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How the Expanded Global Gag Rule Affects Water, Sanitation and Hygiene (WASH)

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What is Trump's Global Gag Rule?

Trump's Global Gag Rule is a U.S. presidential policy that restricts how foreign nongovernmental organizations (NGOs) can use their privately-raised funds if they wish to receive U.S. global health assistance. These organizations must agree to not use their own money for abortion-related advocacy, including abortion law liberalization, and services—like counseling or referral. Otherwise, they will not be eligible to receive U.S. global health assistance funds.

Versions of the policy have been instituted by every Republican president since 1984, but previous presidents have tied the restriction specifically to international family planning assistance—an estimated USD 575 million in aid. In 2017, President Trump renamed the policy “Protecting Life in Global Health Assistance” and expanded it to cover **all global health assistance** received by foreign NGOs. This policy now applies to USD 8.8 billion in U.S. bilateral assistance to 64 low- and middle-income countries. The policy does not apply to humanitarian assistance.

On March 26, 2019, the Trump administration announced a new interpretation of language included in the standard provisions implementing the Global Gag Rule, related to the meaning of “provide financial support to any other foreign organization that conducts such activities.” This is legal language contained in the standard provisions to which foreign NGOs must agree in order to remain eligible to receive U.S. global health assistance.

In May 2019, the language of the standard provisions was updated and revised to:

- Provide discretion to the U.S. government in the event a partner is found in violation of the policy; and
- Clarify that application of the policy does not extend to recipients and beneficiaries of in-kind training and technical assistance if they are foreign NGOs that have not received an award or sub-award of U.S. global health assistance funds.

The standard provisions were not changed with respect to what it means to “provide ‘financial support.’” While the Trump administration maintains that **“there is no change to the ‘financial support’ requirement in the standard provision”** [as emphasized in a May 2019 letter from the U.S. Agency for International Development (USAID) to its implementing partners], this is only true in terms of there being no change to the actual text of this clause in the standard provision. However, this is an expansive and new interpretation in terms of implementing this provision based on how the Trump administration is interpreting the language. The letter to implementing partners makes it clear that this provision means a foreign NGO that agrees to comply with the policy as either a direct recipient or subrecipient of U.S. global health assistance is prohibited from providing any financial support—regardless of source or activity—to any other foreign NGO that conducts activities prohibited under the Global Gag Rule.

Any organization that does not comply with the Global Gag Rule is ineligible to receive **any** U.S. bilateral global health assistance.

DOES THE GLOBAL GAG RULE APPLY TO YOU?

Yes	No
<ul style="list-style-type: none"> ✓ You are a foreign NGO ✓ You receive bilateral U.S. global health assistance as a prime recipient or subrecipient ✓ You receive funding—regardless of the source or activity—as a subrecipient from a Global Gag Rule-compliant foreign NGO 	<ul style="list-style-type: none"> ✗ You are a U.S. NGO—but you must ensure compliance if you subgrant any U.S. global health funds to foreign NGO partners ✗ You are a government, government agency, government-operated university or hospital ✗ You are a multi-lateral organization—for example, World Health Organization and Sanitation and Water for All ✗ You are a vendor that provides computer support, office supplies or other goods or services ✗ You only receive U.S. foreign assistance from other sources of funds—not global health—provided that the non-global health assistance does not flow through a Global Gag Rule-compliant foreign NGO

How funding for the WASH sector is impacted by Trump’s Global Gag Rule

President Trump’s expansion of the Global Gag Rule means some U.S. government Water, Sanitation and Hygiene (WASH) projects and funding are now implicated. No funding received by any NGO prior to May 15, 2017 is subject to the rule, but any new global health award or existing award that is amended after May 15, 2017 to provide additional funding is subject to the new restrictions. The Global Gag Rule is currently attached to grants, cooperative agreements, subgrant agreements and grants under contracts. Contracts with foreign NGOs will eventually be subject to the policy, but this change will result from a rule-making process that has yet to be announced.

After May 2019, compliant foreign NGOs will need to ensure their subpartners comply with the Global Gag Rule before providing financial support using non-U.S. global health assistance awards. The letter to implementing partners states that, “Partners may take a variety of steps to ensure compliance with the ‘financial support’ requirement. This due diligence could include, for example, meeting with funding recipients and reviewing publicly available information about their activities.” It is important to remember that the Trump administration makes NGOs responsible for ensuring their subpartners comply with the policy.

WASH programs have an unusual funding structure within the U.S. government, in that funding is split across multiple accounts and agencies—some of which are subject to Trump’s Global Gag Rule and some of which are not. Let’s break it down:

U.S. AGENCY FOR INTERNATIONAL DEVELOPMENT

Within USAID, WASH programs are funded by two major budget accounts:

- The Global Health Programs account, which **is** subject to Trump’s Global Gag Rule, typically funds WASH services that are directly related to improving health—including water treatment in homes, hygiene and sanitation promotion and behavior change communication to ensure consistent use of good water, sanitation and hygiene practices—as well as integrated services, such as WASH in health systems strengthening or nutrition programs.
- The Development Assistance account, which is **not** subject to Trump’s Global Gag Rule, supports water supply and sanitation infrastructure and governance—such as digging wells or latrines in schools or public spaces—and working with national governments to strengthen their policies and regulations.

However, a single WASH program is often funded by contributions from both accounts. As such, even programs that are mostly funded by Development Assistance may be negatively impacted by Trump’s Global Gag Rule if there is even one dollar of Global Health Programs funding.

To make things even more confusing, there is an exemption for some WASH activities funded by the Global Health Programs account. The guidance released by USAID that addresses implementation of Trump’s Global Gag Rule explicitly exempts Water Supply and Sanitation (program area HL.8 of the Foreign Assistance Standardized Program Structure). However, this exempts only some water and sanitation infrastructure spending and national policy development and governance activities. All household and community-level WASH activities are still subject to the Global Gag Rule, including most behavior change communication, all of hygiene promotion and activities related to hygiene in health facilities. These fall under the category of Maternal and Child Health (program area HL.6) in the foreign aid program structure.



U.S. DEPARTMENT OF STATE

The State Department manages two main accounts that can contain funding for WASH programming: the Economic Support Fund and the President’s Emergency Plan for AIDS Relief (PEPFAR). Restricted WASH activities funded by either account are subject to Trump’s Global Gag Rule. However, the State Department’s guidance for implementation of the Global Gag Rule also contains the same exemption as USAID for Water Supply and Sanitation (program area HL.8 of the Foreign Assistance Standardized Program).

CENTERS FOR DISEASE CONTROL AND PREVENTION

For the first time ever, agencies that fall within the U.S Department of Health and Human Services—including the Centers for Disease Control and Prevention (CDC)—are subject to Trump’s expanded Global Gag Rule for the first time. However, the restrictions apply only to foreign assistance funds transferred to the CDC from the State Department and USAID. Direct appropriations to the CDC for global health programs are not impacted by the Global Gag Rule. unded by either account are subject to Trump’s Global Gag Rule.

WHAT TYPES OF WASH PROGRAMMING ARE AFFECTED?

Whether a WASH program is affected by Trump's Global Gag Rule is ultimately determined by how it is internally coded by government agencies and funding sources. But program activities can give clues to both—here's what to look for: if a program includes anything in the “restricted activities” column, it probably means global health assistance is involved and the Global Gag Rule applies.

RESTRICTED ACTIVITIES

- “Behavior change efforts to increase household-level actions to prevent disease.” WASH interventions under this broad category include:
 - Point-of-use water treatment
 - Safe water storage and handling
 - Marketing and promotion of sanitation
 - Promotion of handwashing with soap
- Health systems strengthening, apart from water and sanitation infrastructure
- Antimicrobial resistance activities such as community case management for childhood illnesses
- Neglected tropical diseases (NTDs) activities, including control of WASH-related NTDs
- Responses to disease outbreaks
- HIV prevention, care and treatment
- Maternity services, including hygiene and nutrition
- All nutrition services, including nutrition-sensitive interventions

EXEMPTED ACTIVITIES

- Protection of existing water sources; development of new sources; expansion and rehabilitation of water infrastructure; community-based design and construction, operation and maintenance of water sources
- Increasing sanitation services “for safe human waste disposal.” WASH interventions under this broad category include:
 - Demand creation for sanitation
 - Testing of innovative approaches
 - Facilitating private sector participation in providing sanitation products and services
- Water and sanitation policy and governance work—including developing national standards, benchmarking, performance monitoring and utility operations.
- Sustainable financing for water and sanitation services, including for wastewater treatment
- Water resources productivity
- Building capacity for science-based decision-making in water supply and sanitation
- Supporting host country health information systems, surveillance and monitoring for water
- Cross-cutting health systems strengthening activities that include water, such as affordability, development and implementation of essential packages, human resources and governance

Why Trump's Global Gag Rule matters to WASH and global health

It sows confusion and unnecessary divisions in civil society

WASH NGOs are involved in many health-related coalitions, partnerships and development projects. With the expanded Global Gag Rule, non-U.S. WASH organizations now face a lose-lose choice—refuse to comply and lose any U.S. funding opportunity that includes global health funds; or sign on and retain the ability to accept



U.S. global health assistance, but limit potential partners and take on the added administrative burden of ensuring compliance of all partners or subgrantees, even on projects funded by other donors.

Additionally, the U.S. restrictions may conflict with other countries' domestic laws or policies protecting sexual and reproductive health and rights, as well as the policies of more progressive bilateral donors—such as Sweden and Canada—and some foundations or corporate donors. Organizations that opt to comply with Trump's Global Gag Rule may unintentionally violate their own country's policies or exclude themselves from opportunities with other donors.

Finally, widespread confusion over the policy itself or sources of funds may prevent some WASH sector organizations from applying for U.S. funding at all—weakening the overall pool of expertise in WASH that is available to U.S. agencies, and potentially hampering the effectiveness of U.S.-funded WASH projects and the many foreign policy and global health objectives that depend on WASH.

It undermines existing U.S. policy and strategy on WASH

The 2014 *Water for the World Act* calls for a cohesive, whole-of-government approach to WASH to ensure that U.S. government agencies work together for maximum impact, and that WASH programs are accountable for contributing to child survival, food security and nutrition, global health and gender equality outcomes. WASH improved health features prominently in the U.S. Global Water Strategy, as well as in USAID's and the CDC's own agency strategies. All of this is compromised by Trump's Global Gag Rule.

WASH is cross-cutting by nature, and the program components funded out of the Global Health Programs account are essential to success in WASH and health sectors. If organizations do not comply with the Global Gag Rule and are ineligible for U.S. funding to promote the health benefits of clean water, good sanitation and hygiene—including handwashing with soap, safe ways to collect and store water and education on the importance of using a toilet—WASH infrastructure cannot deliver the health benefits it should. As a result, communities are more likely to stop using it, resulting in wasted infrastructure investments and halting potential benefits in their tracks.

It weakens cross-sector partnerships to improve global health

Trump's Global Gag Rule hurts the WASH sector's ability to partner on and contribute to global health priorities, including infection prevention and control; HIV prevention, care and treatment services; primary health care (PHC); maternal and newborn health care; prevention of waterborne and NTDs; and responses to disease outbreaks like Ebola.

WASH organizations that don't comply with the policy are excluded from U.S.-funded work in these areas altogether. Organizations that comply may be scared or disincentivized from working with those that don't, for fear of being noncompliant or losing their own funding. In particular, WASH partnerships focused on NTDs and nutrition will be affected, since those areas are typically funded out of the Global Health Programs account. Advocacy for improved PHC at global and national levels, of which WASH is a critical component, could also be at risk if key actors pull back due to loss of funding or stop participating in multisectoral coalitions because of the restrictions. Coalitions and partnerships minimize costs and maximize impact, and the Global Gag Rule weakens these avenues for collaboration.

It threatens strong, integrated health systems

Trump's Global Gag Rule breaks the ecosystem of an integrated health system by prohibiting certain health services outright and limiting the system's capacity to function effectively and to respond to the needs of the people it's meant to serve. As key noncomplying organizations—like Marie Stopes International and International Planned Parenthood Federation members—lose funding and are forced to cut services, some programs or clinics will close altogether, while other services may lapse as funding is transferred to complying organizations, resulting in a loss of expertise and an erosion of reliability and trust in the health system. Already, only a dismal number of health facilities in low- and middle-income countries currently have adequate WASH, and the WASH sector is just beginning to gain traction with health partners and funders to address this as part of health system strengthening. This is especially critical to maternal and newborn health, as sepsis and other infections due to unhygienic conditions are a leading cause of preventable maternal deaths. Trump's Global Gag Rule means resources will be stretched thin, services will be pared back and systems will contract—a setback to any momentum on improving WASH in these spaces.

It hurts the people we aim to serve

The Global Gag Rule threatens to exclude some of the most effective health organizations in low- and middle-income countries, forcing them to cut back on critical health services and staff, thereby endangering lives. Those at greatest risk will be the poorest, most vulnerable and most marginalized. These are often the same people with the least access to WASH.

Can Trump's Global Gag Rule be removed?

Trump's Global Gag Rule is an executive branch policy and will likely be removed the next time a Democrat wins the presidency. Even if that happens, it will take years for some communities to recover the financing and systems that were damaged by a lack of funding and partnerships while the policy was in effect. In the meantime, congressional champions are trying to permanently repeal the Global Gag Rule legislatively through the Global Health, Empowerment and Rights (HER) Act. For now, organizations operating in affected spaces are encouraged to keep track of the impacts they see to bolster ongoing advocacy efforts opposing the policy.

