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Requiring an applicant to select only male or female is in violation of the enjoinder put on State by the U.S. District Court for the District of Colorado in the Zzyym v. Blinken case (formerly Zzyym v. Pompeo, Zzyym v. Tillerson, and Zzyym v. Kerry). Intersex people are neither male nor female and Zzyym v. Blinken recognizes the client was unable to accurately choose a gender marker with those as the only options.

E.O. 14168, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," defines male and female in the E.O. by what sex the person has at conception, which is biologically inaccurate even for people who later develop reproductive cells, which happens around six weeks into the pregnancy, and leaves out people who never develop reproductive cells at all.

Gender markers on identification more often means people are targeted for harassment for not fitting gendered expectations caused by gender ideology extremism, including women that this E.O. claims to want to protect, and the US State Department would be better off removing gender markers entirely if the goal is to avoid harassment.

According to the US State Department (<https://travel.state.gov/content/travel/en/about-us.html>):

"A U.S. passport is your ticket to international travel. The U.S. passport is a request to foreign governments to permit you to travel or temporarily reside in their territories and have access to lawful local aid and protection. The passport allows you access to U.S. consular services and assistance while abroad. Most importantly, it allows you to re-enter the United States upon your return home.

The Department of State issues U.S. passports to traveling U.S. citizens. We protect the integrity of the U.S. passport as proof of U.S. citizenship at home and around the world."

The identification information provided on the passport includes the traveler's legal name as well as their state of residence (as in the USA), and the traveler's date of birth. All of these identification markers should be sufficient for identifying a traveler. Including the individual's gender does not add significant differentiation.