

## Compliance With Statutory Program Integrity Requirements

Earlier this year, district courts in California, Maryland, Oregon, and Washington issued preliminary injunctions preventing the U.S. Department of Health and Human Services (HHS) from enforcing the March 2019 Final Rule, titled *Compliance With Statutory Program Integrity Requirements*. Among other things, the Final Rule ensures statutory compliance with Section 1008 of Title X, which states, “None of the funds appropriated under this title shall be used in programs where abortion is a method of family planning.”

Motions panels in the Fourth and Ninth Circuit stayed the injunctions, but plaintiffs in the Ninth Circuit cases filed motions for an administrative stay of the Ninth Circuit’s stay order. On July 11, 2019, an *en banc* panel of the Ninth Circuit denied those requests for an administrative stay and made clear that the order staying the injunctions remained in effect. By denying those motions, the *en banc* Ninth Circuit—along with the Fourth Circuit and a federal district court in Maine that recently denied another motion for a preliminary injunction—has made clear that HHS may begin enforcing the Final Rule. Consistent with those rulings, HHS shall now require compliance with the Final Rule.

As set forth in the Final Rule, compliance with the physical-separation requirements in the Final Rule is required by March 4, 2020, and the Rule’s grant-application criteria will apply to the next competitive- or continuation-award applications due after July 2, 2019. The Final Rule established that compliance with the financial-separation requirements, and certain reporting, assurance, and provision-of-service requirements, was required by July 2, 2019. All other requirements were set to take effect on May 3, 2019, but the prior preliminary injunctions, including two nationwide injunctions, prevented HHS from enforcing those provisions.

Compliance with the requirements of the Final Rule, except for the physical-separation requirements, is therefore required as of Monday, July 15, 2019.