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Section 301 of Title 3 of the United States Code vests power in the issuance of United States passports to the President. In Executive Order 11295, President Lyndon B. Johnson delegated that authority to issue United States passports to the Secretary of State "without the approvals, ratifications, or other actions of the President."

At no place in Executive Order 11295, which has been in effect since 1966, is it specified that a limited number of genders is allowed.

While Executive Order 14168 declares that there may be only two sexes recognized, there is no requirement that this recent order be observed by the Department of State when issuing passports.

The Secretary of State has the ability to continue recognizing the ability of individuals to identify as a gender different than their birth sex, as has been done in the past, and as is done by numerous other developed and industrialized countries, as defined by the Organization for Economic Co-operation and Development (OECD), of which the United States of America is a proud member. We should be proud of our leading role in the OECD, and continue to allow the inclusion of other or transitional gender identities.

Moreover, it would not be prudent to rush to change the requirements for the issuance of passports to restrict them to law-abiding citizens who may not conform to the whims of a President until all court cases challenging E.O. 14168 have worked their way through the court system. Such a rush could prove costly, counterproductive, and inefficient should any part of E.O. 14168 be deemed illegal or unconstitutional.

Unless the Secretary of State can GUARANTEE that no negative impacts may occur through this rushed action to change required information on forms for a passport, which is valid far longer than this Administration, this proposed change should be abandoned.