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25 STATE 11402

Date/DTG:

Feb 07, 2025 / 071707Z FEB 25

From:

SECSTATE WASHDC

Action:

ALL DIPLOMATIC AND CONSULAR POSTS COLLECTIVE Routine

E.O:

13526

TAGS:

CVIS, CMGT

Captions:

SENSITIVE

Subject:

Guidance to Visa-Issuing Posts on January 20 Executive Order 14168 on Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government

1. (U) This is an Action Request. Please see paragraph 7.

2. (SBU) SUMMARY: To implement the January 20, 2025, Executive Order (E.O.) 14168 “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government” the Visa Office is updating visa adjudication and issuance procedures. The E.O. states it is the policy of the United States to recognize two sexes, male and female and mandates that government-issued identity documents, including visas, and all forms that require an individual’s sex shall accurately reflect an individual’s immutable biological classification as either male or female. All visa-issuing posts must carefully review and follow this guidance effective immediately. If-asked talking points for use with applicants are below. This guidance supersedes current Foreign Affairs Manual (FAM) guidance and updates to the FAM will be published as soon as possible. END SUMMARY.

3. (U) Pursuant to this E.O., the sex listed on an issued visa must correspond to the visa holder’s biological sex at birth. The E.O. includes the following definitions:

“Sex” shall refer to an individual’s immutable biological classification as either male or female.

“Women” or “woman” and “girls” or “girl” shall mean adult and juvenile human females, respectively. “Female” means a person belonging, at conception, to the sex that produces the large reproductive cell.

“Men” or “man” and “boys” or “boy” shall mean adult and juvenile human males, respectively.

“Male” means a person belonging, at conception, to the sex that produces the small reproductive cell.

4. (U) The E.O. text reads, in part: “When administering or enforcing sex-based distinctions, every agency and all Federal employees acting in an official capacity on behalf of their agency shall use the term ‘sex’ and not ‘gender’ in all applicable Federal policies and documents,” “The Secretar[y] of State . . . shall implement changes to require that government-issued identification documents, including passports [and] visas . . . accurately reflect the holder’s sex, as defined under section 2 of this order,” and “Agencies shall remove all statements, policies, regulations, forms, communications, or other internal and external messages that promote or otherwise inculcate gender ideology, and shall cease issuing such statements, policies, regulations, forms, communications or other messages. Agency forms that require an individual’s sex shall list male or female, and shall not request gender identity.”

5. (SBU) Generally, the sex listed on the foreign passport should be considered as prima facie evidence of the applicant’s sex as defined in the E.O. However, there may be instances when a consular officer becomes aware that the sex listed on the foreign passport may not be the applicant’s sex as defined in the E.O. In such cases, the adjudicator should confirm the applicant’s sex as defined in the E.O., indicate that sex on the visa, and add a case note documenting any discrepancy between the passport and the visa to prevent issues at the POE. In cases of discrepancy only, the case note must include #SMF25.

6. (SBU) Where there is a discrepancy in sex markers in the documents presented at the interview, the consular officer should attempt to resolve the issue by examining the documents and interviewing the applicant to determine the applicant’s sex at birth. If the applicant is otherwise qualified for the visa but the officer is unable to determine the sex at birth, the officer should request evidence, including but not limited to a birth certificate, to assist in determining sex at birth to resolve the discrepancy and ensure the visa correctly lists the applicant’s sex at birth. If needed to obtain evidence, the officer may refuse the case under INA 221(g). VO will create an AutoHotkey (AHK) shortcut (“SMF25”) for this case note and communicate the change. Examples of cases where confirmation is needed and #SMF25 should be entered in case notes:

If an applicant was previously issued a visa listing a sex marker different from that in the applicant's current passport;

If an adjudicator becomes aware (either through IDENT or other records available in the CCD) that an applicant's passport denotes a different sex from the sex presented in other records or encounters; or,

When an applicant's passport lists a third-gender marker, such as "X" or no such marker at all.

7. (SBU) Action Request: Posts and GSS should immediately update public-facing instructions regarding visa applications to replace any phrasing about selecting gender identity with instructions to select sex at birth on visa applications. The following language should be included in the instructions: "When completing the 'sex' field of the DS-160 [or DS-260], please select your sex at birth: male or female. Generally, this will be the sex listed on your passport. However, if your passport lists your gender identity, does not list a sex, or lists 'X'/'unspecified' in a 'sex'/'gender' field, you must select your sex at birth."

8. (U) Currently valid U.S. visas issued prior to the effective date of this guidance bearing a sex that differs from the visa holder's sex as defined in the E.O. will remain valid through its expiration date; the visa holder does not need to apply for a new visa with an amended sex marker until the current visa expires.

9. (SBU) VO will publish updated FAM guidance and information on any updates to forms or systems related to this change as soon as possible.

10. (U) Talking Points: Posts should use only the below talking points on an if-asked basis with affected applicants:

Per the January 20, 2025, “Executive Order on Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government”, it is the policy of the United States government to recognize two sexes, male and female.

The E.O. specifies that government-issued documents, including visas, shall accurately reflect an individual’s immutable biological classification as either male or female.

As such, we are required to list sex, and not gender identity, on official documents including U.S. visas.

We will only issue U.S. visas with a M or F sex marker that matches the applicant’s biological sex as defined in the E.O.

Visa applicants are instructed to list their biological sex at birth on the visa application.

11. (U) Additional guidance and contacts: Executive Orders and related guidance can be found on CAWeb. State Department personnel can also join the CA/VO Transition Coordination Team to review official guidance and submit questions to VO subject matter experts regarding the E.O.

12. (SBU) Inquiries: Posts must refer any U.S. media inquiries regarding E.O.s to CA-Press@state.gov, and congressional inquiries regarding the E.O. to ConsularOnTheHill@state.gov. Posts may respond to requests from international media regarding E.O.s using CA’s cleared press guidance located on CA Web (linked here), copying CA-Press@state.gov.

12. Minimize considered.

MINIMIZE CONSIDERED

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