



Cheryl Davila
Councilmember
District 2

CONSENT CALENDAR

June 11, 2019

To: Honorable Mayor and Members of the City Council
From: Councilmembers Cheryl Davila and Kate Harrison
Subject: Opposition to Revision of Title X Family Planning Regulations
Proposed by United States Department of Health and Human Services

RECOMMENDATION

Adopt a resolution in opposition of the revision of Title X Family Planning Regulations proposed by the U.S. Department of Health and Human Services. The City Clerk is to mail a copy of the resolution to Alex M Azar II, U.S. Secretary of Health and Human Services and to the President of the United States.

FISCAL IMPACTS OF RECOMMENDATION

None.

ENVIRONMENTAL SUSTAINABILITY

Supporting a woman's rights including the right to choose and upholding Roe v. Wade (1973) is environmentally sustainable and has been for decades.

BACKGROUND

On March 4, 2019, new final regulations for Title X grants were published in the Federal Register, with a phased-in implementation period that commences on May 3, 2019. The regulations make many changes to the requirements for Title X projects that will significantly reshape the program and provider network available to low-income people through Title X. Specifically, the regulations prohibit Federal Title X funds from going to any family planning site that also provides abortion services. The Title X statute specifies that no federal funds appropriated under the program “shall be used in programs where abortion is a method of family planning.” Throughout most of the history of the program, the ban has generally been

interpreted to mean that Title X funds cannot be used to pay for or support abortion, as is the policy under the current regulations.

The final regulation requires that Title X funded activities have full physical and financial separation from abortion-related activities. Moreover, in addition to separate accounting and electronic and paper health records, providers need to have separate treatment, consultation, examination and waiting rooms, office entrances and exits, workstations, signs, phone numbers, email addresses, educational services, websites, and staff. This new requirement essentially disqualifies any provider from receiving Title X funds if they also offer abortions. It also prohibits Title X projects from using Title X funds to participate in a variety of “activities that encourage abortion” including lobbying, attending an event during which they engage in lobbying, or paying dues to a group that uses the funds for lobbying or supporting a candidate for office.

The proposed regulations are nearly identical to regulations issued under President Reagan, which were legally challenged by Title X projects and providers, and were ultimately upheld by the Supreme Court in Rust v. Sullivan in 1991. However, the Reagan era regulation was never fully implemented as President Clinton issued an executive order to suspend the regulations and then issued new regulations that were in place until the new regulation was published on March 4, 2019.

CONTACT PERSON

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ATTACHMENT 1: Resolution

RESOLUTION NO. ##,###-N.S.

**Opposition to Revision of Title X Family Planning Regulations
Proposed by U.S. Department of Health and Human Services**

WHEREAS, Title X, enacted in 1970, is the only federal program specifically dedicated to supporting the delivery of family planning care; and

WHEREAS, Administered by the HHS Office of Population Affairs (OPA), and funded at \$286.5 million for Fiscal Year 2018, the program serves over 4 million low-income, uninsured, and underserved clients; and

WHEREAS, in 2017, nearly 4,000 clinics nationwide relied on Title X funding to help serve 4 million people. The sites include specialized family planning clinics such as Planned Parenthood centers, community health centers, state health departments, as well as school-based, faith-based, and other nonprofit organizations; and

WHEREAS, Title X grants made up about 19% of revenue for family planning services for participating clinics in 2017, providing funds to not only cover the direct costs of family planning services, but also pay for general operating costs such as staff salaries, staff training, rent, and health information technology; and

WHEREAS, the current White House Administration's new final regulations published on March 4, 2019, for the Federal Title X family planning program make significant changes to the program and will:

- Block the availability of federal funds to family planning providers that also offer abortion services;
- Prohibit sites that participate in Title X from referring pregnant clients to abortion providers;
- Eliminate current requirements for Title X sites to provide non-directive pregnancy options counseling that includes information about prenatal care/delivery, adoption, and abortion;
- Prioritize providers that offer comprehensive primary health care services over those that specialize in reproductive health services; and
- Encourage participation by “non-traditional” organizations such as those that only offer one method of family planning, such as fertility awareness-based methods; and

WHEREAS, if implemented, the changes to Title X will shrink the network of participating providers and could reduce the scope of services offered to low-income and uninsured people that rely on Title X-funded clinics for their family planning care;

NOW THEREFORE, BE IT RESOLVED by the Council of the City of Berkeley that the City Council hereby records its opposition to revisions of Title X family planning regulations proposed by the U.S. Department of Health and Human Services.

BE IT FURTHER RESOLVED that the Council of the City of Berkeley request that the City Clerk mail a copy of this resolution to Alex M Azar II, U.S. Secretary of Health and Human Services and to the President of the United States.