

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO**

DANA ALIX ZZYYM,

Plaintiff,

v.

ANTONY J. BLINKEN, *in his official
capacity as Secretary of State*, and
RACHEL B. CRAWFORD, *in her official
capacity as Director of the Colorado Passport
Agency of the U.S. Department of State*,

Defendants.

Civil Action No. 15-2362-RBJ

**DEFENDANTS' UNOPPOSED MOTION FOR EXTENSION OF TIME
TO RECONSIDER PLAINTIFF'S PASSPORT APPLICATION**

The parties respectfully request an extension of time for the Department of State to reconsider Plaintiff Dana Alix Zzyym's passport application. The parties have previously requested three extensions: the first to allow the Department more time to review Plaintiff's supplementary materials to their passport application, ECF No. 116, the second to allow settlement discussions to begin, ECF No. 118, and the third to continue settlement discussions, ECF No. 120. The Court granted those extension requests. ECF Nos. 117, 119, 121.

The parties now submit this fourth request to continue settlement discussions. The grounds for this further requested extension are as follows.

On June 30, 2021, the Department of State announced that it "has begun moving towards adding a gender marker for non-binary, intersex, and gender non-conforming persons applying for a passport" and is "evaluating the best approach to achieve this goal." Press Statement, Ex. 1; *see also* Selecting Your Gender Marker, Ex. 2. Plaintiff has asked additional questions concerning, among other things, the new policy developments, and the Department is in the process of

addressing those questions. The parties are also discussing resolution of the case in light of the new policy developments.

In order to allow these discussions to proceed in light of the Department's policy announcement, the parties request that the reconsideration deadline be extended from July 16, 2021 until September 1, 2021.

Dated: July 16, 2021

Respectfully submitted,

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Civil Division

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Attorneys for Defendants

Proposing Changes to the Department's Policies on Gender on U.S. Passports and Consular Reports of Birth Abroad

PRESS STATEMENT

ANTONY J. BLINKEN, SECRETARY OF STATE

JUNE 30, 2021

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The Department of State is committed to promoting the freedom, dignity, and equality of all people – including LGBTQI+ persons. Since assuming office, President Biden has taken several executive actions demonstrating this administration's commitment to human rights and has directed agencies across the U.S. government to take concrete actions to promote and protect the human rights of LGBTQI+ persons around the world. Today, I am pleased to announce that the Department will be taking further steps toward ensuring the fair treatment of LGBTQI+ U.S. citizens, regardless of their gender or sex, by beginning the process of updating our procedures for the issuance of U.S. Passports and Consular Reports of Birth Abroad (CRBA).

Most immediately, we will be updating our procedures to allow applicants to self-select their gender as "M" or "F" and will no longer require medical certification if an applicant's self-selected gender does not match the gender on their other citizenship or identity documents. The Department has begun moving towards adding a gender marker for non-binary, intersex, and gender non-conforming persons applying for a passport or CRBA. We are evaluating the best approach to achieve this goal. The process of adding a gender marker for non-binary, intersex, and gender non-conforming persons to these documents is technologically complex and will take time for extensive systems updates. The

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Proposing Changes to the Department's Policies on Gender on U.S. Passports and Consular Reports of Birth Abroad - United States De...

Department will also be working closely with its interagency partners to ensure as smooth a travel experience as possible for the passport holder. As we work towards this longer-term goal of making available a gender marker for non-binary, intersex, and gender non-conforming persons seeking a passport or CRBA, the Department will provide updates on the process and any interim solutions via our website: <https://travel.state.gov/content/travel/en/passports/need-passport/selecting-your-gender-marker.html>.

In line with the Administration's commitment to re-engage with allies and partners, the Department is taking these steps after considerable consultation with like-minded governments who have undertaken similar changes. We also value our continued engagement with the LGBTQI+ community, which will inform our approach and positions moving forward. With this action, I express our enduring commitment to the LGBTQI+ community today and moving forward.

Selecting your Gender Marker

You can now select the gender you would like printed on your U.S. passport, even if the gender you select does not match the gender on your supporting documentation such as a birth certificate, previous passport, or state ID. We no longer require medical certification to change the gender marker on your U.S. passport.

To request a new passport with a different gender than the one you have on your current passport, or if you are applying for your first passport, submit a new application and select your preferred gender marker. Follow the steps on this page to learn which form to submit. You can select “M” or “F” which are the gender markers currently available. We are working to add a gender marker for non-binary, intersex, and gender non-conforming persons as soon as possible.

Plans for a Gender Marker for Non-Binary, Intersex, and Gender Non-Conforming Persons

We are taking further steps toward ensuring the fair treatment of LGBTQI+ U.S. citizens, regardless of their gender or sex. We are beginning the process of updating our procedures for the issuance of U.S. passports and Consular Reports of Birth Abroad (CRBAs) with the goal of offering a gender marker for non-binary, intersex, and gender non-conforming persons. The process of adding a gender marker for non-binary, intersex, and gender non-conforming persons to these documents is complex and will take time for extensive updates to our information technology (IT) systems.

We cannot provide an exact timeline for when we will begin offering a gender marker for non-binary, intersex, and gender non-conforming persons. However, we will provide updates on this webpage. In the meantime, applicants cannot apply for a passport with a non-binary, intersex, or gender non-conforming gender marker.

How to Apply for your Passport

I'm applying for my first passport or replacing my full-validity passport

If you are applying for your first passport, or if you already have a full-validity passport, use [Form DS-11](#) and select “M” or “F” for your gender. You do not need to provide a medical certification or physician’s letter, even if the gender you select on Form DS-11 does not match the gender on your previous passport or other documents. Follow the steps listed on our [Apply in Person](#) page. Please note: we are in the process of updating our [Form Filler](#) and [Form Eligibility Wizard](#) tools to incorporate these changes. Please download your form and complete it by hand in black ink.

I'm replacing my limited-validity passport

Under our previous passport policies, if you were in the process of transitioning to a new gender when you applied for your passport, you may have received a [limited-validity passport](#). We no longer require medical certification or a physician's letter as evidence of a gender transition. You can now self-select your gender on your passport form, and you are eligible to apply for a full-validity passport.

To replace a limited-validity passport with a full-validity passport, submit [Form DS-5504](#). To use this form, you must apply within two years of your previous passport's issuance date. You do not have to pay fees unless you are requesting optional expedited service. If your limited-validity passport was issued more than two years ago, please use [Form DS-11](#) and follow the steps on our [Apply In Person](#) page.

Please note: we are in the process of updating our [Form Filler](#) and [Form Eligibility Wizard](#) tools to incorporate these changes. Please download your form and complete it by hand in black ink.

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Frequently Asked Questions

Why is the Department of State making this change?

We are committed to promoting the freedom, dignity, and equality of all people – including LGBTQI+ persons.

We are taking further steps toward demonstrating this commitment to better serve all U.S. citizens, regardless of their gender or sex. You can now self-select the binary gender you want printed on your U.S. passport. We are also beginning the process of updating our procedures for the issuance of U.S. passports and Consular Reports of Birth Abroad (CRBAs) with a gender marker for non-binary, intersex, and gender non-conforming persons. We will post updates on this webpage when that gender marker is available. You cannot apply for a passport with a non-binary, intersex, or gender non-conforming gender marker at this time.

What does it mean to self-certify or self-select my gender?

It means you can select the gender you would like us to print on your U.S. passport by simply checking “M” or “F”. You no longer need to provide medical certification or a physician’s letter when applying for a U.S. passport in a gender that does not match the gender on your citizenship evidence or photo ID.

Do I need to have the gender on my birth certificate and/or driver's license changed before I can get it changed on my passport?

No, the gender on your citizenship evidence and photo ID does not have to match the gender you select on your passport application. However, the photo you submit with your passport application must look similar to the photo on your ID. Learn more about [Passport Photos](#) before you apply.

Do I need to apply using Form DS-11?

Yes. The first time you are changing your gender in your U.S. passport, you must use the Form DS-11. When you renew your passport, if the gender you are requesting matches the gender on your previous passport, you can use Form DS-82. [Children under age 16](#) must always apply using Form DS-11 and appear in-person with both parents or legal guardians.

How do I update the gender on a passport for my child?

The requirements to update your child's gender are the same as the requirements for an adult. Both parents or legal guardians must provide consent when [applying for a child under age 16](#).

Do I have to submit a new photo when applying for a passport?

Yes. Your new photo must look similar to your current appearance and meet our [passport photo requirements](#).

If I have a court order approving a change in my gender, do I need to submit that with my application?

A court order approving a change in gender is no longer a requirement to apply for a U.S. passport. It is not necessary anymore.

I followed the requirements on this page, but I got a letter requesting more information. What do I do now?

Please follow the instructions in the letter. If you have further questions, go to our [Respond to a Letter or Email](#) page or contact the National Passport Information Center at [1-877-487-2778](tel:1-877-487-2778)/ [1-888-874-7793](tel:1-888-874-7793) (TDD/TTY).

What if I want to change my name in my U.S. passport?

You may [change or correct a passport](#) by following the steps provided on our website.

If I identify neither as male nor female, or I have a birth certificate, driver's license, court order or other documents in a non-binary gender, can I have a passport issued with a non-binary gender marker or no gender marker?

No, not at this time. We are beginning the process of updating our procedures for the issuance of U.S. passports and CRBAs with the goal of offering a gender marker for non-binary, intersex, and gender non-conforming persons. The process of adding a gender marker for non-binary, intersex, and gender non-conforming persons to these documents is complex and will take time for extensive updates to our information technology (IT) systems. We cannot provide an exact timeline for when we will begin offering a gender marker for non-binary, intersex, and gender non-conforming persons. Applicants should not apply for a passport with a non-binary, intersex, or gender non-conforming gender marker as we cannot issue one to you at this time. Applicants who apply for a passport with a non-binary, intersex, or gender non-conforming gender marker will be given the option to select from currently available markers of "M" for male or "F" for female, or to place their application on hold until we can offer a non-binary, intersex, or gender non-conforming gender marker.

I had a bad customer experience.
How can I complain?

To make a complaint, you can call the National Passport Information Center at [1-855-865-7755](tel:1-855-865-7755) or submit a complaint online through our [Customer Survey](#).