



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

Updated as of February 4, 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. As this policy is in direct contrast¹ to how previous administrations and the federal courts have treated sex and gender in recent years, it is likely that lawsuits challenging the Executive Order are imminent.

In the meantime, it is important to note that an Executive Order does not, by itself, remove rights guaranteed by the U.S. Constitution or change certain longstanding legal protections. Nevertheless, this Order has had an immediate impact in some instances. This FAQ seeks to provide initial guidance on how the Executive Order will continue to impact U.S. passports and various immigration documents. Pursuant to the Executive Order, official policy guidance from each agency should be forthcoming. For now, these FAQs outline current expectations. 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?

The Department of State has not issued a formal policy on this issue. However, the White House Press Secretary [told](#) reporters in January 2025 that this new rule will not be applied retroactively. Therefore, ***currently valid passports with updated gender markers, including X gender markers, should remain valid until they are up for renewal.*** We will be monitoring for any future guidance from the State Department regarding existing passports with an X designation.

¹ 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.



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

For domestic travel, individuals can use state identification.² State driver's licenses and identification cards are not affected by this Executive Order. For international travel, as of the date of this document, the White House has indicated that existing passports are valid, so passports already issued with an M, F or X are valid for travel. However, we recognize individual agents may be misinformed. Should you experience any issues travelling using your passport, you can show officials this [article](#) indicating that existing passports are valid. If you have problems using your 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 (or update them) with "X" gender markers. However, if you have never applied for a passport before, the State Department will likely 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. Still, it is possible that the State Department may question the gender marker on your proof of citizenship documents if they learn that they have been amended or if they do not match with sex designations in other federal databases. If so, they may reject your application or ask for more evidence.

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?

If your current passport reflects the correct 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 their files that the sex designation had previously been changed, 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.

² 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. If you are not sure if your ID complies with REAL ID, check with your state department of motor vehicles.



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 suspend any application where someone is seeking to change a gender marker or request an X gender marker. Pending applications may remain frozen or be returned as denied until the Department of State issues a formal policy.

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

Much like with U.S. passports, we anticipate that IDs with correct gender markers that were issued by the United States Citizenship and Immigration Services (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.

Going forward, we anticipate that USCIS 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. Thus, any new applications with an X gender marker will almost certainly be rejected. Having said so, neither the White House nor USCIS have issued any guidance on this issue so we will continue to monitor for updated information.

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

If your current document is accurate, 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.

What will happen to “X” Gender Markers on passports, immigration forms, and ID documents?

If you have a valid passport or federal ID document in an X gender marker, it will likely continue to be valid until it expires, or until the federal government provides additional information or policies regarding existing documents with X designations. However, federal documents with X gender markers are unlikely to be renewed during the next four years of this administration. In addition, an X gender marker will also not be available on new federal IDs or documents during this administration.



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 increased 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 roll out its policies and what exactly the policies will say. Some of the new policies will likely be challenged in federal court. Check with [Immigration Equality](#) for updated information.

For now, if an individual is seeking to change their gender marker on a passport or immigration document for the first time, and/or is seeking an X gender marker at all, it is likely that the requested change will not be honored. The application could be rejected, or USCIS might suspend processing of the application until an official policy is announced.

What should people know if they are stuck with a 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. Additionally, individuals are still able to update their name on 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 passports and immigration documents using a valid name change order, or other documentation such as a marriage or divorce certificate.

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 immigration 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 also [contact the ACLU](#).