

Title X Battle to Defund Planned Parenthood Rages on in Supreme Court

This has been a pivotal week in the battle to defund Planned Parenthood. The Supreme Court dismissed three cases challenging the Trump administration's "protect life regulations," defunding millions from Planned Parenthood. At the same time, we filed a new formal public legal comment urging the Biden administration not to reverse the current pro-life rule.

As we explained earlier, the protect life regulations prohibit the use of Title X money "to perform, promote, refer for, or support abortion as a method of family planning." Title X is a federal program dedicated to providing preconception family planning services to the nation's neediest citizens.

The regulations barred grant applicants from providing abortion counseling and referrals, and required them to have financial and physical separation from any abortion provider. Under the prior regulations, physical separation was not required, and abortion clinics exploited this loophole. For example, the National Abortion Federation created an information packet on Title X, instructing abortion clinics that "[i]f a facility receiving Title X funding is itself an abortion provider, it may make what is known as a 'self-referral.'"

In 2019, we helped rectify this situation, filing formal public comments supporting the Trump Administration's Title X regulations that created a "bright line rule" preventing abortion providers from receiving a dime of taxpayer-funded Title X money. This rule was in direct alignment with the express language 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.”

Because the protect life regulations cut off the federal funding gravy train for abortion mills, Planned Parenthood and 21 pro-abortion states challenged the regulations. As we told you, the Court of Appeals for the Ninth Circuit upheld the regulations but the Fourth Circuit issued an injunction against their enforcement in the state of Maryland. Because there was a split in the Circuits on the enforceability of the protect life regulations throughout all 50 states, the Supreme Court granted review.

Why, after deciding to hear the cases, did the Supreme Court dismiss them this week?

The short answer is that the Biden administration asked the Court to dismiss the cases because President Biden is determined to restore funding to Planned Parenthood. The full answer is a little more complicated. After the Biden administration asked the high Court to dismiss the cases, a group of states and Christian medical groups asked the Court for permission to intervene and defend the protect life regulations. Before ruling on the requests for intervention, the Court required the Biden administration to file a letter brief informing the Court whether it would continue to enforce and defend the protect life regulations until they are repealed (President Biden promised to repeal the protect life regulations within days of taking office). The administration represented to the Court that it would enforce the status quo, the current pro-life rule, until it repealed it. The Court then granted the administration’s request for dismissal. But significantly, to ensure that the Biden administration would honor its word, the Supreme Court added a proviso to its order. It stated that if the Biden administration fails to enforce and defend the protect life regulations while they remain in force, any affected parties can ask for relief in the lower courts and, if necessary, in the Supreme Court.

The upshot is that for now at least, Planned Parenthood continues to be denied access to taxpayer funding under Title X.

But that is not likely to last very long. As we explained, the Biden administration's department of health and human services (HHS) has proposed new regulations imposing an abortion referral mandate on all participants of the Title X program, even those fundamentally opposed to abortion.

The ACLJ is not giving up the fight; and on the same day that the Court dismissed the protect life regulation cases, the ACLJ filed formal public legal comments on behalf of itself and over 557,000 of our members who do not want taxpayer-funded Title X grants going to abortion providers, like Planned Parenthood. {eo}

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