



## **New Considerations for U.S. Passports, Immigration Forms, and Documents for Trans, Non-binary, and Intersex People**

*Updated as of February 24, 2025*

On January 20, 2025, the Trump administration issued an [Executive Order](#) directing federal agencies to discriminate against transgender, nonbinary, and intersex people. The Order announces that “it is the policy of the United States to recognize two sexes, male and female. These sexes are not changeable and are grounded in fundamental and incontrovertible reality.” The definitions of “sex,” “gender,” and “gender identity” provided in the Order are dangerously inaccurate and cannot be supported by fact or science. This policy is in direct contrast<sup>1</sup> to how previous administrations and the federal courts have treated sex and gender in recent years, and lawsuits challenging the Executive Order have already been filed.<sup>2</sup>

It is important to note that an Executive Order cannot, by itself, remove rights guaranteed by the U.S. Constitution or change certain longstanding legal protections. Nevertheless, this Order has had an immediate impact on how federal agencies may prioritize or enforce the law. This FAQ seeks to provide initial guidance on how the Executive Order has impacted U.S. passports and various immigration documents. The Department of State and the Social Security Administration have issued initial guidance based on the Executive Order, and further guidance from other agencies, such as U.S. Citizenship and Immigration Services (USCIS), should be forthcoming. Ongoing litigation may also affect these policies. For now, these FAQs outline current expectations based on available information. Immigration Equality is actively monitoring this situation and will provide updated guidance as we learn more.

### **Will the Department of State invalidate current passports that have already been updated with correct gender markers?**

No. On February 8, 2025, the Department of State issued a department-wide directive clarifying that “U.S. passports that have already been issued with the X marker remain valid until replaced or expired.” This information is also available on the [State Department website](#) under the first

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<sup>1</sup> In March of 2023, USCIS updated its Policy Manual to clarify that individuals may “self-select” their gender on USCIS forms, without the need to provide supporting documentation like a doctor’s letter. This was the policy in place for nearly two years. While this [policy](#) is still reflected in the USCIS [Policy Manual](#), the webpage that provided specific instructions has been taken down.

<sup>2</sup> For example, on February 7, 2025, seven people filed a [federal lawsuit](#) challenging the State Department’s refusal to issue passports with accurate sex designation. You can read more about this pending case on [ACLU’s website](#).

Frequently Asked Question. Therefore, *currently valid passports with updated gender markers, including X gender markers, remain valid until they are up for renewal or replacement.*

### **Will I be challenged when I travel domestically or internationally with my ID document?**

For domestic travel, individuals can use state identification.<sup>3</sup> State driver's licenses and identification cards are not affected by this Executive Order. For international travel, existing passports with an M, F, or X that reflect your gender will remain valid until they are up for renewal or replacement. However, we recognize individual agents may be misinformed or may feel empowered to put undue scrutiny on passport gender markers. Should you experience any issues travelling using your existing passport, you can show officials the [State Department website](#), indicating that existing passports are valid. For individuals that have gotten a passport under the new policy that does not match their gender, you may be asked additional and potentially invasive or offensive questions by agents. Travelling with a folder containing additional copies of identity documents that prove your identity can be helpful, but should not be required. If you have problems using existing passport please contact the [ACLU](#) or [Lambda Legal](#) immediately.

### **I have never had a passport before. Can I apply for a passport in my correct gender?**

Maybe. The U.S. State Department will no longer issue passports with "X" gender markers. However, if you have never applied for a passport before, the State Department might issue you a passport in the same male or female gender marker that corresponds with the document(s) underlying your proof of citizenship (usually, your birth certificate or naturalization certificate). If those documents reflect your correct gender, it is possible that the State Department will not look beyond them. However, the State Department does have access to other government databases, so if they notice any discrepancies in gender markers that may catch their attention.

State Department officials have been instructed to question the gender marker on your proof of citizenship documents if the "evidence submitted with the application does not sufficiently establish the applicant's biological sex at birth." In these instances, they may issue an "information request letter" asking for more evidence proving sex assigned at birth.

If the document(s) underlying your proof of citizenship do not reflect your correct gender, the State Department will likely issue your passport in the incorrect "sex" that matches the underlying documents.

### **Can I renew my U.S. passport that has my correct gender marker in it?**

The current policy states that all passports will be reverted back to an applicant's sex at birth upon renewal. However, it is unclear how this will be implemented in practice. While it is possible that the agency may simply reissue the document through its normal bureaucratic process, duplicating the content of the old document, it is also possible that Department of State officials will look

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<sup>3</sup> Beginning May 7, 2025, if you plan to use your state-issued ID or license to fly within the U.S., make sure it is REAL ID compliant. REAL ID compliant IDs will have a star (or a bear with a star) in the top right corner of the ID. [Enhanced IDs](#), available in a handful of states, are an option for U.S. Citizens and are also REAL ID compliant.

through available records to determine if there is any “conflicting information regarding... biological sex at birth.” If something in their files indicates that the sex designation had previously been changed, they will likely automatically change the correct gender marker to an incorrect one. Alternatively, the agency might request additional evidence of your sex assigned at birth.

### **Can I update my U.S. passport with my correct gender?**

For now, if your current federal ID documents reflect the wrong gender marker, it is unlikely that you will be able to update them. Department of State staff have been [directed](#) to issue passports in accordance with “biological sex at birth” and, where they lack sufficient evidence, to “review all available evidence establishing biological sex at birth.” If they determine that sufficient evidence of sex assigned at birth was not included in the application, they are instructed to suspend the application and issue an Information Request Letter. If there is sufficient evidence of sex assigned at birth, they will issue the passport with that gender marker regardless of the applicant’s request.

### **What is the current policy for gender markers on existing USCIS IDs, including X gender markers?**

Much like with U.S. passports, we anticipate that IDs with correct gender markers that were issued by USCIS, including X gender markers, should remain valid until they expire. We will be monitoring for any future guidance regarding existing USCIS documents with an X gender marker.

### **What is the current policy for gender markers on new USCIS IDs?**

USCIS has not issued new guidance on this issue since its policy update on [March 31, 2023](#). We expect new guidance will be released soon that will be similar to the Department of State guidance. Currently, the [USCIS Policy Manual](#) states that applicants may “select their gender on USCIS forms (or change a prior gender selection) without the need to provide supporting documentation.”

While this is the current written policy, we anticipate that USCIS likely will only accept the “sex” indicated in a person’s underlying ID documents (birth certificate, passport, etc.) as proof of gender for new USCIS documents. Applications that request a gender marker change to M, F, or X will likely be rejected or replaced with a gender marker reflecting sex assigned at birth. *However*, since USCIS policy still states that an applicant may self-select their gender without the need to provide supporting documents, some individuals may still wish to submit their applications to USCIS with a gender marker change request. We anticipate that USCIS will not honor these requests, but we are not aware of a new policy at this time. Applicants who do attempt to update USCIS documents with a new/corrected gender marker should be aware of the possibility of rejection, lost fees, and delays.

Immigration Equality and Oasis Legal Services are closely monitoring this situation. Please report any issues you may encounter to us [here](#).

### **Can I renew my USCIS ID that has my correct gender marker in it?**

USCIS will likely refuse to renew a document with an X gender marker. If your current document is accurate with either an M or F gender marker, it is unclear how renewal applications will be treated. The agency may simply reissue the document through its normal bureaucratic process,

duplicating the content of the old document. However, if there is indication in your file of a previous sex designation it might also automatically change the correct gender marker to an incorrect one. Alternatively, the agency might request additional evidence of your sex or reject the application altogether, requiring you to refile amended paperwork.

### **Which USCIS forms allowed for X designations prior to this executive order?**

In April 2024, USCIS began gradually adding “Another Gender Identity” to a few of their forms, which would produce an “X” gender marker on the relevant immigration document. A complete list of the forms that were updated are listed below. The current edition of each of these forms still includes an “Another Gender Identity” option, although it will likely be removed when the next edition comes out for each form.

As a practical matter, even though some forms currently do have the option of “Another Gender Identity,” applicants most likely will not be able to receive new immigration documents, or renew expiring documents, with an “X” gender marker on them. Selecting this option may result in a “Request for Evidence,” a rejection or denial, or possibly an indefinite freeze on the application. This could result in lost fees and further delays.

The forms that currently include “Another Gender Identity” are:

- Application for Naturalization ([N-400](#))
- Application for Travel Documents, Parole Documents, and Arrival Departure Records ([I-131](#))
- Application for T Nonimmigrant Status ([I-914](#))
- Application to Register Permanent Residence or Adjust Status ([I-485](#))
- Biographic Information (for Deferred Action) ([G-325A](#))
- Declaration of Financial Support ([I-134](#))

### **What can Trans, Nonbinary, and Intersex people do to access accurate identification?**

If possible, consult with an attorney about your specific situation. There is still a lot of uncertainty about how this administration will implement and enforce its policies. Some of the new policies have already been challenged in federal court, and additional challenges will likely be forthcoming. Check with [www.immigrationequality.org](http://www.immigrationequality.org) for updated information.

For now, the State Department will not honor requests to update an individual’s gender marker on their U.S. Passport. If an individual is seeking to change their gender marker on an immigration document for the first time, it is likely that the requested change will not be honored. However, since USCIS has not issued new guidance on this yet, it is less certain how these requests will be processed. In some cases, an agency may simply issue the identity document with the incorrect gender marker if they have records of someone’s sex assigned at birth. Alternatively, an application could be rejected or suspended, or the agency may issue a request for more evidence.

### **What should people know if they are stuck with an identity document, such as a passport or work permit, issued in an incorrect gender marker?**

If someone is forced to apply for, or renew, a work permit with an incorrect gender marker, this does not impact their legal authorization to work. Similarly, if someone is forcibly issued a U.S. passport with the incorrect gender marker, this does not impact their right to travel.

Additionally, individuals are still able to update their name on their identity documents, including federal documents like U.S. passports and immigration documents.

- For example, if a transgender man is issued a work permit with a “female” gender marker, he is still legally authorized to work. Additionally, he is still able to update his legal name on his immigration documents.

Understandably, having legal documents that incorrectly list one’s gender is deeply unsettling and often can be dangerous.

Federal law currently protects against employment discrimination on the basis of gender identity, and many states have similar protections. Some states also prohibit discrimination in housing and ‘public accommodations’ based on gender identity. The Human Rights Campaign has a helpful [map](#) that shows these laws in each state. Consider speaking with an attorney or a local [legal services organization](#) if you face employment, housing, or other discrimination based on being transgender, nonbinary, and/or intersex.

### **Does the Executive Order affect legal name changes on Passports or immigration documents?**

No. This Executive Order only affects gender markers/sex designations. Individuals can still update the legal name on identity documents such as passports and immigration documents using a valid name change order, or other documentation such as a marriage or divorce certificate.

Individuals can also renew or replace their documents with an updated photograph, which may help mitigate difficulties when presenting ID to TSA, CBP, or immigration agents in other countries.

### **Is anyone monitoring the situation?**

Yes. Immigration Equality and Oasis Legal Services are [collecting information](#) and examples of instances where USCIS and DOS fail to issue documents with the correct gender marker, or there are denials, delays or other issues.

Individuals whose passport applications have been put on hold, denied, or had other issues with their passport due to this executive order can monitor the [ongoing litigation](#) for possible updates.

### **What if someone has an urgent need to travel internationally but their passport is not correct or it is held up with the Department of State?**

If you have an urgent need to travel, follow these instructions on the Department of State website about options to expedite your application: [How to Get my U.S. Passport Fast](#).

If your priority is to obtain a passport quickly, you may need to indicate the gender marker that is reflected on your underlying proof of citizenship documents (i.e. birth certificate or naturalization

certificate). If the sex reflected on your expiring passport is accurate, you may try renewing with the same gender marker. However, based on Department of State guidance, it is possible that passport adjudicators will review all available documents to determine the sex at birth and issue a passport in accordance with that.

If you intend to travel internationally in the near future, and you are applying for a passport for the first time or your existing passport expires soon, we strongly encourage you to apply well in advance of your intended departure date.