

Congress of the United States

Washington, DC 20515

February 12, 2025

The Honorable Marco Rubio
Secretary of State
U.S. Department of State
2201 C Street, NW
Washington, DC 20520

Dear Secretary Rubio,

We write to you today on behalf of our constituents who are deeply concerned or have been directly affected by the Department of State's suspension of gender marker corrections and the option to use an "X" marker on passports, effectively preventing many transgender, intersex, and non-binary Americans from traveling abroad or using this identification document domestically. Withholding accurate passports from American citizens based on their sex (including gender identity) is unacceptable and unconstitutional. We believe the Department must immediately resume processing requested passport corrections and allowing selection of the X gender marker.

As a result of President Trump's January 20th executive order declaring that it is the "policy of the United States to recognize two sexes, male and female,"¹ you instructed the Department to suspend all pending passport applications requesting gender marker correction or selection of the X gender marker. Since then, many of us have heard from our constituents that their passport applications have been denied based on their sex. Additionally, we understand from constituents that the Department has even suspended the printing of already-approved new passports, coercively offering to print the passport only if the applicant agrees to 'change' their gender marker to match their sex designated at birth.

The Department's new policy raises several immediate concerns: First, unexpected and unjustified delays in the application process have forced transgender, intersex, and non-binary Americans – and their families – to change or cancel important trips to visit loved ones and conduct business abroad. Second, in many cases, our constituents have lost access to this critical identification document altogether because the process requires them to submit it to the Department prior to receiving the new one. The Department has provided insufficient information to these individuals as to whether and when their document will be returned. This opaque process is understandably alarming to them. Third, the administration's public messaging indicates that the Department will not renew existing passports with the X marker, which puts in doubt continued access to an accurate passport for many intersex and non-binary Americans.

¹ EO 14168

We believe this policy change also unconstitutionally and irrationally targets transgender, intersex, and non-binary Americans, without any apparent connection to a legitimate state interest, let alone an important state interest as required to justify discrimination on the basis of sex.² Moreover, the executive order upon which this policy change is based contains language demonstrating animus against transgender, intersex, and non-binary people. Animus is neither an important nor legitimate government interest.³

The sudden and sweeping nature of this policy rollout has left many of our constituents fearful of traveling and uncertain about their future. Discrepancies between our constituents' gender identity and the sex indicated on their passport will undoubtedly lead to confusion, indignity, and, potentially, the confiscation of travel documents. Having an ID that does not accurately reflect a person's gender identity can lead to harassment, discrimination, and even violence. These possibilities will make traveling abroad simply too risky for countless Americans. It also puts an unnecessary burden on transgender, non-binary, and intersex Americans who simply need to use their passport in circumstances that require presenting a government-issued identification document, such as when starting a new job.

We believe you must rescind this unjustifiable and harmful policy immediately. Please expeditiously resume processing passport applications and renewals requesting an X marker, and resume allowing individuals to select a gender marker in accordance with their identity and expression. Doing so will ensure these documents accurately reflect who these American citizens are, which will allow the documents to serve their intended purpose of accurate identification. We further believe you must print already-approved passports and send them without delay to our fellow citizens whose lives are on hold as a result of your actions.

Thank you for your attention to this matter.

Respectfully,



Kevin Mullin
Member of Congress

² United States v. Virginia, 518 U.S. 515, 555 (1996); Craig v. Boren, 429 U.S. 190 (1976). These changes are also arbitrary and capricious and in violation of federal law. Zzyym v. Pompeo, 958 F.3d 1014 (10 Cir. 2020).

³ See, e.g., Romer v. Evans, 517 U.S. 620 (1996).



Madeleine Dean
Member of Congress



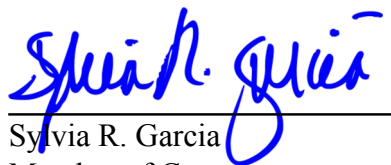
Eleanor Holmes Norton
Member of Congress



Pramila Jayapal
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Paul D. Tonko
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Sylvia R. Garcia
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Sharice L. Davids
Member of Congress



Henry C. "Hank" Johnson, Jr.
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Andre Carson
Member of Congress



Mark Takano
Member of Congress



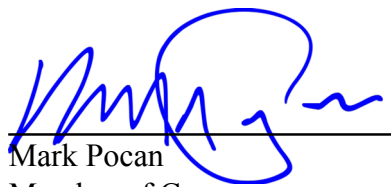
Sarah McBride
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Rashida Tlaib
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Rick Larsen
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Mark Pocan
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Maxine Waters
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Chellie Pingree
Member of Congress



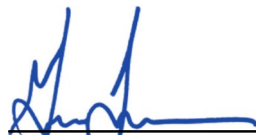
Dwight Evans
Member of Congress



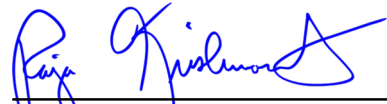
Ted W. Lieu
Member of Congress



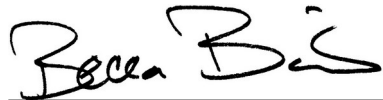
Alexandria Ocasio-Cortez
Member of Congress



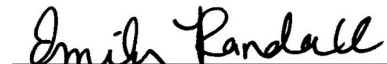
Greg Landsman
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Raja Krishnamoorthi
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Becca Balint
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Emily Randall
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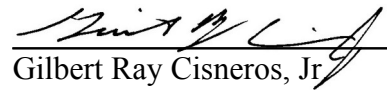
Judy Chu
Member of Congress



Adam B. Schiff
United States Senator



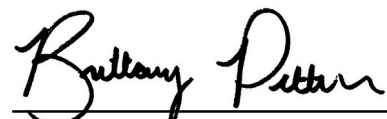
Diana DeGette
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Gilbert Ray Cisneros, Jr.
Member of Congress




Raúl M. Grijalva
Member of Congress

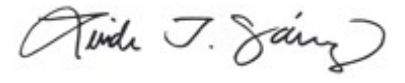


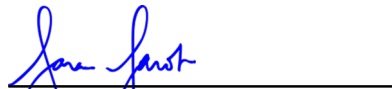
Brittany Pettersen
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Sydney Kamlager-Dove
Member of Congress



Mike Quigley
Member of Congress

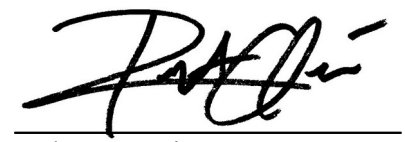

Delia C. Ramirez
Member of Congress

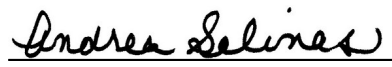

Linda T. Sánchez
Member of Congress

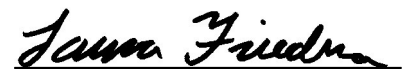

Sara Jacobs
Member of Congress



Angie Craig
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Maxine Dexter
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Robert Garcia
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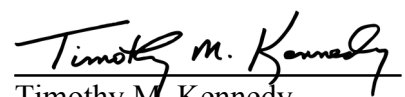

Andrea Salinas
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Laura Friedman
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Eric Swalwell
Member of Congress

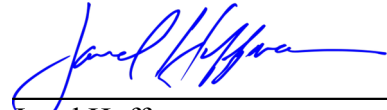

Frank Pallone, Jr.
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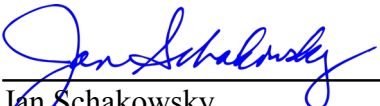
Jared Huffman
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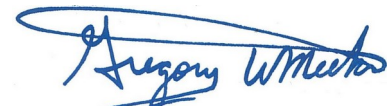
Eric Sorensen
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Jeffrey A. Merkley
United States Senator



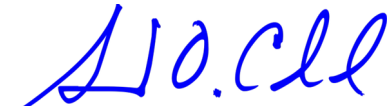
Jan Schakowsky
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Gregory W. Meeks
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Lizzie Fletcher
Member of Congress



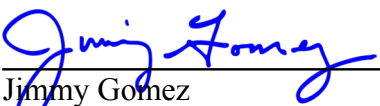
Salud Carbajal
Member of Congress



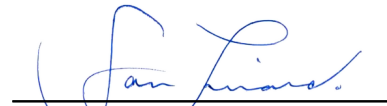
Lori Trahan
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Greg Stanton
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Jimmy Gomez
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Sam T. Liccardo
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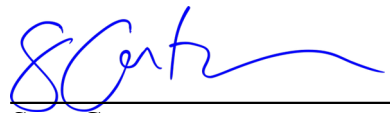



Bonnie Watson Coleman
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Jamie Raskin
Member of Congress

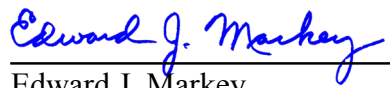

Seth Magaziner
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Sean Casten
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Scott H. Peters
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Mark DeSaulnier
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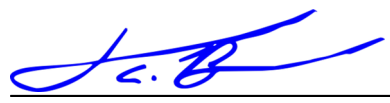

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Yassamin Ansari
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Maxwell Alejandro Frost
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Alex Padilla
United States Senator


Cory A. Booker
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