

SAMPLE Title X Grantee Compliance Plan for 2019 Title X Regulations

Statement and Supporting Evidence with Compliance Requirements – Due by September 18, 2019

To demonstrate good-faith efforts to comply with the Final Rule, the U.S. Department of Health and Human Services, Office of Population Affairs (OPA) expects all Title X grantees to complete the following:

- **Statement and Supporting Evidence with Compliance Requirements – Due by September 18, 2019**

To support grantees in fulfilling this request, this document provides sample language for the assurance, action plan, statement, and supporting evidence. The written statements, planned action steps, completed action steps, and supporting evidence/documentation listed in this document are merely examples. They do not reflect an exhaustive list of statements, actions, and documentation that grantees may provide to demonstrate good-faith efforts to comply with the Final Rule.

OPA does not plan to not use any rigid formula to assess compliance with the Final Rule and recognizes that compliance by each grantee warrants particularized evaluation. Accordingly, OPA plans to make an individualized determination in each case. While the statements, actions, and documentation set out in this document are examples of good-faith efforts that may be relevant in evaluating compliance with the Final Rule, they are not meant to be either a checklist or a formula for compliance. And, in any particular case, the examples may not all be relevant, and others may be more salient given the particular facts at issue. A grantee can use an alternative approach to demonstrating compliance if it satisfies the requirements of the Title X statutes and the Final Rule; if you want to discuss an alternative approach, please contact your HHS Project Officer.

Use of this sample document is optional, and is not a requirement of the Final Rule or any other Federal statute.

2. Statement and Supporting Evidence with Compliance Requirements – Due by September 18, 2019

Grantees must submit:

- A **written statement**, signed by the Project Director and Authorized Official stating that the grant project is in compliance with the 2019 Title X Final Rule, except for the physical separation requirements.

- For each requirement, the grantee must (1) **describe the steps** that were taken to ensure that the grant project is in compliance and (2) **provide any relevant documentation** needed for OPA to verify compliance (e.g., copies of revised policies, plan for monitoring subrecipients, staff training plan).
- The written statement and any supporting documentation must be submitted as a Grant Note in Grantsolutions. An email must be sent to the Project Officer indicating that the statement and supporting documentation have been submitted.

Sample Written Statement

This written statement attests that the Title-X funded project, *[enter name of project]*, is in compliance with the 2019 Title X Final Rule, except for the physical separation requirements.

Authorizing Official

Date

Project Director

Date

Sample Completed Action Plan and Supporting Documentation

This action plan describes the steps that the Title-X funded project, *[enter name of project]*, has taken to come into compliance with the Final Rule, and related supporting documentation.

2019 Regulation Requirement	Sample Completed Action Steps	Supporting Documentation
<p>Prohibits the use of Title X funds to perform, promote, refer for, or support abortion as a method of family planning.</p> <p>“A Title X project may not perform, promote, refer for, or support abortion as a method of family planning.” (42 CFR 59.14(a)).</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. <i>Update referral policies to prohibit referral for abortion as a method of family planning; referral for abortion is permitted in cases of medical emergencies or when pregnancy resulted from rape or incest.</i> 2. <i>Conduct staff training about referral practices including prohibition of abortion referrals.</i> 3. <i>Create a resource list of local post-conception care providers, including social services, adoption agencies, and licensed, qualified comprehensive primary health care providers (including providers of prenatal care), which does not specify services provided and may include providers that offer abortion services.</i> 4. <i>Create a sample script for clinical service providers (CSPs) when distributing provider resource list: e.g., “This is a list of providers who serve pregnant women. Reach out to these providers to learn about the services they provide.”</i> 5. <i>Create a sample script for front desk staff for clients who call seeking abortion referral e.g., “Although abortion falls</i> 	<ul style="list-style-type: none"> ● <i>Updated referral policy</i> ● <i>Agenda for staff training and dated sign-in sheets listing personnel in attendance for staff training</i> ● <i>Local provider/community resource list</i>

2019 Regulation Requirement	Sample Completed Action Steps	Supporting Documentation
	<p><i>outside the scope of our program under federal law, I can provide you a list of providers that serve pregnant women, and you can reach out to these providers to learn about the services they provide.”</i></p>	
<p>Permits, but no longer requires, nondirective pregnancy counseling, including nondirective counseling on abortion by advanced practice medical providers.</p> <p>“The Title X provider may also choose to provide the following counseling and/or information...Nondirective pregnancy counseling, when provided by physicians or advanced practice providers...” (42 CFR 59.14(b)(1)(i)).</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. Update counseling policies and procedures to specify which staff can provide nondirective counseling, in accordance with the 2019 Regulations 2. Update personnel policies and staff training to include conscience protections for project personnel who do not want to provide nondirective pregnancy counseling, or who do not want to provide nondirective counseling on a particular option. 3. Conduct staff training regarding changes to counseling policies and procedures as needed. 	<ul style="list-style-type: none"> ● Updated personnel policies, agenda for staff training and dated sign-in sheets listing personnel in attendance for staff training ● Updated counseling policies and procedures
<p>Requires referrals for those conditions deemed medically necessary.</p> <p>“Because Title X funds are intended only for family planning, once a client served by Title X project is medically verified as pregnant, she shall be referred to a health care provider for medically necessary prenatal health care.” (42 CFR 59.14(b)(1)).</p> <p>“In cases in which emergency care is required, the Title X project shall only be required to refer</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. Update referral policies to require referrals in cases of medical necessity, including for prenatal care for pregnant women. 2. Conduct staff training about referral practices including provision of prenatal care referrals for pregnant women. 3. If prenatal services are not offered onsite, consider establishing a contractual relationship with a comprehensive primary health care provider who offers prenatal care. 	<ul style="list-style-type: none"> ● Updated referral policy ● Agenda/date for staff training and dated sign-in sheets listing personnel in attendance for staff training

2019 Regulation Requirement	Sample Completed Action Steps	Supporting Documentation
<p>the client immediately to an appropriate provider of medical services needed to address the emergency.” (42 CFR 59.14(b)(2)).</p>		
<p>Provides for clear financial (by September 18, 2019) and physical separation (by March 4, 2020) between Title X and non-Title X activities, reducing any confusion on the part of Title X clinics and the public about permissible Title X activities.</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 monies is not sufficient. The Secretary will determine whether such objective integrity and independence exist based on a review of facts and circumstances.” (42 CFR 59.15)</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. Conduct review of current financial practices. 2. Determine which sites, if any, need support in improving financial separation practices to be in full compliance with 2019 Regulations. 3. Determine which sites, if any, will require physical separation due to co-location of Title X services and abortion services. 4. Meet with site directors to discuss strategies for physical separation to be completed before March 4, 2020. 5. Work with sites on an individual basis to implement financial separation plans by September 18, 2019 and physical separation plans by March 4, 2020. 	<ul style="list-style-type: none"> ● Summary of site compliance plans ● Documentation of review and/or audit results
<p>Improve transparency by requiring grantees to describe subrecipients and referral partnerships, demonstrating a seamless continuum of care.</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. Continue to collect and report to OPA information about subrecipients including location and services provided. 2. Update subrecipient contract language to 	<ul style="list-style-type: none"> ● Copy of updated subrecipient contract

2019 Regulation Requirement	Sample Completed Action Steps	Supporting Documentation
<p>“Ensure transparency in the delivery of services by reporting the following information in grant applications and all required reports: Detailed description of the extent of the collaboration with subrecipients, referral agencies, and any individuals providing referral services, in order to demonstrate a seamless continuum of care for clients...” (42 CFR 59.5(a)(13)(ii)).</p>	<p><i>request formal memoranda of understanding (MOUs) with referral partners.</i></p>	
<p>Increased accountability, ensuring that grant recipients and their subrecipients understand permissible and impermissible activities under the Title X program.</p> <p>“Ensure transparency in the delivery of services by reporting the following information in grant applications and all required reports: Clear explanation of how the grantee will ensure adequate oversight and accountability for quality and effectiveness of outcomes among subrecipients.” (42 CFR 59.5(a)(13)(iii)).</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. <i>Conduct and document staff/subrecipient training about the 2019 Title X Regulations.</i> 2. <i>Provide plan for program reviews of subrecipients using updated program monitoring tool.</i> 	<ul style="list-style-type: none"> ● <i>Agenda for staff training and dated sign-in sheets listing personnel in attendance for staff training</i> ● <i>Staff training plan</i> ● <i>Subrecipient program monitoring tool</i>
<p>Requires compliance with state reporting laws and consistency of care for women and children who visit Title X clinics and are victims of child abuse, child molestation, sexual abuse, rape, incest, intimate partner violence or human trafficking; including determining the age of any minor client or of the minor client’s sexual partner(s).</p> <p>(b) A project may not receive funds under this</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. <i>Update policies to require annual training on mandatory reporting laws.</i> 2. <i>Update staff training plan to include annual training on mandatory reporting laws and determining the age of a minor client or of a minor client’s sexual partner(s).</i> 3. <i>Conduct and document annual training for all staff about state mandatory reporting laws (could use available FPNTC mandatory</i> 	<ul style="list-style-type: none"> ● <i>Updated referral policy</i> ● <i>Agenda for staff training and completion certificates or dated sign-in sheets listing personnel in attendance for staff training</i> ● <i>Local provider resource list</i>

2019 Regulation Requirement	Sample Completed Action Steps	Supporting Documentation
<p>subpart unless it provides appropriate documentation or other assurance satisfactory to the Secretary that it:</p> <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> <p>(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)</p> <p>(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.” (42 CFR 59.17(a)(b)(1)(i)(ii))</p>	<p><i>reporting training resources).</i></p>	
<p>Requires that minors be counseled on how to resist coercion to engage in sexual activity.</p> <p>“(b) A project may not receive funds under this subpart unless it provides appropriate</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. <i>Update policies to require annual training on how to counsel minors to resist sexual coercion.</i> 2. <i>Update staff training plan to include annual</i> 	<ul style="list-style-type: none"> ● <i>Agenda for staff training and completion certificates or dated sign-in sheets listing personnel in attendance for staff training</i>

2019 Regulation Requirement	Sample Completed Action Steps	Supporting Documentation
<p>documentation or other assurance satisfactory to the Secretary that it:</p> <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> <p>(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;" (42 CFR 59.17(b)(1)(iii))</p>	<p><i>training on how to counsel minors to resist sexual coercion.</i></p> <p>3. <i>Conduct and document training with clinical service providers and other project staff on how to counsel minors to resist sexual coercion</i></p>	<ul style="list-style-type: none"> • <i>Updated clinical protocols and/or policies</i>
<p>Requires screening of minors for victimization who present with a sexually transmitted disease or pregnancy (based on individual state laws)</p> <p>"(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" (42 CFR 59.17(b)(1)(iv))</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. <i>Update policies to require annual training on how to screen minors for victimization</i> 2. <i>Update staff training plan to include annual training on how to screen minors for victimization</i> 3. <i>Conduct and document training with clinical service providers and other appropriate project personnel on how to screen minors for victimization.</i> 	<ul style="list-style-type: none"> • <i>Agenda for staff training and completion certificates or dated sign-in sheets listing personnel in attendance for staff training</i> • <i>Updated clinical protocols and/or policies</i>
<p>Requires documentation of requirements listed in 59.17</p> <p>"(2) Maintains records to demonstrate compliance with each of the requirements set forth in paragraph (b)(1) of this section, including which:</p> <p>(i) Indicate the age of minor clients;</p> <p>(ii) Indicate the age of the minor client's sexual</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. <i>Update policies to require documentation of requirements listed in 59.17</i> 2. <i>Train staff on appropriate documentation</i> 3. <i>Use EHR field to document that the clinical service provider and/or designated staff discussed avoiding sexual coercion with the minor client, age of minor client, age of minor client's sexual partner(s) if required by state</i> 	<ul style="list-style-type: none"> • <i>Agenda for staff training and completion certificates or dated sign-in sheets listing personnel in attendance for staff training</i> • <i>Updated clinical protocols and/or policies</i>

2019 Regulation Requirement	Sample Completed Action Steps	Supporting Documentation
<p>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.” (42 CFR 59.17(b)(2))</p>	<p><i>law, and if the situation required a mandatory report per state law.</i></p> <p>4. <i>Provide sample client record documentation for each of these requirements</i></p>	
<p>Requires meaningful encouragement of parent/child communication in family planning decisions, and requires documentation of such encouragement.</p> <p>“Each project supported under this part must...Encourage family participation in the decision to seek family planning services; and, with respect to each minor patient, ensure that the records maintained document the specific actions taken to encourage such family participation (or the specific reason why such participation was not encouraged).” (42 CFR 59.5(a)(14)).</p> <p>“...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.” (42 CFR 59.2(1)(i)(ii))</p>	<p>Example action steps:</p> <ol style="list-style-type: none"> 1. <i>Conduct and document training with clinical service providers and other appropriate project personnel about how to encourage family participation.</i> 2. <i>Create sample script for clinical service providers and other appropriate project personnel e.g., “It can be helpful to have a trusted adult that you can talk to about things like dating, relationships, and pregnancy prevention. These topics can be challenging and sometimes confusing. Having someone you can talk to can be really helpful.”</i> 3. <i>Use EHR field to document that the clinical service provider and/or other appropriate project personnel discussed family participation with the adolescent client.</i> 4. <i>Provide sample documentation of progress notes for documenting counseling about family participation and documentation for why counseling was not provided, if applicable.</i> 	<ul style="list-style-type: none"> ● <i>Agenda for staff training and completion certificates or dated sign-in sheets listing personnel in attendance for staff training</i> ● <i>Updated clinical protocols and/or policies</i>

2019 Regulation Requirement	Sample Completed Action Steps	Supporting Documentation
<p>Permits those unable to obtain employer-sponsored insurance coverage for certain contraceptive services due to their employer’s religious beliefs or moral conviction to be considered for Title X services.</p> <p>“For the purposes of considering payment for contraceptive services only, where a women 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.” (42 CFR 59.2(2))</p>	<p><i>Example action steps:</i></p> <ol style="list-style-type: none"> 1. <i>Update policy to permit those unable to obtain employer-sponsored insurance coverage for certain contraceptive services due to their employer’s religious beliefs or moral conviction to be considered for Title X services.</i> 2. <i>Conduct and document staff training on updated policy.</i> 	<ul style="list-style-type: none"> ● <i>Updated policy</i> ● <i>Agenda for staff training and completion certificates or dated sign-in sheets listing personnel in attendance for staff training</i>