. So can OPA provide an update on how Title X providers should approach adolescent confidentiality given the Deanda ruling in Texas?

- [Ciara] Yeah, I'll jump in here. It's Ciara. So Mr. Deanda challenged Title X's requirements to provide confidential services to adolescents, right? And so he alleged that it infringed upon his right as a parent to his daughters according to his religion. And so the case was filed in federal court in Texas. The judge ruled in favor of Mr. Deanda in December, 2022. And so where we are right now in the process is that we're working on guidance, internally as OPA, and we're going to publish that guidance to the field as soon as possible. But until that, things should be as they already always have been, right, you know, which is that you're not requiring parental consent. And so once we get that guidance out to everyone, we're going to send out a notification. We're going to let you know. But for now things are to carry on as they always have, until that guidance is ready.

- [Katie] Thanks, Ciara. Next question is about the provision of emergency contraception at Title X centers. "So are Title X sites required to provide emergency contraception? And what about in states where emergency contraception is being restricted?"

- [Ciara] I'll jump in and my teammates feel free to tag team as well if I miss any key information. So what we'll say about that is that the final rule requires that grant recipients provide a broad range of acceptable and effective medically-approved family planning methods. Emergency contraception is one of those approved methods for contraception. So recipients can consider that a part of the broad range of methods that they provide. And so I think that for the most part is the answer, right? Is that yes, it is a method you should provide the method as is required by the final rule. And then I would also like to say, if I've missed anything, to have my teammates maybe jump in, but it looks like I'm getting a nod of approval. So I think we've hit the main points there.

- [Katie] Thanks. We have had a couple of questions about I&E materials and which materials must be subject to the I&E materials review process and either OPA or Lisa may want to jump in on a couple of these. I know this is a topic near and dear to her heart. One question is, do CDC materials need to be approved by local committees, or, I mean, go through the I&E materials review process? Or is there a list of agencies that are labeled suitable to provide resources without review?

- [Nena] I was going to let Lisa take the first stab at it 'cause this is just Lisa's-

- [Lisa] Sure, I'll take a first stab and just with the caveat that I'm not giving any guidance, but the way that I interpret the expectations is that the spirit is to really get input at a very local level and for exactly the population that the material is intended for. So your I&E committee, I think more and more there's appreciation that there's not necessarily one committee that would review materials for every segment of your project because it may be appropriate to have adolescents reviewing the materials that are appropriate for your adolescents. And it might be appropriate to have a group of people that identify as LGBTQ+ reviewing those materials to ensure that the materials are suitable, again, for that specific intended audience. And that in the

spirit of that, there may be geographic differences, as well. So I would encourage you, even though I'm not giving guidance from OPA, my read of the spirit of I&E is to ensure that it resonates with your intended audience.

- [Nena] Yeah, I would totally, totally agree with that. In addition, just that one size does not fit all. Just because it is, you know, a government-produced product doesn't necessarily mean it's a good fit for, like Lisa said, your geographic area or your target population or, you know, the kid down the street that's coming in to your clinic for care. You really want to make sure that it's something that is eye-catching, is, you know, tailored to their reading level, that is provided in a way that's culturally competent. I know that you hear that all the time, but it's a real thing. We want to make sure that it's really geared toward the community, the patients that you serve on a regular basis.

- [Katie] Thanks, Nena. And before you go off mute, just a follow-up question on I&E that maybe I'll just ask if you would, if your answer applies or needs further elaboration, but we've had a couple of questions about handouts that are embedded in EMRs. It's, you know, patient education handouts that are part of the EMR system. Would those also be subject to I&E materials review processes?

- [Nena] Yep, I would say anything that you're handing out, whether it is electronically or physical paper, I think should be reviewed by your I&E committee, just because, again, you want to make sure that it is focused on your clients that you are serving. Yeah, that's my take on on that and just best practice. I want to make sure that anything that I'm providing to the patient is meeting their needs. But, Lisa, you can offer other suggestions.

- [Lisa] Yeah, I totally agree and I think that many of the handouts that I've looked at from the EHR, the reading level can be kind of sophisticated and it can be written in very technical wording. And so just again, in the spirit of I&E is that whatever we're giving to a client, we want to make sure that they're able to receive it.

- [Katie] There was a question about how we know who to connect with at OPA. So a question about do we have a regional liaison or how do we know who our OPA contact is? And I know that was answered directly, participant, but I wonder if Tisha or Iris, one of you would jump in and just describe how that would happen for others who might not know who they should connect with at OPA.

- [Tisha] I'll jump in. I do know that we have added a new project officer, Haley Johnston. She is coming here from New Hampshire and she will be getting grantees. So there will be a slight shift in grantee assignments. We will post that list as soon as it is confirmed and that will be on MAX. Other than that, you can reach out to any of us. My email is [tisha.reed@hhs.gov](mailto:tisha.reed@hhs.gov), and we can get you connected with whoever you should be connected with. So please do reach out.

- [Nena] And I just want to add that if you are more so looking to connect with the Title X organization within your local community, you may want to look at the clinic locator database where it will provide you with the local organization that you can connect with, as well. Sometimes we're up here and there's many levels in between, so we want to make sure that we're getting you the most direct contact and the best person appropriately for your needs. And then Iris put in the link to the database, [reproductivehealthservices.gov](https://reproductivehealthservices.gov).

- [Katie] Thanks, Nena. I know we've received several questions about some additional clarification on the post-abortion contraception, that is something the OPA is going to take back and engage the clinical and scientific affairs division on, so know that if you've asked that question, we're taking it back to provide some additional clarity on that. There was a question about the disparity impact statements, and I don't know, okay, if there's any further information or guidance you want to say about those.

- [Nena] We haven't received information about the next steps related to the disparity impact statement. I believe, and correct me if I'm wrong, team, it was included in your notice of funding opportunity and I believe it was included in your initial notice of award for the 2022 cohort, but I believe there was something with our general counsel, where they stopped the implementation

of those statements. And so once we receive further guidance, we will definitely share that with everyone.

- [Katie] Thanks, Nena.

- [Tisha] And I guess I would just add, when Nena said stop, she didn't mean you can't have one, she just meant we can't require you to have one.

- [Nena] Yes, we would love for everyone to have one, but we're not requiring that. As you all know, equity is a part of the three tenets of the Title X program, and so we really want everyone to, you know, embed equity throughout their Title X programs.

- [Katie] Thanks, Nina and Tisha. There may not be any additional information you can share about this, but we did receive a question about any communication around funding changes. Is there anything you can say or are able to say at this time about expectations around funding increases or decreases?

- [Nena] We all received the same information. Title X has been level funded. I think this is the 20th year. I believe it was 19. Now this is the 20th. So, yeah.

- [Katie] We received a question about if someone's interested in joining the Title X networks. "If I represent an organization that's interested in joining the Title X network, where should I start? Who should I reach out to?"

- [Nena] Yeah, I think I touched on, oh-

- [Iris] Go ahead, Nena.

- [Nena] I think I touched on that earlier, and Iris posted the link in the chat box. But the first step is just finding out who are the Title X providers within your local community, if there are any, and just understanding what are their needs and how that you can potentially help them in meeting their larger needs. So I would suggest that you look at that or access the [reproductivehealthservices.gov clinic locator database link](https://reproductivehealthservices.gov/clinic-locator). Type in your ZIP Code, find your local Title X program, and reach out to them directly. You can always, like Tisha said, reach out to us as the Title X project officers for assistance, but they are going to be your first stop in making sure that you can understand what their needs are and if you can join their network.

- [Katie] Thanks, Nena. We have one question about training requirements and being about training, I think it, maybe I'll pump this one to Lisa. "Are there specific training requirements for staff who are part of the provision of Title X services?"

- [Lisa] Yes, indeed, there are. Some of the training requirements are required annually and some are required once per project period. And I've chatted into the link an RHNTC resource that lists out which the training requirements are that are required once per project period and which are the ones that are required once per, I just said once per project period, once per year. And in that you'll see that there are links to different resources that we have on the RHNTC. It is not a requirement that you use our resources to fulfill those training requirements. You can use your own resources, but those are also available to you to fulfill those training requirements.

- [Katie] Thanks, Lisa. I think we time for a few more questions, maybe we'll say three more questions, before we wrap up here and finish with some closing remarks. This next question is around counseling adolescents. "Can OPA clarify your expectations around what counseling for adolescents is required? For example, is counseling about abstinence required for all adolescents?"

- [Tisha] You want an okay, you want to do that, Ciara?

- [Ciara] Yeah, I was going to say, I'll jump in here and say that when it comes to, I think, services and counseling for adolescents, the rule of thumb for us is to provide all of the options available to them, of course, upon their request, but to make sure that the information that you are giving them is neutral, that it's factual information, and that it is information that they have requested. And if that includes abstinence information, then that includes abstinence information. I think the other piece or the exception to that would be that if there is an option, right, that they specifically say they don't want, then you don't have to provide that information to



them. But in general, they should get all the options available to them when doing counseling, and it should be factual, and it should be given in a neutral manner.

- [Katie] Thanks, Ciara. This next question comes back to about the broad range of methods, "Is there a specific definition for the broad range of methods that should be available?" Ciara, I see you nodding.

- [Ciara] Yeah, I think our thinking behind the broad range is in accordance with the FDA methods that they have outlined as a broad range of methods. And so when we say broad range, that's what we refer to, it's the FDA-approved methods for contraceptives.

- [Katie] The next question is actually a follow-up question. We talked previously about what services can be provided to pregnant clients, but this question, I think, is a follow-up or clarification. "Beyond pregnancy testing and diagnosis, what other Title X services can Title X sites provide to pregnant clients, such as STI testing and treatment, cervical cancer screening, et cetera?"

- [Iris] I'll jump in and, and folks, my team, correct me if I'm wrong, but I would say the Title X expectations is the prenatal care and delivery, infant care, foster care, adoption, and pregnancy termination. And if your clinic would like to provide more services beyond that, then that is great.

- [Katie] Thanks, Iris. I think we're going to move to close out and highlight some remaining resources for folks and source documents, if you have further questions or want to read the source information for this, but know that we've also been logging all the questions and we'll be sharing them. OPA is here, obviously, reading them, seeing them, and we'll also be able to write them up and share them with OPA so that they see all of your questions. Thank you, I know we didn't have time to get to all of them, but hopefully we were able to get to most of them, and thanks for your patience if we were not able to get to your question.

## Slide 31



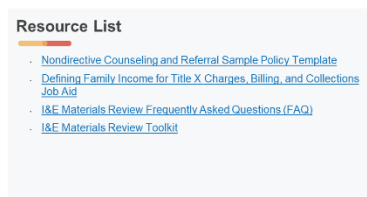
As we wrap up, we did just want to make sure you have access to the source references for the information in today's webinar. We'll chat these out so you have easy access to them, but they include the direct links to this 2 CFR, to the crosswalk of regulations between the 2000 and 2021 regulations, a summary of the final rule, as well as one of the FAQs. This is actually the June one. There is a more recent one that's available on MAX.gov. This one has a public link if you are looking for that. Thanks, Taylhor. Taylhor just chatted out all of those source documents.

### References:

- [eCFR :: 42 CFR Part 59 Subpart A -- Project Grants for Family Planning Services](#)
- [2021 Title X Final Rule SUMMARY](#)
- [2021 Title X Final Rule: Summary of Revisions and Technical Corrections in the 2021 Rule Compared to the 2000 Rule | HHS Office of Population Affairs](#)
- [65 Fed. Reg. 41281 \(July 3, 2000\) | Provision of Abortion-Related Services in Family Planning Services Projects](#)

- [Dobbs v. Jackson Women's Health Organization U.S. Supreme Court Decision: Impact on Title X Program: QUESTIONS & ANSWERS FOR TITLE X RECIPIENTS](#)

## Slide 32

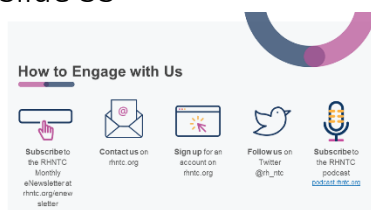


These are the resources we talked about on today's webinar. So the nondirective counseling, the family income, and some I&E materials review resources. I know there were, we answered a few questions on I&E, so I would just encourage you to take a look at that I&E Materials Review Toolkit. A lot of additional questions are answered about I&E in that toolkit and then the FAQ. And just some final reminders before we wrap up.

### Resources:

- [Nondirective Counseling and Referral Sample Policy Template](#)
- [Defining Family Income for Title X Charges, Billing, and Collections Job Aid](#)
- [I&E Materials Review Frequently Asked Questions \(FAQ\)](#)
- [I&E Materials Review Toolkit](#)

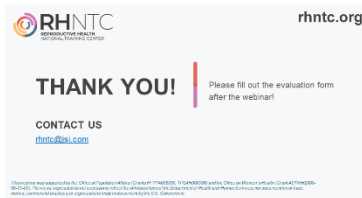
## Slide 33



First, before you leave today, please take two minutes to fill out the evaluation. I meant to mention it at the beginning, but I didn't, I forgot, so I'm sorry about that. Taylor's going to re-chat out the evaluation link. It'll take two minutes. We do really rely on your feedback to continuously improve and better meet your needs. So before you leave, open it up right now, start answering it as I'm finishing these closing remarks, and it'll all be done before you even sign off from today's session. You can subscribe to the RHNTC's monthly e-newsletter at the link on the screen, [rhntc.org/enewsletter](http://rhntc.org/enewsletter). You can contact us through the RHNTC's website. If you are representing a grantee organization, you have a grantee liaison with RHNTC. You can follow us on Twitter. Subscribe to our podcast. These are all great ways to just make sure you are aware of all of the things that are coming out of RHNTC. I will reiterate that the slides and recording of this will be available on the RHNTC website in the next couple of days. We will also send them out to anyone who attended the session directly. So if you're looking for these slides, you will get them. I know some folks asked for re-sharing the links to the resources that we were

chatted out today. Those are going to be linked to in the slides, as well. So when you get the slides afterwards, you'll be able to quick link back to the resources that we talked about today.

## Slide 34



Thank you all so much for joining us. Please join me too in thanking OPA for getting in the hot seat and responding to all of these questions in real time, as well as taking back questions that we weren't able to respond to in real time today. We do really appreciate your enthusiastic participation and engagement in today's session. And that concludes today's webinar. We hope you have a wonderful rest of your day.