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Comments Received :

Subject: Opposition to Proposed Passport Rules Requiring Sex Assigned at Birth

I strongly oppose the proposed changes to Forms DS-11, DS-82, and DS-5504 that would require passport applicants to report their sex assigned at birth rather than their gender identity. This policy is invasive, discriminatory, and undermines the rights of transgender, intersex, and gender non-conforming individuals.

By mandating disclosure of sex assigned at birth, the proposed rule violates constitutional protections under the Equal Protection Clause of the Fourteenth Amendment. The Supreme Court has repeatedly affirmed that government policies cannot arbitrarily discriminate against marginalized groups without substantial justification. This rule singles out transgender and intersex individuals for differential treatment, subjecting them to an unnecessary and burdensome requirement that does not apply to cisgender applicants.

Additionally, forcing individuals to carry identification that misrepresents their gender violates their First Amendment rights to free expression. Courts have recognized that gender identity is an essential part of personal autonomy and expression. Compelling individuals to carry passports with incorrect gender markers amounts to coerced speech, forcing them to present a government-issued document that contradicts their identity.

This rule also raises serious privacy concerns under the Due Process Clause of the Fifth Amendment. The government has no legitimate reason to require disclosure of sex assigned at birth on a travel document, nor does it have the right to expose transgender and intersex individuals to potential discrimination, harassment, or violence by forcing them to present inaccurate identification.

For these reasons, I urge the Department to withdraw this proposed rule and maintain a policy that respects the dignity, safety, and constitutional rights of all U.S. citizens.

Sincerely,