

October 16, 2015

Department of State  
Bureau of Consular Affairs  
Attn: Edward Ramotowski  
Deputy Assistant Secretary  
2100 Pennsylvania Ave NW  
Washington, DC 20037

**RE: Electronic Application for Immigration Visa and Alien Registration- Form DS-260; OMB Control No.: 1405-0185**

Dear Mr. Ramotowski:

On behalf of Family Equality Council, please accept these comments on the Bureau of Consular Affairs' Agency Information Collection regarding Form DS-260, the Electronic Application for Immigrant Visa and Alien Registration.

Family Equality Council is a national organization working to ensure full social and legal equality for lesbian, gay, bisexual, transgender, and queer (LGBTQ) parents and their children by providing direct support, educating the public, and securing inclusion in legislation, policies, and practices impacting families. On behalf of the more than three million LGBTQ parents and their six million children across the United States,<sup>1</sup> Family Equality Council would like to thank the Secretary, Department, and Bureau of Consular Affairs for their work to provide consistent access to travel documentation for diverse families throughout the United States.

**“Mother,” “Father,” and “Maiden Name” Field Designations**

This form, promulgated by the Department of State through the Bureau of Consular Affairs, is used to determine the eligibility of foreign nationals applying for immigrant visas.<sup>2</sup> Completed in conjunction with a personal interview,<sup>3</sup> this form seeks to gather information regarding an applicant's identity, including background information that may make an applicant ineligible for a visa.<sup>4</sup> Toward this end, Form DS-260 elicits information related to the applicant's parents, the applicant's maiden name, as well as the applicant's children where applicable.

The intent of these fields is to identify the applicant, as well as the applicant's parents and children, in order to facilitate the Bureau of Consular Affairs' determination of eligibility based on known information about applicants or their family members. Using gendered terms to gather this information serves to confuse applicants and possibly delay or deny processing of this form, and subsequently petitions for immigration. Even worse, this language may erroneously convince applicants that they and their family are ineligible for immigrant visas based on their sexual orientation or the sexual orientation of their parents. Using the gendered terms, “Mother,” “Father,” “Daughter,” “Son,” and “Maiden Name,” adds nothing to the information gathered by the form that could not be ascertained by using non-gendered terms.

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<sup>1</sup>Gary J. Gates, *LGBT Parenting in the United States*, The Williams Institute at UCLA School of Law, (Feb. 2013), <http://williamsinstitute.law.ucla.edu/wp-content/uploads/LGBT-Parenting.pdf>.

<sup>2</sup> 80 Fed. Reg. 50067.

<sup>3</sup> 22 Code Fed. Reg. § 42.62.

<sup>4</sup> See 8 U.S.C. § 1182 (Outlining the grounds under which an alien may be denied a visa for entrance into the United States, including a history of criminal behavior, drug use, certain communicable diseases, and more.)

## Recommendations

We recommend that the Bureau of Consular Affairs amend Form DS-260 to substitute the gendered terms of “Mother,” and “Father,” to the non-gendered terms “Parent 1,” and “Parent 2,” in the “Family Information: Parents,”<sup>5</sup> and “Petitioner Information”<sup>6</sup> sections. We also recommend the substitution of the gendered terms “Son” and “Daughter” for the non-gendered term “Child,” in the “Security and Background: Criminal Information” section.<sup>7</sup> Lastly, we recommend the gendered term “maiden,” in reference to previous names, be substituted for the phrase “family name at birth,” in the “Personal Information 1” section.<sup>8</sup>

The fields on this form can easily be modernized to be inclusive of all applicants and families without undermining or compromising the information gathered from this form. In fact, updating this form to use non-gendered language will enable a greater number of applicants to correctly fill out the form, allowing the Bureau to develop a more accurate and comprehensive image of an applicant’s background and any security risk he or she might pose.

Neither the governing statute nor the implementing regulations governing this form use gender-specific terms;<sup>9</sup> therefore, Form DS-260 does not require statutory or regulatory changes in order to be modernized. The Deputy Assistant Secretary of the Bureau of Consular Affairs, through the Secretary of State, has the authority to update this form.<sup>10</sup> The changes suggested above will not create greater administrative burdens for the Department, as they do not broaden the pool of visa applicants. On the contrary, these changes will likely increase the efficiency of this form, leading the Department to identify applicants more accurately while also avoiding confusion based on an incorrectly completed form.

## Conclusion

The federal government’s thousands of programs, services, and benefits are intended to be accessible to all who qualify, and the language we use to determine eligibility for those benefits carries significant tangible and symbolic consequences for LGBTQ-headed families. The exclusionary effect of the gendered statutory language struck down by the Supreme Court’s ruling in *United States v. Windsor*<sup>11</sup> shows how gendered parental fields and other terms like those seen here can exclude millions of people from benefits, services, and programs. Changing Form DS-260 to employ gender-neutral terms will be a cost-neutral change that would more accurately reflect the varied composition of today’s families. Updating this form to be inclusive of same-sex couples and families will also increase governmental efficiency by alleviating the needless confusion, delays, and denials caused by current outdated forms.

We respectfully recommend that the Bureau of Consular Affairs update the fields on this and any other forms governing the applications for government-issued visas to employ non-gendered terms to better reflect the make-up of contemporary families. We commend the Bureau of Consular Affairs and the Department of State for their work, and look forward to the final draft of this form.

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<sup>5</sup> See Bureau of Consular Affairs, *DS-260 Exemplar*, “Family Information: Parents,” at 15-18 (October 2013), available at: <http://travel.state.gov/content/dam/visas/DS-260%20Exemplar.pdf> [hereinafter *DS-260 Exemplar*].

<sup>6</sup> *DS-260 Exemplar*, “Petitioner Information,” at 46-47.

<sup>7</sup> *DS-260 Exemplar*, “Security and Background: Criminal Information,” at 52.

<sup>8</sup> *DS-260 Exemplar*, “Personal Information 1,” at 5-6.

<sup>9</sup> See 8 U.S.C. § 1202; 22 Code Fed. Reg. §§ 42.61- 42.68.

<sup>10</sup> 8 U.S.C. § 1104(a).

<sup>11</sup> *United States v. Windsor*, 133 S. Ct. 2675 (U.S. 2013).

We are happy to provide your office with any additional information or clarification that you might need. Please contact Austen Brandford ([abrandford@familyequality.org](mailto:abrandford@familyequality.org), 202-607-2140) at our Washington, D.C. office with any questions.

Sincerely,

A handwritten signature in black ink, appearing to read "Gabriel Blau", with a stylized flourish at the end.

Gabriel Blau  
Executive Director  
Family Equality Council