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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR, ZAYA PERYSIAN, SAWYER SOE, CHASTAIN ANDERSON, DREW HALL, BELLA BOE, and REID SOLOMON-LANE, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; MARCO RUBIO, in his official capacity as Secretary of State; and UNITED STATES OF AMERICA,

Defendants.

Case No. _____

CLASS ACTION COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action for declaratory and injunctive relief arising out of the Trump Administration's abrupt, discriminatory, and dangerous reversal of settled United States passport policy. The United States previously issued passports to transgender, intersex, and nonbinary people that reflected the sex they live as and express, rather than the sex they were assigned at birth. Under the government's new arbitrary and unlawful policy (the "Passport Policy"), the United States now refuses to issue passports to otherwise eligible Americans because they are transgender, intersex, or nonbinary—except on terms that expose them to grievous harms and violate their constitutional rights to equal protection, travel, privacy, and speech and flout the Administrative Procedure Act (the "APA").

2. The State Department previously permitted all people—including those who are transgender, intersex, and nonbinary—to obtain passports with sex designations that reflected the sex they live as. This included permitting individuals to use the male or female sex designation

that reflected the sex they live as and an "X" designation on passports available to individuals who do not identify as female or male or who did not want their sex specified on their passport. The previous State Department policy enhanced consistency across identification documents: most U.S. states permit transgender residents to have a sex designation on their driver's licenses that match the sex they live as and increasingly allow "X" designations as well. The federal Passport Policy rashly requires passports to list only either female or male based on newly concocted and scientifically inaccurate definitions of an individual's sex determined by whether they "belong[], at conception, to the sex that produces" either "the large" or "the small reproductive cell."

3. The Passport Policy is unlawful and unconstitutional. It discriminates against individuals based on their sex and, as to some, their transgender status. It is motivated by impermissible animus. It cannot be justified under any level of judicial scrutiny, and it wrongly seeks to erase the reality that transgender, intersex, and nonbinary people exist today as they always have.

4. The inevitable, immediate, and direct result of the Passport Policy is that transgender, intersex, and nonbinary people have been injured. Passports are critical documents for international travel and other purposes. For many of the people now barred from receiving a passport unless they accept one with the Trump Administration's inaccurate sex designation, they are forced to "out" themselves over and over again, harming them and imposing wrongful barriers to travel. Those who look at the passport—including anyone hostile to transgender people, as the Trump Administration is and officials in many countries are—may discern that a passport holder is transgender from a perceived mismatch between the sex designation on their passport and their appearance, and may question the validity of their passport. The results may be catastrophic, including causing serious psychological harm, denial of the ability to enter or leave a country, physical violence from people who despise transgender people, and even the passport holder being arrested and imprisoned by border control agents in foreign countries.

5. The Passport Policy was the product of an animus-filled executive order issued by President Trump on the first day of his term, titled "Defending Women from Gender Ideology

Extremism and Restoring Biological Truth to the Federal Government," Executive Order 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025) (the "Executive Order") (attached as Exhibit A). On its face, the Executive Order declares that it is the policy of the federal government that there are only two sexes and that, for all federal legal purposes, sex is unalterably fixed at conception; it thus attempts to impose a government-wide policy that transgender, nonbinary, and some intersex people do not exist. The Executive Order also asserts without basis or evidence that individuals claim to be transgender only to invade women's private spaces. The Executive Order is transparently unlawful and unconstitutional. It also is unmoored from scientific and medical reality: Transgender people, intersex people, and people who do not identify as either (or exclusively) male or female exist. Scientific and medical authorities have recognized that fact, as have courts across the country, including the U.S. Supreme Court. In a stroke, the Executive Order seeks to rewrite those realities and replace them with the sole options of "male" or "female" as defined in the Executive Order based on no science, no evidence, and no meaningful explanation aside from empty, dehumanizing rhetoric.

6. Though publicly silent, the State Department has already implemented its new Passport Policy. On information and belief, and according to many news reports, the Secretary of State has ordered the State Department to suspend processing of passport applications that seek to change the sex designation on a person's passport or that selected an "X" sex designation—sowing chaos and causing immediate irreparable harm. As further proof of implementation, after Plaintiff Zaya Perysian requested a new passport reflecting that she is a woman, she received her passport back on January 28, 2025 with an "M" sex designation, along with a form stating that the sex on her passport application had been "corrected."

7. Without complying with its statutory obligation to provide a 60-day notice and comment period, the State Department has also changed its passport application forms to exclude the "X" sex designation option that has existed on the form for years.

8. The Passport Policy and Executive Order are part of a broader assault against transgender and nonbinary people by this Administration and are part of a historical pattern of

federal and state governments attacking and seeking to erase transgender, intersex, and nonbinary people. The Executive Order's tortured definition of sex is already being implemented across the federal government to deny transgender people's rights, including in military service, education, other identification documents, and healthcare. It comes on the heels of similar attacks by various states—and by the first Trump Administration. And it is the latest in a decades-long line of governmental actions seeking to further oppress transgender and gender-nonconforming people.

9. Plaintiffs are transgender or nonbinary Americans who have been harmed, and will continue to be harmed, by the Passport Policy. Because of the Passport Policy, as noted, one plaintiff had her passport returned by the State Department with a male sex designation despite the fact that she lives and expresses herself as a woman and her other identification documents correctly have a sex designation of female. Other plaintiffs have submitted their passports for renewal or to change their passport sex designation, which the State Department will deny under the Passport Policy. Still others are afraid to do so for fear the State Department will suspend their application and hold their passport, or will send back an unusable passport with the wrong sex designation. All have faced prior mistreatment due to their gender identities, and they fear that having incorrect sex designations on their passports will cause them further mistreatment—including putting them in danger.

10. This suit seeks a declaration that the Passport Policy and Executive Order as applied to passports are unconstitutional, a declaration that the Passport Policy violates the APA, and a permanent injunction restoring the status quo ante. Declaratory and injunctive relief are needed to remedy the many constitutional and statutory violations the Passport Policy inflicts. Relief is needed on a class-wide basis to prevent class-wide harm to the hundreds of thousands, if not millions, of transgender, nonbinary, and intersex people in the United States who need a passport they can use without suffering harm.

JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal question) and 1346 (civil actions against the United States).

12. This Court has jurisdiction to review final agency actions under 5 U.S.C. § 702.

13. This Court has further remedial authority under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq*.

14. Defendants are subject to personal jurisdiction in this Court.

15. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and 1391(e)(1). Defendants are the United States, its agencies, and its officers sued in their official capacities. Plaintiffs Bella Boe, Sawyer Soe,[1] and Reid Solomon-Lane are residents of this District. A substantial part of the events or omissions giving rise to this Complaint occurred in this District.

PARTIES

A. Plaintiffs

16. Ashton Orr is a United States citizen and a resident of Morgantown, West Virginia.

17. Zaya Perysian is a United States citizen and a resident of Santa Clarita, California.

18. Sawyer Soe is a United States citizen and a resident of Salem, Massachusetts.

19. Chastain Anderson is a United States citizen and lives near Richmond, Virginia.

20. Drew Hall is a United States citizen and a permanent resident of Wisconsin.

21. Bella Boe is a United States citizen and a resident of Cambridge, Massachusetts.

22. Reid Solomon-Lane is a United States citizen and a resident of North Adams, Massachusetts.

B. Defendants

23. Defendant Donald Trump is the President of the United States. He is sued in his official capacity. By statute, the President has authority to prescribe certain rules for the issuance of passports. *See* 22 U.S.C. § 211a.

[1] "Bella Boe" and "Sawyer Soe" are pseudonyms used in this Complaint to refer to two of the plaintiffs. A motion for leave for them to procced under pseudonyms will be filed shortly with the Court.

24. Defendant Department of State (the "State Department") is a federal executive department responsible for implementing the Executive Order. It is an agency within the meaning of the APA. *See* 5 U.S.C. § 551(1).

25. Defendant Marco Rubio is the Secretary of State. He is responsible for supervising and directing the State Department. He is sued in his official capacity. By statute, the Secretary of State has authority to issue passports under rules prescribed by the president. *See* 22 U.S.C. § 211a. By executive order, the president has delegated the authority to prescribe those rules for passport issuance to the Secretary of State. *See* Executive Order 11295, 31 Fed. Reg. 10,603 (Aug. 5, 1966).

26. Defendant United States of America is the government of the United States and includes all government agencies and officials responsible for implementing the Passport Policy and the Executive Order as applied to passports.

27. The State Department and Secretary Rubio are collectively referred to as the "Agency Defendants."

ALLEGATIONS

A. Gender Identity, Transgender People, Nonbinary People, and Intersex People

1. Gender Identity

28. "Gender identity" refers to a person's core, internal sense of belonging to a particular sex. There is a medical consensus that gender identity is innate and that efforts to change a person's gender identity are unethical and harmful to a person's health and well-being.

29. The concept of "sex" refers to multiple physiologic attributes, such as chromosomes, gonads (glands that produce hormones and gametes), and anatomy (internal and external reproductive parts), secondary sex characteristics that usually develop during puberty, and gender identity. "Sex assigned at birth" refers to the designation of sex generally noted on a birth certificate shortly after birth, almost always based solely on the appearance of an infant's external

genitalia. The term "biological sex" is less precise than "sex assigned at birth" because it does not account, for example, for intersex conditions and gender identity.

30. A person's gender identity is an essential part of their identity and very frequently predicts how they will be identified by others more accurately than their sex assigned at birth. For purposes of identity documents, including passports, a person's gender identity is the most important and accurate characteristic for determining what their sex is and what their sex designation should be.

31. According to the American Medical Association, the American College of Physicians, the American Psychiatric Association, and 25 other major U.S. medical and psychological professional associations, "variations in . . . gender identity are a normal part of human development" and "research and experience shared by scholars, clinicians, and patients have shown that . . . efforts [to change someone's gender identity have not succeeded] and are harmful."[2]

2. Transgender People

32. Transgender people have a gender identity different from their sex assigned at birth. According to one set of surveys, more than 1.6 million Americans are transgender.[3]

33. When a person's sex assigned at birth and gender identity align, the person is "cisgender."

[2] United States Joint Statement Against Conversion Efforts (completed Aug. 23, 2023), available at https://d3dkdvqff0zqx.cloudfront.net/groups/apaadvocacy/attachments/USJS-Final-Version.pdf.

[3] Jody Herman et al., *How Many Adults and Youth Identify as Transgender in the United States?*, Williams Institute, UCLA School of Law 1 (2022), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf (last accessed Feb. 6, 2025).

3. Nonbinary People

34. "Nonbinary" people have a gender identity that is not exclusively male nor exclusively female. According to one set of surveys, more than 1.2 million Americans identify as nonbinary.[4]

4. Intersex People

35. "Intersex" is a term used to describe a wide range of natural bodily variations, which some medical professionals refer to as "differences of sexual development." Intersex people are born with sex characteristics that do not fit typical binary notions of bodies designated "male" or "female." Intersex variations differ; some intersex traits may be discovered at birth, some may not be discovered until puberty, and some may never be discovered. For example, intersex people can have certain variations in chromosomes, external genitals, internal reproductive organs, and hormone production and response that cause these variations in their bodies. According to estimates by the United Nations, between 0.05% and 1.7% of the population is born with intersex traits—meaning there are potentially as many as 5.6 million intersex people in the United States.[5]

36. During the initial gestation period, embryos with XX chromosomes and embryos with XY chromosomes appear the same in terms of their biological makeup. Various aspects of the embryos later typically begin to develop differently depending on whether the embryo has XX or XY chromosomes. This binary differential development is not always what occurs, however, and there are many variations in genitals, internal reproductive organs, hormones, and other aspects of the body that do not align with a strict sex binary.

[4] Bianca D.M. Wilson et al., *Nonbinary LGBTQ Adults in the United States*, Williams Institute, UCLA School of Law 2 (June 2021), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Nonbinary-LGBTQ-Adults-Jun-2021.pdf (last accessed Feb. 6, 2025).

[5] United Nations Free & Equal, "Intersex People," Office of the United Nations High Commissioner for Human Rights 1 (2024), https://www.unfe.org/sites/default/files/download/Intersex%20factsheet%202024%20EN%20-%20CLEARED.pdf (last accessed Feb. 6, 2025)

37. Some intersex people do not produce either (and some may produce both) the "large reproductive cell" or "small reproductive cell"—that is, the ovum and sperm—that are at the core of the definitions of female and male in the Executive Order. Further, some intersex people may produce either sperm or ovum but have genitalia or chromosomes typically associated with the different sex (e.g., a person with testes who is assigned female at birth based on genitalia).

38. Some intersex people are transgender because their gender identity is different from the sex they were assigned at birth. Some intersex people, however, were assigned a sex at birth that is the same as their gender identity, meaning that they are cisgender.

5. Gender Dysphoria and Gender-Affirming Care

39. Gender dysphoria is a medically recognized condition defined by a marked incongruence between a person's gender identity and the sex they were assigned at birth, when accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning.[6] Many transgender people (including transgender people who are nonbinary or intersex) experience gender dysphoria. Gender dysphoria is a serious medical condition that, if left untreated, can lead to debilitating depression and even suicidal ideation and acts.

40. The treatment protocols for gender dysphoria are laid out in established, evidence-based clinical guidelines: (i) the Endocrine Society Clinical Practice Guideline for Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons and (ii) the World Professional Association for Transgender Health ("WPATH") Standards of Care ("SOC") for the Health of Transgender and Gender Diverse People, which was initially published in 1979 and is now in its eighth version, which was released in 2022. These guidelines are supported by all major U.S. medical associations and reflect the professional consensus about the psychological, psychiatric,

[6] *See, e.g.*, Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders: DSM-5-TR* at 512–13 (2022).

hormonal, and surgical management of gender dysphoria. These clinical guidelines are comparable to clinical guidelines used to treat other medical conditions.

41. It is the recognized standard of care to address gender dysphoria with social affirmation as well as medical treatment designed to bring a person's body and expression of their sex in line with their gender identity. This course of treatment has different components depending on the particular needs and age of each person.

42. Treatment for gender dysphoria brings a person's social interactions, appearance, and body into greater alignment with the person's gender identity, which helps alleviate distress. Treatment for gender dysphoria may involve social transition, hormone treatment, and/or gender-affirming surgery or surgeries.

43. Social transition involves shifting one's presentation and social functioning so that it is consistent with one's gender identity. Typically, it involves some or all of the following:

a. Change in clothing, hair, or appearance;

b. Change of name;

c. Change in pronouns (e.g., "she," "he," or "they");

d. Change in participating in gender-specific activities, events, or spaces; and

e. Change of the sex designation on identifying documents, including an individual's driver's license and passport.

44. Treatment for gender dysphoria typically includes living one's life consistently with one's gender identity, including using identity documents that reflect one's gender identity.

45. While social transition is adequate to treat gender dysphoria for some people, others may need other forms of treatment as well.

46. Hormone treatment is used to help a person develop secondary sex characteristics consistent with their gender identity, which may affect how the person receiving such treatment physically presents and is perceived by others.

47. Gender-affirming surgeries may include a wide variety of surgeries, many of which also affect how the person undergoing surgery physically presents and is perceived by others, such as augmentation mammoplasty, chest reconstruction surgery, and facial feminization surgery.

6. Violence and Discrimination Against and Harassment and Mistreatment of Transgender, Nonbinary, and Intersex People

48. Transgender, nonbinary, and intersex people often experience violence, harassment, discrimination, and social stigma when others learn that they are transgender, nonbinary, or intersex.

49. For decades, transgender, nonbinary, and intersex people have been subject to numerous and varied attempts by both private individuals and government actors to discriminate against and oppress them, and to attempt to erase their existence.

50. Transgender people are more likely to suffer harassment, discrimination, and violence than the population at large. According to the National Center for Transgender Equality's U.S. Transgender Survey:

a. Around a quarter (24%) of respondents had been physically attacked in a K-12 school because people thought they were transgender.

b. In the year prior to completing the survey, 27% of respondents who had a job reported being fired, denied a promotion, or experiencing some other form of mistreatment in the workplace due to their gender identity or presentation.

c. Nearly half (47%) of respondents had been sexually assaulted during their lifetime.

d. Among respondents who had interacted with police, 58% of those whom the police perceived as transgender experienced some form of mistreatment.

e. Twenty-five percent of transgender people were verbally harassed, 16% denied services or benefits, 9% asked to leave a location or establishment, and 2% assaulted or attacked after showing identification with a name or sex designation that did not match their gender presentation.

51. For transgender people of color, these forms of mistreatment are even more common.

52. As a result of these forms of mistreatment, 39% of respondents experienced serious psychological distress in the month prior to completing the survey, compared with only 5% of the U.S. population as a whole. Moreover, 40% percent of respondents attempted suicide in their lifetime—nearly nine times the attempted suicide rate in the U.S. population as a whole (4.6%).

53. Nonbinary people are also subject to violence and discrimination, and many of the statistics regarding violence against transgender people include nonbinary people.[7]

54. Intersex people also are more likely to suffer violence, discrimination, harassment, and mistreatment. For instance, surveys indicate that anywhere from one quarter to half of intersex people had been subjected to violence.[8]

B. The Importance of Passports Consistent with the Sex a Person Lives As

55. A passport is an essential government-issued document that individuals use for various important purposes throughout their lifetime.

56. Passports are necessary for travel outside of the country and for reentry into the United States. *See* 8 U.S.C. § 1185(b). Foreign countries generally bar entrance by U.S. citizens without a valid U.S. passport and/or condition issuance of a necessary visa on holding a valid U.S. passport.

[7] *See, e.g.*, Human Rights Campaign Foundation, *The Epidemic of Violence Against the Transgender & Gender-Expansive Community in the U.S.: The 2024 Report* (Nov. 2024), https://reports.hrc.org/an-epidemic-of-violence-2024 (last accessed Feb. 6, 2025); Skylar Davidson, *Gender inequality: Nonbinary transgender people in the workplace*, Cogent Social Sciences (2016).

[8] The Trevor Project, *The Mental Health and Well-being of LGBTQ Youth who are Intersex* at 4 (2021), https://www.thetrevorproject.org/wp-content/uploads/2021/12/Intersex-Youth-Mental-Health-Report.pdf (last accessed Feb. 6, 2025); ILGA-Europe and OII Europe, Diving Into the FRA LGBTI II Survey Data: Intersex Briefing (2023), https://www.ilga-europe.org/report/intersections-intersex-diving-into-the-fra-lgbti-ii-survey-data/ (last accessed Feb. 6, 2025).

57. When traveling or living abroad, U.S. passports often are necessary for numerous purposes and often are the only form of identification carried by a U.S. citizen that is recognized or acknowledged by foreign authorities or private citizens. A passport often is needed in other countries to check in to a hotel, to use a bank, to receive medical services and for many other purposes.

58. If there is an emergency while abroad, passports are the primary way for a U.S. citizen to identify themself to U.S. officials, such as those at an embassy or consulate.

59. Passports can also be useful or necessary for travel within the United States. If a person does not have another valid form of identification, they generally cannot board a plane. Under the REAL ID Act, certain state identification documents will no longer be able to be used for domestic travel when the Act comes into effect on May 7, 2025.

60. Passports are used in a wide variety of contexts as identification documents, such as determining eligibility for employment, enrolling in government programs, and engaging in a wide range of financial transactions. Passports are also used to obtain other important forms of identification and can be used as an "identification of last resort" due to their widespread acceptance and the weight accorded a federal government document. For instance, passports can often be used to obtain driver's licenses, as proof of age, as proof of citizenship, and for educational registration.

61. Forcing transgender, nonbinary, and intersex people to carry and use identity documents that do not align with the sex they live and present themselves as, or denying them necessary identity documents, is inconsistent with protocols regarding social transition. It can cause anxiety and distress to individuals who are transgender and result in discrimination and violence against them. Additionally, for those who have struggled for years with the impact of external invalidation of their identity, the knowledge that their identification documents label them with a sex different from the sex they live as can, by itself, cause serious psychological injury.

62. Recognizing the importance of identification documents, the American Medical Association "supports every individual's right to determine their gender identity and sex

designation on government documents" and urges that governments "allow for a sex designation or change of designation on all government IDs to reflect an individual's gender identity, as reported by the individual and without need for verification by a medical professional."[9]

63. Forcing transgender people to carry and present identification that lists their sex as defined by the Executive Order can out them to officials and private citizen strangers as transgender, a profoundly private piece of information in which they have a reasonable expectation of privacy. Such a policy deprives transgender people of significant control over the circumstances surrounding disclosure of their transgender identity, including when, where, how, and to whom their identity is disclosed.

64. The Passport Policy also harms intersex people who are not transgender and who want an "M" or "F" sex designation on their passport. If, for example, someone who is intersex lives their life as a woman and presents to others as a woman and therefore wants an "F" on their passport, but the Passport Policy would require them to have an "M" on their passport, that will wrongly suggest that they are transgender or will out them as being intersex. Their being intersex is a profoundly private piece of information in which they have a reasonable expectation of privacy. The Passport Policy therefore deprives them of significant control over the circumstances surrounding disclosure of the fact that they are intersex, including when, where, how, and to whom their identity is disclosed.

65. The Passport Policy also harms nonbinary people who are not transgender and who want an "M" or "F" sex designation that is inconsistent with how the Executive Order defines their sex. Someone who meets the Executive Order's definition of male but who is nonbinary and lives their life and presents as a woman and wants an F on their passport will have it disclosed against their will that they meet the Executive Order's definition of male. That is a profoundly private piece of information in which they have a reasonable expectation of privacy. The Passport Policy

[9] Conforming Sex and Gender Designation on Government IDs and Other Documents H-65.967, Am. Med. Ass'n (2021), https://policysearch.ama-assn.org/policyfinder/detail/gender?uri=%2FAMADoc%2FHOD.xml-0-5096.xml (last accessed Feb. 6, 2025).

therefore deprives them of significant control over the circumstances surrounding disclosure of the fact that they fall within the Executive Order's definition of male, including when, where, how, and to whom that is disclosed.

66. Further, requiring people who want an "X" sex designation on their passport to instead have an "M" or "F" designation forces them to disclose whether they meet the Executive Order's definition male or female. That is a profoundly private piece of information in which they have a reasonable expectation of privacy. Such a policy deprives these people of control over the circumstances surrounding disclosure of that information, including when, where, how, and to whom that information is disclosed.

67. Disclosure that someone is transgender, nonbinary, or intersex when they do not want that information disclosed subjects that person to harm, including an invasion of privacy. It also subjects them to significant risks of discrimination and harassment in a variety of settings, including employment, travel, financial transactions, and in interactions with government employees, including, but not limited to, law enforcement personnel. Disclosure of that information can seriously jeopardize a person's safety and subject the person to risk of bodily harm.

68. In other countries and in the United States, violence, harassment, and other mistreatment of transgender, nonbinary, and intersex people is common and/or accepted, including at the hands of government officials. If a transgender, nonbinary, or intersex person's passport displays a different sex designation on their passport than the person's gender identity and/or presentation, that mismatch could cause officials to question whether the person's passport is valid and interfere with their ability to travel. It could also disclose that the person is transgender, nonbinary, or intersex to foreign officials and private citizens against the person's will. In turn, that disclosure could result in violence, harassment, arrest, imprisonment, and other mistreatment

of the person. According to reports, hundreds of transgender people were killed around the world in 2023, and similar figures exist for prior years.[10]

69. Having a sex designation on a passport that involuntarily discloses someone is transgender, nonbinary, or intersex can also cause harassment and discrimination while traveling within the United States.

C. The Passport Application and Issuance Process

70. A U.S. passport is a travel document issued under the authority of the State Department attesting to the identity and nationality of the bearer. As noted, to travel out of or into the country, a U.S. citizen must carry a U.S. passport. *See* 8 U.S.C. § 1185.[11]

71. Before a U.S. passport can be issued, the applicant "shall subscribe to and submit a written application which shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport." 22 U.S.C. § 213. A passport application must be signed under penalty of perjury. It is a criminal offense to willfully and knowingly make false statements in a passport application with intent to induce or secure issuance of a passport. *See* 18 U.S.C. § 1542.

72. A U.S. citizen applying for a passport for the first time must submit an Application for a U.S. Passport (DS-11). A U.S. citizen applying for a renewal of an existing passport must submit a Renewal Application (DS-82). Citizens can also submit a form to make corrections or name changes, including, until the Passport Policy prevented it, changes in the sex designation on one's passport (the DS-5504).

73. The DS-11 contains various fields, including for "Sex." "M" in this field indicates male and "F" indicates female.

[10] *See* Jamie Wareham, *Beaten, Stabbed and Shot: 320 Trans People Killed in 2023 - New Monitoring Report*, Forbes (Nov. 13, 2023), https://www.forbes.com/sites/jamiewareham/2023/11/13/beaten-stabbed-and-shot-320-trans-people-murdered-in-2023 (last accessed Jan. 30, 2025).

[11] Certain people who are not U.S. citizens may also utilize U.S. passports, such as residents of American Samoa.

74. From 2010 until 2021, including throughout the first Trump Administration, the State Department permitted individuals to apply to change the sex designation on their passport with certification of a physician that they were being treated for a gender transition.

75. Starting in 2021, the State Department permitted individuals to change the sex designation on their passport without a physician's certification.

76. In 2021, the State Department announced it would permit individuals to select an "X" sex designation on their passport, which the State Department form described as denoting "unspecified or another gender identity." This designation generally signifies that the bearer does not identify as male or female, identifies as both, or does not wish to specify their sex. It is important to many transgender, intersex, and nonbinary people to have an "X" sex designation on their passport because that is most consistent with how the identify and/or present themselves or for privacy reasons, since a person reviewing a passport with an "X" sex designation will not know *why* the individual has an "X" sex designation.

77. A United Nations agency, the International Civil Aviation Organization ("ICAO"), sets international standards for air transport, including for travel documents. ICAO specifications for machine-readable travel documents have for decades required passports to display the "[s]ex of the holder, to be specified by . . . the capital letter 'F' for female, 'M' for male, or 'X' for unspecified."[12]

78. Numerous other countries permit individuals to select the sex designation on their passport most appropriate for themself, including Australia, Denmark, Argentina, Greece, Brazil, Norway, Portugal, Ireland, and others. Many other countries also permit "X" designation on their passports, including Germany, Pakistan, Taiwan, Austria, Canada, Columbia, and many of the countries that permit self-selection of designation.

[12] *Doc 9303, Machine Readable Travel Documents*, International Civil Aviation Organization at IV-14 (8th ed. 2021), https://www.icao.int/publications/documents/9303_p4_cons_en.pdf (last accessed Feb. 6, 2025).

D. The Executive Order

79. Donald J. Trump was inaugurated for the second time as President of the United States on January 20, 2025.

80. That same day, President Trump signed the Executive Order, purporting to rely solely on 5 U.S.C. § 7301, which generally permits the President to issue regulations for employee conduct in the Executive Branch.

81. The Executive Order states in its "Purpose" section that it is targeted against those it calls "ideologues who deny the biological reality of sex [who] have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces and activities designed for women, from women's domestic abuse shelters to women's workplace showers." Executive Order § 1. It declares that transgender people simply existing—or in its words, "[e]fforts to eradicate the biological reality of sex"—"fundamentally attack women by depriving them of their dignity, safety, and well-being." *Id.* It claims that "[t]his unhealthy road is paved by an ongoing and purposeful attack against the ordinary and longstanding use and understanding of biological and scientific terms, replacing the immutable biological reality of sex with an internal, fluid, and subjective sense of self unmoored from biological facts." *Id.* And it calls gender identity an "inchoate social concept." *Id.*

82. The Executive Order explicitly references transgender people by suggesting that the government can prevent people from obtaining legal rights if they "self-identify" as a sex different from their sex assigned at birth—that is the definition of being transgender.

83. The Executive Order attempts to invalidate the existence of transgender, intersex, and nonbinary people by wrongly proclaiming that there are only two sexes, definable and binary at conception. Despite the order's insistence that it is communicating "biological truth," it is in fact inconsistent with science.

84. To accomplish the Trump Administration's apparent goal of ending all legal recognition of and protections for transgender, nonbinary, and intersex people, the Executive Order states that "[i]t is the policy of the United States to recognize two sexes, male and female. These

sexes are not changeable and are grounded in fundamental and incontrovertible reality." *Id.* § 2. It declares that the "Executive Branch will enforce all sex-protective laws to promote this reality, and the following definitions shall govern all Executive interpretation of and application of Federal law and administration policy." *Id.* Among the definitions are:

a. "Sex" shall refer to an individual's immutable biological classification as either male or female. "Sex" is not a synonym for and does not include the concept of "gender identity."

b. "Women" or "woman" and "girls" or "girl" shall mean adult and juvenile human females, respectively.

c. "Men" or "man" and "boys" or "boy" shall mean adult and juvenile human males, respectively.

d. "Female" means a person belonging, at conception, to the sex that produces the large reproductive cell.

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

f. "Gender ideology" replaces the biological category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true. Gender ideology includes the idea that there is a vast spectrum of genders that are disconnected from one's sex. Gender ideology is internally inconsistent, in that it diminishes sex as an identifiable or useful category but nevertheless maintains that it is possible for a person to be born in the wrong sexed body.

g. "Gender identity" reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex.

85. The Executive Order directs the Secretary of State, as well as the Secretary of Homeland Security and Director of the Office of Personnel Management, to "implement changes to require that government-issued identification documents, including passports, visas, and Global Entry cards, accurately reflect the holder's sex, as defined under section 2 of this order." *Id.* § 3(d).

86. The Executive Order requires that, "[w]ithin 30 days of the date of this order, the Secretary of Health and Human Services shall provide to the U.S. Government, external partners, and the public clear guidance expanding on the sex-based definitions set forth in this order." *Id.* § 3(a). It requires that all federal agencies and employees "enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes." *Id.* § 3(b).

87. The Executive Order also requires that all agencies "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" and that agencies' "forms that require an individual's sex shall list male or female, and shall not request gender identity." *Id.* § 3(e).

88. The Executive Order imposes various other rules related to gender, including with respect to federal employees' records, interpretation of various federal laws, recission of various agency policies, and proposals for legislation on the topic. *See id.* §§ 3–7.

E. The State Department Implements the Executive Order Through the Passport Policy

89. On January 23, 2025, news outlets began reporting that Secretary Rubio had directed the State Department to implement the Executive Order as applied to passports.[13] In particular, Secretary Rubio instructed in an internal State Department cable that "[t]he policy of the United States is that an individual's sex is not changeable" and that "sex, and not gender, shall

[13] *See* Joseph Gedeon, *Rubio Instructs Staff To Freeze Passport Applications with 'X' Sex Markers*, Guardian (Jan. 23, 2025), https://www.theguardian.com/us-news/2025/jan/23/trump-rubio-x-gender-passport (last accessed Feb. 6, 2025).

be used" on passports.[14] As a result, State Department staff were ordered to "suspend any application where the applicant is seeking to change their sex marker" and "suspend any application requesting an 'X' sex marker."[15]

90. Since then, numerous other news outlets have reported on this directive, including that it was made explicitly to implement the Executive Order.[16]

91. The State Department has not published any public notices or other guidance on this change.

92. As of February 7, 2025, the DS-11 (initial application) available online does not permit users to select an "X" in the Sex field.[17] It includes only two boxes that can be checked, for "M" and "F." The online fillable form that populates the Application likewise permits selecting only "M" or "F" in the Sex field and provides no "X" option. The posted DS-11 states that it has an expiration date of December 31, 2023, implying that the State Department has replaced the currently-approved version of the form with an older version. The same is now true of the DS-82

[14] *Id.*

[15] *Id.*

[16] *See, e.g.*, Jo Yurcaba *et al.*, *State Department To Suspend Passport Applications Seeking Sex-Marker Changes*, NBC News (Jan. 24, 2025), https://www.nbcnews.com/nbc-out/out-politics-and-policy/rubio-passport-sex-marker-changes-paused-trump-order-rcna189222 (last accessed Feb. 6, 2025); Shannon K. Kingston *et al.*, *State Department Halts 'X' Passport Gender Marker Applications*, ABC News (Jan. 24, 2025), https://abcnews.go.com/US/state-department-halts-passport-gender-marker-applications/story?id=118062178 (Jan. 30, 2025) (last accessed Feb. 6, 2025).

[17] *See* U.S. Department of State, Application for a U.S. Passport, OMB Control No. 1405-0004 (exp. Dec. 31, 2023), https://travel.state.gov/content/dam/passports/forms-fees/DS-11%20(12-31-2023)%20revision%20date%2012-2020.pdf (last accessed Feb. 7, 2025).

(renewal form) and DS-5504 (corrections and name changes), which include only "M" and "F" and have expiration dates of March 31, 2023 and November 30, 2022.[18, 19]

93. Prior to changing the forms DS-11, DS-82, and DS-5504, the State Department did not issue a 60-day notice of its intent to make any changes to such forms, depriving the public of the opportunity to comment on such changes.

94. The State Department has also removed references to transgender individuals from its public webpages. For instance, the webpage previously entitled "LGBTQI+ Travelers" has been retitled "LGB" travelers and removed travel information related to transgender people.[20] The Transportation Security Administration ("TSA") previously had webpages discussing screening procedures for transgender people and whether nonbinary individuals could apply for TSA

[18] *See* U.S. Department of State, U.S. Passport Renewal Application for Eligible Individuals, OMB Control No. 1405-0020 (exp. Mar. 31, 2023), https://travel.state.gov/content/dam/passports/forms-fees/DS-82%20(3-31-2023)%20revised%203-2020.pdf (last accessed Feb. 7, 2025); U.S. Department of State, Application for a U.S. Passport for Eligible Individuals, Correction, Name Change to Passport Issued 1 Year Ago or Less, and Limited Passport Replacement, OMB Control No. 1405-0160 (exp. Nov. 30, 2022), https://travel.state.gov/content/dam/passports/forms-fees/DS-5504-%202021.pdf (last accessed Feb. 7, 2025).

[19] The State Department has also, according to public reports, begun implementing the Executive Order in other ways, such as with a direction from the Acting Undersecretary for Management that all employees remove gender pronouns from their email signatures. *See* Carla K. Johnson, Health info wiped from federal websites following Trump order targeting transgender rights, PBS (Jan. 31, 2025), https://www.pbs.org/newshour/health/health-info-wiped-from-federal-websites-following-trump-order-targeting-transgender-rights (last accessed Feb. 6, 2025).

[20] *Compare* U.S. Department of State, Bureau of Consular Affairs, LGB Travelers, https://travel.state.gov/content/travel/en/international-travel/before-you-go/travelers-with-special-considerations/lgb.html (last accessed Feb. 6, 2025), *with* Michael K. Lavers, *Transgender people removed from State Department travel page*, Washington Blade (Jan. 31, 2025), https://www.washingtonblade.com/2025/01/31/transgender-people-removed-from-state-department-travel-page/ (reporting on prior version of webpage).

PreCheck.[21] Those pages appear to no longer be online, but they have been captured by web archives and still appear in indexed search results as of January 30, 2025.[22]

95. The State Department Foreign Affairs Manual (the "FAM") previously recognized that there were individuals that "do[] not fit typical definitions of male or female,"[23] but, although the FAM generally is available online, that section of the FAM is no longer accessible.[24]

96. The Passport Policy includes at least (a) issuing new passports, renewing existing passports, and making changes to existing passports to comply with the Executive Order's definitions of male and female, including no longer issuing "X" designations on passports, and (b) refusing to grant or suspending processing of applications to issue new passports, renewed passports, and changes to passports that would not comply with the Executive Order's definitions of male and female, including no longer granting applications for "X" designations on passports.

F. President Trump and His Administration's Longstanding Animus Against Transgender People

97. On its face, the Executive Order reflects animus against transgender people, as does the broader context in which it was adopted.

[21] *See, e.g.*, "What Are the Screening Procedures for Transgender Persons?," *Frequently Asked Questions*, Transp. Sec. Admin., https://www.tsa.gov/travel/frequently-asked-questions/what-are-screening-procedures-for-transgender-persons (not accessible as of Jan. 30, 2025); "Can I Apply for TSA Precheck® with a Nonbinary Gender and Gender Non-conforming Identity Document on the TSA Precheck Application?," *Frequently Asked Questions*, Transp. Sec. Admin., https://www.tsa.gov/travel/frequently-asked-questions/can-i-apply-for-tsa-precheckr-nonbinary-gender-and-gender-non (not accessible as of Jan. 30, 2025).

[22] *See, e.g.*, *Frequently Asked Questions*, Transp. Sec. Admin., https://www.tsa.gov/travel/frequently-asked-questions (Jan. 17, 2025 22:19:17 GMT) [https://web.archive.org/web/20250117221917/https://www.tsa.gov/travel/frequently-asked-questions] (last accessed Feb. 6, 2025) (WebArchive version as of January 17 providing guidance to transgender and nonbinary people that has since been removed).

[23] *See* 7 Foreign Affairs Manual, 1350 Appendix M (as of 2015).

[24] *See* 7 Foreign Affairs Manual, https://fam.state.gov/Volumes/Details/07FAM (1300s section is inactive).

98. For instance, President Trump has referred to transgender identities as "transgender insanity"[25] and has repeatedly referred to transgender people using derogatory labels, describing them as "deranged," "sick," and drug users.[26]

99. In just his first two weeks in office, President Trump has issued a series of orders targeting transgender people.[27]

100. He issued an executive order stating that being transgender while serving in the military "conflicts with a soldier's commitment to an honorable, truthful, and disciplined lifestyle, even in one's personal life."[28] He issued another executive order referring to women who are transgender as "men" and calling their participation in women's sports "demeaning, unfair, and dangerous," asserting that it "results in the endangerment, humiliation, and silencing of women."[29] He issued yet another executive order falsely referring to medical treatment of transgender adolescents supported by evidence-based research and by every major professional health

[25] Bill Barrow, *Trump and Vance Make Anti-Transgender Attacks Central to Their Closing Argument Before Election Day*, PBS (Nov. 1, 2024), https://www.pbs.org/newshour/politics/trump-and-vance-make-anti-transgender-attacks-central-to-their-closing-argument-before-election-day (last accessed Feb. 6, 2025).

[26] *See Fact Sheet: Donald Trump on LGTBQ Issues: Transgender Americans*, GLAAD (Aug. 20, 2024), https://glaad.org/fact-sheet-trump-transgender (last accessed Feb. 6, 2025).

[27] In addition to the Executive Order and the orders discussed in the remainder of this section of the Complaint, other executive orders include: Exec. Order 14,148, *Initial Rescissions of Harmful Executive Orders and Actions*, 90 Fed. Reg. 8237 (Jan. 20, 2025) (rescinding Biden Administration executive orders protecting transgender people); Exec. Order 14,170, *Reforming the Federal Hiring Process and Restoring Merit to Government Service*, 90 Fed. Reg. 8621 (Jan. 20, 2025) (prohibiting governmental employers from considering gender identity in hiring); Exec. Order 14,190, *Ending Radical Indoctrination in K-12 Schooling*, 90 Fed. Reg. 8853 (Jan. 29, 2025) (prohibiting teaching of transgender-related topics in schools).

[28] Exec. Order 14183, *Prioritizing Military Excellence and Readiness*, 90 Fed. Reg. 8757 § 1 (Jan. 27, 2025).

[29] *Keeping Men Out of Women's Sports* (Feb. 5, 2025) (number and Federal Register entry not yet assigned) (available at https://www.whitehouse.gov/presidential-actions/2025/02/keeping-men-out-of-womens-sports/).

association in the country as "chemical and surgical mutilation" and said that such treatment "will be a stain on our Nation's history."[30]

101. President Trump has referred to those who support transgender rights as "pushing the transgender cult."[31]

102. Secretary Rubio, who is tasked with implementing the Executive Order as applied to passports and overseeing the Passport Policy, has referred to the existence of transgender people as "a harmful ideology" and stated that being transgender is "not real."[32]

103. The Executive Order is deeply rooted in this same animus.

104. As noted above, the Executive Order refers to transgender people as "ideologues who deny the biological reality of sex." Executive Order § 1. It inaccurately and offensively states that transgender people live as their true gender to "gain access to intimate single-sex spaces," with the implication that they do so for nefarious reasons, and to "depriv[e] [women] of their dignity, safety, and well-being." *Id.* It says that merely existing as a transgender person is to "attack women." *Id.*

G. Harm to Plaintiffs

1. Ashton Orr

105. Ashton uses the pronouns "he" or "they." Ashton has lived in West Virginia his entire life and is thirty-five years old.

106. Ashton is the Press Relations Manager for a national LGBTQ+ organization, advocating for transgender rights and equality.

[30] Exec. Order 14187, *Protecting Children from Chemical and Surgical Mutilation*, 90 Fed. Reg. 8771, title and § 1 (Jan. 28, 2025).

[31] *See Fact Sheet: Donald Trump on LGTBQ Issues: Transgender Americans*, GLAAD (Aug. 20, 2024), https://glaad.org/fact-sheet-trump-transgender (last accessed Feb. 6, 2025).

[32] Ken Scheck, *JD Vance Adds to Anti-LGBTQ+ Track Record with Census Letter*, Buckeye Flame (Nov. 13, 2023), https://thebuckeyeflame.com/2023/11/13/jd-vance-adds-to-anti-lgbtq-track-record-with-census-letter (last accessed Feb. 6, 2025) (letter co-written by then-Senator JD Vance and then-Senator Rubio).

107. Ashton is a transgender man. His sex assigned at birth was female, but he has a male gender identity.

108. He was diagnosed with gender dysphoria in 2015, when he was twenty-five years old.

109. Ashton has lived as a male in all aspects of his life since 2020. He is known only as a man to his family, his workplace, and in his community in West Virginia. It has not always been easy for Ashton to be himself in public spaces, and he has experienced significant discrimination and harassment as a result of being open about his transgender identity. Having accurate identification documents helps Ashton navigate this world safely, as he is perceived as male by those who see him, and a male sex designation affirms his gender identity.

110. Ashton was able to update his West Virginia driver's license in 2023 and his Social Security Administration record in 2024 to reflect an accurate name and male sex designation. He typically travels by plane with multiple forms of identification in case he misplaces or loses either his passport or his driver's license. However, this has recently presented issues for Ashton, as the information on his passport does not match his updated and accurate driver's license.

111. For example, in early January 2025, Ashton flew from West Virginia to New York City. Because his REAL ID has a male sex designation, and his passport had a female sex designation, he was flagged by the TSA and accused of presenting a fake identification document. When TSA screened his REAL ID, they claimed it didn't match the documents they had on record for him. He offered his passport to confirm his identity, and TSA accused him of presenting a fake identity document. They repeatedly scanned his ID and took his photo multiple times before pulling him aside for further questioning. It wasn't until Ashton was forced to explain in detail that he is a transgender man that they finally allowed him through.

112. This experience prompted Ashton to take steps to update his passport.

113. On January 16, 2025, Ashton sent his passport, renewal application, birth certificate, and marriage license to apply for an updated passport with an accurate sex designation of male and paid for expedited shipping and servicing given that he had imminent travel plans. He

was informed that his application arrived on January 18 and began processing on January 22. The passport that Ashton sent with his application had a female sex designation, and his application requested an updated name and sex designation. To date, Aston has not received his passport.

114. Most urgently, Ashton needs to travel to Ireland in March of 2025. He is traveling for a medical purpose and is terrified that he will not be able to keep his medical appointment without an accurate passport, delaying his ability to access medical care.

115. Ashton is terrified that having an inaccurate sex designation on his passport will cause TSA agents, border officials, or airline staff to single him out for invasive questioning, scrutiny, or mistreatment. Ashton's past experiences of having his identity challenged, his passport refused, and being subjected to additional security screenings have led to extremely uncomfortable circumstances for him. Not having a passport with a sex designation of male could cause travel delays, missed flights, or even denial of entry to certain countries. Being forced to explain discrepancies in his documentation could out him as transgender in unsafe situations.

116. Ashton is devastated that his country is trying to erase his identity and remove his ability to access accurate identification documents. Without an accurate passport, he will not feel safe traveling outside of the United States for any reason, let alone to make his medical appointment in March.

2. Zaya Perysian

117. Zaya Perysian is twenty-two years old and uses the pronouns "she" and "her." Zaya has lived in California since October of 2023, when she moved from New Jersey. Zaya was born in Michigan and left when she was twenty years old.

118. Zaya is a transgender woman. Her sex assigned at birth was male, but she has a female gender identity.

119. Zaya was diagnosed with gender dysphoria in 2020.

120. Zaya has lived as a female in all aspects of her life since 2020, and she has been known since then only as female to her family, friends, her community in California, and her social

media followers online. Today, she feels more like herself than ever. It has been a long road for Zaya to feel safe and authentic in her body, and she is grateful to be living her truth in all aspects of her life.

121. Zaya is a social media content creator, and her content focuses mainly on her life as a proud transgender woman. She has documented her transition journey and has been able to connect with a community of LGBTQ+ individuals across the globe. Zaya's content has also allowed her to connect with millions of people who are not LGBTQ+ and she has helped educate them on what it means to be transgender in today's society.

122. Having accurate identification is extremely important to Zaya's safety and her ability to navigate the world. During the first few years after coming out as transgender, before her identification documents were updated, Zaya faced significant harassment and was often put in uncomfortable situations while traveling. She was subjected to intolerant gazes when airport personnel viewed her identification with an inaccurate, male sex designation but observed her female gender expression. She has been patted down by TSA agents expressing their interest in confirming her sex, and she has had agents say that she was the "prettiest boy" they had ever seen. It was devastating for Zaya to endure experiences like this, and it wasn't until she was able to update her driver's license that these occurrences became less frequent.

123. Zaya updated her Michigan driver's license to her accurate female sex designation in June of 2021 and her accurate name in February of 2022. She is in the process of getting a California driver's license, which will also reflect her accurate name and female sex designation. In addition, Zaya has been able to update her sex designation with the Social Security Administration. Because the passport she had in her possession had an inaccurate male sex designation, she knew that she needed to update her passport to be able to travel for work opportunities abroad. Zaya was filled with anxiety when she learned about the Executive Order.

124. Zaya had planned to travel outside of the United States in early February 2025 and submitted an expedited application to update the sex designation on her passport to female on January 23, 2025.

125. On January 24, Zaya received notice via email that her passport application was being processed. On January 28, her passport was returned to her through the mail with a notice stating: "the date of birth, place of birth, name, or sex was corrected on your passport application," with "sex" circled in red. The stated reason was "to match our records."

126. Angered, Zaya posted about the incident on her social media. A representative from CNN who heard about Zaya's situation called the State Department on her behalf to understand why this occurred, and the representative was told that the sex designation on Zaya's passport must be male in accordance with the Passport Policy. Zaya's passport now has a male sex designation, and the new expiration date is January 24, 2035. Unless Zaya is issued a correction, she will effectively have an unusable passport and will be unable to leave the country safely or comfortably for at least ten years. Zaya is perceived as female by those who see her, and using this passport will out her as transgender to people who would not otherwise have known.

127. This is particularly harmful to Zaya because she has been invited to many opportunities to connect and collaborate with other influencers abroad. Without accurate identification, she will not be able to engage in income-generating opportunities outside of the United States.

128. Zaya cannot practically travel with her current passport that does not reflect who she is. If Zaya were to present the current passport with a male sex designation, it could cause problems while interacting with TSA agents and other officers. She is even more afraid of encounters with officers in countries outside of the United States, where her passport may be the only identity document that would be accepted or recognized by officials, and where there is significant hostility towards the transgender community.

129. Zaya is devastated that her government would target her community with a policy that takes away her and other members of that community's ability to move around the world safely.

3. Sawyer Soe

130. Sawyer Soe is thirty-five years old and primarily uses the pronouns "they" and "them."

131. Sawyer works for a company that is a leader in video game development. Sawyer designs games and leads a creative team. They love what they do for work, as it allows them to express themselves creatively and build experiences that engage people of all ages. Sawyer's company has a global presence, with colleagues in the United States, Canada, South America, and Europe.

132. Sawyer is a nonbinary person. Their sex assigned at birth was female, but they do not identify with a binary sex. The term "nonbinary" accurately captures their identity.

133. Sawyer has lived as a nonbinary person in all aspects of their life since 2019. They have always known their gender identity to some degree, as they are naturally an androgynous person and that is typically how others perceive them. Today, Sawyer is fully themselves at work and among friends and family.

134. Sawyer was able to obtain a Massachusetts driver's license with an "X" sex designation in July of 2023, and this has allowed them to navigate travel and daily interactions safely and comfortably. Having an "X" sex designation on their identity documents allows them to escape the arbitrary enforcement of an identity projected on them solely based on their sex assigned at birth. The "X" designation provides Sawyer with freedom and privacy that allows them to exist in a way that is free of a label that they did not choose for themselves and that is inconsistent with how they live.

135. Sawyer has not been able to update their United States passport, which expired in 2019, in a similar manner. This was not something Sawyer sought to do during the earlier days of the COVID-19 pandemic that occurred soon after the passport's expiration because Sawyer did not travel then. Recently, Sawyer has begun traveling more. Sawyer's design team at work is planning an on-site collaboration with their colleagues in Canada, and Sawyer will be required to

travel internationally to Canada within the next three months, and potentially several more times in the coming year.

136. Sawyer would feel safer if they had an "X" sex designation on their passport because it would be consistent with their identity, it would protect their privacy as it would prevent disclosure of their sex assigned at birth to strangers, and it would match the other identity documents that they currently carry. Due to the Passport Policy, Sawyer will no longer be able to obtain an "X" sex designation on their passport that accurately reflects who they are, how they express their identity, and how others perceive them.

4. Chastain Anderson

137. Chastain Anderson has lived in the Richmond area since 2018, when she moved from Louisiana. Chastain uses the pronouns "she" or "they."

138. Chastain holds a Ph.D. in Molecular and Cell Biology and is a board-certified toxicologist. She works as a Principal Scientist with a global consumer product company, where she has been employed for six years. Chastain loves her job, and she loves working in the consumer toxicology space, specifically with respect to applying new and emerging technologies to issues impacting human health.

139. Chastain is a transgender woman. Her sex assigned at birth was male, but she has a female gender identity.

140. She was diagnosed with gender dysphoria in 2015.

141. Chastain has lived as a female in all aspects of her life since 2015. Since then, she has been known only as a female to her family, to her workplace, and in her community. Chastain legally changed her name to "Chastain" in September of 2016 via court order in Louisiana.

142. When Chastain interacts with others, they perceive her as a female. This is not only affirming for her, it keeps her safe.

143. As Chastain's career has progressed, she now needs to travel internationally for work with increasing frequency. She has a work conference in France in October that is sponsored

by CORESTA, an organization whose mission is to promote and facilitate international cooperation and best practices in scientific research related to tobacco. It is important for Chastain's career and for her company that she attend this conference, as she has the requisite subject matter expertise to represent her company globally among scientists in her field of work.

144. Chastain was able to update her Virginia driver's license in 2019 to an accurate, female sex designation, but her passport has a male sex designation. She sent her passport in for expedited processing on December 27, 2024 to a passport agency in Philadelphia to receive an accurate, female sex designation.

145. Having a female sex designation on her driver's license has been very important to Chastain, as it has resulted in her rarely being misgendered when presenting her driver's license, which ensures her safety as she navigates local and domestic travel. Before having an accurate driver's license, she would face issues carrying out everyday tasks. For example, providing a driver's license with an inaccurate sex designation has outed Chastain as transgender when trying to attend concerts, order drinks, open a bank account, and lease an apartment.

146. Chastain is terrified that having an inaccurate sex designation on her passport will place her in uncomfortable and unsafe circumstances. Her fears are justified: in 2017, prior to updating her driver's license to her accurate sex designation, she had a harrowing experience going through a TSA security checkpoint at the Richmond Airport. Two agents isolated Chastain in a holding area, where she was left alone for thirty minutes, until a manager entered and conducted a strip search of her body. She believes that this was a direct result of the perception that her outward appearance did not match the sex designation on her license.

147. Chastain has reached a stage in her career that requires her to travel internationally more frequently, and traveling with an inaccurate passport is not a viable option for her. Chastain is suffering from anxiety knowing that a document that is supposed to help identify her will now not only make it harder to identify her, but will also likely put her safety at risk when she uses it, both abroad and during her return to the United States.

148. Chastain is further concerned that having an inaccurate passport will lead to confusion and increased processing times when traveling internationally, and may result in missed calls, meetings, or flights, and in lost opportunities, creating a financial burden. She is also disheartened that she will potentially lose out on advancement potential at her company given the fact that her cisgender colleagues will be able to attend important international meetings and conferences that she cannot.

5. Drew Hall

149. Drew Hall is twenty-five years old and use the pronouns "they" and "them."

150. Drew is currently a Ph.D. student in Botany at the University of British Columbia ("UBC") in Vancouver, British Columbia in Canada. Drew has lived in Vancouver since August 2022 when their program began, and they will live there until approximately 2027–2028 when their program concludes. In addition to studying at UBC, Drew works as a Research Assistant and Teaching Assistant at their university.

151. Drew's sex assigned at birth was male, but they do not have a male gender identity.

152. Drew was diagnosed with gender dysphoria in August of 2024.

153. Drew identifies as a nonbinary femme person, which means that even though their sex assigned at birth was male, they do not live as or identify as male and instead express themselves in a feminine manner.

154. Drew has lived as a nonbinary person in all aspects of their life since 2024, and they have known that their gender identity was different than their sex assigned at birth since 2022. Drew is known as a nonbinary person to their family, to their classmates and professors, and in their community. Drew finally feels like themself and that those around them see them for who they are.

155. Drew is frequently required to travel internationally because they have been studying and living full time in Canada for over two years and will be in Canada for several more years. Drew's family lives in Wisconsin, and Drew travels back to the United States at least four

to five times a year. Two to three of those visits are typically to see their family in Wisconsin, and the other visits are to see close friends in Washington and Oregon, given their proximity to those two states. Most pressingly, Drew needs to travel to Wisconsin for a family wedding in May and for a botany conference in July.

156. Drew legally changed their name by court order in Wisconsin in December 2024, and has updated the sex designation with the Social Security Administration and on their driver's license, which now both accurately reflect the name "Drew" and an "F" for their sex designation. Drew's birth certificate has an updated name but not an updated sex designation because Wisconsin requires a proof of sex change, which Drew cannot provide at this time.

157. When Drew interacts with government officials, they do not perceive Drew as male. Instead, Drew is perceived as a femme person. This is not only affirming for Drew, it keeps them safe.

158. Drew's United States passport (which is their only passport) still reflects an inaccurate name and a male sex designation. On January 9, 2025, Drew mailed their passport to the State Department's national processing center and requested an updated female sex designation and name change on their passport. Drew was notified by email that their passport arrived at the center on January 17. Drew has received no further updates since January 17 and does not know whether the agency will return a passport that accurately reflects how they identify and express their identity and that matches their other identity documents. Drew currently does not have access to their passport and therefore currently is unable to leave Canada.

159. Drew relies on their passport frequently to travel back to the U.S. to see their family and friends. There are also many other reasons Drew uses their passport while living in Canada. To open a bank account in Vancouver, Drew is required to present their U.S. passport. Drew's employer (UBC) requires Drew's passport for their employment at the university. Any time Drew interacts with the Canadian government, they need to present their U.S. passport, as it is the only form of identification that Canada recognizes for non-citizens and non-permanent residents. Without their passport, Drew is facing many struggles residing in Canada. These problems are

being caused by the Agency Defendants' suspension of the processing of Drew's application for a changed sex designation and name change on their passport, and by the Agency Defendants holding Drew's current passport.

160. Drew is deeply concerned that continuing to have a male sex designation on their passport will lead to negative and invasive interactions with border agents and TSA employees as a result of the increased hostility in the United States and elsewhere toward gender-nonconforming people like Drew—hostility that the Executive Order and Passport Policy embrace and cause. Given that their other identity documents have been updated, Drew is also worried that continuing to carry a passport with a name and sex designation that does not match their other identity documents will lead to even more confusion and distress each time they must present their passport. Additionally, continuing to have non-matching documents may present other challenges for Drew, including with respect to their temporary status documents in Canada, and when they visit places where multiple forms of identification are required. Drew's most recent encounters with border agents underscore these fears: border agents have regarded Drew with more suspicion due to their gender nonconformity.

161. If Drew were to have to continue to carry a passport with a male sex designation, they are afraid that they will encounter additional, invasive scrutiny and harassment every time they use it, including because hostility toward gender nonconforming people like Drew has increased and continues to grow. Drew is not perceived as male given their feminine expression, and they would not feel safe traveling in the future, especially internationally, with documentation that inaccurately indicates a male sex designation. Given how they express their identity and the way they are perceived by other people, continuing to have a male sex designation on their passport will indicate to any person who looks at Drew's passport that they are transgender. This causes Drew significant anxiety, especially because of the recent increase in anti-transgender rhetoric and violence in the United States and elsewhere.

162. Drew feels alienated knowing that the U.S. government refuses to recognize them for who they are. Having a passport that does not match who they are makes them afraid to return

to the United States. And not having a passport—due to the State Department not returning it—also creates the significant challenges described above.

6. Bella Boe

163. Bella Boe has lived in Cambridge since 2024, when she moved from New Jersey. Bella is 18 years old and uses the pronouns "she" or "her."

164. Bella is a freshman in college studying government.

165. She is a transgender woman.

166. She was diagnosed with gender dysphoria in 2017.

167. Bella has lived as female in all aspects of her life since she was 11 years old. Today, she feels fully herself. Bella is currently known only as female to her family, to staff and peers at her school, and in her communities in New Jersey and Cambridge.

168. Bella is active on campus. She is passionate about theater and the arts, and her school offers many opportunities for her to participate in international programs and theater productions. Bella is currently the stage manager for her theater group at school, which means she manages and runs productions. Bella loves being a stage manager because it provides her with an opportunity to build leadership skills and it allows her to be fully immersed in an art that she has loved and engaged in since she was six years old. Bella's theater group travels around the world to put on shows for a range of audiences. For example, she is excited to serve as stage manager for a production by her theatrical association in Bermuda in March 2025.

169. Bella similarly hopes to study abroad while obtaining her undergraduate degree, and she plans on doing so in England.

170. Bella is only able to partake in these opportunities because she has travel documents, like her passport, that accurately reflect who she is. That safety allows her to fulfill her educational dreams and goals.

171. When Bella travels and interacts with government officials, they perceive her as a female. This is not only affirming for Bella, it keeps her safe.

172. Bella's most recent passport, which she received in 2021, has a female sex designation. She sent her passport in for renewal on January 23, 2025, to ensure that her current passport would remain usable for as long as possible. Having a female sex designation on her passport affords Bella safety and reassurance while traveling. She is terrified that, under the Passport Policy, she will no longer be able to travel safely.

173. Bella would feel uncomfortable traveling with a passport that inaccurately stated a male sex designation. Not only would this reflect an attempt to erase who she is, it would be confusing for government officials who would otherwise identify her as female based on her gender expression and invite additional, stressful scrutiny. Bella does not want her passport to out her as transgender every time she uses it, especially when traveling outside of the United States in countries that are not accepting of transgender people.

174. Without an accurate passport, Bella will be forced to miss out on many educational opportunities that her cisgender peers are afforded, including opportunities that would advance her own passions, education, and future career. Without an accurate passport, Bella will not be able to leave the United States without anxiety and fear for her safety.

7. Reid Solomon-Lane

175. Reid Solomon-Lane is thirty-six years old and uses the pronouns "he" and "him." He has lived in Massachusetts since July of 2022, when he moved there from Austin, Texas. Reid lives in North Adams with his wife and three young children.

176. Reid was a flight attendant for more than eight years and now serves as a flight coordinator for a volunteer pilot organization.

177. Reid is a transgender man. His sex assigned at birth was female, but he has a male gender identity.

178. Reid was diagnosed with gender dysphoria in 2007.

179. Reid has lived as a man in all aspects of his life since 2007. Since then, he has been known only as male to his family, his workplace, and in his community in Massachusetts, and he

is perceived only as male by people who see him. This allows Reid to feel safe in interactions with new people and prevents him from having to come out as transgender with each encounter.

180. This safety is especially essential for Reid while he is traveling.

181. Reid is frequently required to travel internationally because his mother-in-law purchased a home in Ireland three years ago and spends a lot of her time there. Reid and his family travel to Ireland so that Reid's mother-in-law can see her grandchildren. Reid also visited Montreal in 2022 and has plans to return to Montreal with friends in the next year given that he and his family are just across the border from Canada.

182. Reid legally changed his name in 2007 via court order in Texas. His name and sex designation have been updated with the Social Security Administration and on his driver's license, which now both accurately reflect his name and his being male.

183. Reid's United States passport also reflects an accurate name and male sex designation, and expires in 2028. Having an accurate passport provides Reid comfort, especially when traveling with three young children outside of the United States. If Reid did not have a passport that reflects who he is, it would dramatically impact the way he travels. Reid would be less secure leaving the country with his children, as having a sex designation that so flagrantly does not match his outward gender expression would potentially put him and his children at risk. Because Reid's passport serves as an identity and citizenship document that accurately reflects his gender identity and presentation. He uses it for dentification and citizenship verification. Removing access to an accurate passport will cause Reid repeated stress and risk serious problems from it outing himself in routine interactions.

184. Reid thought he was at the point in his life where he could live his life with safety and dignity, as an adult, as a husband, and as a parent. If his passport were to reflect a sex designation that is inconsistent with who he is, that safety and dignity will be taken away from him.

CLASS ACTION ALLEGATIONS

185. Plaintiffs bring this action for themselves and on behalf of others similarly situated pursuant to Federal Rule of Civil Procedure 23(b)(2). Plaintiffs seek certification of the following Classes:

a. All people who currently want, or in the future will want, to apply for, apply to renew, or apply to change a U.S. passport and wish to use an "M" or "F" sex designation on their passport that aligns with their gender identity but does not match how the Executive Order defines their sex; and

b. All people who currently want, or in the future will want, to apply for, apply to renew, or apply to change a U.S. passport and wish to use an "X" sex designation.

186. Excluded from the Classes are: (1) any Judge or Magistrate presiding over this action and any members of their families and (2) Defendants.

187. The Classes are each so numerous that joinder of all members is impractical. As alleged above, there are more than 1.6 million transgender people in the United States, more than 1.2 million nonbinary people, and as many as 5.6 million intersex people. A high percentage of those people need and want to have passports with a sex designation the State Department will refuse to issue them under the Passport Policy.

188. There are questions of law and fact common to the each whole Class, including (but not limited to):

a. Whether the Passport Policy and the Executive Order as applied to passports discriminate on the basis of sex in violation of the Fifth Amendment;

b. Whether the Passport Policy and the Executive Order as applied to passports discriminates on the basis of transgender status in violation of the Fifth Amendment;

c. Whether the Passport Policy and the Executive Order as applied to passports are motivated by illegitimate animus;

d. Whether the Passport Policy and the Executive Order as applied to passports infringe the Fifth Amendment rights to free movement and travel;

e. Whether the Passport Policy and the Executive Order as applied to passports infringe the Fifth Amendment right to privacy;

f. Whether the Passport Policy and the Executive Order as applied to passports infringe the First Amendment right to free speech and expression;

g. Whether the discrimination perpetuated by the Passport Policy and the Executive Order as applied to passports survives the requisite level of scrutiny, including:

i. The legitimacy and strength of the government interests asserted in support of it; and

ii. The extent to which it serves, is related to, or is tailored to those interests; and

h. Whether the Passport Policy is arbitrary, capricious, an abuse of discretion, or otherwise contrary to the APA.

189. Plaintiffs' claims are typical of the claims of the Class members they represent. Plaintiffs have been harmed by the same Defendants and on the same basis as all members of the Classes they represent, including because Defendants' actions violate Plaintiffs' and the Class members' constitutional rights, are in violation of law, and are arbitrary and capricious and otherwise in violation of the APA. Plaintiffs seek the same relief as all Class members they represent.

190. Plaintiffs will fairly and adequately protect the interests of the Classes they represent and have retained counsel competent and experienced in similar litigation, including class actions. Plaintiffs are committed to the vigorous prosecution of this suit and have no interests that are adverse to the Classes. Plaintiffs are represented by experienced counsel from the American Civil Liberties Union Foundation, the ACLU Foundation of Massachusetts, and the law firm of Covington & Burling LLP. The attorneys affiliated with the above law firm and

organizations, and who are appearing in this matter, have extensive experience in complex constitutional litigation and class action litigation. They also have extensive experience representing transgender litigants. Plaintiffs' counsel intends to describe their credentials more fully in any forthcoming motion for class certification.

191. Defendants have acted or refused to act on grounds that apply generally to the Classes, and final injunctive or declaratory relief is appropriate for the Classes as a whole. The Passport Policy and the Executive Order as applied to passports apply to every member of the Classes and cause the same injuries. Defendants' refusal to provide Plaintiffs and members of the Classes with accurate sex designations on their passports—as a result of Defendants' views on the meaning of sex and animus toward transgender, intersex, and nonbinary people—applies to both entire Classes. Injunctive or declaratory relief that the Passport Policy and the Executive Order as applied to passports are unconstitutional and unlawful and that the Passport policy violates the APA would benefit the each entire Class in the same way and remedy the same injuries as to each entire Class.

192. All Class members have been injured by Defendants' conduct and will continue to be injured by Defendants' conduct going forward unless declaratory or injunctive relief prevents that continued and future injury.

CLAIMS

FIRST CAUSE OF ACTION
(Fifth Amendment – Equal Protection)
All Defendants

193. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

194. The Fifth Amendment provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law." The Supreme Court has held that the Due Process Clause includes a guarantee against the United States of equal protection of the laws equivalent to that guaranteed against the States by the Equal Protection Clause of the Fourteenth Amendment.

195. The Passport Policy and the Executive Order as applied to passports violate the Fifth Amendment's equal protection guarantee in at least two distinct ways and do so both facially and as applied. Defendants' actions have harmed Plaintiffs and the putative Class members by depriving them of the equal protection of the laws and will continue to deprive Plaintiffs and the putative Class members of that constitutional protection unless Defendants are permanently enjoined and their unlawful actions set aside.

Discrimination Based on Sex

196. The Passport Policy and the Executive Order as applied to passports draw a facial sex-based classification; that cannot be justified under the requisite heightened scrutiny or under any standard of constitutional review.

197. The Passport Policy and the Executive Order as applied to passports define "female" as a "person belonging, at conception, to the sex that produces the large reproductive cell" and "male" as a "person belonging, at conception, to the sex that produces the small reproductive cell," and then restricts sex designations on passports to those definitions of "male" and "female." That is a sex classification.

198. If, for example, Plaintiff Perysian, who lives and expresses herself as a woman, and has a female gender identity, were a "person belonging, at conception, to the sex that produces the large reproductive cell," the Passport Policy and the Executive Order as applied to passports would provide her a female sex designation on her passport. But because Plaintiff Perysian is a "person belonging, at conception, to the sex that produces the small reproductive cell," the Passport Policy and the Executive Order as applied to passports force her to have a male sex designation on her passport. Or if Plaintiff Solomon-Lane, who lives and expresses himself as a man, and has a male gender identity, were a "person belonging, at conception, to the sex that produces the small reproductive cell," the Passport Policy and the Executive Order as applied to passports would provide him a male sex designation on his passport. But because Plaintiff Solomon-Lane is a "person belonging, at conception, to the sex that produces the large reproductive cell," the Passport Policy and the Executive Order as applied to passports prohibit that.

199. By issuing passports with a female sex designation to women who meet the Executive Order's definition of female but denying it to women who do not, and by issuing passports with a male sex designation to men who meet the Executive Order's definition of male but denying it to men who do not, the Passport Policy and the Executive Order as applied to passports facially classify based on sex.

200. The Passport Policy and the Executive Order also classify on the basis of sex in its treatment of nonbinary and intersex people who desire an "X" sex designation on their passport. Rather than allowing them to obtain a sex designation that accords with how they live their lives and express themselves, or allowing them to obtain an unspecified sex designation, the Passport Policy and the Executive Order as applied to passports require that intersex and nonbinary people's sex designations conform to the Executive Order's definition of female or male. This facially enforces the government's binary and specific sex designations—that is, that a person the Executive Order defines as male must have a passport that labels that person as a man and a person the Executive Order defines as female must have a passport that labels that person as a woman regardless of how they live and express themselves.

201. The Executive Order and Passport Policy were implemented in part because of, and not simply in spite of, their adverse effects on the ability of people to depart from overbroad expectations about sex. That, too, warrants heightened scrutiny as a sex classification.

202. Defendants cannot justify the sex classification utilized by the Passport Policy and the Executive Order as applied to passports under the requisite heightened scrutiny or any level of equal protection scrutiny. The Passports Policy's sex classification is not substantially related to an important government purpose. Reversing the previous policy permitting Americans to passport sex designations that are consistent with the sex they live and express and replacing it with a policy that requires sex designations on passports that are not consistent with Americans' identities or expression does not rationally advance any legitimate government interest—let alone substantially advance an important governmental objective.

203. In addition, the Passport Policy and the Executive Order as applied to passports are impermissibly premised on assumptions, expectations, stereotypes, or norms about the nature of sex, including that it is entirely determined by the definitions of male and female utilized by the Passport Policy and mandated by provided in the Executive Order, and their insistence that sex can only be a binary characteristic (*i.e.*, either male or female) notwithstanding that for some people it is not exclusively one or the other. Under the Passport Policy and the Executive Order as applied to passports, Plaintiffs and the putative Class members are precluded from obtaining passports that they may use without violation of their rights and risking serious harms due to the assumption, expectation, stereotype, and norm that a person defined by the Passport Policy and the Executive Order as male must live and present as male, and a person so defined female must live and present as female. Plaintiffs and the putative Class members do not adhere to that assumption, expectation, stereotype, and norm, and the Executive Order denies them usable passports entirely on that basis. If Plaintiffs and the putative Class members belonged, at conception, to the sex that produces a different size reproductive cell and adhered to the assumption, expectation, stereotype, and norm of such a sex, the Executive Order would permit Plaintiffs and the putative Class members to obtain a useable passport.

Discrimination Based on Transgender Status

204. The Passport Policy and the Executive Order as applied to passports also classify citizens based on transgender status, and that classification cannot be justified under the requisite heightened scrutiny or under any standard of constitutional review.

205. On its face, the Passport Policy and the Executive Order as applied to passports classify based on transgender status.

206. The Passport Policy and the Executive Order as applied to passports deny transgender people, but not cisgender people, a passport that they can use without disclosing sensitive personal information about their transgender status and risking discrimination, harassment, and violence solely because they are transgender. The Passport Policy and the

Executive Order as applied to passports therefore facially treat people differently on the basis of being transgender.

207. Even if the Passport Policy and the Executive Order did not facially classify based on transgender status, they were implemented in part because of, and not simply in spite of, their adverse effects on transgender people.

208. Classifications based on transgender status independently warrant heightened scrutiny.

209. Transgender individuals as a group possess all the indicia of a suspect or quasi-suspect class that have been identified by the Supreme Court as requiring courts to apply heightened scrutiny. Transgender people have obvious, immutable, or distinguishing characteristics that define that class as a discrete group and these characteristics bear no relation to transgender people's abilities to perform in or contribute to society. Transgender people have historically been subject to discrimination across the country and remain a small minority of the American population that lacks the political power to protect itself through the political process. Gender identity is a core, defining trait that cannot be changed voluntarily or through medical intervention, and is so fundamental to one's identity and conscience that a person should not be required to abandon it as a condition of equal treatment.

210. Limiting a person's passport to whether they belonged at conception to a sex that produces a particular size reproductive cell does not substantially advance an important governmental interest.

211. Further, the Passport Policy and the Executive Order as applied to passports fail any level of equal protection scrutiny because they were motivated by animus against transgender people, as illustrated both by the statements of animus described in this Complaint and by the text of the Executive Order itself. As explained, President Trump and members of his Administration have repeatedly made derogatory and extreme comments about transgender people, including linking them as a class to violence and sexual predation. The Executive Order itself wrongly states that those who identify as transgender are "ideologues who deny the biological reality of sex [and]

have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces and activities designed for women, from women's domestic abuse shelters to women's workplace showers." Executive Order § 1. It repeatedly links being transgender with seeking to harm women. *See id.* There is no empirical support for these assertions, and they are deeply offensive to and dehumanizing of hundreds of thousands of transgender Americans who exist in every part of this country.

SECOND CAUSE OF ACTION
(Fifth Amendment – Right to Travel)
All Defendants

212. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

213. The Fifth Amendment provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law," and the Supreme Court has held that the liberties protected by this Due Process Clause include fundamental rights to free movement and travel, including travel abroad.

214. The Executive Order infringes the constitutional rights of Plaintiffs and the putative Class members to free movement and travel, both facially and as applied. Defendants' actions have harmed Plaintiffs and the putative Class members by violating their constitutional right to travel and will continue to violate that right unless the Defendants are permanently enjoined and their unlawful actions set aside.

215. Federal law generally prohibits U.S. citizens from traveling out of or into the country without a valid U.S. passport. *See* 8 U.S.C. § 1185(b). Foreign countries likewise generally bar entrance by U.S. citizens without a valid U.S. passport and/or condition issuance of a necessary visa on holding a valid U.S. passport. As explained in this Complaint, and incorporated here, when traveling abroad, U.S. passports are necessary or practically necessary for numerous purposes and are often the only form of identification carried by a U.S. citizen that will be recognized or acknowledged by foreign authorities or private citizens abroad.

216. The Passport Policy and the Executive Order as applied to passports infringe the fundamental right of the Plaintiffs and the putative Class members to free movement and travel.

217. The Passport Policy and Executive Order as applied to passports will entirely prevent certain transgender, nonbinary, and intersex individuals from leaving or returning to the United States because their gender identity is different from that specified by the Executive Order.

218. The Passport Policy and the Executive Order as applied to passports force Plaintiffs and the putative Class members to either not receive a passport or to receive a passport that puts them at risk of harassment, discrimination, violence, and—in travel to some countries—arrest and imprisonment. The Executive Order thereby gives Plaintiffs and the putative Class members a Hobson's choice: accept a passport that poses these extreme risks on the one hand or be denied any form of international travel or admittance back into the United States from foreign travel on the other.

219. Many transgender, nonbinary, and intersex individuals present to the world consistent with their gender identity, rather than their sex as identified under the Executive Order's definitions of male and female. For such individuals, government authorities in the U.S. and around the world may question whether a person's passport is authentic or accurate due to the mismatch between the sex they present as and the sex designation on their passport. For example, if someone is a transgender woman and presents as a woman but, under the Executive Order, is forced to select "M" on her passport because she is defined by the Passport Policy and the Executive Order as male, government authorities may question whether the passport is authentic and/or whether the holder is entitled to use it. Foreign authorities who question whether a passport is authentic can create substantial difficulties or even dangerous treatment for transgender, intersex, and nonbinary Americans when traveling—including confiscation of the passport and detention, as well as arrest and imprisonment in countries where it is illegal to be transgender. Accordingly, the Passport Policy and Executive Order can directly and foreseeably result in substantial barriers to the exercise of the fundamental rights of Plaintiffs and the putative Class members to free movement and travel.

220. Reversing the previous policy permitting Americans to obtain sex designations on passports that align with the sex they know themselves to be and present as and replacing it with a policy that requires sex designations on passports that do not do so does not rationally advance any legitimate government interest—let alone substantially advance an important governmental objective.

THIRD CAUSE OF ACTION
(Fifth Amendment – Privacy)
All Defendants

221. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

222. The Fifth Amendment provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law," and the Supreme Court has held that the liberties protected by this Due Process Clause include avoiding forced disclosure of private and intimate information.

223. Both facially and as applied, the Passport Policy and the Executive Order as applied to passports infringe the constitutional liberty interests of Plaintiffs and the putative Class members, including the right to maintain intimate information as private. Defendants' actions have harmed Plaintiffs and the putative Class members by violating their constitutional rights and will continue to violate the rights of Plaintiffs and putative Class members unless the Defendants are permanently enjoined and their unlawful actions set aside.

224. For transgender, nonbinary, and some intersex people, whether "at conception" they "belong[ed] to" "the sex that produces the large reproductive cell" or "the small reproductive cell" is highly sensitive and personal medical information.

225. Requiring transgender, nonbinary, and intersex people to be identified as "male" or "female" on their passports, when that is not the sex they live and express, reveals private, intimate, and sensitive information about them to others without their consent, and is deeply invasive. Such forced disclosure of a person's transgender, nonbinary, or intersex status can put their safety at

risk, given that transgender, nonbinary, and intersex people are often subject to violence, harassment, and mistreatment on the basis of not being cisgender or identifying in binary terms.

226. Under the Passport Policy and Executive Order as applied to passports, Plaintiffs and the putative Class members are required to display their sex as determined by the Executive Order, when that does not match their gender identity or gender presentation. As a result, the Passport Policy and Executive Order as applied to passports force disclosure of Plaintiffs' and the putative Class members' transgender, nonbinary, or intersex status against their will, thereby revealing private, intimate, and sensitive information and potentially inviting violence, harassment, and mistreatment. By contrast, providing them "M" or "F" to align with their gender identity, or providing an "X," does not reveal this private and sensitive information.

227. Because the Executive Order infringes a fundamental right, it is subject to strict scrutiny. It fails that scrutiny because it is not narrowly tailored to advance a compelling government interest. It also does not even rationally advance any legitimate government objective. The conclusory government interests identified in the text of the Executive Order are inaccurate and motivated by animus. In addition, denying transgender, nonbinary, and intersex people accurate passport sex designations is not rationally related to achieving even the illegitimate interests identified by the Executive Order.

FOURTH CAUSE OF ACTION
(First Amendment)
All Defendants

228. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

229. The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech . . . ."

230. The Passport Policy and the Executive Order as applied to passports violate the First Amendment rights of Plaintiffs and the putative Class members to free speech and expression.

231. Under the First Amendment, the government cannot require a person to convey a controversial, ideologically-infused message with which they disagree. The Passport Policy and the Executive Order as applied to passports force transgender people and individuals who do not identify as male or female to either (a) forgo having a passport or (b) express the government's counter-factual and ideologically-infused message that their sex is what the Executive Order defines it to be each time they apply for or use a passport with the definition of sex mandated by the Passport Policy and the Executive Order as applied to passports—a message with which they strongly disagree.

232. The Passport Policy and the Executive Order as applied to passports therefore impermissibly require compelled speech.

233. Underscoring that this is compelled speech, many people would reasonably fear that the Passport Policy raises the possibility that the Administration may seek to prosecute them for perjury if they fill out the sex designation field on the State Departments' passport application accurately, instead of following the Administration's factually incorrect definition of sex.[33]

234. Even if the sex designation on a passport were considered government speech, the fact that the government forces the passport bearer to communicate the government's message every time they travel internationally, on all other occasions when passports must be used, or any other time when they are used, violates their First Amendment rights by forcing them to participate in the dissemination of an ideological message with which they do not agree. A passport is an item that is readily associated with an individual, and the government cannot use it to force someone to convey the government's ideologically-infused speech with which they disagree.

235. Because the Passport Policy and the Executive Order as applied to passports force individuals to communicate an ideological message with which they disagree, they are subject to strict scrutiny. The Passport Policy and the Executive Order as applied to passports engage in this infringement of a First Amendment right without any meaningful justification, let alone the

[33] For the avoidance of doubt, Plaintiffs do not agree that any such prosecution would be factually or legally appropriate.

compelling government interest that the Constitution requires. They also are not narrowly tailored to achieve any such interest. Even if a lower level of heightened scrutiny applied, the Passport Policy and the Executive Order as applied to passports would fail because they lack an important governmental objective, and the means the Defendants employ are not substantially related to achieving any legitimate and sufficient objective.

FIFTH CAUSE OF ACTION
(Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq*., 706 – Contrary to Constitutional Right, Power, Privilege or Immunity)
Agency Defendants

236. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

237. The APA, 5 U.S.C. §§ 500 *et seq.*, provides that courts "shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . contrary to constitutional right, power, privilege, or immunity . . . ." 5 U.S.C. § 706(2).

238. The Executive Order is, by its terms, binding on the Agency Defendants, and on information and belief, as publicly reported and recounted above, the Secretary of State and State Department have already taken concrete steps to implement the Executive Order. The Secretary of State and State Department's Passport Policy and implementation of the Executive Order constitute a final agency action under the APA. As a result of that action, each Plaintiff must either: (1) attempt to obtain a passport with a sex designation that will necessarily be denied due to the Executive Order, or (2) select a sex designation that does not match who they are, in violation of their rights, and that risks subjecting Plaintiffs and the putative Class members to violence and harassment. Further, as a direct result of agency action, Plaintiffs and the putative Class members cannot renew existing passports with their appropriate sex designation without fear that it will be confiscated or its processing suspended once it is submitted to the State Department. For example, Plaintiff Perysian, who is a transgender woman and presents as female, applied for a passport with an "F" sex designation on January 23, 2025, shortly after President Trump's inauguration. The

State Department denied Plaintiff Perysian a passport with an "F" sex designation and issued her passport instead with an "M" sex designation.

239. For the reasons described in the preceding claims, and incorporated here, the Passport Policy and any agency actions taken under the Executive Order are "contrary to constitutional right, power, privilege, or immunity," 5 U.S.C. § 706(2)(B), and therefore must be held unlawful and set aside. In particular, as described above, those actions violate the Due Process Clause of the Fifth Amendment for multiple independent reasons and violate the First Amendment.

SIXTH CAUSE OF ACTION
(Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq*., 706 – Arbitrary, Capricious, and Abuse of Discretion)
Agency Defendants

240. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

241. The Administrative Procedure Act ("APA"), 5 U.S.C. §§ 500 *et seq.*, provides that courts "shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. . . ." 5 U.S.C. § 706(2).

242. The Executive Order is, by its terms, binding on the Agency Defendants, and on information and belief, as publicly reported and recounted above, the Secretary of State and State Department have already taken concrete steps to implement the Executive Order. The Secretary of State and State Department's Passport Policy and implementation of the Executive Order constitute a final agency action under the APA. As a result of that action, each Plaintiff must either: (1) attempt to obtain a passport with a sex designation that will necessarily be denied due to the Executive Order, or (2) select a sex designation that does not match who they are, in violation of their rights, and that risks subjecting Plaintiffs and the putative Class members to violence and harassment. Further, as a direct result of agency action, Plaintiffs and the putative Class members cannot renew existing passports with their appropriate sex designation without fear that it will be confiscated or its processing suspended once it is submitted to the State Department. For example,

Plaintiff Perysian, who is a transgender woman and presents as female, applied for a passport with an "F" sex designation on January 23, 2025, shortly after President Trump's inauguration. The State Department denied Plaintiff Perysian a passport with an "F" sex designation and issued her passport instead with an "M" sex designation.

243. Agency actions taken under the Executive Order are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2)(A), for multiple independent reasons.

244. The challenged agency actions are arbitrary, capricious, and an abuse of discretion because they are irrational and unreasonable:

a. The classifications imposed by the Passport Policy (as mandated in the Executive Order) are not based on scientific or medical knowledge or evidence. To the contrary, they contradict current scientific and medical understandings and are based on an animus-laden view of sex, gender identity, and being transgender, nonbinary, or intersex, that is divorced from reality. Even though medical and scientific evidence—and the lives of millions of people—attests to the existence of transgender, nonbinary, and intersex people, the Passport Policy and Executive Order sweep that evidence aside in favor of empty rhetoric unmoored from facts.

b. The Passport Policy (per the Executive Order) also defines "male" and "female" as a person who "at conception" "belong[s]" to the sex that produces the large or small reproductive cell—but, as explained above and incorporated here, embryos with either XX or XY chromosomes have undifferentiated reproductive cells during the initial period after conception.

c. In addition, grouping all people into "male" and "female" based on which reproductive cell is likely to be produced ignores the established biological reality that some individuals are intersex and do not, at conception, belong to a sex that produces either large or small reproductive cells.

d. Requiring sex designations based upon the sex a person "belong[s]" to "at conception" based upon the reproductive cells they are likely to produce does not further an interest in accurately identifying passport holders.

245. Further, the challenged agency actions are arbitrary, capricious, and an abuse of discretion because they are unsupported by a reasoned explanation:

a. The Agency Defendants have provided no meaningful explanation for their removal of the option for people to use a designation for their sex as they live and express it, nor does the Executive Order do so.

b. The Agency Defendants have provided no meaningful explanation for their removal of the option for people to not specify their sex by using the "X" designation, nor does the Executive Order do so.

c. The Agency Defendants have provided no meaningful explanation for their attempt to proclaim it the policy of the United States that transgender, nonbinary, and intersex people do not exist. The Executive Order and Passport Policy entirely fail to address any of the medical and scientific evidence demonstrating the importance of legal recognition of transgender, nonbinary, and intersex people and the medical and practical importance of accurate identification.

d. Further, the Agency Defendants have failed to explain what alternatives, if any, were considered to address any potential legitimate interests the Passport Policy could serve, nor does the Executive Order do so. This includes less restrictive alternatives and those that do not discriminate on the basis of sex or being transgender, nonbinary, or intersex.

e. Relatedly, the Agency Defendants have failed to explain why the status quo ante—which the State Department implemented for years before the Executive Order—was in any way flawed, let alone sufficiently flawed to warrant this abrupt and substantial change, nor does the Executive Order do so.

246. The Agency Defendants have also failed to consider or address numerous crucial aspects of the change in policy, nor does the Executive Order do so. Most acutely, they have failed to consider or address the effects on transgender, nonbinary, and intersex people. They have not even considered the effects on their own employees and the operation of the federal government. The Agency Defendants have failed to consider or address the many ways they are foreseeably, obviously, and directly harmed by the Passport Policy. They failed to consider or address the needs of these individuals and their families to obtain accurate passports that do not expose them to mistreatment.

SEVENTH CAUSE OF ACTION
(Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq*., 706 – Failure to Observe Procedure Required by Law)
Agency Defendants

247. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

248. The Administrative Procedure Act ("APA"), 5 U.S.C. §§ 500 *et seq.*, provides that courts "shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law. . . ." 5 U.S.C. § 706(2)(D).

249. The Executive Order is, by its terms, binding on the Agency Defendants, and on information and belief, as publicly reported and recounted above, the Secretary of State and State Department have already taken concrete steps to implement the Executive Order. The Secretary of State and State Department's Passport Policy and implementation of the Executive Order constitute a final agency action under the APA. As a result of that action, each Plaintiff must either: (1) attempt to obtain a passport with a sex designation that will necessarily be denied due to the Executive Order, or (2) select a sex designation that does not match who they are, in violation of their rights, and that risks subjecting Plaintiffs and the putative Class members to violence and harassment. Further, as a direct result of agency action, Plaintiffs and the putative Class members cannot renew existing passports with their appropriate sex designation without fear that it will be confiscated or its processing suspended once it is submitted to the State Department. For example,

Plaintiff Perysian, who is a transgender woman and presents as female, applied for a passport with an "F" sex designation on January 23, 2025, shortly after President Trump's inauguration. The State Department denied Plaintiff Perysian a passport with an "F" sex designation and issued her passport instead with an "M" sex designation.

250. Agency actions taken under the Executive Order are "without observance of procedure required by law." 5 U.S.C. § 706(2)(D). Under the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 *et seq*., when a federal agency seeks to collect information from the public (often through government forms), it is obligated to "provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information[.]" 44 U.S.C. 3506(c)(2)(A).

251. As explained above, and incorporated here, the State Department has changed the forms used to apply for, apply for renewal of, and apply to change passports and replaced them with a form that does not permit collection of the "X" sex designation, but only permits collection of the "M" and "F." That change was not announced with 60 days' notice in the Federal Register or any other public consultation. Indeed, it was not announced at all. The State Department made the change surreptitiously, using forms that are labelled expired.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court:

a. Issue declaratory judgment that (i) the Passport Policy and the Executive Order as applied to passports violate Plaintiffs' constitutional rights; and (ii) the Passport Policy is arbitrary, capricious, an abuse of discretion, and otherwise contrary to law in violation of the APA;

b. Preliminarily and permanently restrain or enjoin Defendants and their agents, employees, representatives, successors, and any other person acting directly or indirectly in concert with them, from enforcing the Passport Policy or the Executive Order as applied to passports, and require that they permit (i) changes to the "Sex" designation on passports to the same extent they did before the Executive Order and Passport Policy were issued, including allowing individuals to self-attest to what their sex is and (ii) the use of an "X" sex designation on passports and passport

applications to the same extent they did before the Executive Order and Passport Policy were issued;

c. Hold unlawful, set aside, and vacate any agency actions taken under Passport Policy or the Executive Order as applied to passports that had the purpose or effect of not permitting (i) changes to the "Sex" designation on passports to the same extent they did before the Executive Order and Passport Policy were issued, including allowing individuals to self-attest to what their sex is and (ii) the use of an "X" sex designation on passports and passport applications to the same extent they did before the Executive Order and Passport Policy were issued;

d. Certify classes as set forth in this Complaint and enter class-wide declaratory and injunctive relief as described above;

e. Award attorney's fees, costs, and expenses in accordance with law, including the Equal Access to Justice Act, 28 U.S.C. § 2412; and

f. Grant all such other and further relief as the Court may deem just and proper.

February 7, 2025

Respectfully submitted,

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**Pro Hac Vice* Application Forthcoming

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR, ZAYA PERYSIAN, SAWYER SOE, CHASTAIN ANDERSON, DREW HALL, BELLA BOE, and REID SOLOMON-LANE, on behalf of themselves and others similarly situated, *Plaintiffs*, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; MARCO RUBIO, in his official capacity as Secretary of State; and UNITED STATES OF AMERICA, *Defendants.*	Case No. 1-25-cv-10313-JEK (Leave to file excess pages granted on February 11, 2025)

MEMORANDUM OF LAW IN SUPPORT OF PLAINTIFFS' MOTION TO STAY AGENCY ACTION AND FOR A PRELIMINARY INJUNCTION

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I. PRELIMINARY STATEMENT

This Motion seeks to prevent irreparable injury inflicted by the federal government's abrupt, discriminatory, and dangerous change in policy denying usable passports to transgender, nonbinary, and intersex people. For years, the government issued passports to Americans reflecting a sex designation aligning with their gender identity, including an X sex designation upon request. That policy not only provided accurate passports, it prevented harms such as people being outed as transgender or nonbinary against their will every time they used their passport—including to domestic authorities and hostile foreign authorities. Defendants abruptly instituted a new policy implementing an Executive Order issued on the first day of the Trump Administration, "Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" (the "EO"). The State Department is already enforcing the EO's edict by issuing passports listing only either female or male sex designations, determined by whether a person "belong[ed], at conception" or at birth "to the sex that produces" either "the large" or "the small reproductive cell." EO 14168, 90 Fed. Reg. 8615, 8615 (Jan. 20, 2025).[1] Defendants' new policy seeks to deny the existence of transgender, nonbinary, and intersex people. And it is causing grave, immediate harm.

Plaintiffs are entitled to a stay of agency action under the Administrative Procedure Act ("APA") and a preliminary injunction. Plaintiffs are citizens harmed by the federal government's policy of denying passports to those whose proper sex designations do not adhere to the government's misguided definitions of sex—a policy now reflected in and implemented by State Department documents and public guidance (the "Policy"). Plaintiffs are likely to succeed on their

[1] As explained in this Motion, the State Department has at times used a slightly different formulation for "sex" than the EO, relying on "biological sex at birth." Both definitions are equally unlawful, and the inconsistency only highlights the haphazard, unreasoned nature of the agency actions at issue.

claims that the Policy violates both the APA and the U.S. Constitution. The Policy is arbitrary and capricious under the APA: it is unreasoned and irrational, lacks any justification, and modifies passport forms without statutorily required notice and comment. It implicates constitutional equal protection principles because it facially classifies based on sex and transgender status. And it implicates the Fifth Amendment's rights to travel and informational privacy. These principles require the Policy to survive heightened scrutiny, but it fails even the slightest scrutiny. It advances ***no*** legitimate governmental interest, let alone an important one. And it is motivated by impermissible animus.

Plaintiffs will suffer irreparable injury absent a stay or injunction. Under the Policy, the State Department rejected some Plaintiffs' applications seeking sex designations matching their gender identities, instead issuing passports that conform to the Policy's definitions. Other Plaintiffs have requested updated sex designations on their passports that will necessarily be denied under the Policy. The resulting harm is immediate. The Policy has prompted fear about what may happen to Plaintiffs if they travel internationally or need to use their passports, inflicted psychological harm, and cast uncertainty upon upcoming travel plans. Plaintiffs with inaccurate passports face an impossible choice: use a passport outing them as transgender—exposing them to potential violence and making their passports unusable—or forgo the right to travel.

Underscoring the Administration's broad attack on transgender and nonbinary people, numerous courts have recently enjoined governmental actions under the Administration's executive orders targeting transgender people—including other actions under the same EO challenged here. *See Doe v. McHenry*, 2025 WL 388218 (D.D.C. Feb. 4, 2025); *Drs. for Am. v. OPM*, 2025 WL 452707 (D.D.C. Feb. 11, 2025); *PFLAG, Inc. v. Trump*, No. 8:25-337-BAH (D. Md.), Dkt. 62 (Feb. 14. 2025). And courts have repeatedly held that transgender people have the

right to use accurate identification documents or rejected governmental attempts to deny them those documents. *See, e.g.*, *Ray v. McCloud*, 507 F. Supp. 3d 925, 939-40 (S.D. Ohio 2020); *Arroyo Gonzalez v. Rossello Nevares*, 305 F. Supp. 3d 327, 333 (D.P.R. 2018); *F.V. v. Barro*n, 286 F. Supp. 3d 1131, 1142 (D. Idaho 2018); *Love v. Johnson*, 146 F. Supp. 3d 848, 856 (E.D. Mich. 2015). This Court should likewise stay and enjoin the Policy.

II. STATEMENT OF FACTS

A. Gender Identity, Transgender People, Nonbinary People, and Intersex People

1. Gender Identity

As explained in the accompanying declaration of endocrinologist Dr. Sarah Corathers, "gender identity" refers to a person's core, internal sense of belonging to a particular sex. Corathers Decl. ¶ 40. "Sex" refers to multiple physiologic attributes, such as chromosomal and hormonal makeup, anatomy, secondary sex characteristics, and gender identity. *Id.* ¶ 18. "Sex assigned at birth" refers to the designation of sex generally noted on a birth certificate shortly after birth, almost always based solely on the appearance of an infant's external genitalia. *Id.* ¶¶ 24, 26. A person's gender identity is an essential part of their identity and often informs how they will be identified by others more accurately than their sex assigned at birth. *Id.* ¶ 42. Because of this, a person's gender identity is the most important and accurate characteristic for determining what sex designation should be on their passport. *Id.* After all, a passport is an identity document, and should reflect a person's identity.

According to the American Medical Association, the American Psychiatric Association, and dozens of other major medical professional associations, "variations in . . . gender identity are a normal part of human development" and "research and experience shared by scholars, clinicians, and patients have shown that . . . efforts [to change someone's gender identity have not succeeded] and are harmful." *Id.* ¶ 44. Most people are "cisgender," meaning that they have a gender identity

that aligns with their sex assigned at birth. *Id*. ¶ 47. Transgender people have a gender identity different from their sex assigned at birth. *Id.* ¶ 48. "Nonbinary" people have a gender identity that is neither exclusively male nor exclusively female. *Id.* ¶ 49. The term "intersex" describes a wide range of natural bodily variations. *Id.* ¶ 33. Intersex people are born with sex characteristics that do not fit binary notions of bodies designated "male" or "female." *Id*. Intersex variations include variations in chromosomes, external genitals, internal reproductive organs, and/or hormone production. *Id.* Intersex traits may be discovered at birth, at puberty, or not at all. *Id.* Some intersex people do not produce either the "large reproductive cell" or "small reproductive cell"—ovum and sperm—that are at the core of the definitions of female and male in the EO. *Id.* ¶ 32.

2. Transgender, Nonbinary, and Intersex People Experience Pervasive Violence, Harassment, and Discrimination.

Transgender, nonbinary, and intersex people often experience violence, harassment, discrimination, and stigma when these characteristics are made public. *Id.* ¶ 66. For decades, both private individuals and government actors have oppressed and discriminated against transgender, nonbinary, and intersex people and have tried to deny their existence. *Id.* ¶ 67.

Transgender people are far more likely to suffer violence, harassment, and discrimination than the population at large. *Id.* ¶ 68. According to the National Center for Transgender Equality's U.S. Transgender Survey, *see* Chaput Decl., Ex. B:

- In the year prior to completing the survey, nearly 46% of transgender respondents were harassed, and 9% physically attacked, because of being transgender. *Id.* at 199, 202–03.[2]
- After showing identification with a name or sex designation inconsistent with their gender presentation, 25% of transgender people were verbally harassed, 16% denied services or benefits, 9% asked to leave an establishment, and 2% assaulted or attacked. *Id.* at 89–90.

[2] 58% of respondents reported mistreatment during the past year by law enforcement who thought or knew they were transgender, including 4% who were physically attacked and 3% who were sexually assaulted. Chaput Decl., Ex. B at 186.

- 43% of respondents who went through airport security were treated negatively, including being harassed, detained, subjected to bodily searches, and physically attacked. *Id.* at 272.
- Transgender people experience significantly higher rates of discrimination in employment (including being fired, not hired, harassed, physically attacked, and/or sexually assaulted at work), health care, housing, higher education, and public accommodations when others learn or suspect they are transgender. *Id.* at 97, 136, 148, 150, 153–54, 178, 214.
- Fed by all this, 39% of respondents experienced serious psychological distress in the month prior, compared with only 5% of the population as a whole. *Id.* at 105.
- Contributed to by this mistreatment, 40% percent of respondents attempted suicide in their lifetime—nearly nine times the rate in the population as a whole (4.6%). *Id.* at 114.

For transgender people of color, these forms of mistreatment are even more common. *Id.* at 89, 97, 136, 151, 153, 179, 187, 199, 202–03, 214, 222. Nonbinary and intersex people are also more likely to suffer violence, discrimination, harassment, and mistreatment.[3]

B. The Importance of Passports Consistent with Gender Identity

A passport is an essential government-issued document. They are necessary for travel abroad and for reentry into the United States. *See* 8 U.S.C. § 1185(b). While abroad, passports often are the only identification recognized by foreign authorities and businesses. They are needed in many countries at hotels, banks, and hospitals. If there is an emergency while abroad, passports are the primary way for U.S. citizens to identify themselves to U.S. officials at an embassy.

Recognizing the importance of identification documents, the American Medical Association "supports every individual's right to determine their . . . sex designation on government documents" and urges that governments "allow for a sex designation or change of designation on all government IDs to reflect an individual's gender identity, as reported by the individual." Corathers Decl. ¶ 85; Scheim Decl. ¶ 20. Forcing transgender, intersex, and nonbinary people to use identity documents that do not align with their gender identity can cause anxiety and distress. Corathers Decl. ¶ 82. It is also inconsistent with social transition protocols

[3] *See, e.g.*, Chaput Decl., Exs. C, D, E; *see also* Corathers Decl. ¶¶ 71–72; Scheim Decl. ¶ 19.

under widely accepted clinical guidelines for treatment of gender dysphoria.[4] *Id.* ¶ 77.

Issuing a transgender person a passport that lists their sex as defined by the EO or the Policy can out them to strangers as transgender because of the mismatch between the passport's sex designation and the bearer's gender identity and presentation—as explained in the accompanying Declaration of Ayden Scheim, a professor of epidemiology. Scheim Decl. ¶¶ 16, 23–24. And requiring people who want an "X" sex designation on their passports to instead have "M" or "F" designations forces them to disclose whether they meet the EO's definition of male or female. These are profoundly private pieces of information to which attaches a reasonable expectation of privacy. *Id.* ¶ 24. The Policy deprives people of significant control over the circumstances surrounding disclosure of that information, including when, where, how, and to whom this aspect of their identity is disclosed.

Forcing someone to disclose that they are transgender, intersex, or nonbinary against their will subjects them to significant risks of violence, discrimination, and harassment, including in travel, employment, and interactions with government employees (such as law enforcement personnel). Scheim Decl. ¶¶ 22–24. Hundreds of transgender people were killed around the world in 2023. Chaput Decl., Ex. J. Having a sex designation on a passport that involuntarily discloses that someone is transgender, intersex, or nonbinary thus exposes that person to the risk of bodily harm, discrimination, and harassment—and, in many countries, even arrest and imprisonment.

[4] Gender dysphoria is a medical condition defined by a marked incongruence between gender identity and sex assigned at birth and clinically significant distress or impairment in social, occupational, or other important areas of functioning. Corathers Decl. ¶ 53. Social transition includes correcting identity documents to allow people to live consistently with their gender identity. For social transition to be clinically effective, it must be respected consistently across all aspects of an individual's life. *Id.* ¶ 82; *Doe v. Horne*, 115 F.4th 1083, 1107 n.13 (9th Cir. 2024).

C. The Passport Policy

On January 20, 2025, President Trump issued the EO, which sets forth definitions of sex that rely on inaccurate descriptions of biology and seek to deny the existence of transgender, intersex, and nonbinary people. Corathers Decl. ¶ 28. Implementing the EO's directive, Secretary Rubio ordered the State Department to integrate these definitions of sex into the issuance and renewal of passports. As widely reported, in a State Department cable (the "Cable"), Secretary Rubio declared that "[t]he policy of the United States is that an individual's sex is not changeable" and that "sex, and not gender, shall be used" on passports. Chaput Decl., Ex. A. Further, he ordered agency staff to "suspend any application where the applicant is seeking to change their sex marker" and "suspend any application requesting an 'X' sex marker." *Id*. Shortly after the Cable was issued, the Department removed existing passport application forms, DS-11, DS-82, and DS-5504, from its website and replaced them with older versions of the documents that do not permit self-selection or use of an X sex designation. *Compare id.*, Exs. M, N, O, *with id.*, Exs. P, Q, R.

The Policy was implemented immediately: by January 28, the State Department issued transgender people—including some Plaintiffs—passports with sex designations reflecting the Policy's sex definitions, rather than the designation sought by applicants. *See* Perysian Decl. ¶ 11; Anderson Decl. ¶ 11; *see also* Orr Decl. ¶ 12. The State Department suspended others' applications pending review. On February 8, the State Department issued an additional directive (the "Directive") specifically ordering all passport issuances and renewals to comply with the EO. *See* Chaput Decl., Ex. I. The State Department updated its website on February 12 to state that, pursuant to the EO, it "will only issue passports with an M or F sex marker that match the customer's biological sex at birth as defined in the executive order" and "will no longer issue U.S. passports . . . with an X marker." *Id.*, Ex. H. The reference on the State Department's website to

"biological sex at birth" differs from the definition in the EO (based on purported sex at conception), but it is equally discriminatory and equally inaccurate.[5]

As a result of the Policy, several Plaintiffs have received passports with the wrong sex designation, while others are unable to apply for a new passport or renew their passport with the correct sex designation. For example, Zaya Perysian, a transgender woman, sought a passport with a female sex designation to match her gender identity, other identity documents, and the sex she lives and expresses, but instead received a passport with a male designation. Perysian Decl. ¶¶ 4, 10–11. A notice accompanying her new passport stated that her sex had been "corrected" to "match our records." *Id.* ¶ 11. Chastain Anderson similarly received a passport with the sex designation different than she requested. Anderson Decl. ¶ 11. Ashton Orr, a transgender man, was told by a passport agency that "the agency needed to 'investigate my sex assigned at birth,' and given that my sex assigned at birth is female, they can only issue my passport with an 'F' Marker" or withdraw the application. Orr Decl. ¶ 12.

D. The Policy Has Caused Plaintiffs Immediate and Ongoing Harm.

The Policy has immediately and concretely harmed Plaintiffs and others like them. Many previously have had harmful experiences as a result of identity documents inconsistent with their gender identity. All fear for their safety if they were to try to travel with a passport with the wrong sex designation. For example, Orr was accused by the Transportation Security Administration ("TSA") of presenting false identity documents because his passport, which had a female sex designation, did not match his appearance or driver's license, which has a male designation. Orr Decl. ¶ 10. TSA required Orr to undergo secondary screening; and he was permitted to proceed only once he disclosed his transgender identity. *Id.* Orr has plans to travel abroad for a medical

[5] The term "biological sex" ignores the evidence that gender identity has a durable biological element as well and is an imprecise term that should be avoided. Corathers Decl. ¶¶ 26 & n.1, 52.

appointment on March 13, 2025 and he fears that he will now miss that appointment due to the Policy. *Id.* ¶ 13. He is "terrified" that having a passport with a female sex designation will lead to the same invasive questioning, scrutiny, and mistreatment—or worse, physical harm. *Id.* ¶ 14. Orr states in his declaration that the "constant fear and anxiety of potential confrontations" are "emotionally exhausting and traumatic." *Id.* ¶ 15.

Anderson, a transgender woman, has had similar experiences and fears. Anderson Decl. ¶ 5. In 2017, prior to updating her driver's license to an accurate female sex designation, she was strip-searched at a TSA checkpoint. *Id.* ¶ 13. She has been involuntarily outed when presenting her old license with a male sex designation when trying to attend concerts, order drinks, open a bank account, and lease an apartment. *Id.* ¶ 12. She is "terrified" that having an inaccurate male sex designation on her passport will place her in "uncomfortable and unsafe circumstances." *Id.* ¶ 13. She feels "anxiety knowing that a document that is supposed to help identify [her] will now not only make it *harder* to identify [her], but also put [her] at harm at every use." *Id.* ¶ 14. The other Plaintiffs have suffered or are at imminent risk of similar harms. Soe Decl. ¶¶ 7, 11; Boe Decl. ¶¶ 14–15; Solomon-Lane Decl. ¶¶ 5, 11; Hall Decl. ¶¶ 7, 14–15; Perysian Decl. ¶¶ 14–15.

III. LEGAL STANDARD

The APA authorizes courts to "postpone the effective date of an agency action or to preserve status or rights pending conclusion" of APA proceedings, "to the extent necessary to prevent irreparable injury." 5 U.S.C. § 705. There is "substantial overlap" between the factors considered in analyzing a stay under the APA and a preliminary injunction. *Seafreeze Shoreside, Inc. v. Dept. of Interior*, 2023 WL 3660689, at *3 (D. Mass. May 25, 2023). Courts weight four factors in considering a motion for a preliminary injunction: "(1) the plaintiff's likelihood of success on the merits; (2) the potential for irreparable harm in the absence of an injunction; (3) whether issuing the injunction will burden the defendants less than denying an injunction would burden the

plaintiffs; and (4) the effect, if any, on the public interest." *Sindicato Puertorriqueño de Trabajadores v. Fortuño*, 699 F.3d 1, 10 (1st Cir. 2012) (cleaned up). In considering both whether to grant a stay of agency action or a preliminary injunction, "the first two factors are the most critical." *SeaFreeze*, 2023 WL 3660689, at *3 (cleaned up). When the government is the party opposing the injunction, the final two factors merge. *Nken v. Holder*, 556 U.S. 418, 435–36 (2009).

IV. PLAINTIFFS ARE LIKELY TO SUCCEED ON THE MERITS.

A. The Policy Violates the APA.

Courts must set aside final agency actions that are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law" or inconsistent with "procedure[s] required by law." 5 U.S.C. § 706(2)(A), (D). Plaintiffs are likely to prevail on their APA claim.

1. The Policy Is a Final Agency Action Subject to APA Review.

Under the APA, courts may review "final agency action for which there is no other adequate remedy in a court." 5 U.S.C. § 704. A final agency action is a "definitive statement of the agency's position with direct and immediate consequences." *Trafalgar Cap. Assocs., Inc. v. Cuomo*, 159 F.3d 21, 35 (1st Cir. 1998). (cleaned up). "The core question [for finality] is whether the agency has completed its decisionmaking process, and whether the result of that process is one that will directly affect the parties." *Id.* (cleaned up). The Policy meets these requirements.

Secretary Rubio and the State Department (the "Agency Defendants") have certainly completed the decision-making process: according to reports, Secretary Rubio has directed that "when an applicant requests a change in their sex marker" only "the applicant's biological sex at birth" can appear on the passport. *See* Chaput Decl., Ex. I ¶ 8. The Agency Defendants have definitively and conclusively established that they will "only issue passports with an M or F sex marker that match the customer's biological sex at birth" and will "no longer issue U.S.

passports . . . with an X marker." *See id.* Under any rubric, the Policy represents a "definitive statement" of the Agency Defendants' position. *Trafalgar*, 159 F.3d at 35.

Indeed, the Policy is already being implemented, with "direct and immediate consequences" for Plaintiffs and others like them. *Id.* The Agency Defendants have removed passport application forms from the official website that previously allowed for an X sex designation and contained instructions permitting self-selection of sex. *E.g.*, Chaput Decl., Ex. A; *see Drs. for Am.*, 2025 WL 452707, at *5 (APA reaches removal of long-standing information from government webpages). And some Plaintiffs have ***already*** received passports that do not contain the sex designation they requested and do not accurately indicate their sex. *See* Perysian Decl. ¶ 11, Ex. A; Anderson Decl. ¶ 11. Others have been told they will not receive a passport that contains anything other than the sex they were assigned at birth. *See* Orr Decl. ¶ 12, Ex. A. The Policy has "directly affect[ed]" Plaintiffs by denying them passports they can use without placing them at risk for harassment, discrimination, and even violence. *See Trafalgar*, 159 F.3d at 35. The Policy is thus a final agency action subject to APA review.

2. The Policy Is Arbitrary and Capricious.

An agency action is arbitrary and capricious if, as here, it is not accompanied by a reasoned explanation, failed to consider pertinent aspects of the problem, or reached a conclusion so implausible that it cannot be attributed to the application of agency expertise. *See Housatonic River Initiative v. EPA*, 75 F.4th 248, 270 (1st Cir. 2023); *Union of Concerned Scientists v. Wheeler*, 954 F.3d 11, 21 (1st Cir. 2020).

a) <u>The Agency Defendants Have Not Provided a Reasoned Explanation for the Policy.</u>

"The arbitrary and capricious standard of the APA mandates that an agency take whatever steps it needs to provide an explanation that will enable the court to evaluate the agency's rationale

at the time of decision." *Dickson v. Secretary of Defense*, 68 F.3d 1396, 1404 (D.C. Cir. 1995). Where, as here, an agency's policy is an "about-face" from a prior policy, a "more detailed justification may be required." *Housatonic*, 75 F.4th at 270. Before changing prior policy, an agency must "supply a reasoned analysis indicating that prior policies and standards are being deliberately changed, not casually ignored." *Greater Bos. Television Corp. v. FCC*, 444 F.2d 841, 852 (D.C. Cir. 1970). The Agency Defendants have not—and cannot—satisfy the "reasoned analysis" required by the APA.

The Policy is a total reversal of prior State Department policy allowing people to choose their passport's sex designation, including the option to select an X designation. *Compare* Chaput Decl., Exs. M, N, O, *with id*., Exs. P, Q, R. People have been able to update the sex designation on their passports for more than 30 years. From 1992 through 2010, citizens were able to update the sex designation with proof of surgery; from 2010 to 2022 (including during the first Trump administration), they could receive an updated sex designation with a medical certification; and since 2022 they have been able to self-select M, F, or X.[6]

All agency actions require a reasoned explanation, but the Policy's radical reversal of long-standing prior approaches requires an even "more detailed justification." *Housatonic*, 75 F.4th at 270; *see also N.L.R.B. v. Lily Transp. Corp.*, 853 F.3d 31, 36 (1st Cir. 2017). This the Agency

[6] *See* Chaput Decl., Exs. S (Ernesto Lodono, "Transgender Americans Challenge Trump's Passport Policy in Court," *N.Y. Times* (Feb. 7, 2025), https://www.nytimes.com/2025/02/07/us/transgender-americans-lawsuit-trump-passports.html (last accessed Feb. 11, 2025), T (Lisa Mottet, "Modernizing State Vital Statistics Statutes and Policies to Ensure Accurate Gender Markers on Birth Certificates: A Good Government Approach to Recognizing the Lives of Transgender People," 19 *Mich. J. Gender & L.* 373, 383 (2013), https://repository.law.umich.edu/mjgl/vol19/iss2/4), L (U.S. Department of State, 8 Foreign Affairs Manuel 403.3, Gender Change (May 31, 2019), archived version at https://web.archive.org/web/20190531235228/https:/fam.state.gov/FAM/08FAM/08FAM040303.html.)

Defendants have failed to provide. Indeed, the Agency Defendants have offered ***no explanation*** for the government's sudden about-face—not in the Cable, not in the Directive, not in public guidance. The only reasoning available for the Court to review would be provided by the EO, which the Policy implements. But the EO contains no "reasoned analysis" that could support the Policy. It makes specious, unsupported allegations that transgender people are mounting an "attack against the ordinary and longstanding use and understanding of biological and scientific terms . . . unmoored from biological facts." 90 Fed. Reg. at 8615. It also offers vague and conclusory assertions about an objective to "defend women's rights." *Id.* The attempt to characterize the Policy as "defending women from gender ideology" and the EO's depiction of transgender people as intruders seeking to "gain access to intimate single-sex spaces and activities designed for women" are simply ideological positions that are so disconnected from factual reality[7] that they fail to explain how the Policy rationally advances any legitimate government interest. Instead, these "justifications" only demonstrate Defendants' animus.

Compounding this lack of reasoning, the EO fails to even take into account the problems that will result when the sex designation on someone's passport conflicts with how they present and with their other identity documents,[8] or the overwhelming challenges in determining an individual's sex as defined by the Executive Order. And it is the EO—not transgender people—

[7] *See* Brief of Amici Curiae Law Enforcement Officers in Support of Respondent, at 3–12, *Gloucester Cty. Sch Bd, v. G.G.*, S. Ct. No. 14-2056, 2017 WL 836845 (Mar. 2, 2017); Brief of Amici States of New York, et al. at 19-27, *Gloucester Cty. Sch Bd, v. G.G.*, S. Ct. No. 14-2056, 2017 WL 2061869 (Mar. 1, 2017).

[8] Those problems include interference with efficient screening of passport bearers' identity; the "outing of transgender, intersex, and nonbinary individuals that will force them either to forego international travel or risk ensuing harassment, discrimination, and even violence; and the harms to third parties such as businesses whose impacted employees will be unable to travel internationally for necessary work and members of the military stationed abroad who will be unable to have impacted family members visit or live with them.

that "attack[s] . . . ordinary and longstanding use and understanding of biological and scientific terms." 90 Fed. Reg. at 8615. Both science and history establish that transgender, intersex, and nonbinary people exist and always have. Corathers Decl. ¶¶ 44, 51–52.

Finally, there are no indications that the EO's sex definitions on passports could further the stated aim of "defending women." To the contrary: preventing transgender, intersex, and nonbinary people from safely traveling with documentation that aligns with their gender identity does not make cisgender women any safer; it only makes transgender, intersex, and nonbinary individuals, including those who are women, *less* safe by exposing them to harassment, discrimination, and violence. Scheim Decl. ¶¶ 22–24.

The only viable conclusion is that the Policy is motivated by the Administration's express animus toward transgender people, which of course cannot constitute the reasoned explanation required by the APA. Because the Agency Defendants have not given a sufficient explanation "including a rational connection between the facts found and the choice made," the Policy is arbitrary and capricious and should be set aside.

b) The Policy's Implementation Creates a Nonsensical and Unmanageable Landscape.

Implementation of the Policy also creates an illogical and unworkable framework—certainly not one attributable to agency expertise. ***First***, the definitions on which the Policy is based are "irrational." *See Beverly Enterprises-Massachusetts*, 174 F.3d at 23. The EO defines male and female based on whether, "at conception," the person "belong[s]" to the sex that produces either the large or small reproductive cell (the State Department, meanwhile, claims to be relying on "biological sex at birth"). 90 Fed. Reg. at 8615; Chaput Decl., Ex. I at ¶ 2. But embryos have undifferentiated reproductive cells during the period immediately following conception. Corathers Decl. ¶ 20. Further, this definition ignores the biological reality that some intersex individuals do

not at conception, and may never, belong to a sex that produces either a large or small reproductive cell. *Id.* ¶ 39. Nor does the Policy include a workable process for determining sex based on the EO definitions—as illustrated by the State Department itself employing a different definition. While the Directive references evidence of sex assigned at birth, such as birth certificates, those are almost always based on the appearance of an infant's external genitalia, which is not dispositive of the EO definitions. Corathers Decl. ¶ 47.

Second, insisting that passports rely on these definitions of sex undermines passports' usefulness in confirming the bearer's identity. Transgender, intersex, and nonbinary people often will not look like the sex defined by the EO or Policy, which can cause problems. *See Love*, 146 F. Supp. 3d at 856, 857 ("[W]hen such individuals furnish their [documents] to third-persons for purposes of identification, the third-person is likely to conclude that the furnisher is not the person described on the [document]."). Moreover, for individuals like Plaintiffs Perysian and Anderson, whose other identification documents accurately reflect the sex they live and identify as, *e.g.*, Perysian Decl. ¶ 9; Anderson Decl. ¶ 7, being forced to use a passport that conflicts with other identifying documents will create confusion for anyone attempting to identify them. Indeed, Plaintiff Orr has experienced precisely that situation when TSA accused him of presenting fake identity documents due to the inconsistency between his REAL ID, which features a male sex designation, and his passport, which incorrectly contains a female designation. Orr Decl. ¶ 10. The Agency Defendants have not addressed this aspect of the issue at all and thus have acted "precipitously or in an irrational manner," *Citizens Awareness Network, Inc. v. United States*, 391 F.3d 338, 352 (1st Cir. 2004), in violation of the APA.

Third, the Policy conflicts with current government practice concerning passports from foreign countries. At least 19 countries allow people to select a sex designation by self-attestation.[9] And at least 16 countries permit an X sex designation on passports.[10] The government recognizes these passports as valid, underscoring that the Policy is not necessary for accurately confirming bearers' identities. And ***fourth***, the Policy creates unnecessary conflicts with state laws governing identity documents that permit updates to sex designations or use of an X sex designation. At least 22 states and Washington, D.C. include an X designation on driver's licenses, and 46 states allow individuals to update their sex-designation on driver's licenses.[11] At least 16 states and Washington, D.C. include an X designation on birth certificates, and 44 states allow individuals to update the sex designation on their birth certificates.[12] For those who have opted to choose or change the sex designation on these identity documents, the Policy arbitrarily prevents them from obtaining a passport matching their other identity documents.

3. The Agency Defendants Acted Without Observance of Procedure Required by Law When Replacing Passport Application Forms.

Under the Paperwork Reduction Act ("PRA"), when an agency seeks to collect information from the public, such as with government forms, it must provide "60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information[.]" 44 U.S.C. 3506(c)(2)(A). The Agency Defendants failed to do so. President Trump issued the EO on January 20. In the days that followed, the State

[9] Argentina, Belgium, Brazil, Colombia, Denmark, Ecuador, Finland, Germany, Greenland, Iceland, Ireland, Luxembourg, Malta, New Zealand, Norway, Portugal, Spain, Switzerland, and Uruguay. *See* Chaput Decl., Ex. K.
[10] Argentina, Bangladesh, Canada, Denmark, Germany, Greenland, Iceland, India, Malta, Nepal, New Zealand, Pakistan. *Id.*
[11] Movement Advancement Project, Identity Document Laws and Policies, https://www.lgbtmap.org/equality-maps/identity_documents (last accessed Feb. 18. 2025).
[12] *Id.*

Department removed the existing passport applications forms from its website, replacing them with older, expired versions that provide no X option and that do not include instructions for self-selecting a new sex designation. *See* Chaput Decl., Exs. M, N, O, P, Q, R. There was no opportunity for public comment before that change, nor, since the forms were changed just days after President Trump assumed office, could there have been meaningful consultation with other affected agencies.[13] This unilateral replacement violated the PRA and therefore the APA.

4. The Agency Defendants' Actions Also Violate the APA Because They Are Unconstitutional.

The APA provides that courts must "hold unlawful and set aside agency action . . . found to be . . . contrary to constitutional right, power, privilege, or immunity[.]" 5 U.S.C. § 706(2)(B). Thus, the APA "generally provides a vehicle for reviewing agency decisions that are alleged to violate federal law." *Union of Concerned Scientists*, 954 F.3d at 17. As explained below, the Policy violates Plaintiffs' constitutional rights to equal protection, travel, and privacy.

B. The Policy Also Violates Plaintiffs' Constitutional Rights to Equal Protection, Travel, and Privacy.[14]

The Fifth Amendment guarantees equal protection of the laws and protects the right to travel and the right to privacy. Because the Policy classifies based on sex and transgender status and burdens these constitutional rights, it triggers heightened scrutiny. It cannot survive that demanding standard, or any standard of constitutional review.

[13] On February 14, 2025, after it already replaced the forms, the State Department issued a notice of request for public comment for changes to the DS-11 passport form consistent with the EO. The notice skips the required 60-day comment period and improperly only provides for 30 days of comment. *See* Agency Information Collection Activities; Proposals, Submissions, and Approvals: Application for a U.S. Passport, 90 Fed. Reg. 9652 (proposed Feb. 14, 2025). More fundamentally, it underscores that the agency flouted the PRA in changing the forms.

[14] The Policy also violates the First Amendment. Compl. ¶¶ 28–35. Plaintiffs do not seek a preliminary injunction based on that cause of action, but they do not waive that claim or the ability to seek relief based on it.

1. The Policy's Sex- and Transgender Status-Based Classifications Trigger Heightened Scrutiny Under Equal Protection Analysis.

"[A]ll gender-based classifications today warrant heightened scrutiny." *United States v. Virginia*, 518 U.S. 515, 555 (1996) (quotations omitted). That standard applies here because the Policy classifies based on sex. It also classifies based on transgender status, which independently warrants the application of heightened scrutiny.

a) The Policy Classifies Based on Sex on Its Face, Triggering Heightened Scrutiny.

The Policy classifies based on sex on its face because it hinges the issuance of an "M" or "F" passport on a person's sex. The EO announces a federal policy to recognize only two sexes and defines these two sexes. 90 Fed. Reg. at 8615. Implementing this mandate, the Policy requires that the sex designation on a passport match the EO's definition of sex, subjecting individuals to distinct rules based on whether the EO defines a person as male or female.[15] That means for applicants who live and express themselves as women and seek to travel with a passport reflecting that identity, only those whose sex designated at birth is female, and not those whose sex designated at birth is male, can receive a passport with an "F" sex designation. The person's defined sex under the Policy thus determines whether the government will issue them a passport reflecting their identity as a woman. That is disparate treatment based on sex.

On its face, the Policy also enforces sex stereotypes by tethering individuals to their sex assigned at birth. The Supreme Court has made clear that heightened scrutiny is warranted when

[15] Similarly, the Supreme Court has repeatedly found that laws and policies that create racial definitions and then dictate behavior based on those definitions constitute racial classifications. For example, Virginia's Racial Integrity Act defined "white person" as a person "who has no trace whatever of any blood other than Caucasian" (except if they have one-sixteenth or less of American Indian blood) and then prohibited anyone classified as a "white person" from marrying anyone other than another "white person." *Loving v. Virginia*, 388 U.S. 1, 5 n.4, 6 (1967). The Supreme Court considered it self-evident that this law "rest[ed] solely upon distinctions drawn according to race," that triggered heightened scrutiny. *Id.* at 11.

the government acts based on "overbroad generalizations about the way men and women are," or should be. *Sessions v. Morales-Santana*, 582 U.S. 47, 57 (2017). That is precisely what the government does here. By preventing a citizen defined as "male" under the EO from having a passport that lists that person's sex as anything other than male, the Policy enforces the overbroad expectation that all people at conception likely to have a "small reproductive cell" will live, identify, and express themselves as men for their entire lives. The same thing is true for those assigned male "at birth." That expectation is not true for Plaintiffs and for hundreds of thousands or millions of other transgender, intersex, and nonbinary individuals who live and identify as a sex different from that which they were assigned at birth.

b) The Policy Classifies Based on Transgender Status on Its Face, Triggering Heightened Scrutiny.

The Policy likewise facially classifies based on transgender status: it requires transgender people, including those who are nonbinary, but not cisgender people, to have a sex designation on their passport that is inconsistent with their gender identity. Courts identify quasi-suspect classifications, which trigger heightened scrutiny, by considering four factors: (1) a history of discriminatory treatment against members of the class; (2) whether the class characteristic bears a relation to the ability to perform or contribute to society; (3) whether class members share a sufficiently discernible characteristic to define them as a class; and (4) the political power of the class. *See, e.g.*, *Bowen v. Gillard*, 483 U.S. 587, 602 (1987); *City of Cleburne, Tex. v. Cleburn Living Center*, 473 U.S. 432, 441 (1985). Transgender status satisfies each factor. *See, e.g.*, *Grimm v. Gloucester Cnty. Sch. Bd.*, 972 F.3d 586, 610 (4th Cir. 2020). For that reason, courts in this Circuit and others have applied intermediate scrutiny to government classifications based on transgender status. *See, e.g.*, *Bos. All. of GLBT Youth v. HHS*, 557 F. Supp. 3d 224, 244 (D. Mass. 2021); *accord Grimm*, 972 F.3d at 610; *Karnoski v. Trump*, 926 F.3d 1180, 1200–01 (9th Cir. 2019);

M.A.B. v. Bd. of Educ. of Talbot Cnty., 286 F. Supp. 3d 704, 719–720 (D. Md. 2018); *Bd. of Educ. of the Highland Loc. Sch. Dist. v. Dep't of Educ.*, 208 F. Supp. 3d 850 (S.D. Ohio 2016).

c) The Policy Is Based on Animus Against Transgender People, Triggering Heightened Scrutiny.

Even if the Policy did not facially classify based on sex and transgender status, it would trigger heightened scrutiny because it was adopted at least in part "because of," not "in spite of," the Trump Administration's ideological opposition to transgender people and gender transition. *See Pers. Adm'r of Mass. v. Feeney*, 442 U.S. 256, 279 (1979). The Policy's stated purpose is to impose the Administration's view that individuals' sexes "are not changeable" and therefore that transgender people are not to be recognized for any federal purposes. Chaput Decl., Ex. I ¶ 1; 90 Fed. Reg. at 8615 (purpose is to combat "the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true").

The Policy is part of a systemic effort by the federal government to restrict legal protections for transgender people spearheaded by President Trump, who has issued a litany of orders during his first weeks in office targeting transgender people. For example, an order issued on January 27, 2025 declares that "adoption of a gender identity inconsistent with an individual's sex" conflicts with a "commitment to an honorable, truthful, and disciplined lifestyle." Exec. Order 14183, Prioritizing Military Excellence and Readiness, 90 Fed. Reg. 8757 (Jan. 27, 2025). As one federal court observed regarding another executive order, one "cannot fathom discrimination more direct than the plain pronouncement of a policy resting on the premise that the group to which the policy is directed does not exist." *PFLAG*, No. 8:25-337-BAH, Dkt. 62 at 41.

2. The Policy Infringes Plaintiffs' Constitutionally Protected Right to Travel.

Although the State Department has not outright denied Plaintiffs passports under all conditions, the Policy substantially burdens the right to international travel for transgender,

intersex, and nonbinary people by denying them access to a usable passport and subjecting them to the risk of discrimination, harassment, and violence. *See e.g.*, *Shapiro v. Thompson*, 394 U.S. 618, 629 (1969) (one-year residency requirement for welfare benefits burdens right to travel). This right to international travel has a long history of constitutional import in our country that warrants heightened scrutiny.

a) The Right to Travel Abroad Is an Important Constitutional Value.

The freedom to travel abroad is a deeply rooted value that is "a part of our heritage" and a "'liberty' of which the citizen cannot be deprived without the due process of law under the Fifth Amendment." *Kent v. Dulles*, 357 U.S. 116, 125–26 (1958). A "careful analysis of the history of the right [to travel]," *Dobbs v. Jackson Women's Health Org.,* 597 U.S. 215, 238 (2022), reveals its deep roots at and before the Founding. Foundational texts like the Magna Carta enshrine the right to international travel and emphasize its historical, documented existence throughout time "in accordance with ancient and lawful customs." *See* Magna Carta, c.41, 42 (1215) ("any man" could "leave and return to our kingdom unharmed and without fear"). The Articles of Confederation reference the right to "free ingress and regress," Articles of Confederation Art. IV, § 1, and the Declaration of Independence lists the restriction of movement among the "history of repeated injuries and usurpations" perpetuated by King George III, The Declaration of Independence, para. 9 (U.S. 1776). The right to travel abroad is also deeply rooted in our nation's history as a matter of custom and practice: international travel has been customary since the Founding, as shown by the first State Department's issuance of passports beginning in 1789. *See* Research Our Records: Passport Applications, Nat'l Archives (Oct. 27, 2021).

Reflecting this historical role, the Supreme Court has long recognized the importance of the right to international travel, noting that "[t]ravel abroad, like travel within the country, may be necessary for a livelihood. It may be as close to the heart of the individual as the choice of what

he eats, or wears, or reads. Freedom of movement is basic in our scheme of values." *Kent*, 357 U.S. at 126. The Court has held that travel abroad is a "constitutional liberty closely related to the rights of free speech and association" that is "guaranteed in the Fifth Amendment." *Aptheker v. Sec'y of State*, 378 U.S. 500, 514, 517 (1964) (striking down law preventing passports being issued to members of Communist organizations); *see also Zemel v. Rusk*, 381 U.S. 1, 85 (1965) (suggesting that the right to international travel is comparable to that of interstate travel). Courts have recognized that Americans "undoubtedly have a strong liberty interest in . . . international travel." *Kashem v. Barr*, 941 F.3d 358, 378 (9th Cir. 2019); *see also Tarhuni v. Holder*, 8 F. Supp. 3d 1253, 1271 (D. Or. 2014) ("[T]he right to international travel is a constitutional right protected by substantive due process."); *Mohamed v. Holder*, 266 F. Supp. 3d 868, 878 (E.D. Va. 2017) (noting the liberty interest and difficulty in separating international from interstate travel).

b) Restrictions on Such a Valued Right Should Be Reviewed Under Heightened Scrutiny.

Although the Supreme Court has not articulated an explicit standard of review for restrictions on the right to travel abroad, and lower courts have applied a variety of tests, a burden on such a valued right demands heightened scrutiny. Several Supreme Court decisions assessing government restrictions on international travel have employed language and analysis resembling strict scrutiny without explicitly using that phrase. *See, e.g.*, *Aptheker*, 378 U.S. at 514 ("precision must be the touchstone" for restrictions "so affecting basic freedoms" like the right to travel internationally and restrictions must be "narrowly drawn" (cleaned up)); *Zemel*, 381 U.S. at 3, 16 ("requirements of due process are a function not only of the extent of the governmental restriction imposed, but also of the extent of the necessity for the restriction," and upholding challenged passport restriction only after finding that it was "supported by the weightiest considerations of national security"); *Haig v. Agee*, 453 U.S. 280, 307, 308 (1981) (upholding passport revocation

of a former CIA employee who was publicly exposing undercover agents only after finding "that no governmental interest is more compelling than the security of the nation" and that "[r]estricting Agee's foreign travel . . . is the only avenue open to the Government to limit these activities").

Applying these teachings, courts and judges have repeatedly contemplated heightened scrutiny of restrictions on international travel. For example, in *Eunique v. Powell*, Judge McKeown explained that "intermediate scrutiny comes the closest to being the proper standard" when considering burdens on the right to travel abroad and another judge would have applied strict scrutiny. 302 F.3d 971, 976 (9th Cir. 2002) (McKeown, J. concurring); *id.* at 979 (Kleinfeld, J., dissenting).[16] Judge Lucero similarly explained that "intermediate scrutiny is the best way to remain faithful to both the full spectrum of Supreme Court caselaw and the role of international travel in the history of our nation and its conception of well-ordered liberty." *Maehr v. United States Dep't of State*, 5 F.4th 1100, 1116 (10th Cir. 2021) (Lucero, J. concurring). And other courts agree. *See also, e.g.*, *Risenhoover v. Wash. Cty. Cmty. Servs.*, 545 F. Supp. 2d 885, 890 (D. Minn. 2008) (the government must have an "important reason" to interfere with an individual's right to international travel); *Woodward v. Rogers*, 344 F. Supp. 974, 988 (D.D.C. 1972), *aff'd*, 486 F.2d 1317 (D.C. Cir. 1973) (no "serious national purpose" was served and the asserted purpose could be "served by far less restrictive means."). Some lower courts have applied rational basis review to the right to travel abroad, but these nonbinding cases fail to account for the importance of the right, its place in our national history, and the better-reasoned opinions applying heightened scrutiny. *See, e.g.*, *Jones v. Mnuchin*, 529 F. Supp. 3d 1370, 1378 (S.D. Ga. 2021). As described above, the right to travel is "fundamental to our scheme of ordered liberty" and "deeply rooted in

[16] In *Eunique*, two judges voted for some form of heightened scrutiny (intermediate or strict) and one judge voted for rational basis review. The court upheld the denial of a passport due to unpaid child support after finding that it satisfied both rational basis and intermediate scrutiny.

this Nation's history and tradition." *Timbs v. Indiana*, 586 U.S. 146, 154 (2019); *see also Dobbs*, 597 U.S. at 237–38 (same). Where, as here, such a right is burdened, Supreme Court precedent—and logic—make clear that at least some form of heightened scrutiny must apply.

3. The Policy Infringes Plaintiffs' Right to Privacy, Triggering Heightened Scrutiny.

The Supreme Court has held that the Constitution guarantees a right to informational privacy. *See, e.g.*, *Doe v. Plymouth*, 825 F. Supp. 1102, 1107–08 (D. Mass. 1993). Compelled disclosure of personal matters implicates a fundamental right to privacy where the disclosure may: (1) invite stigma or harassment, *id.*; (2) invite bodily harm, *Kallstrom v. Columbus*, 136 F.3d 1055, 1064 (6th Cir. 1998); or (3) reveal personal details of an intimate nature, such as information implicating one's sexual, medical, or mental health, including one's transgender status, *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999) (recognizing a privacy right in maintaining the confidentiality of one's transgender identity); *United States v. Kravetz*, 706 F.3d 47, 63 (1st Cir. 2013) (medical, mental health); *Livsey v. Salt Lake Cnty.*, 275 F.3d 952, 956 (10th Cir. 2001) (sexual, medical). Disclosure of one's transgender status implicates all three considerations.

Indeed, many courts have held that requiring transgender individuals to have sex designations on identification documents inconsistent with their gender identity infringes their fundamental right to informational privacy by compelling disclosure of their transgender status. *See*, *e.g.*, *Powell*, 175 F.3d at 111; *Arroyo Gonzalez*, 305 F. Supp. 3d at 333 (denying sex marker changes on driver's licenses "forces [transgender people] to disclose their transgender status in violation of their constitutional right to informational privacy" and recognizing that "there are few areas which more closely intimate facts of a personal nature than one's transgender status" (cleaned up)); *Love*, 146 F. Supp. 3d at 856 (where "disclosure of this [highly intimate] information may fall into the hands of persons harboring negative feelings, [denial of a license with an accurate sex

marker] creates a very real threat to Plaintiffs' personal security and bodily integrity" (cleaned up)); *Ray*, 507 F. Supp. 3d at 931–32 ("forced disclosure of an individual's transgender status could subject them to risk of bodily harm[,]" and harassment, and that this "highly personal" information is "protected by the due process clause's informational right to privacy").

Here, requiring Plaintiffs to display sex designations on their passports that do not comport with their gender identity necessarily forces disclosure of Plaintiffs' transgender status in every situation requiring presentment of their passports. Drew Hall explains that "[g]iven my [feminine] presentation and the way that I am perceived by other people, a male sex designation would immediately indicate to any person who looks at my ID that I am transgender." Hall Decl. ¶ 15.

Plaintiffs who are "out" as transgender or nonbinary in other aspects of their lives are also harmed by forced disclosures of personal information to strangers. *See, e.g.*, *Ray*, 507 F. Supp. 3d at 934 ("Plaintiffs do not lose their informational right to privacy by choosing to share the private information at certain times with certain people."); *Nat'l Cable & Telecomm. Ass'n v. FCC*, 555 F.3d 996, 1001 (D.C. Cir. 2009) ("It is widely accepted that privacy deals with determining for oneself when, how and to whom personal information will be disclosed to others."). While some Plaintiffs are known to be transgender by some people in their lives, it is new information to strangers, including border officials. Disclosure can invite stigma, harassment, and even violence, given widespread prejudice against transgender people. *See Plymouth*, 825 F. Supp. at 1107–08. Plaintiff Anderson, for example, was subjected to a "terrible" experience by TSA in which "[t]wo agents isolated" her "for thirty minutes, until a manager entered and conducted strip search of [her] body, and [she] felt that it was direct result of the fact that [her] body did not match [her] sex designation on [her] license." Anderson Decl. ¶13; *see also* Perysian Decl. ¶ 8; Orr Decl. ¶ 7; *Ray*, 507 F. Supp. 3d at 933 ("[I]t is not just Plaintiffs' own experiences that have caused them to fear

disclosing their [transgender] status but also a broader reality that, unfortunately, many transgender individuals do face a heightened risk of 'discrimination, harassment, and violence because of their gender identity.'"). Plaintiffs who are "out" in some aspects of their lives retain a privacy interest in whether, when, how, and to whom to disclose their transgender or nonbinary status, including to potentially hostile border officials in this and other countries.

C. The Policy Is Unconstitutional Under Any Standard of Review.

1. The Policy Does Not Survive Heightened Scrutiny.

Because the Policy is subject to heightened scrutiny, it is only lawful if supported by "an exceedingly persuasive justification." *Virginia*, 518 U.S. at 531.[17] To succeed, Defendants must show that the Policy "serves important governmental objectives and that the discriminatory means employed are substantially related to the achievement of those objectives." *Id.* at 533 (cleaned up). The asserted "justification must be genuine, not hypothesized or invented *post hoc* in response to litigation." *Id.* The "burden of justification is demanding," not "deferential," and it "rests entirely on the State." *Id.* at 533, 555. That demanding burden cannot be met here.

The Policy identifies no governmental objective that it seeks to achieve. Instead, it refers to the EO. Chaput Decl., Ex. I ¶ 1. But as described in detail above, *supra* IV.A.2.a, the EO's asserted justifications—including "defend[ing] women's rights," 90 Fed. Reg. at 8615—are illusory. The Policy does not advance an interest in protecting anyone, including cisgender women; it only makes transgender, intersex, and nonbinary individuals *less* safe by exposing them to harassment, discrimination, and violence. Scheim Decl. ¶¶ 22–24.

To the extent Defendants offer justifications for the sudden reversal in policy that do not appear in the Policy or the EO, including any claimed interest in accuracy of identification in

[17] If the Court applies strict scrutiny for any claim, the Policy would fail for the same reasons.

documents, heightened scrutiny does not permit such *post hoc* justifications. *Virginia*, 518 U.S. at 533. Neither the EO nor the Policy offer any rationale regarding accuracy to make such a justification colorably genuine. In any event, it is difficult to fathom how a government interest in accurate identification would be advanced by forcing individuals to carry identification based on the size of reproductive cell a person at conception may make or a person's sex assigned at birth. In actuality, the Policy hinders any such government interest. *See supra* IV.A.2.b.

2. The Policy Cannot Survive Even Rational Basis Review.

Although the Policy must and cannot survive heightened scrutiny, it also fails any level of review and must be struck down for want of any "rational[] relat[ion] to a legitimate state interest." *Cleburne*, 473 U.S. at 440. For the reasons explained above, the Policy is irrational on multiple grounds and fails to serve any legitimate interest. *See supra* IV.A.2.

Further, the Policy is transparently motivated by a "bare desire to harm" transgender people, *Romer v. Evans*, 517 U.S. 620, 635 (1996) (cleaned up), and its animus-based objective is anything but legitimate. Defendants cannot identify any valid governmental objective to justify the Policy. The Policy purports to implement the EO, which asserts that "women are biologically female, and men are biologically male" and rejects as false the "claim that males can identify as and thus become women and vice versa." 90 Fed. Reg. at 8615. In other words, the Policy implements a government pronouncement that transgender people do not exist and in the process seeks to prevent transgender, nonbinary, and intersex people, and only them, from being able to obtain a passport that is consistent with who they are. *See Gill v. OPM*, 699 F. Supp. 2d 374, 396 (D. Mass. 2010) ("When the proffered rationales for a law are clearly and manifestly implausible, [the] court may infer that animus is the only explicable basis." (cleaned up)). Because the Policy's objective is "inexplicable by anything but animus toward the class it affects[,] it lacks a rational relationship to legitimate state interests" and fails rational basis review. *Romer*, 517 U.S. at 632.

V. PLAINTIFFS WILL SUFFER IRREPARABLE HARM ABSENT A STAY OR PRELIMINARY INJUNCTION.

Without the Court's intervention, Plaintiffs will suffer irreparable harm. As a threshold matter, the Policy denies Plaintiffs their constitutional rights to equal protection, travel, and privacy. Because these rights are "of such qualitative importance as to be irremediable by any subsequent relief," their violation constitutes irreparable harm as a matter of law. *Vaquería Tres Monjitas, Inc. v. Irizarry*, 587 F.3d 464, 484 (1st Cir. 2009); *see also Walters v. Bos. City Council*, 676 F. Supp. 3d 26, 47 (D. Mass. 2023) (concluding that violations of the Equal Protection Clause "constitute[] irreparable harm"). This alone is sufficient to stay and enjoin the Policy.

Further, the injury in this case extends well past those violations. If not enjoined or stayed, the Policy will cause immediate and concrete harm to each Plaintiff—harm that cannot await or be compensated by relief following final judgment. ***First***, the Policy creates an immediate risk of physical harm to the Plaintiffs. For transgender and nonbinary people, identity documents that reflect their gender identity are a matter of physical safety. Plaintiff Perysian, for example, attests that she faced "significant harassment"—including sexual harassment by TSA agents—when her driver's license bore a male name and sex marker. Perysian Decl. ¶ 8. Plaintiff Anderson describes similar issues she encountered "carrying out everyday tasks" before obtaining a driver's license with a female sex designation, and she explains that document "ensures my safety as I navigate local and domestic travel and venues." Anderson Decl. ¶ 12. Every Plaintiff similarly explains in urgent terms why they need usable passports with updated sex designations to be able to safely navigate spaces (such as international airports) where that document is required. *See* Perysian Decl. ¶ 14; Solomon-Lane Decl. ¶¶ 11–12; Hall Decl. ¶¶ 14–15; Anderson Decl. ¶ 13; Boe Decl. ¶ 13; Orr Decl. ¶¶ 14–15; Soe Decl. ¶ 11. By barring them from obtaining such a document, the

Policy creates an irreparable harm. *See Graham v. Decker*, 454 F. Supp. 3d 347, 357 (S.D.N.Y. 2020) ("Imminent risk to life, health or safety is [] an irreparable harm.").

Second, the Policy constitutes a loss of privacy to Plaintiffs, who are now forced to "out" themselves each time they present their travel documents for inspection. *See, e.g.*, Hall Decl. ¶ 15; *supra* IV.B.2. This loss of privacy cannot be adequately compensated by post-judgment remedy. *See Covidien LP v. Esch*, 229 F. Supp. 3d 94, 99 (D. Mass. 2017) ("improper disclosure of confidential information is, in itself, an irreparable harm" (cleaned up)).

Third, Plaintiffs have imminent travel plans that the Policy has thrown into limbo. Plaintiff Orr plans to travel to Ireland on March 13, 2025 for a medical procedure but now worries that he "will not be able to travel outside of the" U.S. Orr Decl. ¶ 15. Plaintiff Anderson needs to travel to a work conference in France in October; the Policy impedes her and her company's ability to plan for it and deprives her of professional opportunities. *Id.* ¶ 9. Plaintiff Hall is an American student enrolled in a Canadian university and living in Vancouver. They frequently travel back to the U.S. to visit friends and family and attend academic conferences, but now cannot. Hall Decl. ¶¶ 8–9, 14. Bella Boe, a university student, fears she will have to forgo educational opportunities abroad, including one in mid-March. Boe Decl. ¶¶ 9, 14–15. This kind of "uncertainty, stress, and inability to plan" are inescapable so long as the Policy remains in effect and "constitute irreparable injury." *Yue v. Conseco Life Ins. Co.*, 282 F.R.D. 469, 484 (C.D. Cal. 2012).

VI. THE BALANCE OF HARMS AND PUBLIC INTEREST FAVOR A STAY AND PRELIMINARY INJUNCTION.

The balance of harms and public interest favor Plaintiffs in light of Plaintiffs' strong likelihood of success on the merits, the irreparable harm they will suffer if a stay or preliminary injunction does not issue, and the constitutional and civil rights at stake. The harms to Plaintiffs absent a stay or injunction are immediate and irreparable. *See supra* V. Further, "it is always in

the public interest to prevent the violation of a party's constitutional rights." *Dorce v. Wolf*, 506 F. Supp. 3d 142, 145 (D. Mass. 2020) (cleaned up). And likewise, "the public has an important interest in making sure government agencies follow the law." *Neighborhood Ass'n of the Back Bay, Inc. v. Fed. Transit Admin.*, 407 F. Supp. 2d 323, 343 (D. Mass. 2005); *see also Washington v. Reno*, 35 F.3d 1093, 1103 (6th Cir. 2016) (recognizing substantial public interest "in having governmental agencies abide by the federal laws that govern their existence and operations").

Any harm to Defendants, by contrast, is immaterial. The government would be required to enforce federal policy as it existed for years. It would only lose the ability to implement a new policy that advances no legitimate interest and is unlawful. *Braintree Lab'ys, Inc. v. Citigroup Glob. Mkts. Inc.*, 622 F.3d 36, 41 n.5 (1st Cir. 2010) ("The status quo [is] the last uncontested status which preceded the pending controversy." (cleaned up)). This pales in comparison to the glaring constitutional problems with the Policy: "Defendants cannot properly assert that they will suffer harm by an injunction that merely prohibits them from [unlawful conduct]." *Lainer v. Boston*, 95 F. Supp. 2d 17, 21 (D. Mass. 2000). The public interest does not favor enforcement of a discriminatory, unconstitutional policy that inflicts grave harm without legitimate justification.[18]

VII. CONCLUSION

Plaintiffs respectfully request that the Court enter the relief requested in the Motion.

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[18] For these same reasons, Plaintiffs also request that this Court not impose a security bond. *See Int'l Ass'n of Machinists & Aerospace Workers v. E. Airlines*, 925 F.2d 6, 9 (1st Cir. 1991).

Respectfully submitted,

February 18, 2025

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CERTIFICATE OF SERVICE

I hereby certify that on February 18, 2025, a true copy of the foregoing will be electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF).

/s/ Isaac D. Chaput
Isaac D. Chaput

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR, ZAYA PERYSIAN, SAWYER SOE, CHASTAIN ANDERSON, DREW HALL, BELLA BOE, and REID SOLOMON-LANE, on behalf of themselves and others similarly situated, *Plaintiffs*, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; MARCO RUBIO, in his official capacity as Secretary of State; and UNITED STATES OF AMERICA, *Defendants.*	Case No. 1-25-cv-10313 Hon. Julia E. Kobick

EXPERT DECLARATION OF SARAH D. CORATHERS, MD

I, Sarah D. Corathers, hereby declare and state as follows:

1. I have been retained by counsel for Plaintiffs as an expert in connection with the above-captioned litigation.

2. The purpose of this report is to provide my expert opinions on: (1) the medical definitions of sex and gender identity; (2) the unworkable and inaccurate aspects of the government's binary definition of sex; and (3) the severe risk of harm to transgender, non-binary, and intersex individuals forced to use Passport identification that does not match their sex.

3. I have actual knowledge of the matters stated in this report and have collected and cited relevant literature concerning the issues that arise in this litigation in the body of the report.

4. In preparing this report, I reviewed Plaintiffs' Complaint (ECF. 1), and President Trump's Executive Order (ECF 1-1). I also relied on my scientific education and training, my research experience, my knowledge of the scientific literature in the pertinent fields, and my

clinical experience treating adolescents with gender dysphoria, as set out in my curriculum vitae, attached hereto as Exhibit A.

5. The materials I have relied upon in preparing this report are the same types of materials that experts in my field regularly rely upon when forming opinions on these subjects. These materials are listed in the bibliography accompanying this declaration, attached hereto as Exhibit B.

6. I may wish to supplement these opinions or the bases for them as a result of new scientific research or publications, in response to statements and issues that may arise in my area of expertise, or in responses to expert opinions the Government may submit in this matter.

BACKGROUND AND QUALIFICATIONS

7. I received my medical degree from Wright State University in 2002. I completed my residency in Internal Medical and Pediatrics at the University of Cincinnati and Cincinnati Children's Hospital between 2002-2006. I was the Chief Resident in Internal Medicine at the University of Cincinnati from 2006-2007. I completed a four-year combined Fellowship in Adult and Pediatric Endocrinology between 2009-2013 at the University of Cincinnati and Cincinnati Children's Hospital. Beginning in 2013, I was an Assistant Professor, Department of Pediatrics, Division of Endocrinology, at Cincinnati Children's Hospital. I became an Associate Professor in the Department of Pediatrics, Division of Endocrinology, in 2019. Since 2022, I have been the Clinical Director in the Division of Pediatric Endocrinology at Cincinnati Children's Hospital overseeing clinical operations and quality. Notably, the Division of Endocrinology at Cincinnati Children's Hospital was recognized by U.S. News and World Reports as #1 in the nation for Diabetes and Endocrinology in the 2023-2024 rankings, the same year Cincinnati Children's Hospital was also recognized as the #1 Best Children's Hospital in the nation. As of March 1, 2024, I am Associate Chief of Staff, Ambulatory Medicine at Cincinnati Children's Hospital.

9. I have extensive experience working with children and adults with endocrine disorders, and I am an expert in the treatment of metabolic and hormone health concerns including hypogonadism, Differences of Sex Development (DSD) or Intersex conditions, and gender dysphoria. I also treat children, adolescents, and adults with other endocrine disorders including type 1 diabetes, Turner syndrome, and survivors of childhood cancers with lifelong hormone deficiencies.

10. I am a member of the American Academy of Pediatrics, the Pediatric Endocrine Society, and the Endocrine Society.

11. I currently see adult and pediatric patients at the Endocrinology Clinic at Cincinnati Children's Hospital, where I also serve as the Clinical Medical Director.

12. I supervise the education of pediatric endocrinology fellows in care of transgender and gender non-conforming youth through didactic lectures and clinical practice.

13. I have published over 70 peer reviewed articles on endocrine disorders and treatments. Among those, I have published on topics that include interdisciplinary care for transgender and gender non-conforming youth, shared decision making about gender-affirming hormone therapy, hormonal contraceptive choices for transgender adolescents and adults, and bone health among transgender youth undergoing pubertal suppression. I have also published an invited commentary about developing effective hormonal treatment paradigms for transgender youth. In addition, I am a contributing author on the International Turner Syndrome Clinical Practice Guidelines which reflect grading of available evidence and recommendations for care including estrogen hormone replacement.

14. As part of my practice, I am familiar with the latest medical science and treatment protocols related to gender dysphoria and Differences of Sex Development (DSDs).

15. I have served as an expert witness, been deposed and testified at trial in *Moe v. Yost*, 24-CV-002481 (Franklin County Ohio clerk of Courts of the Common Pleas).

16. I am being compensated at a rate of $300 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

PROCESS OF SEX DEVELOPMENT

17. Sex development is a complex, multi-step process of activating and repressing factors dependent upon genetic instruction and subsequent embryologic differentiation in response to hormone signals.

18. Sex refers to multiple physiologic attributes, such as chromosomes (genetic sex), gonads (glands that produce hormones), and anatomy (reproductive parts both inside and outside of the body), secondary sex characteristics that usually develop during puberty, and gender identity.

19. Chromosomes carry genetic information. Two chromosomes, known and X and Y, are referred to as sex chromosomes. People with two X chromosomes will usually be female and people with one X and one Y chromosome will usually be male. The combination of chromosomes is determined at conception when the egg is fertilized.

20. During the initial gestational period, embryos with XX and XY chromosomes appear the same. The future gonads (ovaries and testes) are undifferentiated, and there are two sets of structures called Mullerian and Wolffian ducts, and similar genital structures.

21. A gene called SRY is usually found only on the Y chromosome. The SRY gene gives instructions to cells in the undifferentiated gonad to make a protein called testis determining factor (TDF). In response to TDF, the undifferentiated gonads develop into testes that can later produce Testosterone, which makes the Wolffian ducts develop into spermatic ducts. The testes

produce Mullerian Inhibiting Substance (MIS), which makes the Mullerian ducts disappear. Testosterone and dihydrotestosterone promote the development of male anatomic features including a penis and scrotum.

22. In the presence of two X chromosomes and the absence of the SRY gene, ovaries form from the undifferentiated gonad. The Mullerian structures form a uterus, fallopian tubes, vagina, and labia in the absence of MIS to stop them from developing. The Wolffian ducts disappear when there is no Testosterone.

23. After the seventh week of development, the testes release testosterone that causes undifferentiated genitals to develop in a male direction. In the absence of testosterone, or if the body cannot respond to testosterone, the undifferentiated genitals develop in a female direction. Both male and female genitals have corresponding parts because of common embryologic origins.

24. Sex is usually assigned at birth based on physical characteristics; however, the physiologic aspects that contribute to a person's sex are not always aligned with each other. For example, some people may have chromosomes typically associated with males, but genitalia typically associated with females or vice versa.

25. During male puberty, testes mature and begin to produce sperm. During female puberty, ovaries start to release eggs and menstrual periods begin.

26. In a medical context, the terms "sex designated at birth" or "sex assigned at birth" are more precise than the term "biological sex" that does not account for differences of sex development or intersex conditions, fertility potential, or gender identity.[1]

[1] *See* Hembree, W.C., et al., *Endocrine treatment of gender-dysphoric/gender-incongruent persons: An Endocrine Society clinical practice guideline*. J. Clin. Endocrinol. & Metab., 2017. **102**: 3869–3903, 3875, https://academic.oup.com/jcem/article/102/11/3869/4157558 (hereafter "Endocrine Guideline") ("Biological sex, biological male or female: These terms refer to physical aspects of maleness and femaleness. As these may not be in line with each other (e.g., a person with XY chromosomes may have female-appearing genitalia), the terms biological sex and biological male or female are imprecise and

THE GOVERNMENT'S DEFINITION OF SEX IS IN CONFLICT WITH BIOLOGY

27. The Executive Order Section 2 (d) states that "'Female' means a person belonging, at conception, to the sex that produces the large reproductive cell" and Section 2 (e) states that "'Male' means a person belonging, at conception, to the sex that produces the small reproductive cell". These terms are not used in clinical medical practice or scientific discourse.

28. The Executive Order's definition of sex is arbitrary and inconsistent with biology. Notably, the gonads that may later have capacity to produce reproductive cells are not present at conception. Impliedly, the reference to the "large reproductive cell" indicates egg or ova from an ovary and "small reproductive cell" means sperm from a testis. What is certain is that there are many individuals whose gonads are not able to produce eggs or sperm. Furthermore, sperm production, when present, is not possible until male puberty, between the ages of 9-14 years.

29. The government's definition of sex is inaccurate, conflates sex and fertility, neglects the existence of medical conditions that result in differences in sex development, individuals who face infertility for any reason, and the interrelation between sex and gender.

30. In the United States, about 11% of women and 9% of men of reproductive age experience fertility issues.[2] The government's definition of sex that is dependent upon presence of reproductive cells is untenable given that fertility status is often not established until adulthood.

DIFFERENCES OF SEX DEVELOPMENT

31. Medical conditions known as Differences of Sex Development (DSD) or Intersex

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should be avoided.")

[2] National Health Statistics Report April 24, 2024, National Health Statistics Reports, Number 202, April 4, 2024

conditions describes a group of conditions in which biological sex development does not follow a typical path.[3]

32. Some intersex people will not develop the capacity to produce either the "large reproductive cell" or "small reproductive cell"—that is, the ovum and sperm – that are part of the definitions of female and male used by the Passport Policy.[4]

33. "Intersex" is an umbrella term used to describe a wide range of natural bodily variations. Intersex people are born with sex characteristics that do not fit typical binary notions of bodies designated "male" or "female." In some cases, intersex traits are visible at birth, while in others, they are not apparent until puberty—or later in life during fertility evaluation. Some variations may not be visibly apparent. Intersex people can have certain variations in chromosomes (genetic material), external genitals, internal reproductive organs, and hormone production and response that cause these variations in their bodies. Karyotype describes the set of chromosomes found in the cells of an individual person. Depending on karyotype, individuals with DSD are categorized into 46 XX DSD, 46 XY DSD, and sex chromosome or mixed chromosome DSD.[5]

34. There are many conditions that can be described as DSD or Intersex. The most frequent occurring are congenital adrenal hyperplasia (CAH) in XX individuals, complete or partial androgen insensitivity in XY individuals, and mixed gonadal dysgenesis. Conditions with

[3] Lee PA, Houk CP, Ahmed SF, Hughes IA., International Consensus Conference on Intersex organized by the Lawson Wilkins Pediatric Endocrine Society and the European Society for Paediatric Endocrinology. Consensus statement on management of intersex disorders. International Consensus Conference on Intersex. Pediatrics. 2006 Aug;118(2):e488-500.

[4] The Biological Reality of Sex and Intersex: A Response to the Executive Order, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" - Pediatric Endocrine Society

[5] Hughes IA, Nihoul-Fékété C, Thomas B, Cohen-Kettenis PT. Consequences of the ESPE/LWPES guidelines for diagnosis and treatment of disorders of sex development. Best Pract Res Clin Endocrinol Metab. 2007 Sep;21(3):351-65.

sex chromosome differences like Turner syndrome (usually a single X chromosome, 45 XO) and Klinefelter syndrome (usually an extra chromosome, 47 XXY) are sometimes included in the category of sex chromosome DSD. Based on the inclusion criteria used to define DSD conditions, the incidence varies from 1:1000[6] to 1:4500[4] live births, indicating a potential of 60,000 up to 5.6 million people with Intersex conditions in the United States.[7] The prevalence of an isolated finding of atypical genitalia such as hypospadias, (opening of the urethra located somewhere other than the tip of the penis) or undescended testis may be as high as 1 in 300 births whereas the birth prevalence of infants who require further medical evaluation for a potential DSD diagnosis is about 1 in 3000 and a smaller proportion of those births may experience delayed sex assignment due to a DSD diagnosis.[8]

35. People who are born with a DSD may have ambiguous genitalia at birth, making it hard to determine a sex assignment based on anatomy. Some individuals have XY genetics but have genitals that appear female due to under virilization (lack of exposure or response to testosterone). Conversely, some individuals have XX genetics with external genitals that appear male due to in utero Testosterone exposure but still have internal uterus and ovaries. Many DSD conditions are associated with inability to produce ova or sperm.

36. There are many genes involved in sex development, and a mutation in any of these

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[6] Blackless M, Charuvastra A, Derryck A, Fausto-Sterling A, Lauzanne K, Lee E. How sexually dimorphic are we? Review and synthesis. Am J Hum Biol. 2000 Mar;12(2):151-166. doi: 10.1002/(SICI)1520-6300(200003/04)12:2<151::AID-AJHB1>3.0.CO;2-F. PMID: 11534012.

[7] United Nations Free & Equal, "Intersex People," Office of the United Nations High Commissioner for Human Rights 1 (2024), https://www.unfe.org/sites/default/files/download/Intersex%20factsheet%202024%20EN%20-%20CLEARED.pdf (last accessed Feb. 6, 2025)

[8] Ahmed SF, Achermann J, Alderson J, Crouch NS, Elford S, Hughes IA, Krone N, McGowan R, Mushtaq T, O'Toole S, Perry L, Rodie ME, Skae M, Turner HE. Society for Endocrinology UK Guidance on the initial evaluation of a suspected difference or disorder of sex development (Revised 2021). Clin Endocrinol (Oxf). 2021 Dec;95(6):818-840. doi: 10.1111/cen.14528. Epub 2021 Jun 22. PMID: 34031907.

genes may lead to the development of a DSD: [9]

- SRY gene: the sex-determining region of the Y chromosome is the chief regulator of male sex differentiation; expression causes translation of SRY protein, which mediated testicular development.
- SOX9 gene: expression of this gene follows the SRY gene and is responsible for the differentiation of Sertoli cells.
- NR5A1/SF-1: The steroidogenic factor gene codes an important transcription factor involved in male development and steroid biosynthesis.
- DHH gene: The desert hedgehog gene plays a role in testicular differentiation.
- DAX/NROB1: Considered as an anti-testis factor up-regulated in the ovary.
- WT1: Codes a transcription factor involved in renal and gonadal development, mutation results in various congenital syndromes of abnormal genitourinary development.
- Wnt 4 and Wnt 7a: Wnt 4 suppresses male sexual differentiation and ovarian androgen production.

37. Based on genetic variation, some people may have differences in how the gonads develop, which impacts the ability of the gonad to make hormones to drive usual anatomic development.

38. Some individuals make hormones, but there is a block in an important part of the hormone synthesis pathway, an insensitivity to the hormone, or resistance at the level of the cellular receptor. For example, development of male external genitalia requires the presence of

[9] Mehmood KT, Rentea RM. Ambiguous Genitalia and Disorders of Sexual Differentiation. [Updated 2023 Aug 28]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2025 Jan-. Available from: https://www.ncbi.nlm.nih.gov/books/NBK557435/

dihydrotestosterone. Deficiency of this hormone, insensitivity, or resistance may lead to under-virilized genitalia in a person with XY chromosomes. Similarly, in a person with XX chromosomes, exposure to excess androgens leads to virilization of female genitalia, which may be due to excess production or exogenous exposure.

39. A karyotype describes the size, shape, and number of chromosomes (genetic material) in a sample of cells from an individual. Most individuals have 46 chromosomes including two sex chromosomes, either X or Y. Intersex people develop differently in a variety of ways with classification based upon karyotype[10]:

- 46 XX DSD may experience disorder of gonadal development, disorder of androgen excess, or disorders such as Mayer-Rokitansky-Küster-Hauser Syndrome (not developing a vagina and/or uterus).
- 46 XY DSD may experience disorder of gonadal development, disorder of androgen synthesis, disorder of androgen function, persistence of Mullerian structures (developing a uterus, fallopian tubes, or vaginal canal with or without a penis and testes), and other unclassified disorders.
- Sex chromosome DSD mayinclude Turner syndrome, Klinefelter syndrome, Mixed gonadal dysgenesis, and variants of these conditions.

GENDER IDENTITY

40. Gender identity refers to a fundamental inner sense of self as female, male, a combination of both, or neither distinctly male nor female.

[10] Cools M, Nordenström A, Robeva R, Hall J, Westerveld P, Flück C, Köhler B, Berra M, Springer A, Schweizer K, Pasterski V; COST Action BM1303 working group 1. Caring for individuals with a difference of sex development (DSD): a Consensus Statement. Nat Rev Endocrinol. 2018 Jul;14(7):415-429. doi: 10.1038/s41574-018-0010-8. PMID: 29769693; PMCID: PMC7136158.

41. Everyone has a gender identity and one's understanding of it may develop over time.

42. A person's gender identity is an essential part of their identity and very frequently predicts how they will be identified by others more accurately than their sex assigned at birth. For purposes of identity documents, including passports, a person's gender identity is the most accurate and least problematic characteristic for determining what their sex is.

43. There is a medical consensus that gender identity is innate and that efforts to change a person's gender identity are unethical and harmful to a person's health and well-being.[11]

44. According to the American Medical Association, the American College of Physicians, the American Psychiatric Association, and 25 other major U.S. medical and psychological professional associations, "variations in . . . gender identity are a normal part of human development" and "research and experience shared by scholars, clinicians, and patients have shown that . . . efforts [to change someone's gender identity have not succeeded] and are harmful."[12]

CISGENDER, TRANSGENDER, AND NON-BINARY PEOPLE

45. The prefixes "cis" and "trans" are from Latin: "this side of" and "the other side of", respectively. In the context of chemistry, cis indicates that the functional groups on the same side of a molecule, while trans conveys that they are on opposing or transverse sides of a molecule.

46. The prefixes cis and trans are applied to language describing gender identity to convey when gender identity aligns with sex assigned at birth, (cisgender), or when gender identity

[11] See statements from professional organizations that oppose gender identity conversion efforts: https://d3dkdvqff0zqx.cloudfront.net/groups/apaadvocacy/attachments/USJS-Final-Version.pdf

[12] Jody Herman et al., How Many Adults and Youth Identify as Transgender in the United States?, Williams Institute, UCLA School of Law 1 (2022), https://williamsinstitute.law.ucla.edu/wpcontent/uploads/Trans-Pop-Update-Jun-2022.pdf (last accessed Feb. 6, 2025).

is different than sex assigned at birth (transgender).

47. Most people have a gender identity that aligns with the sex they were designated at birth based on their external genitalia and are cisgender.[13]

48. Transgender people have a gender identity different from the person's sex designated at birth. Approximately 1.6 million people in the United States identify as transgender.[14]

49. Non-binary, gender diverse, or gender non-conforming are terms used to describe gender identities that are not either exclusively male or exclusively female. According to one set of surveys, more than 1.2 million Americans identify as are non-binary.[15] Some non-binary people consider themselves transgender because their sex assigned at birth does not align with their gender identity. Other non-binary people do not consider themselves transgender. In addition, some transgender people consider themselves to be non-binary, and some do not.

50. Some intersex people identify with sex assignment at birth and are considered cisgender; some identify as transgender or non-binary.

51. Transgender and non-binary people have always existed, although the number of people who we know to be transgender has increased in recent times with increased visibility and alongside advances in modern medical treatments.[16]

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[13] The terms "sex designated at birth" or "sex assigned at birth" are more precise than the term "biological sex" because all the physiological aspects of a person's sex are not always aligned with each other. *See* Hembree, W.C., et al., *Endocrine treatment of gender-dysphoric/gender-incongruent persons: An Endocrine Society clinical practice guideline*. J. Clin. Endocrinol. & Metab.,2017.**102**:3869–3903, 3875, https://academic.oup.com/jcem/article/102/11/3869/4157558 (hereafter "Endocrine Guideline").

[14] Jody Herman et al., How Many Adults and Youth Identify as Transgender in the United States?, Williams Institute, UCLA School of Law 1 (2022), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf (last accessed Feb. 6, 2025).

[15] Bianca D.M. Wilson et al., Nonbinary LGBTQ Adults in the United States, Williams Institute, UCLA School of Law 2 (June 2021), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Nonbinary-LGBTQ-Adults-Jun-2021.pdf (last accessed Feb. 6, 2025).

[16] Carswell, J.M., Lopez, X., and Rosenthal, S.M., *The evolution of adolescent gender-affirming care: An*

52. There is considerable scientific evidence demonstrating a durable biological element underlying gender identity. For example, neuroanatomy studies of brain scan patterns often align with gender identity rather than external genitalia or chromosomes.[17] For example, Yokota et al reported that the shape of the corpus callosum, a structure in the brain, in transgender individuals was closer to subjects with shared gender identities than to subjects who shared the same sex designated at birth.[18] Results of genetic, biologic, and neuroscience studies support the concept that gender identity is not simply a psychosocial construct, but likely reflects a complex interplay of biological, environmental, and cultural factors, which may explain why attempts to change gender identity in intersex patients to match external genitalia or chromosomes are often unsuccessful.[19] Among individuals with XX chromosomes and congenital adrenal hyperplasia (CAH) there is higher exposure to androgens (masculinizing hormones) in utero that corresponds to higher rates of male gender identity compared to those who do not have similar in utero exposure to Testosterone.[20] Individuals with XY chromosomes and complete androgen insensitivity have tissues that are not able to respond to Testosterone and often have female gender identity. Identical twins (twins who share the exact same genetic material) are more likely to both experience transgender identity compared to sets of fraternal twins (non-identical). [21]

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historical perspective. Horm. Res. Paediatr., 2022. **95**(6): p. 649-656.

[17] Saraswat A, Weinand JD, Safer JD. Evidence supporting the biologic nature of gender identity. Endocr Pract. Feb 2015;21(2):199-204. doi:10.4158/ep14351.ra

[18] Yokota, Y., Kawamura, Y., & Kameya, Y. (2006, January). Callosal shapes at the midsagittal plane: MRI differences of normal males, normal females, and GID. In *2005 IEEE Engineering in Medicine and Biology 27th Annual Conference* (pp. 3055-3058). IEEE.

[19] Rosenthal SM. Approach to the patient: transgender youth: endocrine considerations. J Clin Endocrinol Metab. Dec 2014;99(12):4379-89. doi:10.1210/jc.2014-1919

[20] Dessens AB, Slijper FM, Drop SL. Gender dysphoria and gender change in chromosomal females with congenital adrenal hyperplasia. Arch Sex Behav. Aug 2005;34(4):389-97. doi:10.1007/s10508-005-4338-5

[21] Heylens G, De Cuypere G, Zucker KJ, et al. Gender identity disorder in twins: a review of the case report literature. J Sex Med. Mar 2012;9(3):751-7. doi:10.1111/j.1743-6109.2011.02567.x

GENDER DYSPHORIA: DIAGNOSIS AND TREATMENT

53. Gender dysphoria describes the significant emotional distress or impairment in social, occupational, or other important areas of functioning that stems from the incongruence between a person's gender identity and sex designated at birth, and/or body characteristics. Many transgender, non-binary, and intersex people experience gender dysphoria.

54. Gender dysphoria is recognized as a diagnosis in the American Psychiatric Association's Diagnostic & Statistical Manual of Mental Disorders ("DSM V").[22] To be diagnosed with gender dysphoria, the incongruence between a person's gender identity and designated sex must have persisted for at least six months and be accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning. There are two separate diagnoses for gender dysphoria, one for gender dysphoria in childhood and the other for gender dysphoria in adolescence and adulthood.

55. Being transgender is not itself a mental health condition; however, stigma, bullying, and untreated gender dysphoria can lead to severe anxiety, depression, and suicidality. Efforts to change a transgender person's gender identity is associated with adverse mental health outcomes, including suicidality.[23] Mental health and psychosocial support are essential components of care for transgender and gender diverse people as detailed in the Endocrine Society Clinical Care Guideline, published by a professional organization of more than 18,000 endocrinologists.

56. When appropriately treated, gender dysphoria can be effectively managed.

57. The treatment protocols for gender dysphoria are laid out in established, evidence-

[22] See, e.g., Am. Psychiatric Ass'n, Diagnostic and Statistical Manual of Mental Disorders: DSM5-TR at 512–13 (2022)

[23] Turban JL, Beckwith N, Reisner SL, Keuroghlian AS. Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among Transgender Adults. JAMA Psychiatry. Sep 11 2019;77(1):1-9. doi:10.1001/jamapsychiatry.2019.2285

based clinical guidelines: (i) the Endocrine Society Clinical Practice Guideline for Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons, and (ii) the World Professional Association for Transgender Health ("WPATH") Standards of Care ("SOC") for the Health of Transgender and Gender Diverse People, which was initially published in 1979 and is now in its eighth version, which was released in 2022. These guidelines are supported by all major U.S. medical associations and reflect the professional consensus about the psychological, psychiatric, hormonal, and surgical management of gender dysphoria.

58. It is the recognized standard of care to address gender dysphoria with individualized treatment approach designed to bring a person's body and expression of their sex in line with their gender identity. This course of treatment has different components depending on the needs of each person. A professional healthcare provider recommends an individualized course of treatment based on their exercise of professional judgment to achieve the goal of reducing a patient's gender dysphoria. As with other forms of healthcare, the patient considers the benefits, risks, and alternatives of available options and makes treatment decisions in consultation with that provider.

59. Treatment for gender dysphoria brings a person's social interactions, appearance, and body into greater alignment with the person's gender identity, which helps alleviate the distress associated with gender dysphoria. Treatment for gender dysphoria may involve social transition, hormone treatment, non-surgical voice therapy, and/or gender-affirming surgery or surgeries.

60. Gender affirming care refers to support from mental health and medical providers.

61. Transgender individuals report several-fold higher rates of depression, anxiety, suicidal ideation, suicide attempt, and self-harm without lethal intent, compared to their cisgender counterparts, and gender affirming care is known to improve mental health outcomes.[24]

[24] Turban JL, King D, Kobe J, Reisner SL, Keuroghlian AS. Access to gender-affirming hormones during adolescence and mental health outcomes among transgender adults. PLoS One. 2022 Jan

62. Hormone treatment with estrogen or testosterone is used to help a person develop secondary sex characteristics consistent with their gender identity, which may affect how the person receiving such treatment physically presents and is perceived by others.

63. Gender affirming surgeries may include a wide variety of surgeries, many of which also affect how the person undergoing surgery physically presents and is perceived by others, such as augmentation mammoplasty, chest reconstruction surgery, and facial feminization surgery.

64. Gender-affirming medical care may also be appropriate or indicated for some non-binary people.

65. There is nothing unique about undergoing hormone treatment to sustain one's health. Gender-affirming medical care is also appropriate for cisgender people with hypogonadism (low levels of estrogen or testosterone). Other common examples of treatment with hormone therapy for social emotional or gender affirming purposes in cisgender population include use of testosterone in boys with constitutional delay of growth and puberty to "jump start" puberty, and use of estrogen and androgen receptor blockers for girls with polycystic ovarian syndrome (PCOS) to minimize undesired facial and body hair.

TRANSGENDER, NONBINARY AND INTERSEX PEOPLE EXPERIENCE HIGH LEVELS OF DISCRIMINATION, HARASSMENT AND VIOLENCE.

66. Transgender, nonbinary, and intersex people often experience violence, harassment, discrimination, and social stigma when others learn that they are transgender, nonbinary, or intersex.

67. For decades, transgender, nonbinary, and intersex people have been subject to numerous and varied attempts by both private individuals and government actors to discriminate

12;17(1):e0261039. doi: 10.1371/journal.pone.0261039. Erratum in: PLoS One. 2023 Jun 12;18(6):e0287283. doi: 10.1371/journal.pone.0287283. PMID: 35020719; PMCID: PMC8754307.

against and oppress them, and to attempt to erase their existence.

68. Transgender people are more likely to suffer harassment, discrimination, and violence than the population at large. According to the National Center for Transgender Equality's U.S. Transgender Survey:

- Around a quarter (24%) of respondents had been physically attacked in a K-12 school because people thought they were transgender.
- In the year prior to completing the survey, 27% of respondents who had a job reported being fired, denied a promotion, or experiencing some other form of mistreatment in the workplace due to their gender identity or presentation.
- Nearly half (47%) of respondents had been sexually assaulted during their lifetime.
- Among respondents who had interacted with police, 58% of those whom the police perceived as transgender experienced some form of mistreatment.
- Twenty-five percent of transgender people were verbally harassed, 16% denied services or benefits, 9% asked to leave a location or establishment, and 2% assaulted or attacked after showing identification with a name or sex designation that did not match their gender presentation.

69. For transgender people of color, these forms of mistreatment are even more common.

70. As a result of these forms of mistreatment, 39% of respondents experienced serious psychological distress in the month prior to completing the survey, compared with only 5% of the U.S. population. Moreover, 40% percent of respondents attempted suicide in their lifetime—nearly nine times the attempted suicide rate in the U.S. population as a whole (4.6%).

71. Nonbinary people are also subject to violence and discrimination, and many of the

statistics regarding violence against transgender people include nonbinary people.

72. Intersex people also are more likely to suffer violence, discrimination, harassment, and mistreatment. For instance, surveys indicate that anywhere from one quarter to half of intersex people had been subjected to violence.

SOCIAL TRANSITION IS AN IMPORTANT COMPENENT FOR THE TREATMENT OF GENDER DYSPHORIA

73. For transgender people, social transition means presenting in public part- or full-time in a way that is congruent with their gender identity.

74. Social transition can include modifications to appearance through changing hairstyles, clothing, wearing garments that augment physical aspects such as a binder to flatten chest or inserts in a bra to enhance chest.

75. Social transition can also include coming out to family, friends, classmates, co-workers.

76. Social transition may also include the use of a new name, pronouns, and changing legal and identifying documents to match chosen name, pronouns, and gender identity such as driver's license and passport.

77. Treatment for gender dysphoria includes living one's life consistently with one's gender identity, including using identity documents that reflect one's gender identity.

78. Decisions regarding social transition are individualized after considering the potential benefits of alleviating psychological distress and the potential risks including family and peer rejection, harassment, and safety concerns. [25]

79. While social transition is adequate to treat gender dysphoria for some people, others

[25] Management of the transgender adolescent, Olson J, Forbes C, Belzer M, Arch Pediatr Adolesc Med. 2011 Feb;165(2):171-6

may need other forms of gender-affirming care as well.

80. In my own clinical practice and in review of available literature, I've observed the importance of social transition within supportive social structure (family, community, workplace), and interdisciplinary treatment from medical and mental health providers.

81. Successful passing as identified gender and achieving gender embodiment goals are important components to alleviate gender dysphoria and reduce stigma, risk of harassment, and enhance safety.

TRANSGENDER PEOPLE WITH AN IDENTITY DOCUMENT CONSISTENT WITH THEIR GENDER ARE LESS LIKELY TO EXPERIENCE DISCRIMINATION AND ARE MORE LIKELY TO HAVE IMPROVED MENTAL HEALTH.

82. Forcing transgender, non-binary, and intersex people to use identity documents that do not align with what they know their sex to be and present themself as, or forcing them to go without identity documents, is inconsistent with medical protocols. It can cause anxiety and distress to individuals who are transgender and result in discrimination and violence against them. Additionally, for those who have struggled for years with the impact of external invalidation of their identity, the knowledge that one's identification documents label one with the wrong sex can, by itself, cause serious psychological injury.

83. Although rates of suicide are higher amongst the transgender community than the general population, a 2015 study identified several factors that were associated with large reductions in suicide risk. The study reported that having an identity document with a gender marker notation that matched their lived gender was associated with a large reduction in suicidal ideation and attempts. Based on extrapolation of survey findings the researchers noted that in a hypothetical sample, having one or more concordant identity documents has the potential to prevent 90 cases of suicide ideation per 1,000 transgender people. Further, amongst a sample of

transgender people already experiencing suicidal ideation, the risk reduction impact of having congruent identity documents could prevent 230 suicide attempts per 1,000 lives. [26]

84. A review of 24 studies similarly found that social and legal gender validation was positively related to improved health outcomes.[27]

85. Recognizing the importance of identification documents, the American Medical Association "supports every individual's right to determine their gender identity and sex designation on government documents" and urges that governments "allow for a sex designation or change of designation on all government IDs to reflect an individual's gender identity, as reported by the individual and without need for verification by a medical professional."[28]

MY CLINICAL EXPERIENCE AS A PHYSICIAN CONFIRMS THAT TRANSGENDER, NONBINARY AND INTERSEX PEOPLE NEED ACCESS TO USABLE PASSPORTS

86. Witnessing the dramatic and positive transformation of transgender individuals who are thriving after social transition and starting gender affirming care is among the most rewarding aspects of my career.

87. After initiation of gender affirming care, transgender individuals express feeling less anxious, with improved symptoms of depression and decreased distress related to gender dysphoria.

[26] Bauer GR, Scheim AI, Pyne J, Travers R, Hammond R. Intervenable factors associated with suicide risk in transgender persons: a respondent driven sampling study in Ontario, Canada. BMC Public Health. 2015 Jun 2;15:525. doi: 10.1186/s12889-015-1867-2. PMID: 26032733; PMCID: PMC4450977.
[27] King WM, Gamarel KE. A Scoping Review Examining Social and Legal Gender Affirmation and Health Among Transgender Populations. Transgend Health. 2021 Feb 15;6(1):5-22. doi: 10.1089/trgh.2020.0025. PMID: 33644318; PMCID: PMC7906235.
[28] Conforming Sex and Gender Designation on Government IDs and Other Documents H-65.967, Am. Med. Ass'n (2021), https://policysearch.amaassn.org/policyfinder/detail/gender?uri=%2FAMADoc%2FHOD.xml-0-5096.xml (last accessed Feb. 6, 2025).

88. As an Endocrinologist who specializes in the care of transgender, non-binary, and DSD individuals, I routinely am asked to complete paperwork confirming that a sex marker on legal documents be updated to align with an individuals lived and expressed sex that is consistent with their gender identity.

89. Based upon my education, training, clinical experience, and available research, obtaining identification documents that align sex marker with gender identity is a safe, effective, and beneficial intervention for transgender, non-binary, and intersex individuals. It is both life affirming and potentially life-saving.

90. In summary, denying dignity and safety during travel by limiting access to accurate identifying documents will not cause anyone to stop being transgender, non-binary, or change a DSD diagnosis, it will only exacerbate distress from lack of access to established norms. As a medical provider, it is devastating and goes against my ethical obligations to my patients to be legally prohibited from offering standards of medical care.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/17, 2025

SARAH D. CORATHERS, MD

EXHIBIT A

Sarah D. Corathers, MD
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Education

Bachelor of Arts, Barnard College, Columbia University (1992-1996)
Art History Major, Departmental honors.
Doctor of Medicine, Wright State University (1998-2002)
Passed Step 1 USMLE June 2000; Passed Step 2 September 2001, Passed Step 3 July 2004
Residency, Internal Medicine and Pediatrics (2002-2006)
University of Cincinnati and Cincinnati Children's Hospital Medical Center (CCHMC)
Fellowship, Adult and Pediatric Endocrinology (2009-2013)
University of Cincinnati and Cincinnati Children's Hospital, Divisions of Endocrinology
Quality Improvement (QI) Training
Cincinnati Children's Hospital: Intermediate Improvement Science Series (August 2010-January 2011); Advanced Improvement Methods (September 2014- May 2015)
Academic Pediatric Association: Advancing Implementation and QI Science (Seminar, 5/2018; 4/2019)
Leadership Training
Cincinnati Children's Hospital CORE leadership training program- Class VI (2017-2018)

Academic Appointments

Associate Professor, Department of Pediatrics, University of Cincinnati College of Medicine (06/2019-)
Assistant Professor, Department of Pediatrics, University of Cincinnati College of Medicine (07/2013-06/2019)
Secondary appointment, James M. Anderson Center for Health System Excellence, (07/2013--)
Chief Resident, Internal Medicine, University of Cincinnati, College of Medicine (07/2006-06/2007)

Licensing and certification

American Board of Pediatrics, Board Certified, 10/2006
American Board of Internal Medicine, Board Certified, 8/2007
Pediatric Endocrinology, Diabetes and Metabolism, Board Certified, 11/2013; MOC in progress
Adult Endocrinology, Diabetes and Metabolism, Board Certified, 10/2013; MOC in progress
State Medical Board of Ohio, License 35.088645, Expiration date 4/1/2025
CITI Program Good Clinical Practice and Research Ethics training, Expiration date 12/25/2026

Awards and Honors

Cincinnati Magazine Top Doctor, 2016--2025
Cincy Magazine, Best Doctor, 2016—2024
Type 1 Diabetes Exchange QI Collaborative Outstanding PI award, November 2019
Venue Media and LEAD magazine, Comprehensive Healthcare Leadership Award, August 2016
Service Quality Award 2015, Permanente Journal, "Effective Follow up for Depression and or Suicidal Ideation in Adolescents with Diabetes."
Ohio Patient Safety Institute, Best Practice Award, "Depression Screening in the Diabetes Center", 2013
Alpha Omega Alpha Honor Society Member

Clinical Service

Clinical Expertise and Activities: Based on dual training in pediatric and adult endocrinology, my interests and experience are in the care of adolescents and adults with endocrine conditions across the lifespan. Areas of clinical concentration include type 1 diabetes, Turner syndrome, transgender health, and successful transition to adult care.

Clinical Director: Oversee the clinical operations and quality improvement portfolio of the Division of Pediatric Endocrinology. Notable accomplishments in the past year include reducing time for 3rd next available visit from mean of 43 days to 24 days, achieving consistent clinic visits for established patients, expanding to Mobile Care Clinic, launching e-visit for diabetes, recognition as top performing ambulatory division for Patient and Family Experience (2023), USNWR Division ranking tied for #1 in the nation (2023).

Diabetes Transition Program Development: Led development of a transition policy and registry to track transition planning and transfers to adult care (2013-2014). In collaboration with Seattle Children's Hospital, developed and implemented a patient reported readiness assessment tool, READDY (2013-2018) that is translated into 6 languages and used internationally (2021--). Increased transition planning from 10% to > 85% for ages 16-18 and > 90% of over age 19 (2018- ongoing). Expanded depression screening and referral for mental health services to people over age 18 (2019), partner with adult receivership programs.

Leadership in Quality Improvement (QI): Engagement with institution-wide Psychosocial Screening task force, the Health Equity Network at Cincinnati Children's (2021-ongoing) and coordinating Division of Endocrinology initiatives with the Type 1 Diabetes Exchange national collaborative (T1Dx-QI). Cincinnati Children's Diabetes Center was one of the first North American centers to join the International Diabetes Registry SWEET (2019). The Division of Endocrinology at Cincinnati Children's Hospital consistently ranks highly in USNWR, most recently tied for 1st in the nation in 2023 and 2nd in 2024.

Clinical improvement activities include: Implementation of depression screening and appropriate referral for youth with diabetes (2011- present), increasing timely insulin administration in hospitalized patients (2014-2015), decreasing loss to follow of congenital hypothyroid patients (2014-2018), development of diabetes registry with selection of quality metrics and data capture strategies (2015-2016), integration of patient reported outcomes into clinical care (2016- current), population health strategies (2017-current). Current work includes expanding uptake of diabetes technology to reduce health equity gaps. Across all ages and insurance coverage, increasing continuous glucose monitor use rates > 90%, while cutting disparity gaps in half (2019- ongoing). Through ConnecT1D project, mean HbA1c for Healthvine Medicaid cohort with T1D improved from 9.4% to 8.8% (2022- ongoing).

Research and Scholarly Activities

Research and Scholarly Activities
The intersection of my research and clinical interests includes psychosocial aspects of diabetes management, mechanisms to promote successful transition between adult and pediatric health care systems, and health system-based interventions to improve care delivery and patient outcomes. As Clinical Director, I lead an interdisciplinary QI team at Cincinnati Children's Division of Endocrinology and directed the Quality Scholars Program in the James M. Anderson Center for Health Systems Excellence for 7 years. Nationally, I serve as a faculty leader for the Type 1 Diabetes Exchange Learning Collaborative (T1DX-QI), a network of 60+ centers throughout the United States. Funded research projects focus on ambulatory safety, diabetes self-management support, use of patient reported outcomes to inform productive clinical interactions, and QI initiatives to achieve excellent and equitable outcomes for youth with type 1 diabetes.

Grants and Contracts

Current Research Support

Helmsley Charitable Trust, Corathers (PI) 02/1/2022-01/31/2026
ConnecT1D: reinforcing connections between patients, the clinic and community partners to achieve excellent and equitable glycemic and psychosocial outcomes for young people with type 1 diabetes (T1D).
The objective of this diabetes clinic innovation grant is development of a more efficient, proactive care delivery model for T1D that supports patients and families through access to diabetes technology, more frequent communication between visits, and establishing a unified clinical information system infrastructure for diabetes devices to interface with the electronic medical record.
Role: Principal Investigator, current year effort 20%
Total Direct Costs: $2,334,715
Total Costs: $2,568,185

Unitio /Helmsley Charitable Trust, Corathers/Rioles (co-PIs) 03/2016 – 06/2025
Type 1 Diabetes Exchange Learning Collaborative
The primary aim is to develop a multi-site national quality improvement collaborative for type 1 diabetes with a focus on outcomes amongst adolescent and young adult population.
Role: Co-Investigator, Clinical Faculty leader, current year percent effort 5%
Total Direct Costs: $47,727
Total Costs: $52,500

Completed Research Support

R01DK121295-01, NIH/NIDDK, Modi/Driscoll (co-PIs) 04/01/19- 03/31/24
Diabetes Journey: From Systematic Screening to Intervention
The objective of this study is to use patient reported outcomes (e.g., adherence barriers) to guide the integration of a novel tailored intervention into clinical care to improve adherence, A1C, and HRQOL.
Role: Co-Investigator, effort 8%
Total Direct Costs: $1,469,842
Total Costs: $1,891,719

R18 HS026644-01, DHHS/AHRQ, Walsh (PI) 09/30/18 - 09/29/23
Ambulatory Pediatric Safety Learning Lab
The specific aims of this longitudinal study are to reduce harm due to medication errors and treatment delay in two conditions (diabetes and autism spectrum disorder) through redesign of the processes for medication dose adjustment of insulin and prompt management of serious illness at home.
Role: Site PI, Co-Investigator, effort 13%
Total Direct Costs: $279,736
Total Costs: $444,779

Place Outcomes Award, Cincinnati Children's Hospital 01/2020-12/2022
AID-T1D (Artificial Intelligence Decision Support in Type 1 Diabetes)
The aim of this research is to determine feasibility and efficacy of using artificial intelligence software to guide glucose pattern review and insulin dose titration at and between clinical encounters.
Role: Primary Investigator, effort 8%
Total Direct Costs: $200,000
Total Costs: $200,000

Helmsley Charitable Trust, DiMeglio (PI) 02/2017 - 06/2019
Strategies to Enhance New CGM Use in Early Childhood (SENCE)
The objective of this multi-site study is to compare the efficacy and safety of CGM alone and CGM in combination with a family behavioral intervention with a control group using blood glucose monitoring.
Role: Site PI, Co-Investigator
Total Direct Costs: $138,818
Total Costs: $152,700

R01 DK069486, NIH/NIDDK, Dolan (PI) 07/2017 - 06/2019
Self-Management of Type 1 Diabetes during Adolescence (SMART)
The aims include 1) test a model of modifiable risk on glycemic control 2) characterize the impact on glycemic control on precursor measures of kidney, eye, and cardiovascular complications.
Role: Co-Investigator, effort 5%
Total Direct Costs: $373,587
Total Costs: $471,605

Unitio /Helmsley Charitable Trust, Anhalt (PI) 03/2016 - 06/2018
Type 1 Diabetes Exchange Learning Collaborative
The primary aim is to develop a multi-site national quality improvement collaborative for type 1 diabetes.
Role: Co-Investigator, Faculty leader, effort 10%
Total Direct Costs: $27,765
Total Costs: $30,265

Unitio /Helmsley Trust, Margolis/Britto (Co-PIs) 08/2014 - 07/2015
A Collaborative Chronic Care Network for Type-I Diabetes: Design Phase
Role: Co-Investigator

Publications
Original Research Publications (peer-reviewed)

1. Huber, A., Jacobson E., **Corathers, S**., and Tomer, Y. Joint susceptibility to autoimmune diabetes and thyroiditis: from epidemiological observations to gene function. Endocr Rev. 2008; Oct 29(6):697-725. PMID 18776148
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5. Powell, P., **Corathers, S**., Raymond, J., Streisand, R. New Approaches to Providing Individualized Diabetes Care in the 21st Century. Curr Diabetes Rev. 2015 Apr 21. PMID 25901504
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7. Dubose SN et al, **collaborating contributor of the Type 1 Diabetes Exchange Clinic Network** (site PI, recruited research subjects, contributed data), Obesity in Youth with Type 1 Diabetes in Germany, Austria and the United States. J Pediatr. 2015 Sep; 167(3):627-32 PMID: 26164381

8. Fair C et al, **collaborating contributor of the International and Interdisciplinary Heath Care Transition Research Consortium** (developed research plan, served as member of writing group). International and Interdisciplinary Identification of Health Care Transition Outcomes. JAMA Pediatr. 2016 Mar; 170(3):205-11. PMID: 26619178
9. Beal, S., Riddle, I., Kichler, J., Duncan, A., Houchen, A., Casnellie, L., Woodward, J., **Corathers, S.** Transition readiness across different clinic populations: The influence of chronic condition and individual characteristics. Acad Pediatr. 2016 Sept-Oct; 16(7):660-7. PMID: 27345693
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11. Garvey KC, Foster NC, Agarwal S, DiMeglio LA, Anderson BJ, **Corathers SD**, Desimone ME, Libman IM, Lyons SK, Peters AL, Raymond JK, Laffel LM. Health care transition preparation and experiences in a US national sample of young adults with type 1 diabetes. Diabetes Care December 2016. PMID: 2800779
12. Matlock, K., Yayah Jones, N., **Corathers, S.**, Kichler, J. Clinical and psychosocial factors associated with suicidal ideation in adolescents with type 1 diabetes mellitus. J Adolesc Health 2017 Oct; 61(4):4710477 PMID: 28732716
13. Craig et al, **collaborating contributor of the Type 1 Diabetes Exchange** (site PI, recruited research subjects, contributed data), Prevalence of Celiac Disease in 52,721 Youth with Type 1 Diabetes: International Comparison across Three Continents. Diabetes Care. 2017 Aug; 40(8):1034-1040. PMID 28546222
14. Agarwal, S., Raymond, J., Isom, S., Lawrence, J., Klingensmith, G., Pihoker, C, **Corathers, S**, Saydah, S., D'Agostino,R., Dabelea, D. Transition from Pediatric to Adult Care for Young Adults with Type 2 Diabetes: The SEARCH for Diabetes in Youth Study. Diabetic Medicine Vol 35, Issue4, April 2018, Pages 504-512. PMID 29377258.
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16. Varni, J, Delatmater, A, Hood, K, Raymond, J, Driscoll, K, Wong, J, Adi, S, Yi-Frazier, J, Grishman, E, Faith, M, **Corathers, S**., Kichler, J, Miller, J, Doskey, E, Aguirre, V, Heffer,R, Wilson, D. Diabetes symptoms predictors of health-related quality of life in adolescents and young adults with type 1 or type 2 diabetes. Qual Life Res, 2018 May 21. PMID: 29785681
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18. Matlock, K., **Corathers, S.,** Yayah Jones, N. Untreated Congenital Hypothyroidism Due to Loss to Follow-Up: Developing Preventative Strategies through Quality Improvement. Journal of Pediatric Endocrinology and Metabolism; July 2018. PMID30030963
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21. **Corathers, S**., Mara CA., Chundi PK., Kichler JC. Depression and Suicide Screening in Adolescents with Type 1 Diabetes: 5-Years of Implementation and Outcomes. J Am Acad Child Adolesc Psychiatry. 2019 Feb 22 PMID: 30802493

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24. Trief P, Foster NC, Chaytor N, Hilliard ME, Kittelsrud JM, Jaser SS, Majidi S, **Corathers SD**, Bzdick S, Adkins DW, Weinstock RS. Longitudinal changes in depression and glycemia in adults with type 1 diabetes. Diabetes Care. 2019 Jul. PMID: 31221694
25. Miller KM, et al. **collaborating contributor of the Type 1 Diabetes Exchange** (site PI, recruited research subjects, contributed data), Longitudinal Changes in Continuous Glucose Monitoring Use Among Individuals with Type 1 Diabetes: International Comparison in the German and Austrian DPV and U.S. T1D Exchange Registries. Diabetes Care. 2019 Oct. PMID: 31672703
26. Redel, JM, **Corathers SD**, Yao MV, Backeljauw PF. Multi-level quality improvement education for fellowship trainees. Med Educ. 2019 Nov. PMID: 3165059
27. Gutierrez-Colina, A., **Corathers, S**., Beal, S., Baugh, H., Nause, K., Kichler, J. Young Adults with Type 1 Diabetes Preparing to Transition to Adult Care: Psychosocial Functioning and Associations with Self-Management and Health Outcomes. Diabetes Spectr. 2020 Aug. PMID: 32848347
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38. Ginnard, O. ZB, Alonso, G. T., **Corathers, S.**, Demeterco-Berggren, C., Golden, L. H., Miyazaki, B. T., Nelson, G., Ospelt, E., Ebekozien, O., Lee, J. M., Obrynba, K. S., DeSalvo, D. Quality Improvement in Diabetes Care: A Review of Initiatives and Outcomes in the T1D Exchange QI Collaborative. Clin Diabetes 2021 Jul. PMID: 34421200
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67. Driscoll, K.A., Trojanowski, P.J., Williford, D.N., O'Donnell, H.K., Flynn, E. Mara, C.A., Wetter, S.E., Himelhoch, A., Manis, H., Pardon, A., Reynolds, C., Shaffer, E., Tanner, B., Kichler, J., Smith, L., Westen, S., Albanese-O'Neal, A., **Corathers, S.D**., Jacobsen, L., Poetker, A., Schmidt, M., Modi, A.C. Intervention to reduce self-management barriers in adolescents with type 1 diabetes: Diabetes Journey study design and participant characteristics. Under review in *Contemporary Clinical Trials*.
68. Roberts A, **Corathers S**, Rapaport R, Rompicherla S, Majidi S, Rioles N, Ebekozien O, Malik FS. Depression rates in youth with type 1 diabetes during the Covid-19 Pandemic: Data from the T1D Exchange Quality Improvement Collaborative. Clin Diabetes. 2024 Aug 1;42(4):532-539. PMID: 39429445
69. Driscoll, K.A., Trojanowski, P.J., Williford, D.N., O'Donnell, H.K., Flynn, E. Mara, C.A., Wetter, S.E, Himelhoch, A., Manis, H., Pardon, A., Reynolds, C., Shaffer, E., Tanner, B., Kichler, J., Smith, L., Westen, S., Albanese-O'Neill, A., **Corathers, S.D**., Jacobsen, L., Poetker, A., Schmidt, M., & Modi, A.C. Intervention to reduce self-management barriers in adolescents with type 1 diabetes: Diabetes Journey study design and participant characteristics. Contemporary Clinical Trials. (In press).
70. **Corathers, S**., Malik, F., Gutierrez-Colina, A., Lowry, S., Yi-Frazier, J., Beal, S., Kichler, J., READDY 2.0: A Multisite Analysis and Update to the Readiness for Emerging Adults Diagnosed with Diabetes in Youth Transition Tool. Clinical Diabetes (Under review).

Book chapters, Reviews, Case Reports, Clinical Guidelines (peer reviewed)

1. **Corathers, S.** Alkaline Phosphatase: nuances of a familiar test. Peds in Review. November 2006. PMID 17012488
2. **Corathers S.**, Falciglia, M. The role of hyperglycemia in acute illness: supporting evidence and its limitations, Nutrition 2010; Sept 22. PMID 20869205
3. **Corathers, S**., Peavie, S, Salehi, M. Complications of Diabetes Therapy. Endocrinol Metab Clin North Am, 2013. 42(4): p. 947-70. PMID 24286957
4. Rose, S., Horne, V., Howell, J, Lawson, S., Rutter, M., Trotman, G., **Corathers, S.** Late Endocrine Effects of Childhood Cancers. Nat Rev Endocrinol. 2016 Jun; 12(6):319-36. PMID: 27032982
5. Gravholt et al, **collaborating author of International Turner Syndrome Consensus Group**, (reviewed literature, participated in international consensus meeting, member of writing group for transition and adult care sections), Clinical Practice Guidelines for the care of girls and women with Turner Syndrome: proceedings from the 2016 Cincinnati International Turner Syndrome Meeting. European Journal of Endocrinology 2017 Sep;177(3) PMID 28705803

6. **Corathers, S.,** Kichler, J, Mara, C. Psychosocial Patient-Reported Outcomes in Pediatric and Adolescent Diabetes: A Review and Case Example. Curr Diab Rep. 2017. PMID: 28508255
7. Wakefield, C., Mehta, P., **Corathers, S**., Geller, J., Gelfand, J., Olowukure, O., Marsh, R. A First Report of Secondary Hemophagocytic Lymphohistiocytosis Associated with Papillary Thyroid Cancer. J Pediatr Hematol Oncol. 2018 Mar;40 (2): e97-98. PMID: 29087969
8. Pihoker, C., Forsander, G., Fanthun, B., Virmani, A., **Corathers, S**., Benitez-Aguirre, P., Fu, J., Maahs, D. ISPAD Clinical Practice Consensus Guidelines 2018: The delivery of ambulatory diabetes care to children and adolescents with diabetes. Pediatric Diabetes, 2018 August. PMID: 30144259
9. Remiker, AS, Chuang, J, **Corathers, S**, Rutter MM, Rutter MJ, Meyer CM 4th, Gelfand MJ, Trout AT, Geller JI. Differentiated Thyroid Cancer in the Pediatric/Adolescent Population: Evolution of Treatment. J Pediatri Hematol Oncol. 2019 Apr. PMID 31033789
10. **Corathers, S.,** Gerstle, M., Casnellie, L., Pater, C., Trotman, G. Transitioning from Pediatric to Adult Care in Endocrinology: A Clinical Handbook, chapter, Transition Considerations for Turner Syndrome. Springer Publishing. April 2019.
11. Backeljauw P, **Corathers S**. Chapter: The Turner Syndrome Resource Center - an Interdisciplinary approach to the Care of Girls and Women with Turner Syndrome. Book, Patricia Fechner, Editor. Turner Syndrome Pathophysiology, Diagnosis, and Treatment. Springer Publishing. March, 2020.
12. Alexandrou, E., **Corathers, S**., Lahoti, A., Redel, J., MD; Tellez, S., Jones, N., Kim, A., Treatment-induced Neuropathy of Diabetes in Children and Young Adults-Rare or Under-reported? J Endocr Soc. 2020 Oct 15;4(12). PMID: 33195956
13. Limbert, C., Tinti, D., Malik, F., Kosteria, I., Messer, L., Jalaludin, Y., Benitez-Aguirre, P., Biester, S., **Corathers, S**., von Sengbusch, S., Marcovecchio, L. ISPAD Clinical Practice Consensus Guidelines 2022: The delivery of ambulatory diabetes care to children and adolescents with diabetes. Pediatric Diabetes 2022; December. PMID: 36537530
14. Gravholt et al, **collaborating author of International Turner Syndrome Consensus Group**, (reviewed literature, participated in international consensus meeting, member of writing group for adult co-morbidities section) Clinical Practice Guidelines for the Care of Girls and Women with Turner syndrome. Eur J Endorcinol. June, 2024; 190(6): G53-G151. PMID 38748847.

Other publications:

Corathers, S. Collaboration is Key to Developing Effective Hormonal Treatment Paradigms for Transgender Youth. (Letter to Editor) J Adolesc Health. 2018 Apr; 62 (4):361-362 PMID: 29571433

Research output from Pediatric Patient Safety Learning Lab (R18 HS026644-01) includes an interactive website to guide families in managing type 1 diabetes when a child is sick: psll-t1d.azurewebsites.net

Quality review of select publications

1. **Corathers, S**., Kichler, J, Jones, N, Houchen, A, Jolly, M, Morwessel, N, Dolan, L, Hood, K. Improving Depression Screening for Adolescents with Diabetes. Pediatrics, 2013. 132(5): p. e1395-402. PMID 24127480
   - This manuscript reports on reliable implementation of routine depression screening for adolescents with diabetes. I was the first author on the paper and led work to spread depression screening using this model across diabetes centers nationally through the T1Dx-QI learning network and locally across other clinical areas of the institution. Total citations 102: 2024 (7); 2023 (9); 2022 (6); 2021 (19); 2020 (13); < 2019 (48).

2. Lotstein, D, Seid, M, Klingensmith, G, Case, D, Lawrence, J, Pihoker, C, Dabelea, D, Mayer-Davis, E, Gilliam, L, **Corathers, S**, Imperatore, G, Dolan, L, Anderson, A, Bell, R, Waitzfelder, B for the SEARCH

for Diabetes in Youth Study Group. Transition from Childhood to Adult Care for Youth with Type 1 Diabetes in Adolescence. Pediatrics, 2013 Apr;131(4):e1062-70. PMID 23530167

- This multi-site study found increased odds of poor glycemic control among young adults with diabetes who transition to adult care compared to those who remain in pediatric care, highlighting urgency of more robust health care transition strategies. I contributed to interpretation of results and writing the manuscript. Total citations 224: 2024 (7); 2023 (23); 2022 (23); 2021 (25); 2020 (21); ≤ 2019 (125).

3. **Corathers, S.** Kichler, J., Fino, N. Lang, W. Lawrence, J., Raymond, J., Yi-Frazier, J., Dabelea, D. MD, PhD, Liese, A. Saydah, S., Seid, M., Dolan, L. High health satisfaction among emerging adults with diabetes: factors predicting resilience. Health Psychology. October 2016. PMID: 27736152
   - Manuscript reframes the study of emerging adults with diabetes from pre-determined risk factors and morbidity to evaluate features associated with positive health outcomes, to advance scientific dialog around modifiable interventions to enhance transition preparation and post transfer outcomes. I conceived of the research plan and led the writing group. Total citations 15: 2023 (3); 2022 (3); 2020 (5) ≤ 2019 (4).

4. Gravholt et al, **collaborating author of International Turner Syndrome Consensus Group**, Clinical Practice Guidelines for the care of girls and women with Turner Syndrome: proceedings from the 2016 Cincinnati International Turner Syndrome Meeting. European Journal of Endocrinology 2017 Sep;177(3) PMID 28705803
   - This guideline represents an international consensus for diagnosis and treatment of Turner syndrome and was the foundation for updated guidelines published in 2024 that reflect the standard of care for our field. I reviewed literature, participated in the guidelines meeting, and served as a member of writing groups for transition and adult care sections. Total citation: 783: 2024 (70); 2023 (137); 2022 (123); 2021 (143); 2020 (127); ≤ 2019 (183).

5. **Corathers, S.,** Kichler, J, Mara, C. Psychosocial Patient-Reported Outcomes in Pediatric and Adolescent Diabetes: A Review and Case Example. Cur Diab Rep.2017 Jul;17(7):45 PMID: 28508255
   - This manuscript provides a framework for selection and integration of patient reported outcomes (PRO) into routine diabetes care to promote meaningful clinical interactions in real time. I led the conception of the work and writing of the paper. Total citations: 18; 2023 (3); 2022 (3); 2021 (1); 2020 (4); 2019 (5); 2018 (2)

6. Pihoker, C., Forsander, G., Fantahun, B., Virmani, A., **Corathers, S**., Benitez-Aguirre, P., Fu, J. Maahs, D. ISPAD Clinical Practice Consensus Guidelines 2018: The delivery of ambulatory diabetes care to children and adolescents with diabetes. Pediatric Diabetes. Vol 19, Oct 2018. PMID: 30144259
   - This guideline provides international standards of clinical care for youth with diabetes. I was also a co-author of updated guidelines published in 2022. Total citations: 69; 2023 (7); 2022 (16); 2021 (18); 2020 (19); 2019 (8); < 2019 (1).

7. Kanj, RV, Conard, LAE, **Corathers, S**., Trotman, G. Hormonal contraceptive choices in a clinic-based series of transgender adolescents and young adults. Int J Transgend 2019 Jul. PMID: 32999626.
   - Study highlights special considerations for hormonal contraceptives for menstrual management and/or pregnancy prevention among cohort of transgender adolescents designated female at birth. I was a member of the research team and co-wrote the manuscript. Total citations 23. 2024 (1); 2023 (11); 2022 (9); 2021 (1); 2020 (1).

8. **Corathers, SD**, Yi-Frazier JP, Kichler JC, Gilliam LK, Watts G, Houchen A, Beal S. Development and Implementation of the Readiness Assessment of Emerging Adults with Type 1 Diabetes Diagnosed in Youth (READDY) Tool. Diabetes Spectr. 2020 Feb;33(1):99-103. PMID: 32116461
    - Study of the development and psychometric properties of a diabetes condition specific transition to adult care readiness tool has since been adopted by over 50 diabetes centers and translated into 6 languages. I led the research team and wrote the manuscript. An updated study for READDY 2.0 is under review for publication. Total citations 14. 2024 (4); 2023 (2); 2022 (4); 2021 (2); 2020 (2).

9. Alonso, G., **Corathers, S**., Shah A, Clements M, Kamboj M, Sonabend R, DeSalvo D, Mehta S, Cabrera A, Rioles N, Ohmer A, Mehta R, Lee J. Establishment of the T1DX Quality Improvement Collaborative. Clin Diabetes. 2020 Apr;38(2):141-151. Clin Diabetes. 2020. PMID: 32327886
    - This manuscript describes a system-based approach to the design and implementation of a learning health network to accelerate improved outcomes for type 1 diabetes. The T1Dx-QI collaborative is the largest network of diabetes centers in the United States, representing nearly 100,000 lives of people with type 1 diabetes. I contributed to the design phase of the network, was a faculty leader, co-led QI interventions and co-wrote the paper. Total citations 56. 2024 (10); 2023 (13); 2022 (19); 2021 (12); 2020 (2).

10. Cardona-Hernandez, R., Schwandt, A., Alkandari, H., Bratke, H., Chobot, A., Coles, N., **Corathers, S.,** Goksen, D., Goss, P., Imane, Z., Nagl, K., O'Riordan, S., Jeffries, C. for the SWEET study group. Glycemic outcome associated with insulin pump and glucose sensor use in children and adolescents with type 1 diabetes. Data from the international pediatric registry SWEET. Diabetes Care. 2021 May. PMID: 33653821
    - This international study demonstrates variation in global clinical practice and association of improved glycemic outcomes with increased access to diabetes technology, highlighting need for equitable access to standard of care tools for management of type 1 diabetes. I was a member of the research team and co-wrote the manuscript. Total citations 81. 2024 (16); 2023 (30); 2022 (26); 2021 (9).

Abstracts

1. Hillman, J.B**.**, **Corathers, S.D**, Wilson, S.E. The Impact of Provider Level of Training on Screening and Treatment of Pediatric Overweight. Pediatric Academy Society Annual Meeting, Poster Session, May 2007, Boston, MA.
2. **Corathers, S.** Lucky, A. Komlos, M, Tamai, J., Tamura, D., Khan, S., Digiovanna, J., Kraemer, K., Stenger, P. Increased bone mineral density provides clue to elusive diagnosis of trichothiodystrophy. Pediatric Endocrine Society/Pediatric Academic Society, Poster Session, April 2011, Denver, CO.
3. **Corathers, S.,** Salehi, M**.** Virilization and hypertension resolved after oophorectomy: case report of ovarian Leydig cell tumor. Endocrine Society, Poster Session, June 2011, Boston, MA.
4. **Corathers, S.,** Yayah Jones, NH. Crawford, P., Houchen, A., Morwessel, N., Dolan, L., Hood, K**.** Outpatient screening for depression: Feasibility and outcomes in adolescents with type 1 diabetes. American Diabetes Association, Moderated Poster Session, June 2012, Philadelphia, PA.
5. Kudel, I., Kichler, J., Hood, K., **Corathers, S**. Psychometric analysis of the Children's Depression Inventory short form in adolescents with type 1 diabetes. Society for Behavioral Medicine, Poster Session, March 2013, San Francisco, CA.
6. **Corathers, S.** Kichler, J., Beavers, D., Dabelea, D., Lawrence, JM., Liese, A., Raymond, J., Saydah, S., Seid, M., Yi-Frazier, J., Dolan, L. for the SEARCH for Diabetes in Youth Study Group. Improving

Health Outcomes in Emerging Adults with Diabetes. American Diabetes Association, Poster Session, June 2013, Chicago, IL.

7. **Corathers, S.**, Houchen, A., Cafasso, M., D'Alessio, D., Hennard, C., Horewitz, D., Klein, D., Dolan, L. Bridging the Gap in Transition from Pediatric to Adult Health Care for Adolescents and Young Adults (AYA): A Diabetes Pilot Program. Fifth Annual Health Care Transition Research Consortium, Poster Session, October 2013, Baylor University, Houston, Tx.
8. **Corathers, S**., Beal, S., Kichler, J., Houchen, A. Readiness for transition to adult care in adolescents and young adults (AYA): a comparison of youth with and without type 1 diabetes (T1D). International Society for Pediatric and Adolescent Diabetes, Moderated Poster Session, September 2014, Toronto, Canada.
9. **Corathers, S.**, Beal, S., Yi-Frazier, J., Kichler, J., Houchen, A., Pihoker, C. Confirmatory factor analysis of a novel transition to adult care readiness assessment tool for adolescents and young adults (AYA) with type 1 diabetes (T1D). International Society for Pediatric and Adolescent Diabetes, Moderated Poster Session, September 2014, Toronto, Canada.
10. Fair,C., Javalkar, K., Betz, C., Okumura, M., Wood, D., LeComte, J., Jan, S., Maslow, G., Bozik, K., Porter, J., **Corathers, S.,** Tolleson-Rinehart, S., Shah, P., Woodward, J., Ferris, T., Ferris, R., Ferris, M. on behalf of the HCTRC. Health Care Transition Outcomes: A Delphi Stage 3 Survey. Sixth Annual Health Care Transition Research Consortium, Poster Session, October 2014, Baylor University, Houston, Tx.
11. Beal, S. J., Riddle, I., Kichler, J., Duncan, A., Houchen, A., Casnellie, L., **Corathers, S**. Transition Readiness among Teens – Differences by Chronic Condition. Sixth Annual Healthcare Transitions Research Consortium, Poster Session, October 2014, Baylor College of Medicine, Houston, TX.
12. Matlock, K., Yayah Jones, N., Kichler, J., **Corathers, S.** Clinical and Psychosocial Factors Associated with Suicidal Ideation in Adolescents with Type 1 Diabetes Mellitus. Pediatric Academic Society, Poster Session, April 2015, San Diego, CA.
13. Smego, A., Lawson, S., Courter, J., Warden, D., **Corathers, S.** Decreasing the Time to Insulin Administration for Hospitalized Patients with Cystic Fibrosis-Related Diabetes. Pediatric Academic Society, Poster Session, April 2015, San Diego, CA.
14. **Corathers, S**., Beal, S., Kichler, J., Casnellie, L., Backeljauw, P. Personal health knowledge and preparation for transition to adult care in adolescents with Turner Syndrome (TS). Pediatric Academic Society, Poster Session, April 2015, San Diego, CA.
15. Alexander, C., Ellsworth, S., Melvin, P., Kichler, J., **Corathers, S**., Yayah Jones, N., Houchen, A., Jolly, M. Effective Screening and Follow up for Depression and Suicidal Ideation in Adolescents with Diabetes Mellitus. The 27th Annual National Forum on Quality Improvement in Healthcare, Poster Session, December 2015, Orlando, Fl.
16. Garvey, K., Foster, N., Laffel, L., DiMeglio, L., Agarwal, S., Desimone, M., Libman, I., Lyons, S., Peters, A., Anderson, B., **Corathers, S**., Miller, K., Beck, R. Health Care Transition Preparation and Experience in a US National Sample of Young Adults with Type 1 Diabetes. International Diabetes Federation, Poster Session, December 2015, Vancouver, CA
17. Conard, L., **Corathers, S**., Lawlis, S. & Restle, H. Improving Standardization of Care in Trans* Clinic. WPATH Symposium, Poster Session, June 2016, Amsterdam, Netherlands.
18. Ikomi, C, Alexander, C, Mallon, D, Dykes, D, Anderson, V, Davis, B, Jolly M, Gahl, J, Ellsworth, S, **Corathers, S**, Crimmins, N. Improving Screening for Celiac Disease in Patients with New-Onset Type 1 Diabetes. International Society for Pediatric and Adolescent Diabetes, Poster Session, October 2016, Valencia, Spain.
19. **Corathers, SD**, Kichler, JC, Mara, C. Implementation of patient reported outcomes (PROs) through quality improvement methods to enhance patient care. International Society for Pediatric and Adolescent Diabetes, Moderated Poster Session, October 2016, Valenica, Spain.

20. Remiker, A., Chuang, J, **Corathers, S**, Rutter, M, Ho, Brian, Rutter, M, Gelfand, M, Trout, A, Geller, J. Differentiated thyroid cancer outcomes in the pediatric/adolescent population: a longitudinal review from a single center. ASPHO, Poster Session, April 2017, Montreal, Quebec.
21. Malik, F, Stafford, J, Klingensmith, G, Dabelea, D, Lawrence, J, Mayer-Davis, E, Sayday, S, **Corathers, S**, Reboussin, B, Pihoker, C. Receipt of Recommended Clinical Tests for Youth and Young Adults with Type 1 Diabetes: Associations with Glycemic Control and Satisfaction with Care. American Diabetes Association, Poster Session, June 2017, San Diego, California.
22. Boyle, C, Foster, N, Scheer, K, Anhalt, H, Shah, A, Lee, J, **Corathers, S**. Funnel Plots for Statistical Quality Control in a Large, Multi-Site Registry. Society of Clinical Trials, Poster Session, May 2017. Liverpool, UK.
23. Krishnamurthy, M, Blunden, C, **Corathers, S**, Sheanon, N. Diazoxide-responsive Hyperinsulinism in an Infant with Sotos Syndrome. Pediatric Endocrinology Society, Poster Session, April 2017, Orlando, Florida.
24. Warning, A, Rohan, J, McGrady, M, Pendley, Delamater, J, **Corathers, S**., Drotar, D., Dolan, L. Changes in Depressive Symptoms over Time Differ between Males and Females with Type 1 Diabetes. Society of Pediatric Psychology, Poster Session, April 2017, Portland, OR.
25. Mallon, D., Crimmins, N., Ikomi, C., **Corathers, S**., Dykes, D., Gahl, J., Jolly, M. Improving Celiac Screening for Children with Type 1 Diabetes and Lessons from False Positive Serology. National American Society for Pediatric Gastroenterology, Hepatology, and Nutrition, Poster Session, November 2017, Las Vegas, NV.
26. Wood, J, Boyle, C, Quinn, M, Wong, J, Haller, M, Nelson, B, Shatz, D, Tamborlane, W, Fox, L, Prahalad, P, **Corathers, S**, Maahs, D, Alonso, T, DeSalvo, D, Wadwa, P, DiMeglio, L, Impact of Target HbA1c Change in Pediatric Participants in the T1D Exchange Clinic Registry. American Diabetes Association, Poster Session, June 2018, Orlando, FL.
27. Majidi, S, Jolly, M, Alonso, G, Buckingham, D, Cabrera, A, Clements, M, Garrity, A, Gibbs, K, Click, B, ong, K, Kamboj, M, Lambert, K, Lee J, Nadkarni, P, McDonough, R, Ohmer, A, Rioles, N, Stanek, K, Thomas, S, Weinstock R, **Corathers S.** Incorporating Depression Screening into Diabetes Clinics across the T1DX Learning Collaborative. American Diabetes Association, Poster Session, June 2018, Orlando, FL.
28. Shah, A., **Corathers, S.,** Alonso, G**,** Buckingham, D, Cabrera, A, Clements, M, DeSalvo D, Kamboj, M, Lambert K, Mehta, S, Ohmer, A, Rioles, N, Sonabend, R, Lee, J. Establishment of the Type 1 Diabetes Exchange QI Learning Collaborative (T1DX-LC). American Diabetes Association, Poster Session, June 2018, Orlando, FL.
29. Agarwal, S. Hirshfeld, E., Garrity, A., Shah, A., **Corathers, S**., Weinstock, R., Lambert, K., Bobik, C., Cabrera, A., Rioles, N., Lee, J. Comparison of adult and pediatric resources for type 1 diabetes among T1D exchange centers. American Diabetes Association, Poster Session, June 2018, Orlando, FL.
30. Trief, P., Foster, N., Chaytor, N., Hilliard, M., Kittelsrud, J, Jaser, S., Majidi, S., **Corathers, S.**, Bzdick, S., Adkins, D., Weinstock, R. Longitudinal Changes in Depression and Glycemia in Adults with Type 1 Diabetes. American Diabetes Association, Poster Session, June 2018, Orlando, FL.
31. Kichler, J., Monaghan, M., **Corathers, S**., Hilliard, M. Protective Factors in Emerging Adulthood: Reliability and Validity of a New Measure of Diabetes Strengths and Resilience. Society of Pediatric Psychology Annual Conference, New Orleans, April 2019.
32. Mara, C., Kichler, J., **Corathers, S**., Chundi, P., Daeschner, M., Mulvaney, S. Psychometric Evaluation of the Barriers to Diabetes Adherence Scale. Society of Pediatric Psychology Annual Conference, New Orleans, April 2019.
33. Hilliard, Monaghan, **Corathers**, Kichler, Protective Factors in Emerging Adulthood: Reliability and Validity of a New Measure of Diabetes Strengths and Resilience, Society of Pediatric Psychology Annual Conference, New Orleans, 2019

34. Lipstein, E. **Corathers, S**. I couldn't see a downside: Adolescent and Parent Decision-making about gender-affirming hormone therapy. Pediatric Academic Society, Baltimore, April 2019
35. Kamoun, C., Khoury, J., Crimmins, N., **Corathers, S**. Opportunities for Enhanced Type 1 Diabetes Transition Preparation. Pediatric Academic Society, Baltimore, April 2019.
36. Quinn, M., Bailey, R., Foster, N., Simmons, J., Eyth, E., Rodriguez, H., **Corathers, S**., Levy, C., Sheanon, N., Wasserman, R., Seiple, D., Sparling, D., Adkins, D., Albanese, A., DeSalvo, D. Diabetes Management Supplies in Youth with Type 1 Diabetes: Don't Leave Home Without Them! American Diabetes Association, San Francisco, June 2019
37. Cabrera, A., Alonso, G., **Corathers, S**., Lee, J., Prahalad, P., Rioles, N. Assessing Data Availability and Benchmarking Performance of Quality Measures for the T1D Exchange Improvement Collaborative, American Diabetes Association, San Francisco, June 2019
38. Sutherland, M, Lohmna, M, Reboussin, B, Flory, K, Brown, M, **Corathers, S**, Bellatorre, A, Lawrence, J, Yi-Frazier, J, Pihoker, C., Liese, A. Depressive Symptom Trajectories among Youth and Young Adults with Type 1 Diabetes. American Diabetes Association, San Francisco, June 2019.
39. Alonso, T, Thomas, S, Garey C, Buckingham, DA, Cabrera AB, Clements MA, **Corathers S**, DeSalvo DJ, Garrity A, Lee JM, McDonough R, Mostajabi F, Kamboj MK. Outpatient Diabetes Encounter Visit Frequency in the T1D Exchange Quality Improvement Collaborative (T1Dx-QI). American Diabetes Association, San Francisco, June 2019.
40. Yao, M. Alexandrou, E., Arora, S., Biery, M., Jones, R., Nasomyont, N., Petrovic, E., Seitz, S., Sylvester, A., Chundi, P., Mostajabi, F., Redel, J., **Corathers, S.** Outpatient Quality of Life Screening: Feasibility and outcomes in parents of children 2-7 with T1D. International Society of Adolescent and Pediatric Diabetes (ISPAD), Boston, November 2019.
41. Noor, N., Rioles, N., **Corathers, S**., Majid, S., McDonough, R., Polsky, S., Greenfield, M., Obrynba, K., Ebekozien, O., DeSalvo, D. Patient Demographics and clinical outcomes among type 1 diabetes patients using continuous glucose monitors: real world evidence from a large US Collaborative. American Diabetes Association (ADA), Virtual meeting, June 2020.
42. McDonough, R., Thomas, S., Rioles, N., Ebekozien, O., **Corathers, S**., Jolly, M, Lee, J., Garrity, A., Prahalad, P., Kamboj, M., Buckingham, D., Alonso, T. Reducing lost-to-follow rates in the T1D Exchange Quality Improvement Collaborative (T1DX-QI). American Diabetes Association (ADA), Virtual meeting, June 2020.
43. Ebekozien, O., Rioles, N., DeSalvo D., Gallagher, K., Lee, J.M, McDonough, R., Obrynba, K., Prahalad, P., Thomas, S., Weinstock, R.S., **Corathers, S**. Improving Continuous Glucose Monitoring (CGM) Use across Ten National Centers: Results from the T1D Exchange Quality Improvement Collaborative (T1DX-QI). American Diabetes Association (ADA), Virtual meeting, June 2020.
44. Improving Diabetes Care Through Population Health Studies: Insights from the largest U.S Population Based T1D Cohort. ISPAD virtual conference, October 2020.
45. Patient demographics and clinical outcomes among type 1 diabetes (T1D) patients using Continuous Glucose Monitors (CGMs): real world evidence from a large U.S. collaborative. ISPAD virtual conference, October 2020.
46. Multi-site quality improvement project: improving Continuous Glucose Monitor (CGM) uptake across ten U.S Centers. ISPAD virtual conference, October 2020.
47. Deconstructing Diabetes Strengths: Factor Analysis of the Diabetes Strengths and Resilience Measure for Young Adults (DSTAR-YA). Carreon, S., Iturralde, E., Monaghan, M., Kichler, J., Raymond, J., **Corathers, S**., Hilliard, M. Virtual Society of Pediatric Psychology Annual Conference, April 2021.
48. Bone Marrow Adipose Tissue Assessment in Transgender Youth Undergoing Pubertal Suppression: A Pilot Study. Nasomyont, N., Meisman, A., Ecklund, K., Vajapeyam, S., Cecil, K., Tkach, J., Altaye, M., **Corathers, S**. Conard, L,, Kalkwarf, H., Dolan, L, Gordon, C. Pediatric Endocrine Society virtual meeting April 2021.

49. Challenges to Telemedicine Transition During Covid-19; Insights From 21 Us Diabetes and Endocrinology Clinics, oral presentation at 14th International Conference on Advanced Technologies & Treatments for Diabetes (ATTD 2021) virtual conference June 2-5, 2021.
50. Transition of Care in Type 1 diabetes and Association with Student and Employment Status. Majidi, S., Roberts, A., Suerken, C., Reboussin, B., Malik, F., Marcovina, S., **Corathers, S**., Reynolds, K., Imperatore, G, Wadwa, P., Pihoker, C. American Diabetes Association Virtual Scientific Sessions, June 25-29, 2021.
51. Insulin Pump Use and Glycemic Control Among Patients With Type 1 Diabetes: Trends From The T1Dx-QI Cohort. Noor N, McDonough R, Carlson E, Mekhoubad A, Hsieh S, Demeterco-Berggren C, Majidi S, Desimone M, De-Tutu S, Obrynba K, Ebekozien O, **Corathers S**. Poster at American Diabetes Association Virtual Scientific Sessions; June 25-29, 2021.
52. HbA1c trends in the T1D Exchange Quality Improvement Collaborative (T1DX-QI) 2017-2020. Ebekozien O, Noor N, Jones NH-Y, Alonso GT, Desimone M, Izquierdo R, **Corathers S**, DeSalvo DJ, Gandhi K, Odugbesan O, Prahalad P, Clements M. Poster at American Diabetes Association Virtual Scientific Sessions; June 25-29, 2021.
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57. Tellez, S., Brady, P., Daraiseh, N., Khoury, J., Muthuvel, G., **Corathers, S**., Evaluation of an Enhanced Care Intervention Using an Artificial Intelligence-Guided Decision Tool in Children and Emerging Adults with Type 1 Diabetes. Accepted for ePoster at Advanced Technologies and Treatments for Diabetes annual conference, Barcelona, Spain, April 27-30, 2022.
58. **Corathers, S.** et al. Implementation of Psychosocial Screening in Diabetes Centers. American Diabetes Association, New Orleans, June 2022.
59. Tatum, J., Murray, A., Roberge, S., Thomas, V., Baute, D., Lavik, A., Grant, A., **Corathers, S.** Quality Improvement in Action: Addressing continuity of care in pediatric endocrinology fellowship. T1DX-QI Learning Session, Miami, FL., Journal of Diabetes V.14., November 2022
60. Lavik, A., Rodas, P., Grant, A., Gumz, M., DiMuzio, T., **Corathers, S**., Deisinger, A., Tilton, K., Keppler, K., Patten, G. In sync with diabetes: Increasing remote upload of insulin pump data. T1DX-QI Learning Session, Miami, FL., Journal of Diabetes V.14., November 2022
61. Jones, N., Corathers, S., Grant, A., Kelly, J., Williams, M., Kaplan, K., Hart, K., Mansour, M. Equity in Diabetes Care: Implementation and spread of social determinants of health screening. T1DX-QI Learning Session, Miami, FL., Journal of Diabetes V.14., November 2022
62. Noor, N, Ebekozien, O, Vendrame, F, Jacobsen, L, Weinstock, R, Gallagher, M.P, **Corathers, S**, Accacha, S, Prahalad, P, Rapaport, R. Continuous glucose monitor derived Glycemic Outcomes Among Real-Time CGM vs. Flash CGM users in a Multi-Center EMR Database for People with T1D. ATTD, Berlin, Germany, February, 2023.
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capital: A family-centered approach to measurement development. Abstract accepted for presentation at the Society of Pediatric Psychology Annual Conference, Chicago, IL. April, 2023.

64. Samantha Roberge, MD; Sarah **Corathers**, MD; Rula Kanj, MD; Nat Nasomyont, MD. 10-Year Retrospective Chart Review of Ordering Practices of Laboratory and Imaging Surveillance for Gender Diverse Youth During Pubertal Suppression Therapy, Abstract accepted for Pediatric Endocrine Society, San Diego, California, May 2023.
65. Malik, F, Cases, J, Hillard, M, Lyons, S, Jacobsen, L, Roberts, A, Mucci, A, Agarwal, S, Demeterco-Berggren, C, Alonso, T, Ebekozien, O, **Corathers, S.** Health Care Transition Practices in the T1D Exchange Quality Improvement Collaborative. Poster Presentation at the 83rd ADA Scientific Sessions, San Diego, California, June 2023.
66. Murray, A., Hottor, S., Bimpeh, Y., Ojilong, J., Sun, Q., **Corathers, S**., Yayah-Jones, N. Reduction of Diabetes-Related Hypoglycemia in Children and Adolescents with Type 1 Diabetes in Ghana. ISPAD, Rotterdam, The Netherlands, October 2023.
67. Roberge, S., **Corathers, S**., Roberge, T., Nasomyont, N., "Determinants of Bone Mass Accrual in Transgender and Gender Diverse Youth undergoing Pubertal Suppression Therapy." Submitted to USPATH, Westminster, Colorado, November 2023.
68. Yayah-Jones, N., Grant, A., **Corathers, S**., Smith, L., Kelly, J., Riley, A., Wiliford, D., Fazio, C., Kaplan, K., Howell, A. EDICT: Equity in Diabetes Care and Transformation. T1Dx-QI National Meeting, NYC, NY, November 2023.
69. **Corathers, S**., Desai, R., Deisinger, A., Jones, R., Kaplan, K., Jolly, M., Grant, A., Kichler, J. Sustained QI Implementation of a Transition Preparation Program for Adolescents and Emerging Adults with Type 1 Diabetes. T1Dx-QI National Meeting, NYC, NY, November 2023.
70. **Corathers, S**., Yayah Jones, N., Smith, L., Brady, P., Grant, A., Howell, A. Tellez, S., Muthuvel, G., Kelly, J., Noh, Y., Riley, A., Town, M. ConnecT1D: Reinforcing connections between patients, clinic, and community partners. T1Dx-QI National Meeting, NYC, NY, November 2023.
71. **Corathers, S**., Yayah Jones, N., Smith, L., Brady, P., Riley, A., Town, M., Kelly, J., Tellez, S., Noh, Y., Muthuvel, G., Williford, D., Delsart, H., Neely, M., Kaplan, K., Howell, A., Grant, A. ConnecT1D Continued: Quality Improvement (QI) and care model innovations designed to achieve excellent and equitable glycemic and psychosocial outcomes for youth with type 1 diabetes (T1D). ISPAD, Lisbon, Portugal, October 2024.
72. Howell, A., Jones, N., Brady, P., Knopp, M., Grant, A., Smith, L., Riley, A., Town, M., **Corathers, S**., ConnecT1D data visualization: Informing interventions and equitable improvement in outcomes for patients with T1D. T1Dx-QI Learning Session, Chicago, November 2024. Journal of Diabetes, Vol.16
73. Kelly, J., Noh, Y., Tellez, S., Grant, A., Howell, A., Muthuvel, G., Brady, P., **Corathers, S.** ConnecT1D: Proactive outreach intervention to improve equitable car for youth with type 1 diabetes. T1Dx-QI Learning Session, Chicago, November 2024. Journal of Diabetes, Vol.16
74. Muthuvel, G., Magella, B., Howell, A., Riley, A., Town, M., Taylor, R., Jones, N., Brady, P., Smith, L., **Corathers, S**. Moving on up: Mobile care clinic to enhance access to care for youth with T1D. T1Dx-QI Learning Session, Chicago, November 2024. Journal of Diabetes, Vol.16
75. Smith, L., **Corathers, S**., Williams, M., Grant. A., Town, M., Riley, A., Howell, A., Jones, N. Implementation of psychosocial support interventions to narrow equity gaps in T1D outcomes. T1Dx-QI Learning Session, Chicago, November 2024. Journal of Diabetes, Vol.16

Teaching and Mentoring

Teaching

1. Direct clinical teaching of teaching medical students, residents, fellows on the endocrine inpatient service at Cincinnati Children's Hospital 4 weeks/year and precept residents and fellows in ambulatory clinics on a weekly basis.
2. Local academic courses, lectures, grand rounds, professor rounds, participation in firms:

a. CCHMC, Intermediate Improvement Science Series, Creating a Portfolio: Integrating Improvement into the Daily Work of Pediatric Endocrinology, (Feb 2023, Feb 2024).
b. CCHMC, Department of Pediatrics Grand Rounds, Innovations and Achievements from Recent Place Outcomes Research Awards, (June 2022).
c. CCHMC, Division of Endocrinology Grand Rounds, Living with Change, Care Delivery for transgender and Gender Expansive Youth, (Feb 2021).
d. CCHMC, NRSA Fellowship, Integrating Improvement Methods into Clinical Care and Research, (May 2020).
e. Virtual lecture for pediatric residents on Endocrinology rotation, "Thyrotoxicosis and Hyperthyroidism in Adolescents" (March 2020).
f. University of Cincinnati, Diabetes Day Symposium, Childhood into Adolescence with Diabetes, (Nov 2019).
g. CCHMC, Division of Psychology, Adherence Center Grand Rounds, Division of Behavioral Medicine and Clinical Psychology, Loss to Follow-Up: An Indicator of Health Care Delivery Adherence? (July 2019).
h. CCHMC, Division of Endocrinology Fellowship Core Curriculum: Hyperglycemic Hyperosmolar Syndrome (July 2013-2023); Hypocalcemia nuts and bolts (July 2013-2016).
i. Speaker, IHI Open House, Integrating Improvement into Academic Medicine (May 2017)
j. Speaker at the Ohio Valley Chapter, Society of Adolescent Health, "Cases in Transgender Care; Inter-disciplinary panel discussion", (November 2017)
k. University of Cincinnati, CCHMC combined endocrinology grand rounds: Glycemic Targets for Individuals and Patient Health (September 2017); Transition Preparation (October 2015); Transition to Transfer: (November 2015).
l. University of Cincinnati, College of Medicine Intersession Careers in Quality Improvement Panel (Feb 2018).
m. University of Cincinnati, Child and Adolescent Development, Undergraduate Psychology Course. Type 1 diabetes: Psychosocial considerations for children, adolescents, emerging adults and their families (November 2015).
n. Speaker at Southwest Ohio Professional Transgender Conference, Endocrine Care for Transgender Adults (November 2015)
o. Endocrine nurse lecture series: Thyroid cancer (September 2014); Routine screening and prevention of diabetes co-morbidities (January 2011).
p. Mini-Medical College, University of Cincinnati, "Type 1 diabetes across the lifespan" (October 2014)
q. Internal Medicine Residency Ambulatory long block curriculum, University of Cincinnati (June 2016, June 2015, June 2014).
r. Department of Pediatrics Residency noon conference (Cis Puberty and Trans Puberty Blocking September 2017, Hypocalcemia nuts and bolts June 2014).
s. Ohio Patient Safety Institute Best Practice Webinar (September 2014).
t. Division of Infectious Diseases University of Cincinnati Grand Rounds: Management of hormone therapy for transgender adults (July 2012).

3. National/International Invited Lectures, Grand Rounds, Symposia, Conferences:
   a. Speaker, Pediatric Endocrine Society, Workshop, How to Start and Sustain QI, San Diego, California, May 2023.
   b. Speaker, International Society for Pediatric and Adolescent Diabetes (ISPAD), ConnecT1D: reinforcing connections between patients, clinic, and community to achieve excellent and equitable outcomes. Rotterdam, The Netherlands, October 2023.

c. Speaker, ISPAD, Transition Workshop, Secrets of Successful Transition: Readiness and Receivership, Rotterdam, The Netherlands, October 2023.
d. Participant, Diabetes Expert Panel for the National Committee for Quality Assurance (NCQA), Washington DC, September 2023.
e. Delegate, International Turner Syndrome Guidelines Committee, Aarhus, Denmark, June 2023.
f. National Webinar sponsored by USNWR Making a Difference for Kids with Type 1 Diabetes: Advances and Challenges, March 2023.
g. Guest Speaker (virtual due to Covid-19) University of Colorado Endocrinology Grand Rounds, Applying Lessons from Community Pediatrics in Pursuit of Equity in Type 1 Diabetes, April 2022.
h. Guest Speaker (virtual due to Covid-19), Vanderbilt University, Diabetes, Research and Training Center (DRTC) Seminar, Patient Reported Outcomes: Using Clinic Based Screening and Intervention to Inform Diabetes Care, Feb 2021.
i. Speaker, European Society Pediatric Endocrinology, Condition Specific Tools for Transition Care: Lessons from Turner Syndrome Models, Athens, Greece, September 2018.
j. Type 1 Diabetes Exchange Learning Collaborative national meeting organizer and presenter, Cincinnati, Ohio, May 2018.
k. Speaker, Pediatric Endocrine Society, "Quality Improvement in Endocrinology", May 2018, Toronto, Canada
l. Speaker, NIDDK/ADA workshop, "Patient Reported Outcomes that Matter to Providers", Nov 2017, Bethesda, Maryland
m. Visiting Professor, "Integrating Improvement into Daily work of Pediatric Endocrinology" University of Michigan, September 2017, Ann Arbor, Michigan
n. Speaker, American Diabetes Association, "Patient Reported Outcomes- Using Clinic Based Screening and Intervention to Inform Diabetes Care", June 2017
o. Speaker, American Diabetes Association, "Getting to Goal in Pediatric Type 1 Diabetes" June 2016
p. Speaker, American Diabetes Association, "Design and Validation of Diabetes Transition Preparation Readiness Skills Measure" June 2016
q. Speaker, Health Care Transition Research Consortium, "One Year Outcomes of Planned Transition of Pediatric to Adult Diabetes Care". Houston, TX. September 2015
r. Speaker, Society of Adolescent Health and Medicine, "Transitioning Trans patients". Los Angeles, California, March 2015
s. International Turner Syndrome Consensus Guideline Delegate, Cincinnati, Ohio, July 2016

4. Participation in patient and family educational activities
   a. Speaker, Friends for Life Conference, Getting the Most out of your Automated Insulin Delivery System, College Park, MD, (October 2022).
   b. Speaker, PFLAG, Living with Change, Endocrinology Care for Transgender and Gender Expansive Youth and Adults, (December 2021).
   c. Speaker, Children with Diabetes National Conference, Friends for Life, "Transition from Pediatric to Adult Care", (July 2018).
   d. Planning committee member and speaker at JDRF community outreach summits (Nov 2019, Nov 2017, Nov 2016, Nov 2015, March 2015, March 2013).
   e. Speaker at Turner Syndrome community outreach events (May 2017, May 2015, May 2014, May 2012).
   f. Speaker and event coordinator, Building Bridges for a Successful Future with Diabetes, family outreach program (February 2014).

5. Listing of teaching materials developed:
    a. Pediatric Endocrine Society Webinar Series for Fellows on Quality Improvement (3/2021).
    b. American Board of Pediatrics Roadmap project website video resources, Talking About Emotional Health (09/2020). The full set of videos and associated guides are on the Roadmap webpage at: https://www.abp.org/foundation/roadmap
    Direct link to my video on talking to teens with diabetes about depression: https://fast.wistia.net/embed/channel/til9iwsorj?wchannelid=til9iwsorj&wvideoid=3bl9aqh8ur
    c. Content review and editing of American Board of Pediatrics Roadmap materials for maintenance of certification module, Emotional Health and Resilience for Patients and Families with Chronic Pediatric Conditions, (12/2019).
    d. "Demystifying MOC Part 4, Quality Improvement for Endocrinologists" National Webinar for Pediatric Endocrine Society (11/2019).
    e. Type 1 Diabetes Exchange Depression Screening Change Package (2018) Depression Screening on 2019 : Nov Learning Session | Trello
    f. Depression Screening on 2019 : Nov Learning Session | Trello
    g. "Future with Diabetes" transition materials for patients (2014-2015).
    h. Diabetes transition readiness assessment curriculum development for diabetes team (2015-2018)
    i. "Talking T1D" electronic book resource for adolescents and young adults developed in with graduate students at University of Cincinnati professional writing course, published on JDRF website, http://jdrf.org/swo/2016/01/15/talking-t1d-ebook/ (01/2016)

6. Evidence of teaching excellence: Fellow ratings of teaching performance in an anonymous survey in four categories (support/latitude of management; accurate information/fosters problem solving skills; encourages self-learning/provides mentoring; treats with respect/provides feedback) using a seven-point scale (range 1-7, maximum =7). Scores for the last 8 years were:

    2014: 6.55 (Division mean = 6.43, median = 6.45, range = 6.98-5.880)
    2015: 6.56 (Division mean = 6.49, Median = 6.47; range = 6.96-5.89)
    2016: 6.61 (Division mean = 6.46, Median = 6.46; range = 6.96-5.34)
    2017: 6.67 (Division mean = 6.35, median = 6.18, range = 6.83-5.78)
    2019: 6.61 (Division mean = 6.66, median = 6.64, range = 6.93 – 6.41)
    2020: 6.68 (Division mean = 6.72, median = 6.75, range = 7.00 - 6.55)
    2021: 6.79 (Division mean = 6.73, median = 6.77, range = 6.98 - 6.50)
    2022: 6.77 (Division mean = 6.63, median = 6.66, range = 5.50-6.98)
    2023: 6.45 (Division mean = 6.32, median = 6.43, range = 6.84-5.64)

Mentoring

Fellows and Students

As Director of the Quality Scholars Program, I participated in the scholarly oversight committee or career development committee of 19 scholars in the program over 7 years.

Additional mentees:

1. Dr. Alison Smego, (clinical and research mentor, 2014-2017). Dr. Smego was recognized for excellence at national Pediatric Academic and Pediatric Endocrine Society meetings and published her QI project, "Decreasing the Time to Insulin Administration for Hospitalized Patients with Cystic Fibrosis Related

Diabetes" in Journal Hospital Pediatrics 2018. Present position: Assistant Professor, Division of Endocrinology, Department of Pediatric, University of Utah School of Medicine. University of Utah.

2. Dr. Kristal Matlock, (clinical and research mentor, 2015-2018). Dr. Matlock presented nationally and published, "Clinical and psychosocial factors associated with suicidal ideation in adolescents with type 1 diabetes mellitus" and "Untreated Congenital Hypothyroidism Due to Loss to Follow-Up: Developing Preventative Strategies through Quality Improvement". Present position: Assistant Professor, Division of Endocrinology, Department of Pediatric, Vanderbilt University School of Medicine.
3. Dr. Alissa Roberts, visiting Endocrinology Fellow from Seattle Children's for clinical transition medicine elective (March 2017). Dr. Roberts is an emerging leader in transition research and quality improvement. Present position: Assistant Professor (promotion pending), Division of Endocrinology, Department of Pediatrics, University of Washington.
4. Dr. Jacob Redel, (clinical mentor, 2016-2018). Dr. Redel led a Prevnar/Pneumovax immunization QI initiative for patients with diabetes and as chief fellow, Dr. Redel coached a team of first year fellows led by Dr. Michael Yao to address parental worry in parents of young children with diabetes and detailed a method for applying QI training in sub-specialty fellowship setting published in Medical Education in 2019. Present position: Assistant Professor, Division of Endocrinology, Department of Pediatric, University of Kansas School of Medicine.
5. Dr. Eirene Alexandrou, Endocrinology Fellow (clinical mentor, 2017-2020). Dr. Alexandrou completed a QI project on screening for anxiety symptoms among girls and women with Turner Syndrome published in Hormone Research Paediatrics in 2022. Present position: Assistant Professor, Division of Endocrinology, Department of Pediatric, University of Iowa School of Medicine.
6. Dr. Nat Nasomyont, (clinical and research mentor, 2017--2020). Dr. Nasomyont completed and published a prospective pilot study of bone health outcomes amongst youth with gender dysphoria treated with puberty blockers. Present position: Assistant Professor, Division of Endocrinology, Department of Pediatrics, University of Cincinnati College of Medicine.
7. Dr. Priscilla Rodas, Endocrinology Fellow (clinical mentor, 2019-2022). Dr. Rodas completed a QI project on uploading diabetes devices prior to and between clinic visits. Present Position: Staff Physician, Huntsville, Alabama.
8. Dr. Andrew Lavik, (research mentor, 2019-2022), was a RISE award recipient as a pediatric resident, for project, "Utilization of a condition-specific registry to improve patient-reported and health-related outcomes in children with type 1 diabetes." During fellowship, Dr. Lavik completed research with T1Dx-QI about DKA concurrent with COVID-19 with results published in JCEM 2022. Present Position: Assistant Professor, Division of Endocrinology, Department of Pediatric, Cleveland Clinic, Case Western Reserve School of Medicine.
9. Dr. Samantha Roberge, (research mentor, 2022-2024). Dr. Roberge developed a curriculum for adolescent medicine and endocrinology fellows about transgender health and led a project and published original research on bone health outcomes among youth that receive GnRH agonist treatment. Present position (Sept 2024): Assistant Professor, Division of Endocrinology, Department of Pediatrics, University of Cincinnati College of Medicine.
10. Dr. Alison Murray, (research mentor, 2022-2024). Dr. Murray pursued global health initiative to study outcomes of a new multidisciplinary care model for diabetes in Ghana. Data was presented at ISPAD in 2023 and submitted to Diabetes Care for publication. Present position (July 2024): Assistant Professor, Division of Endocrinology, University of Wisconsin.
11. Dr. Hailee Delsart, (research mentor, 2022--). Dr. Delsart is a member of the Pediatric Ambulatory Safety Learning Lab AHRQ sponsored research team. Dr. Delsart is first author on manuscript describing pilot study developing and testing simulation scenarios for diabetes sick day management. She is a co-author on a publication in Pediatric Quality and Safety on "Safer Type 1 Diabetes Care at Home". Present position: Fellow, Division of Endocrinology, Cincinnati Children's.

12. Dr. Michelle Knopp, (research mentor, 2023-2024). Dr. Knopp joined the ConnecT1D research team during her clinical informatics fellowship to support diabetes device integration into the electronic health record and design a research database, in addition to her own primary research project related to CGM use in primary care. Present position: Research Assistant Professor of Pediatrics, University of Cincinnati College of Medicine.

Division of Endocrinology faculty peer mentorship:

1. Dr. Sarah Lawson (QI mentorship, collaborator). I coached Dr. Lawson on a project to increase timeliness and safety of insulin ordering (2015-2016). Dr. Lawson has since fundamentally restructured care delivery for new onset diabetes from an inpatient to a Day Hospital model (2016-2017) and developed protocols for insulin ordering and administration throughout the institution.
2. Dr. Nancy Crimmins (QI mentorship, collaborator). I assisted Dr. Crimmins and Dr. Daniel Mallon to develop a clinical algorithm for screening for Celiac Disease amongst new onset and established diabetes patients (2015-2017). This work has been presented at national and international meetings and helps support innovative inter-disciplinary clinical care for dual diagnosis patients.
3. Dr. Halley Wasserman (mentorship). I meet with Dr. Wasserman every month to discuss current research and clinical projects, and coach on professional and career development.
4. Dr. Nana Hawa-Yayah Jones (QI mentorship, collaborator). I coached Dr. Jones during an improvement methodology course with Dr. Matlock, (2014-2015) that led to a reliable process to prevent loss to follow up for children with congenital hypothyroidism. I am a collaborator with Dr. Jones to identify interventions for the population of youth at high risk of diabetes complications (2017-ongoing). Through the Health Equity Network, and ConnecT1D, Dr. Jones leads the screening for social determinants of health in diabetes clinics, and systematically identifying, and addressing, health equity gaps for youth with diabetes including use of CGM and insulin pumps.

Service and Leadership

Service:

Professional Organization Memberships

- American Diabetes Association, Member
- Pediatric Endocrine Society, Member and Quality Improvement Committee Member
- International Society of Pediatric and Adolescent Diabetes, Member
- Endocrine Society, Member
- American Academy of Pediatrics, Member, Former Chair of Resident Section

Local Committee Involvement:

- Institutional Psychosocial Screening and Response Taskforce (2022-2024)
- Institutional Ambulatory Access Steering Committee (2022-2023)
- Institutional Adult Care Taskforce (2023--)
- Institutional Digital Care Transformation Taskforce (2023--)
- Institutional Governance Committee for patient reported outcomes (2018-2022)
- Place Outcomes Grant Reviews (2017, 2021, 2024)

Manuscripts Reviewed:

- JAMA Network Open 2022 (1)
- Diabetes Spectrum 2015 (1) 2016 (1)
- Pediatrics 2014 (1) 2015 (1) 2016 (1) 2017 (2)
- Journal of Health Psychology 2014 (1)
- Lancet Journal of Diabetes and Endocrinology 2014 (2)

- Journal of Diabetes Science and Technology 2016 (1)
- Pediatric Diabetes 2016 (2) 2017 (2) 2019 (1) 2020 (5) 2021 (2) 2022 (2)
- Diabetes Care 2018 (1) 2022 (2) 2024 (2)
- The Permanente Journal 2017 (1)
- Journal of Adolescent Health 2017 (1) 2018 (1)
- Endocrine Practice 2017 (1)
- Diabetic Medicine 2020 (2) 2023 (1)
- Journal of American Medical Informatics 2020 (1)
- Diabetes Research and Clinical Practice 2020 (1)
- Journal of Clinical Endocrinology and Metabolism 2020 (1)
- Canadian Journal of Diabetes 2020 (1) 2021 (1)
- Diabetes Technology and Therapeutics 2022 (1)
- Contemporary Clinical Trials 2024 (1)

Professional Activities:

- Data Publications and Presentation Committee (DPPC) member, SWEET international diabetes network (2021-2024)
- Diabetes Expert Panel for the National Committee for Quality Assurance (NCQA) (2020--)
- Data Safety and Monitoring Board Participation
    - 4T Study (PI, David Maahs)
    - ReDUCEe Study (Co-PIs, Shivani Agarwal and Jeffrey Gonzolez)
- Advisory Board Member
    - Rising T1DE Alliance innovation in type 1 diabetes care (2020-2024)
    - Advisory board member, Turner Syndrome clinical centers of excellence (2017-2020)
    - Advisory board member, T1D Outcome Program, JDRF national initiative (2016-2017)
    - Clinical advisory board member, College Diabetes Network (2015-2019)
- Part-time Position: Expert Witness, Reports, Deposition, and Testimony (2024)
  Moe et al. vs. Yost, et al., Court of Common Pleas of Franklin, Ohio, Case Number 24 CV 002481

Recruitment activities:

- Participated in recruitment of endocrinology fellows and faculty candidates annually (2013-2024)
- Participated in interviews for faculty members in divisions of adolescent medicine, behavioral medicine and clinical psychology, hematology and oncology, emergency medicine, gastroenterology, critical care (2017-2024)

Community activities:

- Board member of SW Ohio JDRF chapter (July 2014-2020)
- Team Captain, American Diabetes Association, Step Out to Stop Diabetes Walk (2010-2013)
- Volunteer, Children's International Summer Village, Peace Education Program (2022--)

<u>Leadership:</u>

Associate Chief of Staff, Ambulatory, Cincinnati Children's (March 2024-)
Clinical Director, Division of Pediatric Endocrinology, Cincinnati Children's (January 2022-)
Director, Quality Scholars Program, Cincinnati Children's (September 2017- March 2024)
Co-President, WIMS, (Women in Medicine and Science) with Dr. Jennifer O'Toole (2020-2023)

EXHIBIT B

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR et al.,

Plaintiffs,

v.

DONALD J. TRUMP, *in his official capacity as President of the United States*, et al.,

Defendants.

Civil Action No. 1:25-cv-10313
(Leave to file excess pages granted on March 11, 2025)

DEFENDANTS' OPPOSITION TO PLAINTIFFS' MOTION TO STAY AGENCY ACTION AND FOR PRELIMINARY INJUNCTION

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INTRODUCTION

A passport is, at its core, "a letter of introduction in which the issuing sovereign vouches for the bearer and requests other sovereigns to aid the bearer." *Haig v. Agee*, 453 U.S. 280, 292 (1981). As such, it has long been the case that "the issuance of a passport was committed to the sole discretion of the Executive." *Id.* at 293. For decades, administrations of both parties have issued passports with only two options in the sex field: "M" or "F." And for many years, applicants wishing to receive a passport with a sex different from their biological sex could change the sex marker only with certain forms of evidence, such as of surgical reassignment or a physician's certification. Then, in 2021, consistent with an executive order issued by former President Biden, the Department of State ("Department") changed its policy permitting applicants to self-select their sex marker as "M," "F," or "X." Concerned that self-selection and indeterminate definitions of sex undermines "longstanding, cherished legal rights and values," President Trump issued Executive Order 14,168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, 90 Fed Reg. 8,615 (Jan. 20, 2025) [hereinafter EO], which sets forth definitions of *sex*, *female*, and *male* that are to be used across the federal government. The EO also instructs the Department to implement changes to passports such that they accurately reflect the holder's sex according to those definitions. To comply with the EO and to further the goal of government-wide uniformity in the definition of *sex*, the Department changed its policy, issuing passports in only "M" or "F" based on birth certificates or other documentation close to birth ("Passport Policy").

Shortly after the President issued the EO, Plaintiffs, a group of individuals asserting varying gender identities and at varying stages of applying (or not) for a passport, brought this suit, seeking to stay the effective date and to preliminarily enjoin the Passport Policy. ECF Nos 1 & 29. The Court should deny their request. First, Plaintiffs are unlikely to succeed on the merits. Judicial review of Plaintiffs' Administrative Procedure Act ("APA") claim is unavailable because passport issuance is committed to the President's discretion. And even if the Policy were reviewable, under the APA's highly deferential standard of review, the Passport Policy was the product of reasoned

decision making. The Policy does not violate the equal protection guarantees of the Constitution or substantive due process either: the Policy does not classify based on a constitutionally protected class or burden any fundamental right, and it easily satisfies constitutional scrutiny under rational basis review. Second, Plaintiffs—all of whom are free to travel abroad—have not shown that they would suffer irreparable harm absent an injunction. Finally, the balance of the equities favors the government, particularly on an issue such as this, which concerns a core Executive function to communicate with foreign sovereigns. The Court should deny Plaintiffs' Motion.

BACKGROUND

I. The Passport Policy

"The Secretary of State may grant and issue passports . . . under such rules as the President shall designate and prescribe for and on behalf of the United States." 22 U.S.C. § 211a. Pursuant to this "broad rule-making authority," *Zemel v. Rusk*, 381 U.S. 1, 12 (1965), the Department has promulgated a series of regulations that govern the issuance of passports, *see* 22 C.F.R. §§ 51.1–51.74. The regulations define a passport as "a travel document regardless of format issued under the authority of the Secretary of State attesting to the identity and nationality of the bearer," *id.* § 51.1(d), and explain that "[a] passport at all times remains the property of the United States and must be returned to the U.S. Government upon demand," *id.* § 51.7(a). Before the Department issues a passport, "[a]n application for a passport . . . must be completed using the forms the Department prescribes." *Id.* § 51.20(a). As part of the application, "[t]he applicant has the burden of establishing his or her identity." *Id.* § 51.23(a).

For many decades, U.S. passports and U.S. passport applications had "sex" as a required field, and "M" and "F" were the only available options. Pierce Decl. ¶¶ 4–5. Beginning in 1992, applicants could submit evidence of surgical reassignment as proof of sex. *See id.* ¶ 6. In 2010, the Department eliminated this requirement and instead accepted a physician's certification of appropriate clinical treatment for gender transition. *See id.* In 2022, passport application forms began to include an "X" gender marker option in addition to "M" and "F" as well as a checkbox

for the applicant to indicate a change in their gender. *Id.* But even following that change, the passport visual inspection zone has consistently and continuously used the term "Sex." *Id.*

On January 20, 2025, the President issued Executive Order 14,168, which declares, "It is the policy of the United States to recognize two sexes, male and female. These sexes are not changeable and are grounded in fundamental and incontrovertible reality." *Id.* at 8,615. The EO also provides that certain definitions "shall govern all Executive interpretation of and application of Federal law and administration policy." *Id.* As relevant to this case, the definitions are as follows:

> (a) "Sex" shall refer to an individual's immutable biological classification as either male or female. "Sex" is not a synonym for and does not include the concept of "gender identity." . . .
>
> (d) "Female" means a person belonging, at conception, to the sex that produces the large reproductive cell.
>
> (e) "Male" means a person belonging, at conception, to the sex that produces the small reproductive cell. . . .
>
> (g) "Gender identity" reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex.

Id. at 8,615–16.

The EO also directs the Secretary of Health and Human Services (HHS) to "provide to the U.S. Government, external partners, and the public clear guidance expanding on the sex-based definitions set forth in this order." *Id.* at 8,616. HHS has recently done that: "***Sex*** is a person's immutable biological classification as either male or female"; "***Female*** is a person of the sex characterized by a reproductive system with the biological function of producing eggs (ova)"; and "***Male*** is a person of the sex characterized by a reproductive system with the biological function of producing sperm." Defining Sex, HHS (*Defining Sex*) (Feb. 19, 2025), https://perma.cc/9DNS-CHSZ. HHS recognized that "[h]aving the biological function to produce eggs or sperm does not require that eggs or sperm are ever produced" and that "[s]ome females or males may not or may

no longer produce eggs or sperm due to factors such as age, congenital disorders or other developmental conditions, injury, or medical conditions that cause infertility." *Id.*

The EO requires these definitions to be applied government-wide: each agency must "give the terms 'sex', 'male', 'female', 'men', 'women', 'boys' and 'girls' the meanings set forth in section 2 of th[e] order when interpreting or applying statutes, regulations, or guidance and in all other official agency business, documents, and communications." 90 Fed. Reg. 8,616. The EO also states that "[w]hen 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." *Id.* And the Department of State must "implement changes to require that government-issued identification documents, including passports, . . . accurately reflect the holder's sex, as defined under section 2 of this order." *Id.* The EO further provides, "Agency forms that require an individual's sex shall list male or female, and shall not request gender identity." *Id.*

The Department has taken several steps to implement EO 14,168. On January 22, 2025, the Department stopped issuing passports with an "X" and held all non-urgent applications seeking an "X" marker or seeking a sex marker other than the applicant's biological sex to ensure consistent adjudication. *See* Pierce Decl. ¶ 15. On February 7, 2025, the Department resumed processing affected applications with guidance on how to adjudicate sex. *Id.* ¶ 18.

II. State Department's Passport Application Forms

Several years ago, the Department initiated a process to change three passport application forms—DS-11 (new passport), DS-82 (passport renewal), and DS-5504 (data correction, name change, and limited validity passport)—to include "X" and allow applicants to indicate a change in gender without supporting documentation. *Id.* ¶¶ 6–7. Those forms expire on April 30, 2025. *Id.*; *see also* 44 U.S.C. § 3507(f)(2) (forms approved under the Paperwork Reduction Act are approved for a maximum of three years). In November 2024, the Department began the renewal process for all three forms by issuing 60-day notices to solicit public comment. Pierce Decl. ¶ 9.

On February 24, 2025, the Department issued 30-day notices to solicit additional comments while the Office of Management and Budget reviews the matter. *Id.* ¶ 20.

In late January 2025, after consulting with the Office of Information and Regulatory Affairs, the Department uploaded prior versions of the DS-11, DS-82, and DS-5504 forms to its website and removed the paper versions of the forms that offered only the sex marker of "M" or "F." *Id.* ¶ 17. Those forms had undergone the requisite approval process, wherein the Department issued 60-day notices, followed by 30-day notices and Office of Management and Budget approval. *See* 60-day Notice of Proposed Information Collection: Application for a U.S. Passport, 84 Fed. Reg. 24590-01 (May 28, 2019); 30-Day Notice of Proposed Information Collection: Application for a U.S. Passport, 84 Fed. Reg. 42037-02 (Aug. 16, 2019).

III. Procedural History

Plaintiffs filed this a putative class action on February 7, 2025, asserting various equal protection, substantive due process, and Administrative Procedure Act claims. ECF No. 1. Their motion to stay agency action and for preliminary injunction followed. ECF No. 29.

LEGAL STANDARD

"A preliminary injunction is an extraordinary and drastic remedy that is never awarded as of right." *Peoples Fed. Sav. Bank v. People's United Bank*, 672 F.3d 1, 8–9 (1st Cir. 2012). A movant may be awarded such an extraordinary remedy "upon a clear showing" that they are "entitled to such relief." *Winter v. Nat. Res. Def. Counsel, Inc.*, 555 U.S. 7, 22 (2008). That is, the plaintiff "must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that the balance of equities tips in his favor, and [4] that the injunction is in the public interest." *Peoples Fed. Sav. Bank*, 672 F.3d at 9 (citation omitted). Where, as here, the defendants are government entities or official sued in their official capacities, the balance of equities and the public interest factors merge. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Does 1–6 v. Mills*, 16 F.4th 20, 37 (1st Cir. 2021).

ARGUMENT

I. Plaintiffs Are Unlikely to Succeed on the Merits.

A. The Court Should Not Consider Extra-Record Evidence in Assessing the Likelihood of Success on the Merits.

Plaintiffs have attached numerous declarations on which they rely in support of their Motion. *See, e.g.*, Pls.' Mem. 14. The Court should disregard these declarations for purposes of assessing the likelihood of success on the merits and instead focus on the materials that were before the Department when it developed the Policy.

In determining whether agency action may be set aside, "the court shall review the whole record or those parts of it cited by a party." 5 U.S.C. § 706. This means that "the focal point for judicial review should be the administrative record already in existence, not some new record made initially in the reviewing court." *Camp v. Pitts*, 411 U.S. 138, 142 (1973); *Hill Dermaceuticals, Inc. v. FDA*, 709 F.3d 44, 47 (D.C. Cir. 2013) (holding that a district court properly disregarded extra-record declarations because "it is black-letter administrative law that in an APA case, a reviewing court should have before it neither more nor less information than did the agency when it made its decision" (citation omitted). Only in rare circumstances can the record be supplemented. *See Housatonic River Initiative v. U.S. Env't Prot. Agency, New England Region*, 75 F.4th 248, 279 (1st Cir. 2023). Accordingly, the Court should disregard Plaintiffs' declarations in assessing the likelihood of success on the merits.

B. Plaintiffs Are Unlikely to Succeed on Their APA Claim.

1. Rules for Issuing Passports Are Not Reviewable Under the APA.

Plaintiffs' APA claim is not reviewable. The APA provides for judicial review of final *agency* action, not *presidential* action. The President is not an "agency" under Section 704, and presidential action is not reviewable under the APA. *See, e.g.*, *Franklin v. Massachusetts,* 505 U.S. 788, 799–801 (1992); *Dalton v. Specter,* 511 U.S. 462, 469 (1994); *Detroit Int'l Bridge Co. v. Gov't of Canada*, 189 F. Supp. 3d 85, 100 (D.D.C. 2016) ("[T]he APA is not available to review

presidential actions—*i.e.*, actions involving the exercise of discretionary authority vested in the President by law."), *aff'd*, 883 F.3d 895 (D.C. Cir. 2018).

For example, in *Detroit International Bridge*, the plaintiff challenged the State Department's approval of a permit for construction of a new bridge between Canada and the United States. 189 F. Supp. 3d at 88. The court held that the plaintiff could not challenge the approval under the APA because Congress had given the President "broad discretionary authority" to approve the construction of international bridges. *Id.* at 100. This was so even though the President had delegated authority to the State Department: "[b]y delegating authority to the President, . . . Congress recognized the importance of the President's role in the process and made a conscious decision to defer to the President's discretion and decision-making given the foreign policy considerations inherent in deciding whether to approve the construction and maintenance of a new international bridge." *Id.* at 105 (cleaned up).

Here, the Passport Act likewise confers on the President broad discretionary authority to designate and prescribe rules for passports. *See* 22 U.S.C. § 211a (providing that the State Department may issue passports "under such rules as *the President* shall designate and prescribe" (emphasis added)). As in *Detroit International Bridge*, the statute imposes no limitations on the President's discretion in this regard. This is unsurprising, as the Executive has inherent constitutional authority to determine the content of passports. *See, e.g.*, *Agee*, 453 U.S. at 292–94. The rules for issuing passports also implicate "foreign policy considerations," as the passport is an instrument of foreign policy and national security. *See id.* at 292. The President has directed the State Department to implement his policy, but that does not change the analysis. *See Detroit Int'l Bridge*, 189 F. Supp. 3d at 105. Accordingly, the Passport Policy is unreviewable under the APA. *Id.*; *see also Ancient Coin Collectors Guild v. CBP*, 801 F. Supp. 2d 383, 401–04 (D. Md. 2011) (holding that seizure of coins was unreviewable as presidential action), *aff'd*, 698 F.3d 171 (4th Cir. 2012).[1]

[1] The D.C. Circuit in *Detroit International Bridge* and the Fourth Circuit in *Ancient Coin*

Even if the Court were to conclude that the Passport Policy constituted agency (as opposed to presidential) action, APA review is unavailable because the APA limits judicial review "to situations in which . . . the agency action is not committed to agency discretion by law." *Webster v. Doe*, 486 U.S. 592, 599 (1988); *see also* 5 U.S.C. § 701(a)(2); *Lincoln v. Vigil*, 508 U.S. 182, 191 (1993). Agency action is committed to agency discretion if "the statute is drawn so that a court would have no meaningful standard against which to judge the agency's exercise of discretion." *Heckler v. Chaney*, 470 U.S. 821, 830 (1985). Review is also unavailable if the action is of a kind "traditionally regarded as committed to agency discretion," including categories of discretionary judgments. *Lincoln*, 508 U.S. at 192–93.

Here, as noted, Congress has committed the authority to establish rules for issuing passports to the President's discretion, and the President, in turn, has directed the State Department to implement his policy. *See* 22 U.S.C. § 211a; *Agee*, 453 U.S. at 294 (characterizing the statue as using "broad and permissive language"). Neither the Passport Act nor Executive Order 11295 restricts the Secretary's discretion in specifying the requisite information to be included on a passport and how to verify that information. Nor do they provide any "meaningful standard against which to judge the [State Department's] exercise of discretion." *Heckler*, 470 U.S. at 830; *see, e.g.*, *Detroit Int'l Bridge*, 189 F. Supp. 3d at 106 ("Given the broad discretion afforded to the President in the [statute] and to the Secretary of State in [the executive order], this Court cannot review the issuance of the . . . [p]ermit . . . . There is simply no law to apply.").

The Passport Policy is also the kind of agency action "traditionally regarded as committed to agency discretion." *Lincoln*, 508 U.S. at 192. Courts have long held that claims challenging the United States's specific foreign affairs decisions are not reviewable under the APA. *See, e.g.*, *Detroit Int'l Bridge*, 883 F.3d at 903 ("In the foreign affairs arena, the court lacks a standard to review the agency action."); *Saavedra Bruno v. Albright*, 197 F.3d 1153, 1162 (D.C. Cir. 1999)

Collectors Guild did not reach the question whether the challenged actions were presidential actions that were unreviewable under the APA. Rather, each court held that even assuming that the actions at issue were agency action, the district courts' decision should be affirmed. *See* 883 F.3d at 903; 698 F.3d at 184.

("When it comes to matters touching on . . . foreign affairs . . . the presumption of review [under the APA] 'runs aground.'" (citation omitted)); *see also Legal Assistance for Vietnamese Asylum Seekers v. U.S. Dep't of State*, 104 F.3d 1349, 1353 (D.C. Cir. 1997) (holding that the State Department's consular venue policy unreviewable because it implicated foreign policy).

The Department's rules for issuing passports directly implicate specific foreign affairs decisions by the U.S. Government. The Supreme Court has recognized a passport as an instrument of diplomacy through which the President, on behalf of the United States, "in effect request[s] foreign powers to allow the bearer to enter and to pass freely and safely, recognizing the right of the bearer to the protection and good offices of American diplomatic and consular officers." *United States v. Laub*, 385 U.S. 475, 481 (1967). It is also an official communication "by which the Government vouches for the bearer and for his conduct." *Agee*, 453 U.S. at 293. It is "addressed to foreign powers; . . . and is considered rather in the character of a political document." *Id.* at 292 (quoting *Urtetiqui v. D'Arcy*, 34 U.S. (9 Pet.) 692, 698 (1835)); *see also Kent v. Dulles*, 357 U.S. 116, 129 (1958) (besides the critical function of control over exit, "the issuance of the passport carries some implication of intention to extend the bearer diplomatic protection" and to "'request all whom it may concern to permit safely and freely to pass, and in case of need to give all lawful aid and protection' to this citizen of the United States").

Congress has provided no meaningful standards against which courts could judge the Department's discretion over the form and content of passports, which are diplomatic documents through which the President communicates with foreign sovereigns. Accordingly, the Passport Policy is not subject to review under the APA.

2. Plaintiffs Are Unlikely to Show That the Passport Policy is Arbitrary and Capricious.

Even if reviewable, Plaintiffs' arbitrary and capricious claim is unlikely to succeed. Under the deferential arbitrary and capricious standard, 5 U.S.C. § 706(2)(A), the reviewing court has "only a narrow role to play," *Dist. 4 Lodge of the Int'l Ass'n of Mechanists & Aerospace Workers Loc. Lodge 207 v. Raimondo*, 18 F.4th 38, 44 (1st Cir. 2021): the court must decide if the agency

action—which is presumed to be valid, *Zzyym v. Pompeo*, 958 F.3d 1014, 1022 (10th Cir. 2020)—is "supported by any rational view of the record." *Littlefield v. DOI*, 85 F.4th 635, 643 (1st Cir. 2023) (quoting *Marasco & Nesselbush, LLP v. Collins*, 6 F.4th 150, 172 (1st Cir. 2021)). If it is, the agency action must be upheld. *See id.* A difference of opinion or evaluation of the evidence has no place in arbitrary and capricious review. *See District 4 Lodge*, 18 F.4th at 45–47 (detailing the various ways that the district court erroneously substituted its judgment for that of the agency). The court cannot "substitute its judgment for that of the agency" and must "uphold a decision of less than ideal clarity if the agency's path may reasonably be discerned." *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983).

This deferential review is especially narrow in this context, because Congress has authorized the President to exercise broad discretion to "designate" rules governing the issuance of passports. 22 U.S.C. § 211a. If the President had designated rules on his own, that action would not be subject to review under the APA. *See, e.g.*, *Franklin*, 505 U.S. at 799–801. Here, the President determined the policy to govern sex designations in official government documents and communications and directed the Department (and other agencies) to implement that policy. When the President directs an agency to implement a discretionary decision that Congress has vested in him in a particular manner, it cannot be arbitrary and capricious for the agency to act as the President instructs. If APA review is available at all in this context, *see supra* Section I.B.1, the only question is whether the agency reasonably implemented the presidential directive.

Contrary to Plaintiffs' contention, *see* Pls.' Mem. 12, a change in an administration's or agency's position—even when it is an "about-face"—does not justify more searching judicial review. *See FCC v. Fox Television Stations, Inc.*, 556 U.S. 502, 515–16 (2009). Rather, the agency needs only to "display awareness that it is changing position" and has "good reasons" for the policy. *Id.* at 515. "A 'more detailed justification' may be required . . . when the agency's new position 'rests upon factual findings that contradict those which underlay [the] prior' position or when the agency's prior position 'has engendered serious reliance interests.'" *Housatonic River Initiative*, 75 F.4th at 270 (quoting *Fox*, 556 U.S. at 515). But "[i]n such cases it is not that further

justification is demanded by the mere fact of policy change; but that a reasoned explanation is needed for disregarding facts and circumstances that underlay or were engendered by the prior policy." *Fox*, 556 U.S. at 515–16.

The Department reasonably adopted the Passport Policy to implement the President's directive. The Passport Act provides that the Department "may grant and issue passports, and cause passports to be granted, issued, and verified in foreign countries by diplomatic and consular officers of the United States . . . under such rules as the President shall designate and prescribe for and on behalf of the United States." 22 U.S.C. § 211a. And the President declared that "[i]t is the policy of the United States to recognize two sexes" and that "these sexes are not changeable." 90 Fed. Reg. 8,615. He has further set forth uniform definitions of *sex*, *female*, and *male*, and instructed the entire government to adhere to those definitions. More specifically, the President has instructed the Department to "implement changes to require that government-issued identification documents, including passports . . . accurately reflect the holder's sex" under those definitions and as may be further clarified through guidance from the Department of Health and Human Services. 90 Fed. Reg. 8,616. Under these circumstances, it is reasonable for the Department to follow the President's direction and implement a Passport Policy under which passports are issued with a sex field that indicates either "M" or "F" based on birth certificates or other documents close in time to the applicant's birth. As the Department explains, "the Executive Order indicates a government-wide shift to using one uniform definition of 'sex,' so a change in the Department's policies was also needed to support the goal of uniformity." Pierce Decl. ¶ 19.

This is not the first time that a binary sex passport policy has been challenged as arbitrary and capricious. In *Zzyym*, the Tenth Circuit held that the fact that "[t]he policy helped make passport data useful for other agencies" was a justification that reasonably supported the policy. 958 F.3d at 1023. That reason continues to be the case here; the EO sets a government-wide policy "to recognize two sexes, male and female," and specifically instructs each agency to "give the terms 'sex', 'male', 'female', 'men', 'women', 'boys' and 'girls' the meanings set forth in section 2 of this order when interpreting or applying statutes, regulations, or guidance and in all other

official agency business, documents, and communications." 90 Fed. Reg. 8,615–16. Passport data would not be useful for other agencies if the State Department adopted definitions inconsistent with the policy of the United States. *See* Pierce Decl. ¶ 19.

Indeed, courts have recognized that the government has a legitimate interest "in maintaining a consistent, historical, and biologically based definition of sex." *Gore v. Lee*, 107 F.4th 548, 561 (6th Cir. 2024); *Corbitt v. Sec'y of the Ala. Law Enf't Agency*, 115 F.4th 1335, 1348 (11th Cir. 2024) (recognizing a "State's interest in ensuring consistency with the State's existing requirements for amending a birth certificate" by "'objectively defining sex' for purposes of driver's license designations"). For most of the existence of sex markers on U.S. passports (since 1977), U.S. passports were available only in "M" or "F." *See* Pierce Decl. ¶ 5. And for many years, applicants either could not change their sex from that listed in their supporting documents or could do so only with certain evidence. *See id.* ¶¶ 5–6. Plaintiffs may prefer a different policy. But under the deferential arbitrary and capricious standard, the United States must be permitted to adopt a policy that had previously been in place and that is currently in place around the world, particularly when it concerns a U.S. government-issued document that is "addressed to foreign powers; . . . and is to be considered rather in the character of a political document." *Agee*, 453 U.S. at 292.

None of Plaintiffs' counterarguments has merit. *See* Pls.' Mem. 11–16.

First, Plaintiffs assert that the Department implemented a change in policy without any explanation. *See* Pls.' Mem. 12–13. That is incorrect. As explained above (and as Plaintiffs appear to recognize), *see id.* at 13, the Department implemented the Policy pursuant to the EO, which reasonably sets forth uniform definitions and requirements across the government, including for identification documents such as passports. *See* Pierce Decl. ¶ 15. And, as discussed above, the Department must issue passports "under such rules as the President shall designate and prescribe for and on behalf of the United States." 22 U.S.C. § 211a. Because of this statutory obligation to adhere to the President's rules and because the EO reasonably sets forth uniform definitions and requirements across the federal government, the Policy more than satisfies the deferential arbitrary and capricious standard.

Second, Plaintiffs appear to suggest that the mere change in policy makes the Passport Policy arbitrary and capricious. *See* Pls.' Mem. 12–13. But no statute or regulation requires the Department to allow applicants to change their sex or to have an "X" marker in the sex field. In fact, no statute or regulation defines the requirements for what the Executive must include in a passport. *Cf. Agee*, 453 U.S. at 293–300 (detailing the history of Executive discretion over passports). Accordingly, just as the Department was able to change its policy in 1992 and 2010 to permit applicants to change the sex demarcated in their passport or in 2022 to permit applicants to have their sex demarcated as "X," so too in 2025 the Department may change its policy again to rely on documentation issued closest to an applicant's birth and to eliminate the "X" option. Arbitrary and capricious review permits an agency to change its position without having to provide more explanation than the agency would for any other action. *See Fox*, 556 U.S. at 515. Moreover, there is a reasonable explanation for the change, as explained above.

Third, Plaintiffs argue that the EO does not account for purported "problems that will result when the sex designation on someone's passport conflicts with how they present and with their other identity documents." Pls.' Mem. 13–14. Plaintiffs point to three purported problems: (1) "interference with efficient screening of passport bearers' identity," (2) "outing of transgender, intersex, and nonbinary individuals," and (3) "the harms to third parties." *Id.* at 13 n.8. The first two are actually core to the Policy; Plaintiffs simply dislike the conclusion that the EO and Department came to. The EO explains that because "'[g]ender identity' reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex." 90 Fed. Reg. 8,616. Accordingly, the EO instructs the Department to "implement changes to require that . . . passports . . . accurately reflect the holder's sex, as defined under section 2 of this order" (i.e., "an individual's immutable biological classification as either male or female"). *Id.* at 8,615–16. Moreover, a passport is intended to be "a letter of introduction in which the issuing sovereign vouches for the bearer and requests other sovereigns to aid the bearer." *Agee*, 453 U.S. at 292. Plaintiffs may wish for their passports to reflect their gender

identity, but the Department has reasonably chosen to document passport applicants' sex as reflected in documentation issued closest in time to the bearer's birth. The third "problem" (i.e., "harms to third parties," such as businesses that might indirectly be affected by the Passport Policy, *see* Pls.' Mem. 13 n.8), is simply not a relevant criterion for the Department. The purpose of passports is to provide an identity document containing information the State Department deems appropriate. Third parties would be in the same position they were when passports were issued in either "M" or "F" based on documentary evidence close to birth.

Fourth, Plaintiffs argue that that the EO definitions of *female* ("a person belonging, at conception, to the sex that produces the large reproductive cell") and *male* ("a person belonging, at conception, to the sex that produces the small reproductive cell") are "irrational" because "embryos have undifferentiated reproductive cells during the period immediately following conception." *See* Pls.' Mem. 14. But the EO definitions do not say that large or small reproductive cells are produced at conception; rather, sex is determined based on whether the person *belongs* to the sex that produces a large or small reproductive cell. Ultimately, the Department, which lacks expertise in this area, defers to HHS, *see* Pierce Decl. ¶ 18, which, in providing "clear guidance expanding on the sex-based definitions set forth in" the EO, 90 Fed. Reg. 8,616, has stated that "[t]he sex of a human, female or male, is determined genetically at conception (fertilization), and is observable before birth," *Defining Sex*, *supra*. At any rate, Plaintiffs' focus on defining sex at conception is beside the point; the Department determines sex based on documents produced after birth because those are the only documents that are ascertainable. *See* Pierce Decl. ¶ 18.

Plaintiffs also assert that "some intersex individuals do not at conception, and may never, belong to a sex that produces either a large or small reproductive cell." *See* Pls.' Mem. 14–15. But as HHS has explained, "[h]aving the biological function to produce eggs or sperm does not require that eggs or sperm are ever produced," recognizing that "[s]ome females or males may not or may no longer produce eggs or sperm due to factors such as age, congenital disorders or other developmental conditions, injury, or medical conditions that cause infertility." *Defining Sex*, *supra*. As HHS has further concluded, "[r]are disorders of sexual development do not constitute a

third sex because these disorders do not lead to the production of a third gamete." *Id*. But again, Plaintiffs' definitional concern is beside the point: the Department has historically issued passports to intersex individuals without offering an "X" marker, *see, e.g.*, *Zzyym*, 958 F.3d at 1018, and continues to do so now based on adjudicating the applicant's sex at birth, *see* Pierce Decl. ¶ 18. Plaintiffs identify no intersex applicant who cannot get a passport under the Policy.

Fifth, Plaintiffs argue that the EO's definitions "undermine[] passports' usefulness in confirming the bearer's identity," pointing out that the bearer may not "look like the sex defined by the EO" or that the passport may "conflict[] with other identifying documents." Pls.' Mem. 15. These are policy questions for the Executive. As discussed above, a passport is an instrument of diplomacy and an official communication "by which the Government vouches for the bearer and for his conduct." *Agee*, 453 U.S. at 293. It is therefore for the President—not Plaintiffs—to decide how to identify the bearer in communicating with foreign sovereigns. 22 U.S.C. § 211a.

Sixth, Plaintiffs argue that "the Policy conflicts with current government practice concerning passports from foreign countries" that have an "X" marker. *See* Pls.' Mem. 16. But there is no conflict: under International Civil Aviation Organization ("ICAO") guidelines, member states are permitted, not required, to include "X" in the sex field. *See* Pierce Decl. ¶ 4; ICAO Doc 9303 (8th ed.), https://perma.cc/VSB4-HW5R. And at any rate, the Policy's focus is consistent within the *U.S.* government, and "[i]t is the policy of the United States to recognize two sexes, male and female." EO 14168, 90 Fed. Reg. 8,615.

Seventh, Plaintiffs argue that the Policy conflicts with some state laws that permit an "X" marker on driver's licenses and allow individuals to update the sex designation on birth certificates. *See* Pls.' Mem. 16. But state laws have little bearing on the requirements for U.S. passports, and Plaintiffs cite nothing to the contrary. Moreover, the fact that *some* state identification documents have sex fields different from the federal government merely confirms that other state identification documents follow the same protocol and permit only male or female designations.

3. Plaintiffs Are Not Likely to Succeed on Their Challenge Under the Paperwork Reduction Act ("PRA").

Plaintiffs are also unlikely to succeed on their PRA challenge. Plaintiffs argue that the Department violated the PRA when it posted the "older, expired versions" of all three passport forms. Pls.' Mem. 17. As discussed above, these forms were validly promulgated pursuant to the PRA, including the applicable notice and comment procedures. Plaintiffs therefore cannot argue that the State Department failed to go through proper procedures.

Nor is Plaintiffs' challenge to the Department's use of the expired forms reviewable. APA review is unavailable "if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought." 5 U.S.C. § 702. Such is the situation here. The PRA impliedly forbids the relief sought because it provides for review of the validity of information collection forms only when the issue is raised defensively in an enforcement action. *See* 44 U.S.C. § 3512(b) ("The protection provided by this section may be raised in the form of a complete defense, bar, or otherwise at any time during the agency administrative process or judicial action applicable thereto."). Indeed, "federal courts that have addressed the PRA have confirmed what the plain language of the statute already makes clear: the PRA may be raised as a *defense* to an agency action, but *does not create* a private cause of action." *Alegent Health-Immanuel Med. Ctr. v. Sebelius*, 34 F. Supp. 3d 160, 170 (D.D.C. 2014); *see also Sutton v. Providence St. Joseph Med. Ctr.*, 192 F.3d 826, 844 (9th Cir. 1999) ("As is apparent from subsection (b), the Act authorizes its protections to be used as a defense."). For this reason, courts have routinely rejected attempts by plaintiffs seeking judicial review outside the PRA's statutory scheme of PRA violations related to information collection.[2] In sum, because PRA forbids review of Plaintiffs' affirmative claim, Plaintiffs may not do so under the APA, either. 5 U.S.C. § 702.

[2] *See, e.g.*, *City of New Bedford v. Locke*, Civ. A. No. 10-10789, 2011 WL 2636863, at *9 (D. Mass. June 30, 2011), *aff'd*, 701 F.3d 5 (1st Cir. 2012); *Ohio Stands Up! v. HHS*, 564 F. Supp. 3d 605, 613 (N.D. Ohio 2021), *aff'd*, No. 21-3995, 2022 WL 1576929 (6th Cir. May 19, 2022) (collecting cases).

C. Plaintiffs Are Unlikely to Succeed on Their Constitutional Claims.

1. The Court Should Apply Rational Basis Review.

i. Count I: Equal Protection

Plaintiffs contend that "heightened scrutiny" applies to the Passport Policy because it "classifies based on sex . . . [and] on transgender status." Pls.' Mem. 18. Plaintiffs are incorrect.

a. The Policy Does Not Discriminate Based on Sex.

The Passport Policy is not a "sex-based" classification that would trigger heightened scrutiny. This is so because it "does not impose any special restraints on, and does not provide any special benefits to, applicants due to their sex." *Gore*, 107 F.4th at 555. It "does not prefer one sex over the other." *L. W. ex rel. Williams v. Skrmetti*, 83 F.4th 460, 480 (6th Cir. 2023), *cert. granted*, 144 S. Ct. 2679 (2024). And it "does not include one sex and exclude the other." *Id.* Nor does it "apply one rule for males and another for females." *Id.* "There thus is no reason to apply skeptical, rigorous, or any other form of heightened review to" the policy. *Id.* at 481 (declining to apply heightened scrutiny to law that limited certain sex-transition treatments for minors).

To be sure, the subject matter of the Policy relates to sex. "But the Equal Protection Clause does not proscribe all laws and regulations that relate to or implicate sex in their subject matter." *Corbitt*, 115 F.4th at 1346; *see also Skrmetti*, 83 F.4th at 482 (mere "mention" of "sex" does not trigger heightened scrutiny). "If any reference to sex in a statute dictated heightened review, virtually all abortion laws would require heightened review." *Skrmetti*, 83 F.4th at 482. Heightened scrutiny also would extend "to statutes that regulate medical procedures defined by sex." *Id.* (collecting statutes). But such laws are not "presumptively unconstitutional." *Id.*

Plaintiffs nonetheless contend that the Policy classifies based on sex because "it hinges the issuance of an 'M' or 'F' passport on a person's sex." Pls.' Mem. 18. But the classification—males get "M" and females get "F"—is not sex discrimination because it does not "reflect[ ] outmoded notions of the relative capabilities of men and women," *City of Cleburne v. Cleburne Living Ctr.*, 473 U.S. 432, 441 (1985), but treats males and females equally.

This case is therefore nothing like *Loving v. Virginia*, 388 U.S. 1 (1967), which involved a racial classification. *See* Pls.' Mem. 18 n.15. The Supreme Court "has never 'equated gender classifications, for all purposes, to classifications based on race.'" *Skrmetti*, 83 F.4th at 483 (quoting *United States v. Virginia*, 518 U.S. 515, 532 (1996)) (alterations omitted). "When laws on their face treat both sexes equally," as the Policy does, "a challenger must show that the State passed the law because of, not in spite of, any alleged unequal treatment." *Id.* By contrast, "'racial classifications' always receive strict scrutiny 'even when they may be said to burden or benefit the races equally.'" *Id.* (quoting *Johnson v. California*, 543 U.S. 499, 506 (2005)).

Nor is heightened scrutiny warranted on the ground that the Policy is allegedly based on "overbroad generalizations about the way men and women are." Pls.' Mem. 18–19 (quoting *Sessions v. Morales-Santana*, 582 U.S. 47, 57 (2017)). For one, that is not an independent basis for triggering heightened scrutiny; what matters is how the law classifies people. *Sessions*, for example, concerned a statutory exception that expressly applied to unwed mothers but not to unwed fathers. Heightened scrutiny applied because unlike here, the statute "grant[ed] or den[ied] benefits on the basis of the sex of the qualifying parent." 582 U.S. at 53–54, 58 (citation omitted). In any event, the Passport Policy is not based on any "overbroad generalizations" about men and women. It does not assume, as Plaintiffs contend, "that all people at conception likely to have a 'small reproductive cell' will live, identify, and express themselves as men for their entire lives," *see* Pls.' Mem. 19—the Policy says nothing about that issue. Rather, the Policy simply provides that, consistent with the rest of the federal government, sex markers will correspond to an individual's sex. That policy does not rest on "overbroad generalizations" about men and women.

b. The Policy Does Not Classify Based on "Transgender Status."

Plaintiffs next contend that the Policy is subject to heightened scrutiny because it "facially classifies based on transgender status." Pls.' Mem. 19–20. Again, the Policy does no such thing. And even if it did, the Supreme Court has "never recognized transgender status as a suspect class." *Skrmetti*, 83 F.4th at 486. Nor has it recognized any new constitutionally protected class in almost

half a century. *See Craig v. Boren,* 429 U.S. 190 (1976) (sex constitutes quasi-suspect class). Indeed, it has repeatedly declined to do so. *See, e.g.*, *Cleburne*, 473 U.S. at 442 (mental disability); *Mass. Bd. of Ret. v. Murgia*, 427 U.S. 307, 313–14 (1976) (age); *San Antonio Indep. Sch. Dist. v. Rodriguez*, 411 U.S. 1, 28–29 (1973) (poverty); *see also Obergefell v. Hodges*, 576 U.S. 644 (2015) (declining to address whether gay people qualify as quasi-suspect class).

Plaintiffs cannot meet the extraordinarily high bar to recognize a new quasi-suspect class, which requires a showing of: a "discrete group" defined by "immutable" characteristics that is "politically powerless" and has suffered a history of discriminatory treatment. *See Lyng v. Castillo*, 477 U.S. 635, 638 (1986) (citing *Mass. Bd. of Ret.*, 427 U.S. at 313–14). Individuals who assert a gender identity inconsistent with their the biological sex do not "exhibit obvious, immutable, or distinguishing characteristics that define them as a discrete group." *Bowen v. Gilliard*, 483 U.S. 587, 602 (1987). Their self-identification is not "necessarily immutable, as the stories of 'detransitioners' indicate." *Skrmetti*, 83 F.4th at 487. Nor is their status characterized by a specific defining feature; rather, it includes "a huge variety of gender identities and expressions." *Id.* at 487; *see also* Br. of American Psychological Association as *Amicus Curiae* at 6 n.7, *United States v. Skrmetti*, No. 23-477 (U.S.) (stating that "transgender" is an "umbrella term" that covers "varied groups" and "many diverse gender experiences").

Moreover, this purported class is not "political[ly] powerless[]." *San Antonio Independent Sch. Dist.*, 411 U.S. at 28. "A national anti-discrimination law, Title VII, protects transgender individuals in the employment setting," and many "States have passed laws specifically allowing some of the treatments sought here." *Skrmetti*, 83 F.4th at 487. It is therefore not the case that members of this purported class "have no ability to attract the attention of the lawmakers." *Cleburne*, 473 U.S. at 445. The mere fact that they may not be able to "themselves mandate the desired legislative responses," and that they may "claim some degree of prejudice from at least part of the public at large," is insufficient. *Id.* Similarly, claims of historical injustice are insufficient: the Court in *Cleburne* "rejected the argument that mental disability is a suspect classification, . . . despite a history of compulsory sterilization, exclusion from public schools, and

a system of state-mandated segregation and degradation." *Eknes-Tucker v. Governor of Ala.*, 114 F.4th 1241, 1266 (11th Cir. 2024) (Lagoa, J., concurring) (citation omitted).

Accordingly, even if the Policy classifies based on "transgender status" (it does not), heightened scrutiny would not apply.

c. Heightened Scrutiny Is Not Warranted Based on Alleged Animus.

Plaintiffs contend that heightened scrutiny applies also because the Policy "is based on animus against transgender people." Pls.' Mem. 20. But assessing "motives or purposes" for a law "is a hazardous matter," and in any event, "it's not the point of the inquiry." *Skrmetti*, 83 F.4th at 487 (quoting *United States v. O'Brien*, 391 U.S. 367, 383 (1968)). "Instead of asking judges to read the hearts and minds of [policy-makers], the inquiry asks whether the law is 'inexplicable by anything but animus.'" *Id.* (quoting *Trump v. Hawaii*, 585 U.S. 667, 706 (2018)). Indeed, "a bare . . . desire to harm a politically unpopular group" is inferred only when there is no legitimate government interest to justify the challenged classification. *Cleburne*, 473 U.S. at 450.

Here, the Policy "does not fit this pattern"; it "cannot be said that it is impossible to 'discern a relationship to legitimate state interests' or that the policy is 'inexplicable by anything but animus.'" *Hawaii*, 585 U.S. at 706. As noted above and explained further below, the Policy serves the legitimate government interest of having a consistent approach to identifying individuals throughout the federal government. Likewise without merit is Plaintiffs' assertion that animus can be inferred because the Policy is allegedly part of "a systemic effort by the federal government to restrict legal protections for transgender people," citing a "litany of orders . . . targeting transgender people," Pls.' Mem. 20. Those orders on their face address policies implementing this Administration's views concerning sex identification and can be explained based on similar legitimate government interests in not treating "sex" synonymously with "gender identity."

ii. Count II: Right to Travel

Plaintiffs likewise are unlikely to succeed on their right to travel claim because they lack standing and because the Policy is rationally related to a legitimate government interest.

Plaintiffs lack standing to assert a right to international travel because Defendants have not restricted Plaintiffs' ability to travel abroad. Article III requires Plaintiffs to show that they have "(1) suffered an injury in fact, (2) that is fairly traceable to the challenged conduct of the defendant, and (3) that is likely to be redressed by a favorable judicial decision." *Spokeo, Inc. v. Robins*, 578 U.S. 330, 338 (2016). Consistent with these requirement, where the plaintiffs have established standing to challenge restrictions on international travel, the government has actually infringed their ability to travel abroad in a concrete manner. *See Eunique v. Powell*, 302 F.3d 971, 973 (9th Cir. 2002) (involving the denial of a passport application); *Maehr v. U.S. Dep't of State*, 5 F.4th 1100, 1106 (10th Cir. 2021) (involving the revocation of a passport).

Here, in contrast, the Department continues to issue passports. And every plaintiff who wants a passport has received one or is in the process of receiving one. *See* Perysian Decl. ¶ 11 (received passport on January 28, 2025); Orr Decl. ¶ 12 (passport began processing on January 22, 2025); Boe Decl. ¶ 13 (passport shipped on February 13, 2025); Anderson Decl. ¶ 11 (received passport on February 14, 2025); Hall Decl. ¶ 12 (expecting passport on February 17, 2025); Solomon-Lane Decl. ¶ 11 (has a passport in his desired sex); Soe Decl. ¶ 9 (does not have a passport and does not appear to have applied for one). The only change is that passports now reflect the applicant's biological sex at birth. The alleged injury stems from Plaintiffs' personal decision not to travel abroad with a passport that does not conform to their gender identity.

Plaintiffs in any event are unlikely to succeed on their right-to-travel claim, Compl. ¶¶ 212–20, because there is no fundamental right to international travel. The Fifth Amendment to the Constitution protects certain fundamental rights, such as "the rights to marry; to have children; to direct the education and upbringing of one's children; to marital privacy; to use contraception; to bodily integrity; and to abortion." *Washington v. Glucksberg*, 521 U.S. 702, 720 (1997). But "the [Supreme] Court has always been reluctant to expand the concept of substantive due process" because "guideposts for responsible decisionmaking in this unchartered area are scarce and open-ended." *Collins v. City of Harker Heights*, 503 U.S. 115, 125 (1992). When assessing whether a right falls within the orbit of substantive due process, the Supreme Court considers whether it is a

"fundamental right[] [or] libert[y] which [is], objectively, deeply rooted in this Nation's history and tradition . . . and implicit in the concept of ordered liberty, such that neither liberty nor justice would exist if the[] [right] w[as] sacrificed." *Glucksberg*, 521 U.S. at 720–21 (citations omitted).

Plaintiffs confuse the right to *interstate* travel, which is fundamental, with a right to *international* travel, which is not. The Supreme Court has explained that while "[t]he constitutional right of interstate travel is virtually unqualified[,] the 'right' of international travel has been considered to be no more than an aspect of the 'liberty' protected by the Due Process Clause of the Fifth Amendment." *Agee*, 453 U.S. at 307 (citation omitted). "As such this 'right,' the Court has held, can be regulated within the bounds of due process." *Id.*; *see also Califano v. Aznavorian*, 439 U.S. 170, 176–77 (1978). Because only laws that infringe on the exercise of a fundamental right or that categorize based on an inherently suspect characteristic are subject to heightened scrutiny, *Nordlinger v. Hahn*, 505 U.S. 1, 10 (1992), heightened scrutiny is inapplicable to review Plaintiffs' right to travel claim.

Zemel v. Rusk, 381 U.S. 1 (1965), and *Aptheker v. Secretary of State*, 378 U.S. 500 (1964), which Plaintiffs cite, were decided at a time when the rights to interstate travel and international travel were treated indiscriminately. *See Regan v. Wald*, 468 U.S. 222, 241 n.25 (1984). But the Supreme Court has since rejected that position. *See id.*; *Agee*, 453 U.S. at 306 (holding that "the freedom to travel abroad with a 'letter of introduction' in the form of a passport issued by the sovereign is subordinate to national security and foreign policy considerations; as such, it is subject to reasonable governmental regulation" and that "the freedom to travel outside the United States must be distinguished from the right to travel within the United States").

The cited out-of-circuit concurring opinions are not helpful to Plaintiffs either, *see* Pls.' Mem. 23, because the majority or lead opinions in those cases held that intermediate scrutiny does not apply to the right to international travel. *See Maehr*, 5 F.4th at 1120 ("We disagree with Mr. Maehr that the Supreme Court's cases establish a fundamental right to travel internationally."); *Eunique*, 302 F.3d at 973 ("The difference [between interstate and intrastate travel] means that we do not apply strict scrutiny to restrictions on international travel rights that do not implicate First

Amendment concerns."). The two cited district court opinions, Pls.' Mem. 23, are also unhelpful to Plaintiffs: the court in *Risenhoover v. Washington County Community Services* did not actually state that international travel is a fundamental right, which would trigger heightened scrutiny; rather, the court found it unnecessary to decide which standard of review applied because the claim failed under any standard of review (including heightened scrutiny). 545 F. Supp. 2d 885, 890 (D. Minn. 2008) (analyzing the plaintiff's claim "[a]ssuming arguendo that the Government needs an important reason to interfere with an individual's right to international travel"). *Woodward v. Rogers* is likewise inapposite. It was decided before the Supreme Court distinguished interstate and international travel under the Due Process Clause. *Compare* 344 F. Supp. 974, 986–87 (D.D.C. 1972), *with Aznavorian*, 439 U.S. at 176–77. As every other district court in this circuit that has considered the issue has done, *see Abuhajeb v. Pompeo*, 531 F. Supp. 3d 447, 459 (D. Mass. 2021) (Hillman, J.); *Jacob v. Curt*, 721 F. Supp. 1536, 1539 (D.R.I. 1989), this Court should apply rational basis review to international travel claims.

iii. Count III: Right to Privacy

Plaintiffs next contend that the Passport Policy violated their purported constitutional right to keep their biological sex private. *See* Pls.' Mem. 24–26. The argument is unlikely to succeed.

As discussed above, the Supreme Court has always been reluctant to expand the concept of substantive due process. Because "[i]dentifying unenumerated rights carries a serious risk of judicial overreach," the Supreme Court "exercises the utmost care whenever [it is] asked to break new ground in this field." *Dep't of State v. Munoz*, 602 U.S. 899, 910 (2024) (quoting *Glucksberg*, 521 U.S. at 720). "To that end, *Glucksberg*'s two-step inquiry disciplines the substantive due process analysis." *Id.* "First, it insists on a 'careful description of the asserted fundamental liberty interest.'" *Id.* (quoting *Glucksberg*, 521 U.S. at 721). "Second, it stresses that 'the Due Process Clause specially protects' only 'those fundamental rights and liberties which are, objectively, deeply rooted in this Nation's history and tradition.'" *Id.* (quoting *Glucksberg*, 521 U.S. at 720–21). Accordingly, as discussed above, "[t]he protections of substantive due process have for the

most part been accorded to matters relating to marriage, family, procreation, and the right to bodily integrity." *Albright v. Oliver*, 510 U.S. 266, 272 (1994)).

"The right to a [passport] conforming to one's gender identity is not 'deeply rooted' in our history and 'implicit in the concept of ordered liberty.'" *Gore*, 107 F.4th at 562 (rejecting substantive due process challenge to Tennessee law requiring that birth certificates conform to biological sex). "The concept of 'gender identity' did not enter the English lexicon until the 1960s." *Id.* As discussed above, it was not until 1992 that passport applicants could request to amend their sex on their passport, and even then, they could do so only after proof of sex-reassignment surgery. The Department did not allow "X" gender markers until 2022. "On this historical record, the claimed right to change an individual's sex on a [passport] to reflect the person's gender identity is not deeply rooted in our history." *Id.*

Plaintiffs resists this conclusion by framing the right broadly as one to "informational privacy," Pls.' Mem. 24, but that label is stated at too high a level of generality and "does not alter the history just described." *Gore*, 107 F.4th at 562. "[T]hat history shows that, however important individuals may perceive the designation of their sex on a [passport], it is only recently that" the State Department has allowed passports to conform to gender identity. *Id.* Plaintiffs' claim "does not turn on the kind of deeply rooted value that substantive due process protects." *Id.*

In contending otherwise, Plaintiffs rely on outdated and nonbinding precedent that does not account for the Supreme Court's most recent pronouncements in this area. For example, *Arroyo Gonzalez v. Rossello Nevares*, 305 F. Supp. 3d 327 (D.P.R. 2018), cited *Roe v. Wade*, 410 U.S. 113 (1973), in support of a broad "constitutional right to privacy" that encompassed a right not to disclose one's "transgender status." 305 F. Supp. 3d at 332–33. But *Roe* has been overruled by *Dobbs v. Jackson Women's Health Organization*, 597 U.S. 215 (2022). Other cited cases likewise lack analysis of how the substantive due process right asserted meets the *Glucksberg* standard for recognizing new, unenumerated substantive due process rights. *See, e.g.*, *Arroyo Gonzalez*, 305 F. Supp. 3d at 332–33 (no discussion of *Glucksberg*); *Powell v. Schriver*, 175 F.3d 107, 111 (2d Cir. 1999) (same). Accordingly, Plaintiffs are unlikely to succeed on this claim.

2. Under Heightened Scrutiny or Rational Basis Review, Plaintiffs Are Unlikely to Succeed on Their Constitutional Claims.

Because the Passport Policy "neither burdens a fundamental right nor targets a suspect class, [the Court] will uphold the legislative classification so long as it bears a rational relation to some legitimate end." *Romer v. Evans*, 517 U.S. 620, 631 (1996).

Rational-basis review "is a paradigm of judicial restraint." *Gonzalez-Droz v. Gonzalez-Colon*, 660 F.3d 1, 9 (1st Cir. 2011) (quoting *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 313–14 (1993)). It is "the most relaxed and tolerant form of judicial scrutiny under the Equal Protection Clause," *City of Dallas v. Stanglin*, 490 U.S. 19, 26 (1989), and the challenged law enjoys "a strong presumption of validity." *Beach*, 508 U.S. at 314–15. The challenger "must negate any and all conceivable bases upon which the challenged regulation might appropriately rest." *Gonzalez-Droz*, 660 F.3d at 9. Courts are further "compelled under rational-basis review to accept a legislature's generalizations even when there is an imperfect fit between means and ends." *Heller v. Doe*, 509 U.S. 312, 321 (1993). Legislative classifications may be "both underinclusive and overinclusive" and "perfection is by no means required." *Vance v. Bradley*, 440 U.S. 93, 108 (1979). And "[r]ational basis review does *not* permit consideration of the strength of the individual's interest or the extent of the intrusion on that interest cased by the law; the focus is entirely on the rationality of the state's reason for enacting the law." *Cook v. Gates*, 528 F.3d 42, 55 (1st Cir. 2008).

Here, the State Department reasonably determined that the Passport Policy furthers the government's interest in maintaining a consistent definition of sex throughout the federal government. Courts have recognized this as a legitimate interest and that requiring government documents to reflect only one's biological sex furthers that interest. *See Zzyym*, 958 F.3d at 1023; *Gore*, 107 F.4th at 561. To the extent Plaintiffs contend that the Policy fails to account for individuals' desire to identify with the opposite biological sex or individuals who are intersex, the classification does not fail under rational-basis review simply because it "is not made with mathematical nicety or because in practice it results in some inequality." *Dandridge v. Williams*, 397 U.S. 471, 485 (1970). Given the prior long history of a binary sex policy across the government, reverting to that policy to ensure prospective uniformity is not irrational.

Plaintiffs contend that the Policy cannot satisfy even rational-basis review (i) for the same reasons that Plaintiffs contend it is arbitrary and capricious and (ii) because it is allegedly motivated by animus. Defendants have explained above why the Policy is not arbitrary and capricious. As to alleged animus, as explained above, the Supreme Court has struck down policies on animus grounds only in the "few occasions" where "it cannot be said that the policy is inexplicable by anything but animus." *Hawaii*, 585 U.S. at 705–06. That is not the case here. *See Zzyym*, 958 F.3d at 1023; *Gore*, 107 F.4th at 561.

Finally, the Policy would survive heightened scrutiny as well. The government's interest in consistency and uniformity—so that federal agencies can verify an individual's identity—is important. *See Corbitt*, 115 F.4th at 1349 (consistently defining sex across government is an important government interest); *Gore*, 107 F.4th at 561 ("Maintaining a consistent definition [of sex] . . . is a legitimate State interest."). And the Policy is substantially related to the achievement of that objective. *See Corbitt*, 115 F.4th at 1349. Passport data would not be useful for other agencies if the State Department adopted definitions of sex inconsistent with the rest of the federal government. Accordingly, under either rational-basis review or heightened scrutiny, Plaintiffs' constitutional claims are unlikely to succeed.

II. Plaintiffs Have Not Demonstrated Irreparable Harm.

Plaintiffs will not be irreparably harmed in the absence of a preliminary injunction. They remain free to travel with the passports they have now or with passports issued pursuant to the Passport Policy. Plaintiffs speculate that traveling with a passport reflecting their biological sex will put their safety at risk. But "[a] finding of irreparable harm must be grounded on something more than conjecture, surmise, or a party's unsubstantiated fears of what the future may have in store." *Charlesbank Equity Fund II v. Blinds To Go, Inc.*, 370 F.3d 151, 162 (1st Cir. 2004). Most Plaintiffs have been traveling with a passport reflecting their birth sex for their entire lives. Plaintiff Anderson is alleged to have been subjected to an invasive search in 2017 purportedly because Anderson's gender presentation did not match that of the state driver's license. Compl. ¶ 146. But

Anderson did not change the sex designation on Anderson's driver's license until 2019 and did not seek to obtain a passport with a female sex designation until December 2024. Compl. ¶ 144.

Some Plaintiffs additionally allege that having inconsistent identification documents will heighten the risk that an official will discover that they are transgender. But the Department is not responsible for Plaintiffs' choice to change their sex designation for state documents but not their passport. Most Plaintiffs who allege to have inconsistent documentation—Orr, Perysian, Soe, and Anderson—changed the sex markers on their drivers licenses years ago. *See id.* ¶¶ 110, 123, 134, 144. From 2021 until this Policy, applicants for passports were allowed to self-identify their sex designation on their passports without providing supporting documentation. Pierce Decl. ¶ 7. Any of the Plaintiffs who submitted applications in December or January could have obtained a passport with their preferred sex marker in the last four years. If having inconsistent documents constituted an irreparable injury, they would have updated their passports along with their other identification documents.

III. The Balance of the Equities Favors the United States.

The balance of equities favors the Government. Passport administration is a matter of foreign policy, which is "rarely [a] proper subject[ ] for judicial intervention." *Agee*, 453 U.S. at 292. The administration and issuance of passports is an important function of the State Department, and interference with those processes during the pendency of this litigation would impair the Department's ability to operate effectively. The Department's interest in the orderly administration of passports greatly outweighs Plaintiffs' speculative allegations of harm. Plaintiffs' asserted public interest, on the other hand, rests simply on the fact that the Policy is unlawful, which is not the case as demonstrated above. *Cf. Orkin v. Albert*, 579 F. Supp. 3d 238, 246 (D. Mass. 2022) (rejecting argument that the public interest favored an injunction because "the Court cannot be certain that granting [the plaintiffs'] requested relief would properly uphold any rights.").

IV. Any Relief Should Be Limited to the Named Plaintiffs Only.

Even if the Court determines that a preliminary injunction is appropriate, the injunction should be limited to only Plaintiffs, as Plaintiffs themselves concede. *See* Pls.' Mot. at 2, ECF No.

29 (requesting injunction enjoining enforcement of Policy "against Plaintiffs" and "as to Plaintiffs," requiring the State Department to revert to prior policy).

Not only have Plaintiffs waived any argument in support of a nationwide injunction, *see Vazquez-Rivera v. Figueroa*, 759 F.3d 44, 47 (1st Cir. 2014), but such relief would not be appropriate under either Article III or longstanding equitable principles. Under Article III, a federal court may entertain a suit only by a plaintiff who has suffered a concrete "injury in fact," and the court may grant relief only to remedy "the inadequacy that produced [the plaintiff's] injury." *Gill v. Whitford*, 585 U.S. 48, 50 (2018) (quoting *Lewis v. Casey*, 518 U.S. 343, 357 (1996)). Thus, "a plaintiff's remedy must be tailored to redress *the plaintiff's* particular injury." *Id.* (emphasis added). As for a court's equitable authority to award relief, it is generally confined to relief "traditionally accorded by courts of equity" in 1789. *Grupo Mexicano de Desarrollo, S.A. v. All. Bond Fund, Inc.*, 527 U.S. 308, 318–19 (1999). And "[u]niversal injunctions have little basis in traditional equitable practice." *DHS v. New York*, 140 S. Ct. 599, 600 (2020) (Gorsuch, J., concurring). Indeed, no federal court had issued a nationwide injunction before Congress's enactment of the APA in 1946, nor would any court do so for more than fifteen years thereafter. *See Hawaii*, 585 U.S. at 716 (Thomas, J., concurring).

The fact that Plaintiffs request a "stay" under the APA does not compel a different outcome. As an initial matter, the request for a stay is moot. Section 705 allows an agency to postpone the effective date of its own action pending judicial review. 5 U.S.C. § 705. And "on such conditions as may be required and to the extent necessary to prevent irreparable injury," it also allows a reviewing court to "issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending" the court's review. *Id.* No postponement is available here because the agency has already taken the action at issue. *See* Pls.' Mem. 10–11 (arguing that agency has already taken "final" action and that the Policy "is already being implemented"); *see also VanDerStok v. Garland*, 633 F. Supp. 3d 847, 863 (N.D. Tex. 2022) ("While [§ 705] might authorize a Court to 'postpone the effective date' of an unlawful agency action in a particular context, the Final Rule at issue here took effect [already]."); *Nat. Res. Def.*

Council v. DOE, 362 F. Supp. 3d 126, 151 (S.D.N.Y. 2019); *California v. U.S. Bureau of Land Mgmt.*, 277 F. Supp. 3d 1106, 1118 (N.D. Cal. 2017).

In any event, § 705 does not require a nationwide remedy. *See, e.g.*, *California v. Azar*, 911 F.3d 558, 582–84 (9th Cir. 2018). There is no pre-APA tradition of district courts granting stays (as opposed to preliminary injunctions) of agency rules, and in enacting Section 705, Congress did not intend to create any new remedies. Rather, section 705 "was primarily intended to reflect existing law," not "to fashion new rules of intervention for District Courts." *Sampson v. Murray*, 415 U.S. 61, 68 n.15 (1974). A court "do[es] not lightly assume that Congress has intended to depart from established principles" regarding equitable discretion. *Weinberger v. Romero-Barcelo*, 456 U.S. 305, 313 (1982). Accordingly, a § 705 stay is improper.

CONCLUSION

For the foregoing reasons, the Court should deny Plaintiffs' Motion to Stay Agency Action and for a Preliminary Injunction.

Dated: March 12, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon Plaintiffs' counsel by the Electronic Case Filing system on March 12, 2025.

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR, ZAYA PERYSIAN, SAWYER SOE, CHASTAIN ANDERSON, DREW HALL, BELLA BOE, REID SOLOMON-LANE, VIKTOR AGATHA, DAVID DOE, AC GOLDBERG, RAY GORLIN, and CHELLE LeBLANC, on behalf of themselves and others similarly situated,

Plaintiffs,

v.

DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; MARCO RUBIO, in his official capacity as Secretary of State; and UNITED STATES OF AMERICA,

Defendants.

Case No.1:25-cv-10313-JEK

AMENDED CLASS ACTION COMPLAINT
FOR DECLARATORY AND INJUNCTIVE RELIEF

1. This is an action for declaratory and injunctive relief arising out of the Trump Administration's abrupt, discriminatory, and dangerous reversal of settled United States passport policy. The United States previously issued passports to transgender, intersex, and nonbinary people that reflected the sex they live as and express, rather than the sex they were assigned at birth. Under the government's new arbitrary and unlawful policy (the "Passport Policy"), the United States now refuses to issue passports to otherwise eligible Americans because they are transgender, intersex, or nonbinary—except on terms that expose them to grievous harms and violate their constitutional rights to equal protection, travel, privacy, and speech and flout the Administrative Procedure Act (the "APA").

2. The State Department previously permitted all people—including those who are transgender, intersex, and nonbinary—to obtain passports with sex designations that reflected the

sex they live as. This included permitting individuals to use the male or female sex designation that reflected the sex they live as and an "X" designation on passports available to individuals who do not identify as female or male or who did not want their sex specified on their passport. The previous State Department policy enhanced consistency across identification documents: most U.S. states permit transgender residents to have a sex designation on their driver's licenses that match the sex they live as and increasingly allow "X" designations as well. The federal Passport Policy rashly requires passports to list only either female or male based on newly concocted and scientifically inaccurate definitions of an individual's sex determined by whether they "belong[], at conception, to the sex that produces" either "the large" or "the small reproductive cell."

3. The Passport Policy is unlawful and unconstitutional. It discriminates against individuals based on their sex and, as to some, their transgender status. It is motivated by impermissible animus. It cannot be justified under any level of judicial scrutiny, and it wrongly seeks to erase the reality that transgender, intersex, and nonbinary people exist today as they always have.

4. The inevitable, immediate, and direct result of the Passport Policy is that transgender, intersex, and nonbinary people have been injured. Passports are critical documents for international travel and other purposes. For many of the people now barred from receiving a passport unless they accept one with the Trump Administration's inaccurate sex designation, they are forced to "out" themselves over and over again, harming them and imposing wrongful barriers to travel. Those who look at the passport—including anyone hostile to transgender people, as the Trump Administration is and officials in many countries are—may discern that a passport holder is transgender from a perceived mismatch between the sex designation on their passport and their appearance and may question the validity of their passport. The results may be catastrophic, including causing serious psychological harm, denial of the ability to enter or leave a country, physical violence from people who despise transgender people, and even the passport holder being arrested and imprisoned by border control agents in foreign countries.

5. The Passport Policy was the product of an animus-filled executive order issued by President Trump on the first day of his term, titled "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government," Executive Order 14168, 90 Fed. Reg. 8615 (Jan. 20, 2025) (the "Executive Order") (attached as Exhibit A). On its face, the Executive Order declares that it is the policy of the federal government that there are only two sexes and that, for all federal legal purposes, sex is unalterably fixed at conception; it thus attempts to impose a government-wide policy that transgender, nonbinary, and some intersex people do not exist. The Executive Order also asserts without basis or evidence that individuals claim to be transgender only to invade women's private spaces. The Executive Order is transparently unlawful and unconstitutional. It also is unmoored from scientific and medical reality: Transgender people, intersex people, and people who do not identify as either (or exclusively) male or female exist. Scientific and medical authorities have recognized that fact, as have courts across the country, including the U.S. Supreme Court. In a stroke, the Executive Order seeks to rewrite those realities and replace them with the sole options of "male" or "female" as defined in the Executive Order based on no science, no evidence, and no meaningful explanation aside from empty, dehumanizing rhetoric.

6. Though publicly silent, the State Department has already implemented its new Passport Policy. On information and belief, and according to many news reports, the Secretary of State has ordered the State Department to suspend processing of passport applications that seek to change the sex designation on a person's passport or that selected an "X" sex designation—sowing chaos and causing immediate irreparable harm. As further proof of implementation, after Plaintiff Zaya Perysian requested a new passport reflecting that she is a woman, she received her passport back on January 28, 2025 with an "M" sex designation, along with a form stating that the sex on her passport application had been "corrected."

7. Without complying with its statutory obligation to provide a 60-day notice and comment period, the State Department has also changed its passport application forms to exclude the "X" sex designation option that has existed on the form for years.

8. The Passport Policy and Executive Order are part of a broader assault against transgender and nonbinary people by this Administration and are part of a historical pattern of federal and state governments attacking and seeking to erase transgender, intersex, and nonbinary people. The Executive Order's tortured definition of sex is already being implemented across the federal government to deny transgender people's rights, including in military service, education, other identification documents, and healthcare. It comes on the heels of similar attacks by various states—and by the first Trump Administration. And it is the latest in a decades-long line of governmental actions seeking to further oppress transgender and gender-nonconforming people.

9. Plaintiffs are transgender or nonbinary Americans who have been harmed, and will continue to be harmed, by the Passport Policy. Because of the Passport Policy, as noted, one plaintiff had her passport returned by the State Department with a male sex designation despite the fact that she lives and expresses herself as a woman and her other identification documents correctly have a sex designation of female. Other plaintiffs have submitted their passports for renewal or to change their passport sex designation, which the State Department will deny under the Passport Policy. Still others are afraid to do so for fear the State Department will suspend their application and hold their passport or will send back an unusable passport with the wrong sex designation. All have faced prior mistreatment due to their gender identities, and they fear that having incorrect sex designations on their passports will cause them further mistreatment—including putting them in danger.

10. This suit seeks a declaration that the Passport Policy and Executive Order as applied to passports are unconstitutional, a declaration that the Passport Policy violates the APA, and a permanent injunction restoring the status quo ante. Declaratory and injunctive relief are needed to remedy the many constitutional and statutory violations the Passport Policy inflicts. Relief is needed on a class-wide basis to prevent class-wide harm to the hundreds of thousands, if not millions, of transgender, nonbinary, and intersex people in the United States who need a passport they can use without suffering harm.

JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. §§ 1331 (federal question) and 1346 (civil actions against the United States).

12. This Court has jurisdiction to review final agency actions under 5 U.S.C. § 702.

13. This Court has further remedial authority under the Declaratory Judgment Act, 28 U.S.C. §§ 2201 *et seq*.

14. Defendants are subject to personal jurisdiction in this Court.

15. Venue is proper in this District under 28 U.S.C. §§ 1391(b)(2) and 1391(e)(1). Defendants are the United States, its agencies, and its officers sued in their official capacities. Plaintiffs Bella Boe, Sawyer Soe, Reid Solomon-Lane, and AC Goldberg are residents of this District. A substantial part of the events or omissions giving rise to this Complaint occurred in this District.

PARTIES[1]

A. Plaintiffs

16. Ashton Orr is a United States citizen and a resident of Morgantown, West Virginia.

17. Zaya Perysian is a United States citizen and a resident of Santa Clarita, California.

18. Sawyer Soe is a United States citizen and a resident of Salem, Massachusetts.

19. Chastain Anderson is a United States citizen and lives near Richmond, Virginia.

20. Drew Hall is a United States citizen and a permanent resident of Wisconsin.

21. Bella Boe is a United States citizen and a resident of Cambridge, Massachusetts.

[1] Bella Boe," "Sawyer Soe," and "David Doe" are pseudonyms used in this Amended Complaint to refer to three of the plaintiffs. The Court issued an order on March 18, 2025 (ECF 60) permitting Bella Boe and Sawyer Soe to proceed under pseudonyms. A motion for leave for David Doe to procced under a pseudonym will be filed shortly with the Court. "AC Goldberg" is the name that this Plaintiff uses publicly as a professor, speaker, and consultant, and in his day-to-day life, but is not his legal name. Defendants do not oppose his appearing in this action as "AC Goldberg." Plaintiffs will provide his legal name to the Court and to Defendants, subject to the Protective Order entered by the Court on March 18, 2025 (ECF 59).

22. Reid Solomon-Lane is a United States citizen and a resident of North Adams, Massachusetts.

23. Viktor Agatha is a United States citizen and a resident of Dallas, Texas.

24. David Doe is a United States citizen and a resident of Van Nuys, California.

25. AC Goldberg is a United States citizen and a resident of Cambridge, Massachusetts.

26. Ray Gorlin is a United States citizen and a resident of Minneapolis, Minnesota.

27. Chelle LeBlanc is a United States citizen and a resident of Colorado Springs, Colorado.

B. Defendants

28. Defendant Donald Trump is the President of the United States. He is sued in his official capacity. By statute, the President has authority to prescribe certain rules for the issuance of passports. *See* 22 U.S.C. § 211a.

29. Defendant Department of State (the "State Department") is a federal executive department responsible for implementing the Executive Order. It is an agency within the meaning of the APA. *See* 5 U.S.C. § 551(1).

30. Defendant Marco Rubio is the Secretary of State. He is responsible for supervising and directing the State Department. He is sued in his official capacity. By statute, the Secretary of State has authority to issue passports under rules prescribed by the president. *See* 22 U.S.C. § 211a. By executive order, the president has delegated the authority to prescribe those rules for passport issuance to the Secretary of State. *See* Executive Order 11295, 31 Fed. Reg. 10,603 (Aug. 5, 1966).

31. Defendant United States of America is the government of the United States and includes all government agencies and officials responsible for implementing the Passport Policy and the Executive Order as applied to passports.

32. The State Department and Secretary Rubio are collectively referred to as the "Agency Defendants."

ALLEGATIONS

A. Gender Identity, Transgender People, Nonbinary People, and Intersex People

1. Gender Identity

33. "Gender identity" refers to a person's core, internal sense of belonging to a particular sex. There is a medical consensus that gender identity is innate and that efforts to change a person's gender identity are unethical and harmful to a person's health and well-being.

34. The concept of "sex" refers to multiple physiologic attributes, such as chromosomes, gonads (glands that produce hormones and gametes), and anatomy (internal and external reproductive parts), secondary sex characteristics that usually develop during puberty, and gender identity. "Sex assigned at birth" refers to the designation of sex generally noted on a birth certificate shortly after birth, almost always based solely on the appearance of an infant's external genitalia. The term "biological sex" is less precise than "sex assigned at birth" because it does not account, for example, for intersex conditions and gender identity.

35. A person's gender identity is an essential part of their identity and very frequently predicts how they will be identified by others more accurately than their sex assigned at birth. For purposes of identity documents, including passports, a person's gender identity is the most important and accurate characteristic for determining what their sex is and what their sex designation should be.

36. According to the American Medical Association, the American College of Physicians, the American Psychiatric Association, and 25 other major U.S. medical and psychological professional associations, "variations in . . . gender identity are a normal part of human development" and "research and experience shared by scholars, clinicians, and patients have shown that . . . efforts [to change someone's gender identity have not succeeded] and are harmful."[2]

[2] United States Joint Statement Against Conversion Efforts (completed Aug. 23, 2023), available at https://d3dkdvqff0zqx.cloudfront.net/groups/apaadvocacy/attachments/USJS-Final-Version.pdf.

2. Transgender People

37. Transgender people have a gender identity different from their sex assigned at birth. According to one set of surveys, more than 1.6 million Americans are transgender.[3]

38. When a person's sex assigned at birth and gender identity align, the person is "cisgender."

3. Nonbinary People

39. "Nonbinary" people have a gender identity that is not exclusively male nor exclusively female. According to one set of surveys, more than 1.2 million Americans identify as nonbinary.[4]

4. Intersex People

40. "Intersex" is a term used to describe a wide range of natural bodily variations, which some medical professionals refer to as "differences of sexual development." Intersex people are born with sex characteristics that do not fit typical binary notions of bodies designated "male" or "female." Intersex variations differ; some intersex traits may be discovered at birth, some may not be discovered until puberty, and some may never be discovered. For example, intersex people can have certain variations in chromosomes, external genitals, internal reproductive organs, and hormone production and response that cause these variations in their bodies. According to estimates by the United Nations, between 0.05% and 1.7% of the population is born with intersex traits—meaning there are potentially as many as 5.6 million intersex people in the United States.[5]

[3] Jody Herman et al., *How Many Adults and Youth Identify as Transgender in the United States?*, Williams Institute, UCLA School of Law 1 (2022), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf (last accessed Feb. 6, 2025).

[4] Bianca D.M. Wilson et al., *Nonbinary LGBTQ Adults in the United States*, Williams Institute, UCLA School of Law 2 (June 2021), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Nonbinary-LGBTQ-Adults-Jun-2021.pdf (last accessed Feb. 6, 2025).

[5] United Nations Free & Equal, "Intersex People," Office of the United Nations High Commissioner for Human Rights 1 (2024), https://www.unfe.org/sites/default/files/download/Intersex%20factsheet%202024%20EN%20-%20CLEARED.pdf (last accessed Feb. 6, 2025)

41. During the initial gestation period, embryos with XX chromosomes and embryos with XY chromosomes appear the same in terms of their biological makeup. Various aspects of the embryos later typically begin to develop differently depending on whether the embryo has XX or XY chromosomes. This binary differential development is not always what occurs, however, and there are many variations in genitals, internal reproductive organs, hormones, and other aspects of the body that do not align with a strict sex binary.

42. Some intersex people do not produce either (and some may produce both) the "large reproductive cell" or "small reproductive cell"—that is, the ovum and sperm—that are at the core of the definitions of female and male in the Executive Order. Further, some intersex people may produce either sperm or ovum but have genitalia or chromosomes typically associated with the different sex (e.g., a person with testes who is assigned female at birth based on genitalia).

43. Some intersex people are transgender because their gender identity is different from the sex they were assigned at birth. Some intersex people, however, were assigned a sex at birth that is the same as their gender identity, meaning that they are cisgender.

5. Gender Dysphoria and Gender-Affirming Care

44. Gender dysphoria is a medically recognized condition defined by a marked incongruence between a person's gender identity and the sex they were assigned at birth, when accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning.[6] Many transgender people (including transgender people who are nonbinary or intersex) experience gender dysphoria. Gender dysphoria is a serious medical condition that, if left untreated, can lead to debilitating depression and even suicidal ideation and acts.

45. The treatment protocols for gender dysphoria are laid out in established, evidence-based clinical guidelines: (i) the Endocrine Society Clinical Practice Guideline for Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons and (ii) the World Professional

[6] *See, e.g.*, Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders: DSM-5-TR* at 512–13 (2022).

Association for Transgender Health ("WPATH") Standards of Care ("SOC") for the Health of Transgender and Gender Diverse People, which was initially published in 1979 and is now in its eighth version, which was released in 2022. These guidelines are supported by all major U.S. medical associations and reflect the professional consensus about the psychological, psychiatric, hormonal, and surgical management of gender dysphoria. These clinical guidelines are comparable to clinical guidelines used to treat other medical conditions.

46. It is the recognized standard of care to address gender dysphoria with social affirmation as well as medical treatment designed to bring a person's body and expression of their sex in line with their gender identity. This course of treatment has different components depending on the particular needs and age of each person.

47. Treatment for gender dysphoria brings a person's social interactions, appearance, and body into greater alignment with the person's gender identity, which helps alleviate distress. Treatment for gender dysphoria may involve social transition, hormone treatment, and/or gender-affirming surgery or surgeries.

48. Social transition involves shifting one's presentation and social functioning so that it is consistent with one's gender identity. Typically, it involves some or all of the following:

a. Change in clothing, hair, or appearance;

b. Change of name;

c. Change in pronouns (e.g., "she," "he," or "they");

d. Change in participating in gender-specific activities, events, or spaces; and

e. Change of the sex designation on identifying documents, including an individual's driver's license and passport.

49. Treatment for gender dysphoria typically includes living one's life consistently with one's gender identity, including using identity documents that reflect one's gender identity.

50. While social transition is adequate to treat gender dysphoria for some people, others may need other forms of treatment as well.

51. Hormone treatment is used to help a person develop secondary sex characteristics consistent with their gender identity, which may affect how the person receiving such treatment physically presents and is perceived by others.

52. Gender-affirming surgeries may include a wide variety of surgeries, many of which also affect how the person undergoing surgery physically presents and is perceived by others, such as augmentation mammoplasty, chest reconstruction surgery, and facial feminization surgery.

6. Violence and Discrimination Against and Harassment and Mistreatment of Transgender, Nonbinary, and Intersex People

53. Transgender, nonbinary, and intersex people often experience violence, harassment, discrimination, and social stigma when others learn that they are transgender, nonbinary, or intersex.

54. For decades, transgender, nonbinary, and intersex people have been subject to numerous and varied attempts by both private individuals and government actors to discriminate against and oppress them, and to attempt to erase their existence.

55. Transgender people are more likely to suffer harassment, discrimination, and violence than the population at large. According to the National Center for Transgender Equality's U.S. Transgender Survey:

a. Around a quarter (24%) of respondents had been physically attacked in a K-12 school because people thought they were transgender.

b. In the year prior to completing the survey, 27% of respondents who had a job reported being fired, denied a promotion, or experiencing some other form of mistreatment in the workplace due to their gender identity or presentation.

c. Nearly half (47%) of respondents had been sexually assaulted during their lifetime.

d. Among respondents who had interacted with police, 58% of those whom the police perceived as transgender experienced some form of mistreatment.

e. Twenty-five percent of transgender people were verbally harassed, 16% denied services or benefits, 9% asked to leave a location or establishment, and 2% assaulted or attacked after showing identification with a name or sex designation that did not match their gender presentation.

56. For transgender people of color, these forms of mistreatment are even more common.

57. As a result of these forms of mistreatment, 39% of respondents experienced serious psychological distress in the month prior to completing the survey, compared with only 5% of the U.S. population as a whole. Moreover, 40% percent of respondents attempted suicide in their lifetime—nearly nine times the attempted suicide rate in the U.S. population as a whole (4.6%).

58. Nonbinary people are also subject to violence and discrimination, and many of the statistics regarding violence against transgender people include nonbinary people.[7]

59. Intersex people also are more likely to suffer violence, discrimination, harassment, and mistreatment. For instance, surveys indicate that anywhere from one quarter to half of intersex people had been subjected to violence.[8]

B. The Importance of Passports Consistent with the Sex a Person Lives As

60. A passport is an essential government-issued document that individuals use for various important purposes throughout their lifetime.

[7] *See, e.g.*, Human Rights Campaign Foundation, *The Epidemic of Violence Against the Transgender & Gender-Expansive Community in the U.S.: The 2024 Report* (Nov. 2024), https://reports.hrc.org/an-epidemic-of-violence-2024 (last accessed Feb. 6, 2025); Skylar Davidson, *Gender inequality: Nonbinary transgender people in the workplace*, Cogent Social Sciences (2016).

[8] The Trevor Project, *The Mental Health and Well-being of LGBTQ Youth who are Intersex* at 4 (2021), https://www.thetrevorproject.org/wp-content/uploads/2021/12/Intersex-Youth-Mental-Health-Report.pdf (last accessed Feb. 6, 2025); ILGA-Europe and OII Europe, Diving Into the FRA LGBTI II Survey Data: Intersex Briefing (2023), https://www.ilga-europe.org/report/intersections-intersex-diving-into-the-fra-lgbti-ii-survey-data/ (last accessed Feb. 6, 2025).

61. Passports are necessary for travel outside of the country and for reentry into the United States. *See* 8 U.S.C. § 1185(b). Foreign countries generally bar entrance by U.S. citizens without a valid U.S. passport and/or condition issuance of a necessary visa on holding a valid U.S. passport.

62. When traveling or living abroad, U.S. passports often are necessary for numerous purposes and often are the only form of identification carried by a U.S. citizen that is recognized or acknowledged by foreign authorities or private citizens. A passport often is needed in other countries to check in to a hotel, to use a bank, to receive medical services and for many other purposes.

63. If there is an emergency while abroad, passports are the primary way for a U.S. citizen to identify themself to U.S. officials, such as those at an embassy or consulate.

64. Passports can also be useful or necessary for travel within the United States. If a person does not have another valid form of identification, they generally cannot board a plane. Under the REAL ID Act, certain state identification documents will no longer be able to be used for domestic travel when the Act comes into effect on May 7, 2025.

65. Passports are used in a wide variety of contexts as identification documents, such as determining eligibility for employment, enrolling in government programs, and engaging in a wide range of financial transactions. Passports are also used to obtain other important forms of identification and can be used as an "identification of last resort" due to their widespread acceptance and the weight accorded a federal government document. For instance, passports can often be used to obtain driver's licenses, as proof of age, as proof of citizenship, and for educational registration.

66. Forcing transgender, nonbinary, and intersex people to carry and use identity documents that do not align with the sex they live and present themselves as, or denying them necessary identity documents, is inconsistent with protocols regarding social transition. It can cause anxiety and distress to individuals who are transgender and result in discrimination and violence against them. Additionally, for those who have struggled for years with the impact of

external invalidation of their identity, the knowledge that their identification documents label them with a sex different from the sex they live as can, by itself, cause serious psychological injury.

67. Recognizing the importance of identification documents, the American Medical Association "supports every individual's right to determine their gender identity and sex designation on government documents" and urges that governments "allow for a sex designation or change of designation on all government IDs to reflect an individual's gender identity, as reported by the individual and without need for verification by a medical professional."[9]

68. Forcing transgender people to carry and present identification that lists their sex as defined by the Executive Order can out them to officials and private citizen strangers as transgender, a profoundly private piece of information in which they have a reasonable expectation of privacy. Such a policy deprives transgender people of significant control over the circumstances surrounding disclosure of their transgender identity, including when, where, how, and to whom their identity is disclosed.

69. The Passport Policy also harms intersex people who are not transgender and who want an "M" or "F" sex designation on their passport. If, for example, someone who is intersex lives their life as a woman and presents to others as a woman and therefore wants an "F" on their passport, but the Passport Policy would require them to have an "M" on their passport, that will wrongly suggest that they are transgender or will out them as being intersex. Their being intersex is a profoundly private piece of information in which they have a reasonable expectation of privacy. The Passport Policy therefore deprives them of significant control over the circumstances surrounding disclosure of the fact that they are intersex, including when, where, how, and to whom their identity is disclosed.

70. The Passport Policy also harms nonbinary people who are not transgender and who want an "M" or "F" sex designation that is inconsistent with how the Executive Order defines their

[9] Conforming Sex and Gender Designation on Government IDs and Other Documents H-65.967, Am. Med. Ass'n (2021), https://policysearch.ama-assn.org/policyfinder/detail/gender?uri=%2FAMADoc%2FHOD.xml-0-5096.xml (last accessed Feb. 6, 2025).

sex. Someone who meets the Executive Order's definition of male but who is nonbinary and lives their life and presents as a woman and wants an F on their passport will have it disclosed against their will that they meet the Executive Order's definition of male. That is a profoundly private piece of information in which they have a reasonable expectation of privacy. The Passport Policy therefore deprives them of significant control over the circumstances surrounding disclosure of the fact that they fall within the Executive Order's definition of male, including when, where, how, and to whom that is disclosed.

71. Further, requiring people who want an "X" sex designation on their passport to instead have an "M" or "F" designation forces them to disclose whether they meet the Executive Order's definition male or female. That is a profoundly private piece of information in which they have a reasonable expectation of privacy. Such a policy deprives these people of control over the circumstances surrounding disclosure of that information, including when, where, how, and to whom that information is disclosed.

72. Disclosure that someone is transgender, nonbinary, or intersex when they do not want that information disclosed subjects that person to harm, including an invasion of privacy. It also subjects them to significant risks of discrimination and harassment in a variety of settings, including employment, travel, financial transactions, and in interactions with government employees, including, but not limited to, law enforcement personnel. Disclosure of that information can seriously jeopardize a person's safety and subject the person to risk of bodily harm.

73. In other countries and in the United States, violence, harassment, and other mistreatment of transgender, nonbinary, and intersex people is common and/or accepted, including at the hands of government officials. If a transgender, nonbinary, or intersex person's passport displays a different sex designation on their passport than the person's gender identity and/or presentation, that mismatch could cause officials to question whether the person's passport is valid and interfere with their ability to travel. It could also disclose that the person is transgender, nonbinary, or intersex to foreign officials and private citizens against the person's will. In turn,

that disclosure could result in violence, harassment, arrest, imprisonment, and other mistreatment of the person. According to reports, hundreds of transgender people were killed around the world in 2023, and similar figures exist for prior years.[10]

74. Having a sex designation on a passport that involuntarily discloses someone is transgender, nonbinary, or intersex can also cause harassment and discrimination while traveling within the United States.

C. The Passport Application and Issuance Process

75. A U.S. passport is a travel document issued under the authority of the State Department attesting to the identity and nationality of the bearer. As noted, to travel out of or into the country, a U.S. citizen must carry a U.S. passport. *See* 8 U.S.C. § 1185.[11]

76. Before a U.S. passport can be issued, the applicant "shall subscribe to and submit a written application which shall contain a true recital of each and every matter of fact which may be required by law or by any rules authorized by law to be stated as a prerequisite to the issuance of any such passport." 22 U.S.C. § 213. A passport application must be signed under penalty of perjury. It is a criminal offense to willfully and knowingly make false statements in a passport application with intent to induce or secure issuance of a passport. *See* 18 U.S.C. § 1542.

77. A U.S. citizen applying for a passport for the first time must submit an Application for a U.S. Passport (DS-11). A U.S. citizen applying for a renewal of an existing passport must submit a Renewal Application (DS-82). Citizens can also submit a form to make corrections or name changes, including, until the Passport Policy prevented it, changes in the sex designation on one's passport (the DS-5504).

[10] *See* Jamie Wareham, *Beaten, Stabbed and Shot: 320 Trans People Killed in 2023 - New Monitoring Report*, Forbes (Nov. 13, 2023), https://www.forbes.com/sites/jamiewareham/2023/11/13/beaten-stabbed-and-shot-320-trans-people-murdered-in-2023 (last accessed Jan. 30, 2025).

[11] Certain people who are not U.S. citizens may also utilize U.S. passports, such as residents of American Samoa.

78. The DS-11 contains various fields, including for "Sex." "M" in this field indicates male and "F" indicates female.

79. From 2010 until 2021, including throughout the first Trump Administration, the State Department permitted individuals to apply to change the sex designation on their passport with certification of a physician that they were being treated for a gender transition.

80. Starting in 2021, the State Department permitted individuals to change the sex designation on their passport without a physician's certification.

81. In 2021, the State Department announced it would permit individuals to select an "X" sex designation on their passport, which the State Department form described as denoting "unspecified or another gender identity." This designation generally signifies that the bearer does not identify as male or female, identifies as both, or does not wish to specify their sex. It is important to many transgender, intersex, and nonbinary people to have an "X" sex designation on their passport because that is most consistent with how the identify and/or present themselves or for privacy reasons, since a person reviewing a passport with an "X" sex designation will not know *why* the individual has an "X" sex designation.

82. A United Nations agency, the International Civil Aviation Organization ("ICAO"), sets international standards for air transport, including for travel documents. ICAO specifications for machine-readable travel documents have for decades required passports to display the "[s]ex of the holder, to be specified by . . . the capital letter 'F' for female, 'M' for male, or 'X' for unspecified."[12]

83. Numerous other countries permit individuals to select the sex designation on their passport most appropriate for themself, including Australia, Denmark, Argentina, Greece, Brazil, Norway, Portugal, Ireland, and others. Many other countries also permit "X" designation on their

[12] *Doc 9303, Machine Readable Travel Documents*, International Civil Aviation Organization at IV-14 (8th ed. 2021), https://www.icao.int/publications/documents/9303_p4_cons_en.pdf (last accessed Feb. 6, 2025).

passports, including Germany, Pakistan, Taiwan, Austria, Canada, Colombia, and many of the countries that permit self-selection of designation.

D. The Executive Order

84. Donald J. Trump was inaugurated for the second time as President of the United States on January 20, 2025.

85. That same day, President Trump signed the Executive Order, purporting to rely solely on 5 U.S.C. § 7301, which generally permits the President to issue regulations for employee conduct in the Executive Branch.

86. The Executive Order states in its "Purpose" section that it is targeted against those it calls "ideologues who deny the biological reality of sex [who] have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces and activities designed for women, from women's domestic abuse shelters to women's workplace showers." Executive Order § 1. It declares that transgender people simply existing—or in its words, "[e]fforts to eradicate the biological reality of sex"—"fundamentally attack women by depriving them of their dignity, safety, and well-being." *Id.* It claims that "[t]his unhealthy road is paved by an ongoing and purposeful attack against the ordinary and longstanding use and understanding of biological and scientific terms, replacing the immutable biological reality of sex with an internal, fluid, and subjective sense of self unmoored from biological facts." *Id.* And it calls gender identity an "inchoate social concept." *Id.*

87. The Executive Order explicitly references transgender people by suggesting that the government can prevent people from obtaining legal rights if they "self-identify" as a sex different from their sex assigned at birth—that is the definition of being transgender.

88. The Executive Order attempts to invalidate the existence of transgender, intersex, and nonbinary people by wrongly proclaiming that there are only two sexes, definable and binary at conception. Despite the order's insistence that it is communicating "biological truth," it is in fact inconsistent with science.

89. To accomplish the Trump Administration's apparent goal of ending all legal recognition of and protections for transgender, nonbinary, and intersex people, the Executive Order states that "[i]t is the policy of the United States to recognize two sexes, male and female. These sexes are not changeable and are grounded in fundamental and incontrovertible reality." *Id.* § 2. It declares that the "Executive Branch will enforce all sex-protective laws to promote this reality, and the following definitions shall govern all Executive interpretation of and application of Federal law and administration policy." *Id.* Among the definitions are:

a. "Sex" shall refer to an individual's immutable biological classification as either male or female. "Sex" is not a synonym for and does not include the concept of "gender identity."

b. "Women" or "woman" and "girls" or "girl" shall mean adult and juvenile human females, respectively.

c. "Men" or "man" and "boys" or "boy" shall mean adult and juvenile human males, respectively.

d. "Female" means a person belonging, at conception, to the sex that produces the large reproductive cell.

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

f. "Gender ideology" replaces the biological category of sex with an ever-shifting concept of self-assessed gender identity, permitting the false claim that males can identify as and thus become women and vice versa, and requiring all institutions of society to regard this false claim as true. Gender ideology includes the idea that there is a vast spectrum of genders that are disconnected from one's sex. Gender ideology is internally inconsistent, in that it diminishes sex as an identifiable or useful category but nevertheless maintains that it is possible for a person to be born in the wrong sexed body.

g. "Gender identity" reflects a fully internal and subjective sense of self, disconnected from biological reality and sex and existing on an infinite continuum, that does not provide a meaningful basis for identification and cannot be recognized as a replacement for sex.

90. The Executive Order directs the Secretary of State, as well as the Secretary of Homeland Security and Director of the Office of Personnel Management, to "implement changes to require that government-issued identification documents, including passports, visas, and Global Entry cards, accurately reflect the holder's sex, as defined under section 2 of this order." *Id.* § 3(d).

91. The Executive Order requires that, "[w]ithin 30 days of the date of this order, the Secretary of Health and Human Services shall provide to the U.S. Government, external partners, and the public clear guidance expanding on the sex-based definitions set forth in this order." *Id.* § 3(a). It requires that all federal agencies and employees "enforce laws governing sex-based rights, protections, opportunities, and accommodations to protect men and women as biologically distinct sexes." *Id.* § 3(b).

92. The Executive Order also requires that all agencies "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" and that agencies' "forms that require an individual's sex shall list male or female, and shall not request gender identity." *Id.* § 3(e).

93. The Executive Order imposes various other rules related to gender, including with respect to federal employees' records, interpretation of various federal laws, recission of various agency policies, and proposals for legislation on the topic. *See id.* §§ 3–7.

E. The State Department Implements the Executive Order Through the Passport Policy

94. On January 23, 2025, news outlets began reporting that Secretary Rubio had directed the State Department to implement the Executive Order as applied to passports.[13] In particular, Secretary Rubio instructed in an internal State Department cable that "[t]he policy of the United States is that an individual's sex is not changeable" and that "sex, and not gender, shall be used" on passports.[14] As a result, State Department staff were ordered to "suspend any application where the applicant is seeking to change their sex marker" and "suspend any application requesting an 'X' sex marker."[15]

95. Since then, numerous other news outlets have reported on this directive, including that it was made explicitly to implement the Executive Order.[16]

96. The State Department has not published any public notices or other guidance on this change.

97. As of February 7, 2025, the DS-11 (initial application) available online does not permit users to select an "X" in the Sex field.[17] It includes only two boxes that can be checked, for "M" and "F." The online fillable form that populates the Application likewise permits selecting only "M" or "F" in the Sex field and provides no "X" option. The posted DS-11 states that it has

[13] *See* Joseph Gedeon, *Rubio Instructs Staff To Freeze Passport Applications with 'X' Sex Markers*, Guardian (Jan. 23, 2025), https://www.theguardian.com/us-news/2025/jan/23/trump-rubio-x-gender-passport (last accessed Feb. 6, 2025).

[14] *Id.*

[15] *Id.*

[16] *See, e.g.*, Jo Yurcaba *et al.*, *State Department To Suspend Passport Applications Seeking Sex-Marker Changes*, NBC News (Jan. 24, 2025), https://www.nbcnews.com/nbc-out/out-politics-and-policy/rubio-passport-sex-marker-changes-paused-trump-order-rcna189222 (last accessed Feb. 6, 2025); Shannon K. Kingston *et al.*, *State Department Halts 'X' Passport Gender Marker Applications*, ABC News (Jan. 24, 2025), https://abcnews.go.com/US/state-department-halts-passport-gender-marker-applications/story?id=118062178 (Jan. 30, 2025) (last accessed Feb. 6, 2025).

[17] *See* U.S. Department of State, Application for a U.S. Passport, OMB Control No. 1405-0004 (exp. Dec. 31, 2023), https://travel.state.gov/content/dam/passports/forms-fees/DS-11%20(12-31-2023)%20revision%20date%2012-2020.pdf (last accessed Feb. 7, 2025).

an expiration date of December 31, 2023, implying that the State Department has replaced the currently-approved version of the form with an older version. The same is now true of the DS-82 (renewal form) and DS-5504 (corrections and name changes), which include only "M" and "F" and have expiration dates of March 31, 2023 and November 30, 2022.[18, 19]

98. Prior to changing the forms DS-11, DS-82, and DS-5504, the State Department did not issue a 60-day notice of its intent to make any changes to such forms, depriving the public of the opportunity to comment on such changes.

99. The State Department has also removed references to transgender individuals from its public webpages. For instance, the webpage previously entitled "LGBTQI+ Travelers" has been retitled "LGB" travelers and removed travel information related to transgender people.[20] The Transportation Security Administration ("TSA") previously had webpages discussing screening procedures for transgender people and whether nonbinary individuals could apply for TSA

[18] *See* U.S. Department of State, U.S. Passport Renewal Application for Eligible Individuals, OMB Control No. 1405-0020 (exp. Mar. 31, 2023), https://travel.state.gov/content/dam/passports/forms-fees/DS-82%20(3-31-2023)%20revised%203-2020.pdf (last accessed Feb. 7, 2025); U.S. Department of State, Application for a U.S. Passport for Eligible Individuals, Correction, Name Change to Passport Issued 1 Year Ago or Less, and Limited Passport Replacement, OMB Control No. 1405-0160 (exp. Nov. 30, 2022), https://travel.state.gov/content/dam/passports/forms-fees/DS-5504-%202021.pdf (last accessed Feb. 7, 2025).

[19] The State Department has also, according to public reports, begun implementing the Executive Order in other ways, such as with a direction from the Acting Undersecretary for Management that all employees remove gender pronouns from their email signatures. *See* Carla K. Johnson, Health info wiped from federal websites following Trump order targeting transgender rights, PBS (Jan. 31, 2025), https://www.pbs.org/newshour/health/health-info-wiped-from-federal-websites-following-trump-order-targeting-transgender-rights (last accessed Feb. 6, 2025).

[20] *Compare* U.S. Department of State, Bureau of Consular Affairs, LGB Travelers, https://travel.state.gov/content/travel/en/international-travel/before-you-go/travelers-with-special-considerations/lgb.html (last accessed Feb. 6, 2025), *with* Michael K. Lavers, *Transgender people removed from State Department travel page*, Washington Blade (Jan. 31, 2025), https://www.washingtonblade.com/2025/01/31/transgender-people-removed-from-state-department-travel-page/ (reporting on prior version of webpage).

PreCheck.[21] Those pages appear to no longer be online, but they have been captured by web archives and still appear in indexed search results as of January 30, 2025.[22]

100. The State Department Foreign Affairs Manual (the "FAM") previously recognized that there were individuals that "do[] not fit typical definitions of male or female,"[23] but, although the FAM generally is available online, that section of the FAM is no longer accessible.[24]

101. The Passport Policy includes at least (a) issuing new passports, renewing existing passports, and making changes to existing passports to comply with the Executive Order's definitions of male and female, including no longer issuing "X" designations on passports, and (b) refusing to grant or suspending processing of applications to issue new passports, renewed passports, and changes to passports that would not comply with the Executive Order's definitions of male and female, including no longer granting applications for "X" designations on passports.

F. President Trump and His Administration's Longstanding Animus Against Transgender People

102. On its face, the Executive Order reflects animus against transgender people, as does the broader context in which it was adopted.

[21] *See, e.g.*, "What Are the Screening Procedures for Transgender Persons?," *Frequently Asked Questions*, Transp. Sec. Admin., https://www.tsa.gov/travel/frequently-asked-questions/what-are-screening-procedures-for-transgender-persons (not accessible as of Jan. 30, 2025); "Can I Apply for TSA Precheck® with a Nonbinary Gender and Gender Non-conforming Identity Document on the TSA Precheck Application?," *Frequently Asked Questions*, Transp. Sec. Admin., https://www.tsa.gov/travel/frequently-asked-questions/can-i-apply-for-tsa-precheckr-nonbinary-gender-and-gender-non (not accessible as of Jan. 30, 2025).

[22] *See, e.g.*, *Frequently Asked Questions*, Transp. Sec. Admin., https://www.tsa.gov/travel/frequently-asked-questions (Jan. 17, 2025 22:19:17 GMT) [https://web.archive.org/web/20250117221917/https://www.tsa.gov/travel/frequently-asked-questions] (last accessed Feb. 6, 2025) (WebArchive version as of January 17 providing guidance to transgender and nonbinary people that has since been removed).

[23] *See* 7 Foreign Affairs Manual, 1350 Appendix M (as of 2015).

[24] *See* 7 Foreign Affairs Manual, https://fam.state.gov/Volumes/Details/07FAM (1300s section is inactive).

103. For instance, President Trump has referred to transgender identities as "transgender insanity"[25] and has repeatedly referred to transgender people using derogatory labels, describing them as "deranged," "sick," and drug users.[26]

104. In just his first two weeks in office, President Trump has issued a series of orders targeting transgender people.[27]

105. He issued an executive order stating that being transgender while serving in the military "conflicts with a soldier's commitment to an honorable, truthful, and disciplined lifestyle, even in one's personal life."[28] He issued another executive order referring to women who are transgender as "men" and calling their participation in women's sports "demeaning, unfair, and dangerous," asserting that it "results in the endangerment, humiliation, and silencing of women."[29] He issued yet another executive order falsely referring to medical treatment of transgender adolescents supported by evidence-based research and by every major professional health

[25] Bill Barrow, *Trump and Vance Make Anti-Transgender Attacks Central to Their Closing Argument Before Election Day*, PBS (Nov. 1, 2024), https://www.pbs.org/newshour/politics/trump-and-vance-make-anti-transgender-attacks-central-to-their-closing-argument-before-election-day (last accessed Feb. 6, 2025).

[26] *See Fact Sheet: Donald Trump on LGTBQ Issues: Transgender Americans*, GLAAD (Aug. 20, 2024), https://glaad.org/fact-sheet-trump-transgender (last accessed Feb. 6, 2025).

[27] In addition to the Executive Order and the orders discussed in the remainder of this section of the Complaint, other executive orders include: Exec. Order 14,148, *Initial Rescissions of Harmful Executive Orders and Actions*, 90 Fed. Reg. 8237 (Jan. 20, 2025) (rescinding Biden Administration executive orders protecting transgender people); Exec. Order 14,170, *Reforming the Federal Hiring Process and Restoring Merit to Government Service*, 90 Fed. Reg. 8621 (Jan. 20, 2025) (prohibiting governmental employers from considering gender identity in hiring); Exec. Order 14,190, *Ending Radical Indoctrination in K-12 Schooling*, 90 Fed. Reg. 8853 (Jan. 29, 2025) (prohibiting teaching of transgender-related topics in schools).

[28] Exec. Order 14183, *Prioritizing Military Excellence and Readiness*, 90 Fed. Reg. 8757 § 1 (Jan. 27, 2025).

[29] *Keeping Men Out of Women's Sports* (Feb. 5, 2025) (number and Federal Register entry not yet assigned) (available at https://www.whitehouse.gov/presidential-actions/2025/02/keeping-men-out-of-womens-sports/).

association in the country as "chemical and surgical mutilation" and said that such treatment "will be a stain on our Nation's history."[30]

106. President Trump has referred to those who support transgender rights as "pushing the transgender cult."[31]

107. Secretary Rubio, who is tasked with implementing the Executive Order as applied to passports and overseeing the Passport Policy, has referred to the existence of transgender people as "a harmful ideology" and stated that being transgender is "not real."[32]

108. The Executive Order is deeply rooted in this same animus.

109. As noted above, the Executive Order refers to transgender people as "ideologues who deny the biological reality of sex." Executive Order § 1. It inaccurately and offensively states that transgender people live as their true gender to "gain access to intimate single-sex spaces," with the implication that they do so for nefarious reasons, and to "depriv[e] [women] of their dignity, safety, and well-being." *Id.* It says that merely existing as a transgender person is to "attack women." *Id.*

G. Harm to Plaintiffs

1. Ashton Orr

110. Ashton uses the pronouns "he" or "they." Ashton has lived in West Virginia his entire life and is thirty-four years old.

111. Ashton is the Press Relations Manager for a national LGBTQ+ organization, advocating for transgender rights and equality.

[30] Exec. Order 14187, *Protecting Children from Chemical and Surgical Mutilation*, 90 Fed. Reg. 8771, title and § 1 (Jan. 28, 2025).

[31] *See Fact Sheet: Donald Trump on LGTBQ Issues: Transgender Americans*, GLAAD (Aug. 20, 2024), https://glaad.org/fact-sheet-trump-transgender (last accessed Feb. 6, 2025).

[32] Ken Scheck, *JD Vance Adds to Anti-LGBTQ+ Track Record with Census Letter*, Buckeye Flame (Nov. 13, 2023), https://thebuckeyeflame.com/2023/11/13/jd-vance-adds-to-anti-lgbtq-track-record-with-census-letter (last accessed Feb. 6, 2025) (letter co-written by then-Senator JD Vance and then-Senator Rubio).

112. Ashton is a transgender man. His sex assigned at birth was female, but he has a male gender identity.

113. He was diagnosed with gender dysphoria in 2015, when he was twenty-five years old.

114. Ashton has lived as a male in all aspects of his life since 2020. He is known only as a man to his family, his workplace, and in his community in West Virginia. It has not always been easy for Ashton to be himself in public spaces, and he has experienced significant discrimination and harassment as a result of being open about his transgender identity. Having accurate identification documents helps Ashton navigate this world safely, as he is perceived as male by those who see him, and a male sex designation affirms his gender identity.

115. Ashton was able to update his West Virginia driver's license in 2023 and his Social Security Administration record in 2024 to reflect an accurate name and male sex designation. He typically travels by plane with multiple forms of identification in case he misplaces or loses either his passport or his driver's license. However, this has recently presented issues for Ashton, as the information on his passport does not match his updated and accurate driver's license.

116. For example, in early January 2025, Ashton flew from West Virginia to New York City. Because his REAL ID has a male sex designation, and his passport had a female sex designation, he was flagged by the TSA and accused of presenting a fake identification document. When TSA screened his REAL ID, they claimed it didn't match the documents they had on record for him. He offered his passport to confirm his identity, and TSA accused him of presenting a fake identity document. They repeatedly scanned his ID and took his photo multiple times before pulling him aside for further questioning. It wasn't until Ashton was forced to explain in detail that he is a transgender man that they finally allowed him through.

117. This experience prompted Ashton to take steps to update his passport.

118. On January 16, 2025, Ashton sent his passport, renewal application, birth certificate, and marriage license to apply for an updated passport with an accurate sex designation of male and paid for expedited shipping and servicing given that he had imminent travel plans. He

was informed that his application arrived on January 18 and began processing on January 22. The passport that Ashton sent with his application had a female sex designation, and his application requested an updated name and sex designation.

119. On February 18, Ashton received a letter from the State Department stating that it was unable to issue a U.S. passport containing the sex marker he requested because the documents he submitted did not match his "biological sex" at birth.

120. On March 27, Ashton received a new passport in the mail, which was marked with an "F" sex designation. However, the documents he submitted in support of his updated passport application were not returned in the manner he expected. Despite receiving his passport and documents in an envelope that looked undisturbed, his marriage license was returned to him ripped, and his birth certificate was never returned.

121. Prior to receiving this new passport, Ashton had to cancel a trip to Ireland on March 13, 2025, because he did not have a passport to travel with. He is planning to reschedule that trip as soon as possible because he is traveling for a medical purpose. His ability to access medically indicated care has already been delayed, and he does not wish to have it delayed any further.

122. Ashton is terrified that having an inaccurate sex designation on his passport will cause TSA agents, border officials, or airline staff to single him out for invasive questioning, scrutiny, or mistreatment. Ashton's past experiences of having his identity challenged, his passport refused, and being subjected to additional security screenings have led to extremely uncomfortable circumstances for him. Not having a passport with a sex designation of male could cause travel delays, missed flights, or even denial of entry to certain countries. Being forced to explain discrepancies in his documentation could out him as transgender in unsafe situations.

123. Ashton is devastated that his country is trying to erase his identity and remove his ability to access accurate identification documents. Without an accurate passport, he will not feel safe traveling outside of the United States for any reason, let alone to make his medical appointment in March.

2. Zaya Perysian

124. Zaya Perysian is twenty-two years old and uses the pronouns "she" and "her." Zaya has lived in California since October of 2023, when she moved from New Jersey. Zaya was born in Michigan and left when she was twenty years old.

125. Zaya is a transgender woman. Her sex assigned at birth was male, but she has a female gender identity.

126. Zaya was diagnosed with gender dysphoria in 2020.

127. Zaya has lived as a female in all aspects of her life since 2020, and she has been known since then only as female to her family, friends, her community in California, and her social media followers online. Today, she feels more like herself than ever. It has been a long road for Zaya to feel safe and authentic in her body, and she is grateful to be living her truth in all aspects of her life.

128. Zaya is a social media content creator, and her content focuses mainly on her life as a proud transgender woman. She has documented her transition journey and has been able to connect with a community of LGBTQ+ individuals across the globe. Zaya's content has also allowed her to connect with millions of people who are not LGBTQ+ and she has helped educate them on what it means to be transgender in today's society.

129. Having accurate identification is extremely important to Zaya's safety and her ability to navigate the world. During the first few years after coming out as transgender, before her identification documents were updated, Zaya faced significant harassment and was often put in uncomfortable situations while traveling. She was subjected to intolerant gazes when airport personnel viewed her identification with an inaccurate, male sex designation but observed her female gender expression. She has been patted down by TSA agents expressing their interest in confirming her sex, and she has had agents say that she was the "prettiest boy" they had ever seen. It was devastating for Zaya to endure experiences like this, and it wasn't until she was able to update her driver's license that these occurrences became less frequent.

130. Zaya updated her Michigan driver's license to her accurate female sex designation in June of 2021 and her accurate name in February of 2022. She is in the process of getting a California driver's license, which will also reflect her accurate name and female sex designation. In addition, Zaya has been able to update her sex designation with the Social Security Administration. Because the passport she had in her possession had an inaccurate male sex designation, she knew that she needed to update her passport to be able to travel for work opportunities abroad. Zaya was filled with anxiety when she learned about the Executive Order.

131. Zaya had planned to travel outside of the United States in early February 2025 and submitted an expedited application to update the sex designation on her passport to female on January 23, 2025.

132. On January 24, Zaya received notice via email that her passport application was being processed. On January 28, her passport was returned to her through the mail with a notice stating: "the date of birth, place of birth, name, or sex was corrected on your passport application," with "sex" circled in red. The stated reason was "to match our records."

133. Angered, Zaya posted about the incident on her social media. A representative from CNN who heard about Zaya's situation called the State Department on her behalf to understand why this occurred, and the representative was told that the sex designation on Zaya's passport must be male in accordance with the Passport Policy. Zaya's passport now has a male sex designation, and the new expiration date is January 24, 2035. Unless Zaya is issued a correction, she will effectively have an unusable passport and will be unable to leave the country safely or comfortably for at least ten years. Zaya is perceived as female by those who see her, and using this passport will out her as transgender to people who would not otherwise have known.

134. This is particularly harmful to Zaya because she has been invited to many opportunities to connect and collaborate with other influencers abroad. Without accurate identification, she will not be able to engage in income-generating opportunities outside of the United States.

135. Zaya cannot practically travel with her current passport that does not reflect who she is. If Zaya were to present the current passport with a male sex designation, it could cause problems while interacting with TSA agents and other officers. She is even more afraid of encounters with officers in countries outside of the United States, where her passport may be the only identity document that would be accepted or recognized by officials, and where there is significant hostility towards the transgender community.

136. Zaya is devastated that her government would target her community with a policy that takes away her and other members of that community's ability to move around the world safely.

3. Sawyer Soe

137. Sawyer Soe is thirty-five years old and primarily uses the pronouns "they" and "them."

138. Sawyer works for a company that is a leader in video game development. Sawyer designs games and leads a creative team. They love what they do for work, as it allows them to express themselves creatively and build experiences that engage people of all ages. Sawyer's company has a global presence, with colleagues in the United States, Canada, South America, and Europe.

139. Sawyer is a nonbinary person. Their sex assigned at birth was female, but they do not identify with a binary sex. The term "nonbinary" accurately captures their identity.

140. Sawyer has lived as a nonbinary person in all aspects of their life since 2019. They have always known their gender identity to some degree, as they are naturally an androgynous person and that is typically how others perceive them. Today, Sawyer is fully themselves at work and among friends and family.

141. Sawyer was able to obtain a Massachusetts driver's license with an "X" sex designation in July of 2023, and this has allowed them to navigate travel and daily interactions safely and comfortably. Having an "X" sex designation on their identity documents allows them to escape the arbitrary enforcement of an identity projected on them solely based on their sex

assigned at birth. The "X" designation provides Sawyer with freedom and privacy that allows them to exist in a way that is free of a label that they did not choose for themselves and that is inconsistent with how they live.

142. Sawyer has not been able to update their United States passport, which expired in 2019, in a similar manner. This was not something Sawyer sought to do during the earlier days of the COVID-19 pandemic that occurred soon after the passport's expiration because Sawyer did not travel then. Recently, Sawyer has begun traveling more. Sawyer's design team at work is planning an on-site collaboration with their colleagues in Canada, and Sawyer will be required to travel internationally to Canada within the next three months, and potentially several more times in the coming year.

143. Sawyer would feel safer if they had an "X" sex designation on their passport because it would be consistent with their identity, it would protect their privacy as it would prevent disclosure of their sex assigned at birth to strangers, and it would match the other identity documents that they currently carry. Due to the Passport Policy, Sawyer will no longer be able to obtain an "X" sex designation on their passport that accurately reflects who they are, how they express their identity, and how others perceive them.

4. Chastain Anderson

144. Chastain Anderson has lived in the Richmond area since 2018, when she moved from Louisiana. Chastain uses the pronouns "she" or "they."

145. Chastain holds a Ph.D. in Molecular and Cell Biology and is a board-certified toxicologist. She works as a Principal Scientist with a global consumer product company, where she has been employed for six years. Chastain loves her job, and she loves working in the consumer toxicology space, specifically with respect to applying new and emerging technologies to issues impacting human health.

146. Chastain is a transgender woman. Her sex assigned at birth was male, but she has a female gender identity.

147. She was diagnosed with gender dysphoria in 2015.

148. Chastain has lived as a female in all aspects of her life since 2015. Since then, she has been known only as a female to her family, to her workplace, and in her community. Chastain legally changed her name to "Chastain" in September of 2016 via court order in Louisiana.

149. When Chastain interacts with others, they perceive her as a female. This is not only affirming for her, it keeps her safe.

150. As Chastain's career has progressed, she now needs to travel internationally for work with increasing frequency. She has a work conference in France in October that is sponsored by CORESTA, an organization whose mission is to promote and facilitate international cooperation and best practices in scientific research related to tobacco. It is important for Chastain's career and for her company that she attend this conference, as she has the requisite subject matter expertise to represent her company globally among scientists in her field of work.

151. Chastain was able to update her Virginia driver's license in 2019 to an accurate, female sex designation, but her passport has a male sex designation. She sent her passport in for expedited processing on December 27, 2024 to a passport agency in Philadelphia to receive an accurate, female sex designation.

152. Having a female sex designation on her driver's license has been very important to Chastain, as it has resulted in her rarely being misgendered when presenting her driver's license, which ensures her safety as she navigates local and domestic travel. Before having an accurate driver's license, she would face issues carrying out everyday tasks. For example, providing a driver's license with an inaccurate sex designation has outed Chastain as transgender when trying to attend concerts, order drinks, open a bank account, and lease an apartment.

153. Chastain is terrified that having an inaccurate sex designation on her passport will place her in uncomfortable and unsafe circumstances. Her fears are justified: in 2017, prior to updating her driver's license to her accurate sex designation, she had a harrowing experience going through a TSA security checkpoint at the Richmond Airport. Two agents isolated Chastain in a holding area, where she was left alone for thirty minutes, until a manager entered and conducted a

strip search of her body. She believes that this was a direct result of the perception that her outward appearance did not match the sex designation on her license.

154. Chastain has reached a stage in her career that requires her to travel internationally more frequently, and traveling with an inaccurate passport is not a viable option for her. Chastain is suffering from anxiety knowing that a document that is supposed to help identify her will now not only make it harder to identify her, but will also likely put her safety at risk when she uses it, both abroad and during her return to the United States.

155. Chastain is further concerned that having an inaccurate passport will lead to confusion and increased processing times when traveling internationally, and may result in missed calls, meetings, or flights, and in lost opportunities, creating a financial burden. She is also disheartened that she will potentially lose out on advancement potential at her company given the fact that her cisgender colleagues will be able to attend important international meetings and conferences that she cannot.

5. Drew Hall

156. Drew Hall is twenty-five years old and use the pronouns "they" and "them."

157. Drew is currently a Ph.D. candidate in Botany at the University of British Columbia ("UBC") in Vancouver, British Columbia in Canada. Drew is a United States citizen who has lived in Vancouver since August 2022 when their program began, and they will live there until approximately 2027–2028 when their program concludes. In addition to studying at UBC, Drew works as a Research Assistant and Teaching Assistant at their university.

158. Drew's sex assigned at birth was male, but they do not have a male gender identity.

159. Drew was diagnosed with gender dysphoria in August of 2024.

160. Drew identifies as a nonbinary femme person, which means that even though their sex assigned at birth was male, they do not live as or identify as a man and instead express themselves in a feminine manner.

161. Drew has lived as a nonbinary person in all aspects of their life since 2024, and they have known that their gender identity was different than their sex assigned at birth since 2022.

Drew is known as a nonbinary person to their family, to their classmates and professors, and in their community. Drew finally feels like themself and that those around them see them for who they are.

162. Drew is frequently required to travel internationally because they have been studying and living full time in Canada for over two years and will be in Canada for several more years. Drew's family lives in Wisconsin, and Drew travels back to the United States at least four to five times a year. Two to three of those visits are typically to see their family in Wisconsin, and the other visits are to see close friends in Washington and Oregon, given their proximity to those two states. Most pressingly, Drew needs to travel to Wisconsin for a family wedding in May and for a botany conference in July.

163. Drew legally changed their name by court order in Wisconsin in December 2024, and has updated their sex designation with the Social Security Administration and on their driver's license, which now both accurately reflect the name "Drew" and an "F" for their sex designation. Drew's birth certificate has an updated name but not an updated sex designation because Wisconsin requires proof of surgical sex change procedure, which Drew cannot provide at this time.

164. When Drew interacts with government officials, they do not perceive Drew as a man. Instead, Drew is perceived as a femme person. This is not only affirming for Drew, it keeps them safe.

165. Drew's United States passport (which is their only passport) still reflects an inaccurate name and a male sex designation. On January 9, 2025, Drew mailed their passport to the State Department's national processing center and requested an updated female sex designation and name change on their passport. Drew was notified by email that their passport arrived at the center on January 17. After the Complaint was filed in this case, Drew received an email from the State Department on February 11 stating that their application for a passport was approved and that they should receive the passport in the mail around February 17, 2025. On February 19, they received their renewed passport with an inaccurate "M" marker, along with a letter stating that the State Department had changed the gender marker on their passport.

166. Drew relies on their passport frequently to travel back to the U.S. to see their family and friends. There are also many other reasons Drew uses their passport while living in Canada. To open a bank account in Vancouver, Drew is required to present their U.S. passport. Drew's employer (UBC) requires Drew's passport for their employment at the university. Any time Drew interacts with the Canadian government, they need to present their U.S. passport, as it is the only form of identification that Canada recognizes for non-citizens and non-permanent residents. Without their passport, Drew is facing many struggles residing in Canada.

167. Drew is deeply concerned that continuing to have a male sex designation on their passport will lead to negative and invasive interactions with border agents and TSA employees as a result of the increased hostility in the United States and elsewhere toward gender-nonconforming people like Drew—hostility that the Executive Order and Passport Policy embrace and cause. Given that their other identity documents have been updated, Drew is also worried that continuing to carry a passport with a name and sex designation that does not match their other identity documents will lead to even more confusion and distress each time they must present their passport. Additionally, continuing to have non-matching documents may present other challenges for Drew, including with respect to their temporary status documents in Canada, and when they visit places where multiple forms of identification are required. Drew's most recent encounters with border agents underscore these fears: border agents have regarded Drew with more suspicion due to their gender nonconformity.

168. If Drew were to have to continue to carry a passport with a male sex designation, they are afraid that they will encounter additional, invasive scrutiny and harassment every time they use it, including because hostility toward gender nonconforming people like Drew has increased and continues to grow. Drew is not perceived as a man given their feminine expression, and they would not feel safe traveling in the future, especially internationally, with documentation that inaccurately indicates a male sex designation. Given how they express their identity and the way they are perceived by other people, continuing to have a male sex designation on their passport will indicate to any person who looks at Drew's passport that they are transgender. This causes

Drew significant anxiety, especially because of the recent increase in anti-transgender rhetoric and violence in the United States and elsewhere.

169. Drew feels alienated knowing that the U.S. government refuses to recognize them for who they are. Having a passport that does not match who they are makes them afraid to return to the United States, knowing that they will receive suspicious looks when they present their passport solely based on the fact that they are nonbinary and do not live in accordance with their sex assigned at birth. Drew is devastated that their country has implemented a policy that interferes with their ability to have an accurate and usable passport.

6. Bella Boe

170. Bella Boe has lived in Cambridge since 2024, when she moved from New Jersey. Bella is 19 years old and uses the pronouns "she" or "her."

171. Bella is a freshman in college studying government.

172. She is a transgender woman.

173. She was diagnosed with gender dysphoria in 2017.

174. Bella has lived as female in all aspects of her life since she was 11 years old. Today, she feels fully herself. Bella is currently known only as female to her family, to staff and peers at her school, and in her communities in New Jersey and Cambridge.

175. Bella is active on campus. She is passionate about theater and the arts, and her school offers many opportunities for her to participate in international programs and theater productions. Bella is currently the stage manager for her theater group at school, which means she manages and runs productions. Bella loves being a stage manager because it provides her with an opportunity to build leadership skills and it allows her to be fully immersed in an art that she has loved and engaged in since she was six years old. Bella's theater group travels around the world to put on shows for a range of audiences. For example, her theater group had a production in Bermuda the week of March 16, 2025. She was eager to go on that trip to manage that production, and would have attended had she been able to obtain a new passport with an "F" sex designation.

176. Bella similarly hopes to study abroad while obtaining her undergraduate degree, and she plans on doing so in England.

177. Bella is only able to partake in these opportunities when she has travel documents, like her passport, that accurately reflect who she is. That safety allows her to fulfill her educational dreams and goals.

178. When Bella travels and interacts with government officials, they perceive her as a female. This is not only affirming for Bella, it keeps her safe.

179. The passport that Bella received in 2021, had a female sex designation. Having a female sex designation on her passport afforded her safety and comfort when traveling. She sent her passport in for renewal on January 23, 2025, to ensure that her current passport would remain usable for as long as possible. On February 26, 2025, she received a new passport with an "M" sex designation. Under the new Passport Policy, Bella no longer has the safety afforded to her by a female designation on her passport.

180. Bella feels very uncomfortable traveling with a passport that inaccurately reflects a male sex designation. Not only does it erase who she is, it will be confusing for government officials who would otherwise identify her as female based on her gender expression and invite additional, stressful scrutiny. Bella does not want her passport to out her as transgender every time she uses it, especially when traveling outside of the United States in countries that are not accepting of transgender people.

181. Without an accurate passport, Bella will be forced to miss out on many educational opportunities that her cisgender peers are afforded, including opportunities that would advance her own passions, education, and future career. Without an accurate passport, Bella will not be able to leave the United States without anxiety and fear for her safety.

7. Reid Solomon-Lane

182. Reid Solomon-Lane is thirty-seven years old and uses the pronouns "he" and "him." He has lived in Massachusetts since July of 2022, when he moved there from Austin, Texas. Reid lives in North Adams with his wife and three young children.

183. Reid was a flight attendant for more than eight years and now serves as a senior flight coordinator for a volunteer pilot organization.

184. Reid is a transgender man. His sex assigned at birth was female, but he has a male gender identity.

185. Reid was diagnosed with gender dysphoria in 2007.

186. Reid has lived as a man in all aspects of his life since 2007. Since then, he has been known only as male to his family, his workplace, and in his community in Massachusetts, and he is perceived only as male by people who see him. This allows Reid to feel safe in interactions with new people and prevents him from having to come out as transgender with each encounter.

187. This safety is especially essential for Reid while he is traveling.

188. Reid is frequently required to travel internationally because his mother-in-law purchased a home in Ireland three years ago and spends a lot of her time there. Reid and his family travel to Ireland so that Reid's mother-in-law can see her grandchildren. Reid also visited Montreal in 2022 and has plans to return to Montreal with friends in the next year given that he and his family are just across the border from Canada.

189. Reid legally changed his name in 2007 via court order in Texas. His name and sex designation have been updated with the Social Security Administration and on his driver's license, which now both accurately reflect his name and his being male.

190. Reid's United States passport also reflects an accurate name and male sex designation and expires in 2028. Having an accurate passport provides Reid comfort, especially when traveling with three young children outside of the United States. If Reid did not have a passport that reflects who he is, it would dramatically impact the way he travels. Reid would be less secure leaving the country with his children, as having a sex designation that so flagrantly does not match his outward gender expression would potentially put him and his children at risk. Because Reid's passport serves as an identity and citizenship document that accurately reflects his gender identity and presentation. He uses it for dentification and citizenship verification.

Removing access to an accurate passport will cause Reid repeated stress and risk serious problems from it outing himself in routine interactions.

191. Reid is very nervous about traveling with his passport because if it is stolen or lost and he has to replace it, the Passport Policy would require the State Department to issue him a new, inaccurate passport with a female sex designation. Because of that risk, he wants to apply for a passport card instead of seeking a new passport book at this time so that he can carry proof of citizenship on his person when he travels, while keeping his passport book safely at home or at a hotel so that it is not at risk of being stolen or lost and needing replacement. A passport card is a smaller, plastic passport that is proof of U.S. citizenship and identity and has the same length of validity as the passport book but is not valid for all international travel by air. Reid is unwilling to submit an application for a passport card at this time given that it would likely be returned to him with a female sex designation under the Passport Policy and related Executive Order 14168. Reid thought he was at the point in his life where he could live his life with safety and dignity, as an adult, as a husband, and as a parent. If his passport were to reflect a sex designation that is inconsistent with who he is, that safety and dignity will be taken away from him.

8. Viktor Agatha

192. Viktor Agatha is a twenty-three-year-old United States citizen and resident of Dallas, Texas. Viktor has lived in the Dallas area since 2009, when he moved there from Japan where his mom was stationed while serving in the U.S. Navy. Viktor was born in Virginia.

193. Viktor is a college student studying social work. He also works as a sales associate and personal shopper.

194. Viktor is a transgender man, intersex, and comfortable being referred to by many pronouns.

195. He was assigned female at birth based on his doctor's examination of his external genitalia at birth, but he has a male gender identity.

196. Viktor's parents told him that they were under the impression that he would be born a boy because his mother's ultrasound scans while pregnant with him showed the presence of what

was thought to be a phallus. But given that he was assigned a female sex at birth by the treating physician, he was raised as female by his family until he was 13 years old.

197. Viktor discovered his intersex condition when he began puberty around the age of ten. As he entered puberty, he began developing masculine sex traits that were inconsistent with the female sex he had been assigned at birth. Viktor began developing an Adam's apple and pronounced body hair. When he turned eleven, he realized that his body did not look like the images of men or women in his biology textbooks at school, and that his genitalia was more ambiguous than anything he saw in his science books.

198. In 2014, when Viktor turned thirteen, he came out as male. He and his family sought out a medical provider who could help them better understand Viktor's pubertal development. After running several blood tests, the doctor informed Viktor that he had very high levels of testosterone and diagnosed him with hormonal imbalance.

199. Viktor has openly lived as male since 2015. His family and community are aware of his intersex condition.

200. Viktor is also transgender. He was diagnosed with gender dysphoria in 2019, when he turned eighteen years old.

201. A court granted Viktor a legal name change in August of 2023, and he updated his Texas state ID card in 2023 to reflect an "M" sex designation, which is consistent with who he is. Having this accurate identification allows Viktor to navigate daily interactions with greater safety and ease. Viktor also took steps in 2023 to update his records with the Social Security Administration to reflect his court-ordered legal name change and male sex designation. Viktor's Virginia birth certificate is in the process of being updated.

202. Viktor's previous passport, with a female sex designation, expired in 2010. From the time his passport expired until now, Viktor did not need to travel internationally.

203. His imminent travel needs stem from the fact that his sister was recently stationed in Italy as a part of her deployment with the U.S. Navy, and she will live there for the next two

years. Viktor wants to visit his sister in Italy with his mother in the next year, and he will need a valid and usable passport to do so.

204. Under the State Department's current policy, it is Viktor's understanding that he will be unable to get a new passport with an "M" sex designation that accurately reflects who he is.

205. Viktor is also uncertain as to whether he would be considered male or female—or both or neither—under the definition of the terms "male" and "female" in Executive Order 14168 or the State Department's current policy. Based on the information reflected on his original birth certificate, he believes that any renewal request that he submits will result in him receiving a passport with an inaccurate "F" sex designation.

206. Traveling with a passport with an "F" sex designation is not an option for Viktor. Such a passport would likely out him as transgender and/or intersex at every use and could potentially lead him to unsafe situations when he travels, including when traveling abroad to countries that are hostile towards transgender and intersex individuals.

207. Viktor is deeply disappointed that this policy and Executive Order attempt to erase who he is and prevent him from obtaining a usable passport to see his family abroad.

9. David Doe

208. David Doe is a forty-one-year-old United States citizen and resident of Van Nuys, California. David uses "he" and "him" pronouns.

209. David lives in Van Nuys with his husband and child. David has lived in the Los Angeles area since 2011, when he moved there from New York.

210. David is a lawyer and has worked in entertainment law for about six years. His work involves managing labor relations for film and television productions, including productions in Canada, Mexico, Latin America, and Australia.

211. David is a transgender man. His sex assigned at birth was female, but he has a male gender identity and has lived as a man since 2014.

212. In 2014, when David first realized that his gender identity did not match his sex assigned at birth, he sought out a healthcare provider to address his dysphoria and began receiving medical care shortly after.

213. To live as and be recognized as a man, David took steps to update his identity documents to reflect both his legal name change and male gender identity.

214. David changed his sex designation to male in 2015 with both the Social Security Administration and on his California driver's license. In 2016, he updated his passport to accurately reflect an "M" sex designation. He was born in Texas, a state that does not permit him to change his birth certificate, so that document remains inaccurate.

215. David travels for work as he manages productions abroad. In January 2025, he traveled to Vancouver, Canada for his work, and he anticipates potentially needing to travel to Ontario, Canada this year as well.

216. David also travels internationally with his family. Both he and his spouse have friends and family abroad. Most imminently, he and his family anticipate needing to travel to Scotland for a family wedding in the summer of 2026.

217. Having a male sex designation on his passport and other identity documents is integral to David's ability to move through the world safely and without distress.

218. However, that safety is no longer afforded to him. His previous passport with an "M" sex designation was set to expire in February 2026. David submitted an online application to renew his passport in February of 2025, and on March 21, he received his renewed passport back, but with an "F" sex designation.

219. On approximately April 17, 2025, David received a letter stating that the "sex" was changed on his passport "to match [his] biological sex at birth."

220. David will not travel to the wedding in Scotland with a passport that reflects an "F" sex designation.

221. David is worried as international travel for work is part of his job but is potentially dangerous and harmful to his physical and emotional well-being, putting him in an impossible situation.

222. He is anxious about traveling abroad with a passport with an "F" sex designation that outs him as transgender at every use and could put him at risk of being attacked or singled out by someone who holds prejudices against transgender people.

223. Before David was able to update his driver's license (when it still displayed his birth name and sex), he would experience problems while carrying out even the simplest of tasks, such as purchasing wine at the grocery store or going to an R-rated movie when he was younger. People often accused him of presenting a fake ID when they saw an "F" sex designation on an identity document.

224. Since updating his identity documents, David has been able to avoid a lot of these problems. Now, with inconsistent documentation once again, he is terrified that he will be subjected to similar accusations of fraud when traveling abroad or be at increased risk of discrimination and violence.

10. AC Goldberg

225. AC Goldberg is a forty-five-year-old United States citizen living in Cambridge, Massachusetts.

226. AC lives with his wife and two children. He is a professor of speech pathology at a university in Massachusetts. AC has been teaching since 2022. He is also a practicing speech/language pathologist and has been practicing since 2004.

227. AC is a transgender man. AC was assigned female at birth based on a physician's external evaluation of his genitalia but has a male gender identity and has lived as a male since 2002. AC first sought out a provider to address his gender dysphoria in 2002 and was diagnosed soon thereafter. Almost a decade later, in 2012, AC discovered that he is also intersex. AC had always felt uncomfortable in his body, like there was an inconsistency between his genitalia and how he knew himself to be, but he did not know the cause of this discomfort. In the summer of

2012, AC received a call from a genetic counselor who told him that he has Congenital Adrenal Hyperplasia ("CAH"), which is a condition that can cause hormone imbalances and genital abnormalities. At first when AC received this call, he was shocked and confused. He did not know much about being intersex, so he was quick to seek out community and arrange meetings with other intersex individuals who could provide him with support as he navigated this new medical information.

228. It was also important to AC to have a conversation with his parents about what they were told when he was born with respect to his sex and genetic composition. AC's parents told him that, at birth, the doctors told them that he was born with "deformities," and that certain procedures had been conducted on him as an infant. AC's parents, however, were never told what those procedures were, and they did not have an opportunity to consent to those procedures on his behalf.

229. AC's discomfort with certain aspects of his physical body persisted long after the call from the genetic counselor in 2012. In May 2024, after experiencing severe physical discomfort and menstrual bleeding, AC sought out a provider and underwent a procedure to remove his uterus. In the process of conducting the hysterectomy, AC's provider discovered that he had some kind of cyst, later identified as an ovotestis, and removed both the ovotestis and his ovary during his hysterectomy while AC was under general anesthesia.

230. AC has updated all his documentation to reflect a male sex designation, which feels true to who he is and how he lives and presents to the world. In 2016, AC obtained a court-ordered legal name change from a court in Massachusetts and updated his New Jersey birth certificate to reflect his name and male sex designation. That same year, AC updated his Massachusetts' driver's license and his records with the Social Security Administration to reflect his name and male sex designation.

231. In 2017, AC updated his passport to reflect an "M" sex designation. That passport is currently in his possession and expires in January 2027.

232. AC is a frequent traveler. He typically travels abroad about three to five times a year for work and recreation. AC also travels domestically one to two times a month for work, and he uses his passport as his primary method of identifying himself for all travel.

233. This year, AC has canceled several international trips for both work and leisure out of concern about reentering the country as a transgender and intersex person and fear of subjecting himself to potential detainment and invasive scrutiny upon reentry to the United States. AC has had difficult experiences with TSA in the past as a transgender and intersex man, including experiences of being sexually assaulted and violated by officers conducting searches on his body.

234. Having an accurate passport that aligns with who AC is provides him with the ability to travel safely and comfortably with his wife and children, with less fear of experiencing harassment and physical violence when traveling abroad.

235. AC is terrified about the prospect of losing his current passport or having it stolen and being forced to obtain a new passport under the State Department's current policy, which would contain an inaccurate female sex designation because that is the sex designation on his original birth certificate.

236. AC has no idea whether he would be considered "male" or "female"—or neither or both—under definition of those terms in Executive Order 14168 or the State Department's current policy because he had the presence of both ovaries and an ovotestis for most of his life.

237. Traveling with an "F" sex designation on his passport is not an option for AC because it would create safety risks and deeply uncomfortable situations. To AC, this policy feels like an attempt to erase who he is and dictate how he is perceived by those around him.

238. Massachusetts has been his home for 18 years, and AC does not want to be forced to move his family to another country to ensure that they are safe and that he is afforded the ability to live as the man, husband, and father that he is.

11. Ray Gorlin

239. Ray Gorlin is a thirty-year-old United States citizen residing in Minneapolis, Minnesota. Ray was born in Hopkins, Minnesota, so Minnesota has always been home to them. Ray uses "they" and "them" pronouns.

240. Ray is a full-time artist, and their work includes drawing caricatures at amusement parks, festivals, conventions, parties, and more.

241. Ray travels all over the United States for their work and has recently received international work. He was recently invited to tour with Karikaturen Berlin, a German caricature company. Ray hopes to take more international work, including to be part of a caricature convention in Japan, where caricature art is celebrated.

242. Ray is a nonbinary person. Their sex assigned at birth was female, but they do not identity with a binary sex. The term "nonbinary" accurately captures their gender. Although Ray does not identify with a particular gender, they feel more comfortable in their body with a masculine presentation.

243. When Ray started college in 2013, they were aware of nonbinary as a gender identity, but felt very self-conscious about self-identifying that way. Ray was afraid of experiencing harassment and drawing unwanted attention and was also afraid of how identifying as nonbinary would impact and be received by the people close to them.

244. After leaving college, Ray sought out transgender and nonbinary communities, and they were able to find safety and comfort in their identity.

245. Ray was diagnosed with gender dysphoria in 2019, when they were twenty-five.

246. Ray has lived openly as a nonbinary person since 2019. Today, they are known only as a nonbinary person to their friends, family, and colleagues.

247. In July 2022, Ray was able to legally change their name in court. They shortened their birth name to "Ray," a nickname that they have used their whole life.

248. Ray also updated their Minnesota driver's license with an "X" sex designation in 2022 and their Real ID with an "X" sex designation in 2025 to reflect their nonbinary identity.

They similarly updated their legal name and sex designation with the Social Security Administration in 2022 as well, but because "X" was not an option as a sex designation, they selected "M."

249. Ray has not used their passport to travel internationally in approximately seven years. Given that they did not have a reason to travel internationally until recently, Ray did not submit an application to update the sex designation on their passport at the same time as when they updated their other documents. Their current passport expires in November 2027, and that passport reflects a female sex designation.

250. Without accurate identification, Ray is terrified of experiencing harassment and heightened scrutiny when they travel. When Ray was traveling to Florida in March of 2025, they had a mortifying encounter with the Transportation Security Administration due to the discrepancy between the sex designations on their temporary paper Real ID (provided to them by the Minnesota DMV as a placeholder until their Real ID card was ready) and on their passport. The agent asked that Ray present their passport instead of the paper copy of their Real ID, and when Ray showed the agent their passport, the agent told them "this isn't you."

251. The agent stated that the passport Ray presented was not theirs because it had an "F" sex designation and an older photo of them. Ray had to explain that they are nonbinary, that they changed their name to "Ray" in 2022, and that this ID was in fact theirs. The agent humiliated Ray by having this conversation audibly and openly in front of a large group of people, and sent them to the back of another long line to speak with another security agent, who thankfully understood that Ray is nonbinary and allowed them to proceed through security and make their flight.

252. Ray is afraid that carrying a passport with an "F" sex designation will continue to subject them to uncomfortable and unsafe travel encounters.

253. They have worked hard as a caricature artist and have dreamed of working for the best caricature companies nationally and globally. Those opportunities are finally happening for Ray, and this new passport policy is impeding their ability to achieve their professional aspirations.

254. The opportunity with Karikaturen Berlin requires Ray to leave for Berlin in July 2025 and stay through August. Ray is anxious about experiencing harassment when presenting a passport with a female sex designation, which is inconsistent with who they are, upon entry into Berlin and upon re-entering the United States after their stay. During that time in Berlin, Ray may also need their passport to check into their accommodations or potentially travel within Europe. Without a passport that reflects who they are and allows them to travel safely, Ray is terrified that they will be deprived of this opportunity that could take their career to the next level. Ray is put in the impossible position of choosing between an opportunity that contributes to their livelihood and risking their physical and emotional safety.

255. Additionally, Ray's family is going through a difficult time right now. Ray's dad was diagnosed with cancer, and their family wants to take one final international trip together so that they can spend time together before their dad's illness prevents him from traveling. Without accurate identification, Ray will not be able to join their family on this trip and would lose invaluable time with their ailing father and the rest of their family.

256. It pains Ray to know that opportunities to travel with their family and further their career are now limited by the sex designation on their passport.

12. Chelle LeBlanc

257. Chelle LeBlanc is a twenty-seven-year-old United States citizen and resident of Colorado Springs, Colorado. Chelle uses "she" and "her" pronouns.

258. Chelle has lived in Colorado since October of 2024, and moved there from her home state of Mississippi.

259. Chelle is a lawyer and practices law at a civil litigation firm in Colorado.

260. Chelle is a transgender woman. Her sex assigned at birth was male, but her gender identity is female.

261. She was diagnosed with gender dysphoria in May 2022.

262. Chelle has lived as a woman in all aspects of her life since March 2022, and she is only known as female to her family, workplace, and community.

263. In the last few years, she has been able to change her identity documents to reflect a female sex designation that is consistent with her gender identity. Chelle updated her Mississippi driver's license to reflect a female sex designation in November 2023, and that same month, she updated her name and female sex designation with the Social Security Administration.

264. In January 2024, Chelle updated her Mississippi birth certificate to reflect her name and that she is female.

265. Chelle's passport is the only identity document in her possession that does not currently reflect who she is. Her previous passport that had a male sex designation expired in September 2024. She submitted an application to renew her passport and update her gender marker on January 19, 2025, requesting that the sex designation also be corrected to female.

266. After several weeks of processing, her renewed passport was issued on February 12, 2025, and it came back to her with an inaccurate "M" sex designation.

267. Chelle travels internationally frequently, as she has lived and studied in other countries in the past and has enjoyed her time abroad. There was a brief hiatus in Chelle's traveling due to time constraints and tight finances during law school, but since graduating last year, she hopes to be able to resume traveling internationally. It is especially important that Chelle be able to travel this year because she has an appointment for medical care in Thailand in August 2025. Chelle has already paid for this medical care, accommodations during her recovery, and plane tickets for her and her partner.

268. Given the steps that Chelle has taken to align her body with her gender identity, she does not feel safe traveling with a passport with an "M" sex designation, especially to countries that are openly hostile towards transgender people.

269. Unfortunately, Chelle is no stranger to discrimination, especially having grown up in Mississippi where she experienced frequent harassment based on her identity as a transgender woman. Having accurate identification affords her safety. To not have that safety while abroad would dramatically shift the way Chelle approaches travel and whether it is possible for her to travel to certain countries.

270. Chelle is fearful of traveling with a passport with the wrong sex designation. The idea of re-entering the United States with a passport with the wrong sex marker and that outs her as transgender is causing her immense anxiety.

271. International travel is likely off the table for Chelle without an accurate passport. She is afraid to risk her physical safety and mental well-being to travel internationally with inaccurate identification.

272. Chelle is disappointed that her country would take away her right to have identification that is consistent with who she is, and that allows her to feel safe traveling abroad and living domestically as a woman who is transgender.

CLASS ACTION ALLEGATIONS

273. Plaintiffs bring this action for themselves and on behalf of others similarly situated pursuant to Federal Rule of Civil Procedure 23(b)(2). Plaintiffs seek certification of the following Classes:

a. All people who currently want, or in the future will want, a U.S. passport issued with an "M" or "F" sex designation that is different from the sex assigned to that individual under the Passport Policy; and

b. All people who currently want, or in the future will want, a U.S. passport and wish to use an "X" sex designation.

274. Excluded from the Classes are: (1) any Judge or Magistrate presiding over this action and any members of their families and (2) Defendants.

275. The Classes are each so numerous that joinder of all members is impractical. As alleged above, there are more than 1.6 million transgender people in the United States, more than 1.2 million nonbinary people, and as many as 5.6 million intersex people. A high percentage of those people need and want to have passports with a sex designation the State Department will refuse to issue them under the Passport Policy.

276. There are questions of law and fact common to the each Class, including (but not limited to):

a. Whether the Passport Policy and the Executive Order as applied to passports discriminate on the basis of sex in violation of the Fifth Amendment;

b. Whether the Passport Policy and the Executive Order as applied to passports discriminates on the basis of transgender status in violation of the Fifth Amendment;

c. Whether the Passport Policy and the Executive Order as applied to passports are motivated by illegitimate animus;

d. Whether the Passport Policy and the Executive Order as applied to passports infringe the Fifth Amendment rights to free movement and travel;

e. Whether the Passport Policy and the Executive Order as applied to passports infringe the Fifth Amendment right to privacy;

f. Whether the Passport Policy and the Executive Order as applied to passports infringe the First Amendment right to free speech and expression;

g. Whether the discrimination perpetuated by the Passport Policy and the Executive Order as applied to passports survives the requisite level of scrutiny, including:

   i. The legitimacy and strength of the government interests asserted in support of it; and

   ii. The extent to which it serves, is related to, or is tailored to those interests; and

h. Whether the Passport Policy is arbitrary, capricious, an abuse of discretion, or otherwise contrary to the APA.

277. Plaintiffs' claims are typical of the claims of the Class members they represent. Plaintiffs have been harmed by the same Defendants and on the same basis as all members of the Classes they represent, including because Defendants' actions violate Plaintiffs' and the Class members' constitutional rights, are in violation of law, and are arbitrary and capricious and

otherwise in violation of the APA. Plaintiffs seek the same relief as all Class members they represent.

278. Plaintiffs will fairly and adequately protect the interests of the Classes they represent and have retained counsel competent and experienced in similar litigation, including class actions. Plaintiffs are committed to the vigorous prosecution of this suit and have no interests that are adverse to the Classes. Plaintiffs are represented by experienced counsel from the American Civil Liberties Union Foundation, the ACLU Foundation of Massachusetts, and the law firm of Covington & Burling LLP. The attorneys affiliated with the above law firm and organizations, and who are appearing in this matter, have extensive experience in complex constitutional litigation and class action litigation. They also have extensive experience representing transgender litigants. Plaintiffs' counsel intends to describe their credentials more fully in any forthcoming motion for class certification.

279. Defendants have acted or refused to act on grounds that apply generally to the Classes, and final injunctive or declaratory relief is appropriate for the Classes as a whole. The Passport Policy and the Executive Order as applied to passports apply to every member of the Classes and cause the same injuries. Defendants' refusal to provide Plaintiffs and members of the Classes with accurate sex designations on their passports—as a result of Defendants' views on the meaning of sex and animus toward transgender, intersex, and nonbinary people—applies to both Classes. Injunctive or declaratory relief holding that the Passport Policy and the Executive Order as applied to passports are unconstitutional and unlawful and that the Passport policy violates the APA would benefit each Class in the same way and remedy the same injuries as to each Class.

280. All Class members have been injured by Defendants' conduct and will continue to be injured by Defendants' conduct going forward unless declaratory or injunctive relief prevents that continued and future injury.

CLAIMS

FIRST CAUSE OF ACTION
(Fifth Amendment – Equal Protection)
All Defendants

281. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

282. The Fifth Amendment provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law." The Supreme Court has held that the Due Process Clause includes a guarantee against the United States of equal protection of the laws equivalent to that guaranteed against the States by the Equal Protection Clause of the Fourteenth Amendment.

283. The Passport Policy and the Executive Order as applied to passports violate the Fifth Amendment's equal protection guarantee in at least two distinct ways and do so both facially and as applied. Defendants' actions have harmed Plaintiffs and the putative Class members by depriving them of the equal protection of the laws and will continue to deprive Plaintiffs and the putative Class members of that constitutional protection unless Defendants are permanently enjoined and their unlawful actions set aside.

Discrimination Based on Sex

284. The Passport Policy and the Executive Order as applied to passports draw a facial sex-based classification; that cannot be justified under the requisite heightened scrutiny or under any standard of constitutional review.

285. The Passport Policy and the Executive Order as applied to passports define "female" as a "person belonging, at conception, to the sex that produces the large reproductive cell" and "male" as a "person belonging, at conception, to the sex that produces the small reproductive cell," and then restricts sex designations on passports to those definitions of "male" and "female." That is a sex classification.

286. If, for example, Plaintiff Perysian, who lives and expresses herself as a woman, and has a female gender identity, were a "person belonging, at conception, to the sex that produces the

large reproductive cell," the Passport Policy and the Executive Order as applied to passports would provide her a female sex designation on her passport. But because Plaintiff Perysian is a "person belonging, at conception, to the sex that produces the small reproductive cell," the Passport Policy and the Executive Order as applied to passports force her to have a male sex designation on her passport. Or if Plaintiff Solomon-Lane, who lives and expresses himself as a man, and has a male gender identity, were a "person belonging, at conception, to the sex that produces the small reproductive cell," the Passport Policy and the Executive Order as applied to passports would provide him a male sex designation on his passport. But because Plaintiff Solomon-Lane is a "person belonging, at conception, to the sex that produces the large reproductive cell," the Passport Policy and the Executive Order as applied to passports prohibit that.

287. By issuing passports with a female sex designation to women who meet the Executive Order's definition of female but denying it to women who do not, and by issuing passports with a male sex designation to men who meet the Executive Order's definition of male but denying it to men who do not, the Passport Policy and the Executive Order as applied to passports facially classify based on sex.

288. The Passport Policy and the Executive Order also classify on the basis of sex in its treatment of nonbinary and intersex people who desire an "X" sex designation on their passport. Rather than allowing them to obtain a sex designation that accords with how they live their lives and express themselves, or allowing them to obtain an unspecified sex designation, the Passport Policy and the Executive Order as applied to passports require that intersex and nonbinary people's sex designations conform to the Executive Order's definition of female or male. This facially enforces the government's binary and specific sex designations—that is, that a person the Executive Order defines as male must have a passport that labels that person as a man and a person the Executive Order defines as female must have a passport that labels that person as a woman regardless of how they live and express themselves.

289. The Executive Order and Passport Policy were implemented in part because of, and not simply in spite of, their adverse effects on the ability of people to depart from overbroad expectations about sex. That, too, warrants heightened scrutiny as a sex classification.

290. Defendants cannot justify the sex classification utilized by the Passport Policy and the Executive Order as applied to passports under the requisite heightened scrutiny or any level of equal protection scrutiny. The Passports Policy's sex classification is not substantially related to an important government purpose. Reversing the previous policy permitting Americans to passport sex designations that are consistent with the sex they live and express and replacing it with a policy that requires sex designations on passports that are not consistent with Americans' identities or expression does not rationally advance any legitimate government interest—let alone substantially advance an important governmental objective.

291. In addition, the Passport Policy and the Executive Order as applied to passports are impermissibly premised on assumptions, expectations, stereotypes, or norms about the nature of sex, including that it is entirely determined by the definitions of male and female utilized by the Passport Policy and mandated by provided in the Executive Order, and their insistence that sex can only be a binary characteristic (*i.e.*, either male or female) notwithstanding that for some people it is not exclusively one or the other. Under the Passport Policy and the Executive Order as applied to passports, Plaintiffs and the putative Class members are precluded from obtaining passports that they may use without violation of their rights and risking serious harms due to the assumption, expectation, stereotype, and norm that a person defined by the Passport Policy and the Executive Order as male must live and present as male, and a person so defined female must live and present as female. Plaintiffs and the putative Class members do not adhere to that assumption, expectation, stereotype, and norm, and the Executive Order denies them usable passports entirely on that basis. If Plaintiffs and the putative Class members belonged, at conception, to the sex that produces a different size reproductive cell and adhered to the assumption, expectation, stereotype, and norm of such a sex, the Executive Order would permit Plaintiffs and the putative Class members to obtain a useable passport.

Discrimination Based on Transgender Status

292. The Passport Policy and the Executive Order as applied to passports also classify citizens based on transgender status, and that classification cannot be justified under the requisite heightened scrutiny or under any standard of constitutional review.

293. On its face, the Passport Policy and the Executive Order as applied to passports classify based on transgender status.

294. The Passport Policy and the Executive Order as applied to passports deny transgender people, but not cisgender people, a passport that they can use without disclosing sensitive personal information about their transgender status and risking discrimination, harassment, and violence solely because they are transgender. The Passport Policy and the Executive Order as applied to passports therefore facially treat people differently on the basis of being transgender.

295. Even if the Passport Policy and the Executive Order did not facially classify based on transgender status, they were implemented in part because of, and not simply in spite of, their adverse effects on transgender people.

296. Classifications based on transgender status independently warrant heightened scrutiny.

297. Transgender individuals as a group possess all the indicia of a suspect or quasi-suspect class that have been identified by the Supreme Court as requiring courts to apply heightened scrutiny. Transgender people have obvious, immutable, or distinguishing characteristics that define that class as a discrete group and these characteristics bear no relation to transgender people's abilities to perform in or contribute to society. Transgender people have historically been subject to discrimination across the country and remain a small minority of the American population that lacks the political power to protect itself through the political process. Gender identity is a core, defining trait that cannot be changed voluntarily or through medical intervention, and is so fundamental to one's identity and conscience that a person should not be required to abandon it as a condition of equal treatment.

298. Limiting a person's passport to whether they belonged at conception to a sex that produces a particular size reproductive cell does not substantially advance an important governmental interest.

299. Further, the Passport Policy and the Executive Order as applied to passports fail any level of equal protection scrutiny because they were motivated by animus against transgender people, as illustrated both by the statements of animus described in this Complaint and by the text of the Executive Order itself. As explained, President Trump and members of his Administration have repeatedly made derogatory and extreme comments about transgender people, including linking them as a class to violence and sexual predation. The Executive Order itself wrongly states that those who identify as transgender are "ideologues who deny the biological reality of sex [and] have increasingly used legal and other socially coercive means to permit men to self-identify as women and gain access to intimate single-sex spaces and activities designed for women, from women's domestic abuse shelters to women's workplace showers." Executive Order § 1. It repeatedly links being transgender with seeking to harm women. *See id.* There is no empirical support for these assertions, and they are deeply offensive to and dehumanizing of hundreds of thousands of transgender Americans who exist in every part of this country.

SECOND CAUSE OF ACTION
(Fifth Amendment – Right to Travel)
All Defendants

300. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

301. The Fifth Amendment provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law," and the Supreme Court has held that the liberties protected by this Due Process Clause include fundamental rights to free movement and travel, including travel abroad.

302. The Executive Order infringes the constitutional rights of Plaintiffs and the putative Class members to free movement and travel, both facially and as applied. Defendants' actions

have harmed Plaintiffs and the putative Class members by violating their constitutional right to travel and will continue to violate that right unless the Defendants are permanently enjoined and their unlawful actions set aside.

303. Federal law generally prohibits U.S. citizens from traveling out of or into the country without a valid U.S. passport. *See* 8 U.S.C. § 1185(b). Foreign countries likewise generally bar entrance by U.S. citizens without a valid U.S. passport and/or condition issuance of a necessary visa on holding a valid U.S. passport. As explained in this Complaint, and incorporated here, when traveling abroad, U.S. passports are necessary or practically necessary for numerous purposes and are often the only form of identification carried by a U.S. citizen that will be recognized or acknowledged by foreign authorities or private citizens abroad.

304. The Passport Policy and the Executive Order as applied to passports infringe the fundamental right of the Plaintiffs and the putative Class members to free movement and travel.

305. The Passport Policy and Executive Order as applied to passports will entirely prevent certain transgender, nonbinary, and intersex individuals from leaving or returning to the United States because their gender identity is different from that specified by the Executive Order.

306. The Passport Policy and the Executive Order as applied to passports force Plaintiffs and the putative Class members to either not receive a passport or to receive a passport that puts them at risk of harassment, discrimination, violence, and—in travel to some countries—arrest and imprisonment. The Executive Order thereby gives Plaintiffs and the putative Class members a Hobson's choice: accept a passport that poses these extreme risks on the one hand or be denied any form of international travel or admittance back into the United States from foreign travel on the other.

307. Many transgender, nonbinary, and intersex individuals present to the world consistent with their gender identity, rather than their sex as identified under the Executive Order's definitions of male and female. For such individuals, government authorities in the U.S. and around the world may question whether a person's passport is authentic or accurate due to the mismatch between the sex they present as and the sex designation on their passport. For example,

if someone is a transgender woman and presents as a woman but, under the Executive Order, is forced to select "M" on her passport because she is defined by the Passport Policy and the Executive Order as male, government authorities may question whether the passport is authentic and/or whether the holder is entitled to use it. Foreign authorities who question whether a passport is authentic can create substantial difficulties or even dangerous treatment for transgender, intersex, and nonbinary Americans when traveling—including confiscation of the passport and detention, as well as arrest and imprisonment in countries where it is illegal to be transgender. Accordingly, the Passport Policy and Executive Order can directly and foreseeably result in substantial barriers to the exercise of the fundamental rights of Plaintiffs and the putative Class members to free movement and travel.

308. Reversing the previous policy permitting Americans to obtain sex designations on passports that align with the sex they know themselves to be and present as and replacing it with a policy that requires sex designations on passports that do not do so does not rationally advance any legitimate government interest—let alone substantially advance an important governmental objective.

THIRD CAUSE OF ACTION
(Fifth Amendment – Privacy)
All Defendants

309. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

310. The Fifth Amendment provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law," and the Supreme Court has held that the liberties protected by this Due Process Clause include avoiding forced disclosure of private and intimate information.

311. Both facially and as applied, the Passport Policy and the Executive Order as applied to passports infringe the constitutional liberty interests of Plaintiffs and the putative Class members, including the right to maintain intimate information as private. Defendants' actions have

harmed Plaintiffs and the putative Class members by violating their constitutional rights and will continue to violate the rights of Plaintiffs and putative Class members unless the Defendants are permanently enjoined and their unlawful actions set aside.

312. For transgender, nonbinary, and some intersex people, whether "at conception" they "belong[ed] to" "the sex that produces the large reproductive cell" or "the small reproductive cell" is highly sensitive and personal medical information.

313. Requiring transgender, nonbinary, and intersex people to be identified as "male" or "female" on their passports, when that is not the sex they live and express, reveals private, intimate, and sensitive information about them to others without their consent, and is deeply invasive. Such forced disclosure of a person's transgender, nonbinary, or intersex status can put their safety at risk, given that transgender, nonbinary, and intersex people are often subject to violence, harassment, and mistreatment on the basis of not being cisgender or identifying in binary terms.

314. Under the Passport Policy and Executive Order as applied to passports, Plaintiffs and the putative Class members are required to display their sex as determined by the Executive Order, when that does not match their gender identity or gender presentation. As a result, the Passport Policy and Executive Order as applied to passports force disclosure of Plaintiffs' and the putative Class members' transgender, nonbinary, or intersex status against their will, thereby revealing private, intimate, and sensitive information and potentially inviting violence, harassment, and mistreatment. By contrast, providing them "M" or "F" to align with their gender identity, or providing an "X," does not reveal this private and sensitive information.

315. Because the Executive Order infringes a fundamental right, it is subject to strict scrutiny. It fails that scrutiny because it is not narrowly tailored to advance a compelling government interest. It also does not even rationally advance any legitimate government objective. The conclusory government interests identified in the text of the Executive Order are inaccurate and motivated by animus. In addition, denying transgender, nonbinary, and intersex people accurate passport sex designations is not rationally related to achieving even the illegitimate interests identified by the Executive Order.

FOURTH CAUSE OF ACTION
(First Amendment)
All Defendants

316. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

317. The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech . . . ."

318. The Passport Policy and the Executive Order as applied to passports violate the First Amendment rights of Plaintiffs and the putative Class members to free speech and expression.

319. Under the First Amendment, the government cannot require a person to convey a controversial, ideologically-infused message with which they disagree. The Passport Policy and the Executive Order as applied to passports force transgender people and individuals who do not identify as male or female to either (a) forgo having a passport or (b) express the government's counter-factual and ideologically-infused message that their sex is what the Executive Order defines it to be each time they apply for or use a passport with the definition of sex mandated by the Passport Policy and the Executive Order as applied to passports—a message with which they strongly disagree.

320. The Passport Policy and the Executive Order as applied to passports therefore impermissibly require compelled speech.

321. Underscoring that this is compelled speech, many people would reasonably fear that the Passport Policy raises the possibility that the Administration may seek to prosecute them for perjury if they fill out the sex designation field on the State Departments' passport application accurately, instead of following the Administration's factually incorrect definition of sex.[33]

322. Even if the sex designation on a passport were considered government speech, the fact that the government forces the passport bearer to communicate the government's message every time they travel internationally, on all other occasions when passports must be used, or any

[33] For the avoidance of doubt, Plaintiffs do not agree that any such prosecution would be factually or legally appropriate.

other time when they are used, violates their First Amendment rights by forcing them to participate in the dissemination of an ideological message with which they do not agree. A passport is an item that is readily associated with an individual, and the government cannot use it to force someone to convey the government's ideologically-infused speech with which they disagree.

323. Because the Passport Policy and the Executive Order as applied to passports force individuals to communicate an ideological message with which they disagree, they are subject to strict scrutiny. The Passport Policy and the Executive Order as applied to passports engage in this infringement of a First Amendment right without any meaningful justification, let alone the compelling government interest that the Constitution requires. They also are not narrowly tailored to achieve any such interest. Even if a lower level of heightened scrutiny applied, the Passport Policy and the Executive Order as applied to passports would fail because they lack an important governmental objective, and the means the Defendants employ are not substantially related to achieving any legitimate and sufficient objective.

FIFTH CAUSE OF ACTION
(Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq*., 706 – Contrary to Constitutional Right, Power, Privilege or Immunity)
Agency Defendants

324. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

325. The APA, 5 U.S.C. §§ 500 *et seq.*, provides that courts "shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . contrary to constitutional right, power, privilege, or immunity . . . ." 5 U.S.C. § 706(2).

326. The Executive Order is, by its terms, binding on the Agency Defendants, and on information and belief, as publicly reported and recounted above, the Secretary of State and State Department have already taken concrete steps to implement the Executive Order. The Secretary of State and State Department's Passport Policy and implementation of the Executive Order constitute a final agency action under the APA. As a result of that action, each Plaintiff must either: (1) attempt to obtain a passport with a sex designation that will necessarily be denied due to the

Executive Order, or (2) select a sex designation that does not match who they are, in violation of their rights, and that risks subjecting Plaintiffs and the putative Class members to violence and harassment. Further, as a direct result of agency action, Plaintiffs and the putative Class members cannot renew existing passports with their appropriate sex designation without fear that it will be confiscated or its processing suspended once it is submitted to the State Department. For example, Plaintiff Perysian, who is a transgender woman and presents as female, applied for a passport with an "F" sex designation on January 23, 2025, shortly after President Trump's inauguration. The State Department denied Plaintiff Perysian a passport with an "F" sex designation and issued her passport instead with an "M" sex designation.

327. For the reasons described in the preceding claims, and incorporated here, the Passport Policy and any agency actions taken under the Executive Order are "contrary to constitutional right, power, privilege, or immunity," 5 U.S.C. § 706(2)(B), and therefore must be held unlawful and set aside. In particular, as described above, those actions violate the Due Process Clause of the Fifth Amendment for multiple independent reasons and violate the First Amendment.

SIXTH CAUSE OF ACTION
(Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq.*, 706 – Arbitrary, Capricious, and Abuse of Discretion)
Agency Defendants

328. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

329. The Administrative Procedure Act ("APA"), 5 U.S.C. §§ 500 *et seq.*, provides that courts "shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law. . . ." 5 U.S.C. § 706(2).

330. The Executive Order is, by its terms, binding on the Agency Defendants, and on information and belief, as publicly reported and recounted above, the Secretary of State and State Department have already taken concrete steps to implement the Executive Order. The Secretary of State and State Department's Passport Policy and implementation of the Executive Order

constitute a final agency action under the APA. As a result of that action, each Plaintiff must either: (1) attempt to obtain a passport with a sex designation that will necessarily be denied due to the Executive Order, or (2) select a sex designation that does not match who they are, in violation of their rights, and that risks subjecting Plaintiffs and the putative Class members to violence and harassment. Further, as a direct result of agency action, Plaintiffs and the putative Class members cannot renew existing passports with their appropriate sex designation without fear that it will be confiscated or its processing suspended once it is submitted to the State Department. For example, Plaintiff Perysian, who is a transgender woman and presents as female, applied for a passport with an "F" sex designation on January 23, 2025, shortly after President Trump's inauguration. The State Department denied Plaintiff Perysian a passport with an "F" sex designation and issued her passport instead with an "M" sex designation.

331. Agency actions taken under the Executive Order are "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," 5 U.S.C. § 706(2)(A), for multiple independent reasons.

332. The challenged agency actions are arbitrary, capricious, and an abuse of discretion because they are irrational and unreasonable:

a. The classifications imposed by the Passport Policy (as mandated in the Executive Order) are not based on scientific or medical knowledge or evidence. To the contrary, they contradict current scientific and medical understandings and are based on an animus-laden view of sex, gender identity, and being transgender, nonbinary, or intersex, that is divorced from reality. Even though medical and scientific evidence—and the lives of millions of people—attests to the existence of transgender, nonbinary, and intersex people, the Passport Policy and Executive Order sweep that evidence aside in favor of empty rhetoric unmoored from facts.

b. The Passport Policy (per the Executive Order) also defines "male" and "female" as a person who "at conception" "belong[s]" to the sex that produces the large

or small reproductive cell—but, as explained above and incorporated here, embryos with either XX or XY chromosomes have undifferentiated reproductive cells during the initial period after conception.

c. In addition, grouping all people into "male" and "female" based on which reproductive cell is likely to be produced ignores the established biological reality that some individuals are intersex and do not, at conception, belong to a sex that produces either large or small reproductive cells.

d. Requiring sex designations based upon the sex a person "belong[s]" to "at conception" based upon the reproductive cells they are likely to produce does not further an interest in accurately identifying passport holders.

333. Further, the challenged agency actions are arbitrary, capricious, and an abuse of discretion because they are unsupported by a reasoned explanation:

a. The Agency Defendants have provided no meaningful explanation for their removal of the option for people to use a designation for their sex as they live and express it, nor does the Executive Order do so.

b. The Agency Defendants have provided no meaningful explanation for their removal of the option for people to not specify their sex by using the "X" designation, nor does the Executive Order do so.

c. The Agency Defendants have provided no meaningful explanation for their attempt to proclaim it the policy of the United States that transgender, nonbinary, and intersex people do not exist. The Executive Order and Passport Policy entirely fail to address any of the medical and scientific evidence demonstrating the importance of legal recognition of transgender, nonbinary, and intersex people and the medical and practical importance of accurate identification.

d. Further, the Agency Defendants have failed to explain what alternatives, if any, were considered to address any potential legitimate interests the Passport Policy

could serve, nor does the Executive Order do so. This includes less restrictive alternatives and those that do not discriminate on the basis of sex or being transgender, nonbinary, or intersex.

e. Relatedly, the Agency Defendants have failed to explain why the status quo ante—which the State Department implemented for years before the Executive Order—was in any way flawed, let alone sufficiently flawed to warrant this abrupt and substantial change, nor does the Executive Order do so.

334. The Agency Defendants have also failed to consider or address numerous crucial aspects of the change in policy, nor does the Executive Order do so. Most acutely, they have failed to consider or address the effects on transgender, nonbinary, and intersex people. They have not even considered the effects on their own employees and the operation of the federal government. The Agency Defendants have failed to consider or address the many ways they are foreseeably, obviously, and directly harmed by the Passport Policy. They failed to consider or address the needs of these individuals and their families to obtain accurate passports that do not expose them to mistreatment.

SEVENTH CAUSE OF ACTION
(Administrative Procedure Act, 5 U.S.C. §§ 500 *et seq*., 706 – Failure to Observe Procedure Required by Law)
Agency Defendants

335. Plaintiffs reallege and incorporate by reference the allegations in each of the preceding paragraphs of this Complaint.

336. The Administrative Procedure Act ("APA"), 5 U.S.C. §§ 500 *et seq.*, provides that courts "shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law. . . ." 5 U.S.C. § 706(2)(D).

337. The Executive Order is, by its terms, binding on the Agency Defendants, and on information and belief, as publicly reported and recounted above, the Secretary of State and State Department have already taken concrete steps to implement the Executive Order. The Secretary of State and State Department's Passport Policy and implementation of the Executive Order

constitute a final agency action under the APA. As a result of that action, each Plaintiff must either: (1) attempt to obtain a passport with a sex designation that will necessarily be denied due to the Executive Order, or (2) select a sex designation that does not match who they are, in violation of their rights, and that risks subjecting Plaintiffs and the putative Class members to violence and harassment. Further, as a direct result of agency action, Plaintiffs and the putative Class members cannot renew existing passports with their appropriate sex designation without fear that it will be confiscated or its processing suspended once it is submitted to the State Department. For example, Plaintiff Perysian, who is a transgender woman and presents as female, applied for a passport with an "F" sex designation on January 23, 2025, shortly after President Trump's inauguration. The State Department denied Plaintiff Perysian a passport with an "F" sex designation and issued her passport instead with an "M" sex designation.

338. Agency actions taken under the Executive Order are "without observance of procedure required by law." 5 U.S.C. § 706(2)(D). Under the Paperwork Reduction Act of 1980, 44 U.S.C. §§ 3501 *et seq*., when a federal agency seeks to collect information from the public (often through government forms), it is obligated to "provide 60-day notice in the Federal Register, and otherwise consult with members of the public and affected agencies concerning each proposed collection of information[.]" 44 U.S.C. 3506(c)(2)(A).

339. As explained above, and incorporated here, the State Department has changed the forms used to apply for, apply for renewal of, and apply to change passports and replaced them with a form that does not permit collection of the "X" sex designation, but only permits collection of the "M" and "F." That change was not announced with 60 days' notice in the Federal Register or any other public consultation. Indeed, it was not announced at all. The State Department made the change surreptitiously, using forms that are labelled expired.

PRAYER FOR RELIEF

Plaintiffs respectfully request that this Court:

a. Issue declaratory judgment that (i) the Passport Policy and the Executive Order as applied to passports violate Plaintiffs' constitutional rights; and (ii) the Passport Policy is arbitrary, capricious, an abuse of discretion, and otherwise contrary to law in violation of the APA;

b. Preliminarily and permanently restrain or enjoin Defendants and their agents, employees, representatives, successors, and any other person acting directly or indirectly in concert with them, from enforcing the Passport Policy or the Executive Order as applied to passports, and require that they permit (i) changes to the "Sex" designation on passports to the same extent they did before the Executive Order and Passport Policy were issued, including allowing individuals to self-attest to what their sex is and (ii) the use of an "X" sex designation on passports and passport applications to the same extent they did before the Executive Order and Passport Policy were issued;

c. Hold unlawful, set aside, and vacate any agency actions taken under Passport Policy or the Executive Order as applied to passports that had the purpose or effect of not permitting (i) changes to the "Sex" designation on passports to the same extent they did before the Executive Order and Passport Policy were issued, including allowing individuals to self-attest to what their sex is and (ii) the use of an "X" sex designation on passports and passport applications to the same extent they did before the Executive Order and Passport Policy were issued;

d. Certify classes as set forth in this Complaint and enter class-wide declaratory and injunctive relief as described above;

e. Award attorney's fees, costs, and expenses in accordance with law, including the Equal Access to Justice Act, 28 U.S.C. § 2412; and

f. Grant all such other and further relief as the Court may deem just and proper.

[Signatures on following pages]

April 25, 2025

Respectfully submitted,

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**Pro hac vice* application forthcoming

CERTIFICATE OF SERVICE

I hereby certify that on April 25, 2025, a true copy of the foregoing will be electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF).

/s/ Isaac D. Chaput
Isaac D. Chaput

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR, ZAYA PERYSIAN, SAWYER SOE, CHASTAIN ANDERSON, DREW HALL, BELLA BOE, and REID SOLOMON-LANE, on behalf of themselves and others similarly situated, *Plaintiffs*, v. DONALD J. TRUMP, in his official capacity as President of the United States; U.S. DEPARTMENT OF STATE; MARCO RUBIO, in his official capacity as Secretary of State; and UNITED STATES OF AMERICA, *Defendants.*	Case No. 1-25-cv-10313 Hon. Julia E. Kobick

EXPERT DECLARATION OF SARAH D. CORATHERS, MD

I, Sarah D. Corathers, hereby declare and state as follows:

1. I have been retained by counsel for Plaintiffs as an expert in connection with the above-captioned litigation.

2. The purpose of this report is to provide my expert opinions on: (1) the medical definitions of sex and gender identity; (2) the unworkable and inaccurate aspects of the government's binary definition of sex; and (3) the severe risk of harm to transgender, non-binary, and intersex individuals forced to use Passport identification that does not match their sex.

3. I have actual knowledge of the matters stated in this report and have collected and cited relevant literature concerning the issues that arise in this litigation in the body of the report.

4. In preparing this report, I reviewed Plaintiffs' Complaint (ECF. 1), and President Trump's Executive Order (ECF 1-1). I also relied on my scientific education and training, my research experience, my knowledge of the scientific literature in the pertinent fields, and my

clinical experience treating adolescents with gender dysphoria, as set out in my curriculum vitae, attached hereto as Exhibit A.

5. The materials I have relied upon in preparing this report are the same types of materials that experts in my field regularly rely upon when forming opinions on these subjects. These materials are listed in the bibliography accompanying this declaration, attached hereto as Exhibit B.

6. I may wish to supplement these opinions or the bases for them as a result of new scientific research or publications, in response to statements and issues that may arise in my area of expertise, or in responses to expert opinions the Government may submit in this matter.

BACKGROUND AND QUALIFICATIONS

7. I received my medical degree from Wright State University in 2002. I completed my residency in Internal Medical and Pediatrics at the University of Cincinnati and Cincinnati Children's Hospital between 2002-2006. I was the Chief Resident in Internal Medicine at the University of Cincinnati from 2006-2007. I completed a four-year combined Fellowship in Adult and Pediatric Endocrinology between 2009-2013 at the University of Cincinnati and Cincinnati Children's Hospital. Beginning in 2013, I was an Assistant Professor, Department of Pediatrics, Division of Endocrinology, at Cincinnati Children's Hospital. I became an Associate Professor in the Department of Pediatrics, Division of Endocrinology, in 2019. Since 2022, I have been the Clinical Director in the Division of Pediatric Endocrinology at Cincinnati Children's Hospital overseeing clinical operations and quality. Notably, the Division of Endocrinology at Cincinnati Children's Hospital was recognized by U.S. News and World Reports as #1 in the nation for Diabetes and Endocrinology in the 2023-2024 rankings, the same year Cincinnati Children's Hospital was also recognized as the #1 Best Children's Hospital in the nation. As of March 1, 2024, I am Associate Chief of Staff, Ambulatory Medicine at Cincinnati Children's Hospital.

9. I have extensive experience working with children and adults with endocrine disorders, and I am an expert in the treatment of metabolic and hormone health concerns including hypogonadism, Differences of Sex Development (DSD) or Intersex conditions, and gender dysphoria. I also treat children, adolescents, and adults with other endocrine disorders including type 1 diabetes, Turner syndrome, and survivors of childhood cancers with lifelong hormone deficiencies.

10. I am a member of the American Academy of Pediatrics, the Pediatric Endocrine Society, and the Endocrine Society.

11. I currently see adult and pediatric patients at the Endocrinology Clinic at Cincinnati Children's Hospital, where I also serve as the Clinical Medical Director.

12. I supervise the education of pediatric endocrinology fellows in care of transgender and gender non-conforming youth through didactic lectures and clinical practice.

13. I have published over 70 peer reviewed articles on endocrine disorders and treatments. Among those, I have published on topics that include interdisciplinary care for transgender and gender non-conforming youth, shared decision making about gender-affirming hormone therapy, hormonal contraceptive choices for transgender adolescents and adults, and bone health among transgender youth undergoing pubertal suppression. I have also published an invited commentary about developing effective hormonal treatment paradigms for transgender youth. In addition, I am a contributing author on the International Turner Syndrome Clinical Practice Guidelines which reflect grading of available evidence and recommendations for care including estrogen hormone replacement.

14. As part of my practice, I am familiar with the latest medical science and treatment protocols related to gender dysphoria and Differences of Sex Development (DSDs).

15. I have served as an expert witness, been deposed and testified at trial in *Moe v. Yost*, 24-CV-002481 (Franklin County Ohio clerk of Courts of the Common Pleas).

16. I am being compensated at a rate of $300 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

PROCESS OF SEX DEVELOPMENT

17. Sex development is a complex, multi-step process of activating and repressing factors dependent upon genetic instruction and subsequent embryologic differentiation in response to hormone signals.

18. Sex refers to multiple physiologic attributes, such as chromosomes (genetic sex), gonads (glands that produce hormones), and anatomy (reproductive parts both inside and outside of the body), secondary sex characteristics that usually develop during puberty, and gender identity.

19. Chromosomes carry genetic information. Two chromosomes, known and X and Y, are referred to as sex chromosomes. People with two X chromosomes will usually be female and people with one X and one Y chromosome will usually be male. The combination of chromosomes is determined at conception when the egg is fertilized.

20. During the initial gestational period, embryos with XX and XY chromosomes appear the same. The future gonads (ovaries and testes) are undifferentiated, and there are two sets of structures called Mullerian and Wolffian ducts, and similar genital structures.

21. A gene called SRY is usually found only on the Y chromosome. The SRY gene gives instructions to cells in the undifferentiated gonad to make a protein called testis determining factor (TDF). In response to TDF, the undifferentiated gonads develop into testes that can later produce Testosterone, which makes the Wolffian ducts develop into spermatic ducts. The testes

produce Mullerian Inhibiting Substance (MIS), which makes the Mullerian ducts disappear. Testosterone and dihydrotestosterone promote the development of male anatomic features including a penis and scrotum.

22. In the presence of two X chromosomes and the absence of the SRY gene, ovaries form from the undifferentiated gonad. The Mullerian structures form a uterus, fallopian tubes, vagina, and labia in the absence of MIS to stop them from developing. The Wolffian ducts disappear when there is no Testosterone.

23. After the seventh week of development, the testes release testosterone that causes undifferentiated genitals to develop in a male direction. In the absence of testosterone, or if the body cannot respond to testosterone, the undifferentiated genitals develop in a female direction. Both male and female genitals have corresponding parts because of common embryologic origins.

24. Sex is usually assigned at birth based on physical characteristics; however, the physiologic aspects that contribute to a person's sex are not always aligned with each other. For example, some people may have chromosomes typically associated with males, but genitalia typically associated with females or vice versa.

25. During male puberty, testes mature and begin to produce sperm. During female puberty, ovaries start to release eggs and menstrual periods begin.

26. In a medical context, the terms "sex designated at birth" or "sex assigned at birth" are more precise than the term "biological sex" that does not account for differences of sex development or intersex conditions, fertility potential, or gender identity.[1]

[1] *See* Hembree, W.C., et al., *Endocrine treatment of gender-dysphoric/gender-incongruent persons: An Endocrine Society clinical practice guideline*. J. Clin. Endocrinol. & Metab., 2017. **102**: 3869–3903, 3875, https://academic.oup.com/jcem/article/102/11/3869/4157558 (hereafter "Endocrine Guideline") ("Biological sex, biological male or female: These terms refer to physical aspects of maleness and femaleness. As these may not be in line with each other (e.g., a person with XY chromosomes may have female-appearing genitalia), the terms biological sex and biological male or female are imprecise and

THE GOVERNMENT'S DEFINITION OF SEX IS IN CONFLICT WITH BIOLOGY

27. The Executive Order Section 2 (d) states that "'Female' means a person belonging, at conception, to the sex that produces the large reproductive cell" and Section 2 (e) states that "'Male' means a person belonging, at conception, to the sex that produces the small reproductive cell". These terms are not used in clinical medical practice or scientific discourse.

28. The Executive Order's definition of sex is arbitrary and inconsistent with biology. Notably, the gonads that may later have capacity to produce reproductive cells are not present at conception. Impliedly, the reference to the "large reproductive cell" indicates egg or ova from an ovary and "small reproductive cell" means sperm from a testis. What is certain is that there are many individuals whose gonads are not able to produce eggs or sperm. Furthermore, sperm production, when present, is not possible until male puberty, between the ages of 9-14 years.

29. The government's definition of sex is inaccurate, conflates sex and fertility, neglects the existence of medical conditions that result in differences in sex development, individuals who face infertility for any reason, and the interrelation between sex and gender.

30. In the United States, about 11% of women and 9% of men of reproductive age experience fertility issues.[2] The government's definition of sex that is dependent upon presence of reproductive cells is untenable given that fertility status is often not established until adulthood.

DIFFERENCES OF SEX DEVELOPMENT

31. Medical conditions known as Differences of Sex Development (DSD) or Intersex

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should be avoided.")

[2] National Health Statistics Report April 24, 2024, National Health Statistics Reports, Number 202, April 4, 2024

conditions describes a group of conditions in which biological sex development does not follow a typical path.[3]

32. Some intersex people will not develop the capacity to produce either the "large reproductive cell" or "small reproductive cell"—that is, the ovum and sperm – that are part of the definitions of female and male used by the Passport Policy.[4]

33. "Intersex" is an umbrella term used to describe a wide range of natural bodily variations. Intersex people are born with sex characteristics that do not fit typical binary notions of bodies designated "male" or "female." In some cases, intersex traits are visible at birth, while in others, they are not apparent until puberty—or later in life during fertility evaluation. Some variations may not be visibly apparent. Intersex people can have certain variations in chromosomes (genetic material), external genitals, internal reproductive organs, and hormone production and response that cause these variations in their bodies. Karyotype describes the set of chromosomes found in the cells of an individual person. Depending on karyotype, individuals with DSD are categorized into 46 XX DSD, 46 XY DSD, and sex chromosome or mixed chromosome DSD.[5]

34. There are many conditions that can be described as DSD or Intersex. The most frequent occurring are congenital adrenal hyperplasia (CAH) in XX individuals, complete or partial androgen insensitivity in XY individuals, and mixed gonadal dysgenesis. Conditions with

[3] Lee PA, Houk CP, Ahmed SF, Hughes IA., International Consensus Conference on Intersex organized by the Lawson Wilkins Pediatric Endocrine Society and the European Society for Paediatric Endocrinology. Consensus statement on management of intersex disorders. International Consensus Conference on Intersex. Pediatrics. 2006 Aug;118(2):e488-500.

[4] The Biological Reality of Sex and Intersex: A Response to the Executive Order, "Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government" - Pediatric Endocrine Society

[5] Hughes IA, Nihoul-Fékété C, Thomas B, Cohen-Kettenis PT. Consequences of the ESPE/LWPES guidelines for diagnosis and treatment of disorders of sex development. Best Pract Res Clin Endocrinol Metab. 2007 Sep;21(3):351-65.

sex chromosome differences like Turner syndrome (usually a single X chromosome, 45 XO) and Klinefelter syndrome (usually an extra chromosome, 47 XXY) are sometimes included in the category of sex chromosome DSD. Based on the inclusion criteria used to define DSD conditions, the incidence varies from 1:1000[6] to 1:4500[4] live births, indicating a potential of 60,000 up to 5.6 million people with Intersex conditions in the United States.[7] The prevalence of an isolated finding of atypical genitalia such as hypospadias, (opening of the urethra located somewhere other than the tip of the penis) or undescended testis may be as high as 1 in 300 births whereas the birth prevalence of infants who require further medical evaluation for a potential DSD diagnosis is about 1 in 3000 and a smaller proportion of those births may experience delayed sex assignment due to a DSD diagnosis.[8]

35. People who are born with a DSD may have ambiguous genitalia at birth, making it hard to determine a sex assignment based on anatomy. Some individuals have XY genetics but have genitals that appear female due to under virilization (lack of exposure or response to testosterone). Conversely, some individuals have XX genetics with external genitals that appear male due to in utero Testosterone exposure but still have internal uterus and ovaries. Many DSD conditions are associated with inability to produce ova or sperm.

36. There are many genes involved in sex development, and a mutation in any of these

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[6] Blackless M, Charuvastra A, Derryck A, Fausto-Sterling A, Lauzanne K, Lee E. How sexually dimorphic are we? Review and synthesis. Am J Hum Biol. 2000 Mar;12(2):151-166. doi: 10.1002/(SICI)1520-6300(200003/04)12:2<151::AID-AJHB1>3.0.CO;2-F. PMID: 11534012.

[7] United Nations Free & Equal, "Intersex People," Office of the United Nations High Commissioner for Human Rights 1 (2024), https://www.unfe.org/sites/default/files/download/Intersex%20factsheet%202024%20EN%20-%20CLEARED.pdf (last accessed Feb. 6, 2025)

[8] Ahmed SF, Achermann J, Alderson J, Crouch NS, Elford S, Hughes IA, Krone N, McGowan R, Mushtaq T, O'Toole S, Perry L, Rodie ME, Skae M, Turner HE. Society for Endocrinology UK Guidance on the initial evaluation of a suspected difference or disorder of sex development (Revised 2021). Clin Endocrinol (Oxf). 2021 Dec;95(6):818-840. doi: 10.1111/cen.14528. Epub 2021 Jun 22. PMID: 34031907.

genes may lead to the development of a DSD: [9]

- SRY gene: the sex-determining region of the Y chromosome is the chief regulator of male sex differentiation; expression causes translation of SRY protein, which mediated testicular development.
- SOX9 gene: expression of this gene follows the SRY gene and is responsible for the differentiation of Sertoli cells.
- NR5A1/SF-1: The steroidogenic factor gene codes an important transcription factor involved in male development and steroid biosynthesis.
- DHH gene: The desert hedgehog gene plays a role in testicular differentiation.
- DAX/NROB1: Considered as an anti-testis factor up-regulated in the ovary.
- WT1: Codes a transcription factor involved in renal and gonadal development, mutation results in various congenital syndromes of abnormal genitourinary development.
- Wnt 4 and Wnt 7a: Wnt 4 suppresses male sexual differentiation and ovarian androgen production.

37. Based on genetic variation, some people may have differences in how the gonads develop, which impacts the ability of the gonad to make hormones to drive usual anatomic development.

38. Some individuals make hormones, but there is a block in an important part of the hormone synthesis pathway, an insensitivity to the hormone, or resistance at the level of the cellular receptor. For example, development of male external genitalia requires the presence of

[9] Mehmood KT, Rentea RM. Ambiguous Genitalia and Disorders of Sexual Differentiation. [Updated 2023 Aug 28]. In: StatPearls [Internet]. Treasure Island (FL): StatPearls Publishing; 2025 Jan-. Available from: https://www.ncbi.nlm.nih.gov/books/NBK557435/

dihydrotestosterone. Deficiency of this hormone, insensitivity, or resistance may lead to under-virilized genitalia in a person with XY chromosomes. Similarly, in a person with XX chromosomes, exposure to excess androgens leads to virilization of female genitalia, which may be due to excess production or exogenous exposure.

39. A karyotype describes the size, shape, and number of chromosomes (genetic material) in a sample of cells from an individual. Most individuals have 46 chromosomes including two sex chromosomes, either X or Y. Intersex people develop differently in a variety of ways with classification based upon karyotype[10]:

- 46 XX DSD may experience disorder of gonadal development, disorder of androgen excess, or disorders such as Mayer-Rokitansky-Küster-Hauser Syndrome (not developing a vagina and/or uterus).
- 46 XY DSD may experience disorder of gonadal development, disorder of androgen synthesis, disorder of androgen function, persistence of Mullerian structures (developing a uterus, fallopian tubes, or vaginal canal with or without a penis and testes), and other unclassified disorders.
- Sex chromosome DSD mayinclude Turner syndrome, Klinefelter syndrome, Mixed gonadal dysgenesis, and variants of these conditions.

GENDER IDENTITY

40. Gender identity refers to a fundamental inner sense of self as female, male, a combination of both, or neither distinctly male nor female.

[10] Cools M, Nordenström A, Robeva R, Hall J, Westerveld P, Flück C, Köhler B, Berra M, Springer A, Schweizer K, Pasterski V; COST Action BM1303 working group 1. Caring for individuals with a difference of sex development (DSD): a Consensus Statement. Nat Rev Endocrinol. 2018 Jul;14(7):415-429. doi: 10.1038/s41574-018-0010-8. PMID: 29769693; PMCID: PMC7136158.

41. Everyone has a gender identity and one's understanding of it may develop over time.

42. A person's gender identity is an essential part of their identity and very frequently predicts how they will be identified by others more accurately than their sex assigned at birth. For purposes of identity documents, including passports, a person's gender identity is the most accurate and least problematic characteristic for determining what their sex is.

43. There is a medical consensus that gender identity is innate and that efforts to change a person's gender identity are unethical and harmful to a person's health and well-being.[11]

44. According to the American Medical Association, the American College of Physicians, the American Psychiatric Association, and 25 other major U.S. medical and psychological professional associations, "variations in . . . gender identity are a normal part of human development" and "research and experience shared by scholars, clinicians, and patients have shown that . . . efforts [to change someone's gender identity have not succeeded] and are harmful."[12]

CISGENDER, TRANSGENDER, AND NON-BINARY PEOPLE

45. The prefixes "cis" and "trans" are from Latin: "this side of" and "the other side of", respectively. In the context of chemistry, cis indicates that the functional groups on the same side of a molecule, while trans conveys that they are on opposing or transverse sides of a molecule.

46. The prefixes cis and trans are applied to language describing gender identity to convey when gender identity aligns with sex assigned at birth, (cisgender), or when gender identity

[11] See statements from professional organizations that oppose gender identity conversion efforts: https://d3dkdvqff0zqx.cloudfront.net/groups/apaadvocacy/attachments/USJS-Final-Version.pdf

[12] Jody Herman et al., How Many Adults and Youth Identify as Transgender in the United States?, Williams Institute, UCLA School of Law 1 (2022), https://williamsinstitute.law.ucla.edu/wpcontent/uploads/Trans-Pop-Update-Jun-2022.pdf (last accessed Feb. 6, 2025).

is different than sex assigned at birth (transgender).

47. Most people have a gender identity that aligns with the sex they were designated at birth based on their external genitalia and are cisgender.[13]

48. Transgender people have a gender identity different from the person's sex designated at birth. Approximately 1.6 million people in the United States identify as transgender.[14]

49. Non-binary, gender diverse, or gender non-conforming are terms used to describe gender identities that are not either exclusively male or exclusively female. According to one set of surveys, more than 1.2 million Americans identify as are non-binary.[15] Some non-binary people consider themselves transgender because their sex assigned at birth does not align with their gender identity. Other non-binary people do not consider themselves transgender. In addition, some transgender people consider themselves to be non-binary, and some do not.

50. Some intersex people identify with sex assignment at birth and are considered cisgender; some identify as transgender or non-binary.

51. Transgender and non-binary people have always existed, although the number of people who we know to be transgender has increased in recent times with increased visibility and alongside advances in modern medical treatments.[16]

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[13] The terms "sex designated at birth" or "sex assigned at birth" are more precise than the term "biological sex" because all the physiological aspects of a person's sex are not always aligned with each other. *See* Hembree, W.C., et al., *Endocrine treatment of gender-dysphoric/gender-incongruent persons: An Endocrine Society clinical practice guideline*. J. Clin. Endocrinol. & Metab.,2017.**102**:3869–3903, 3875, https://academic.oup.com/jcem/article/102/11/3869/4157558 (hereafter "Endocrine Guideline").

[14] Jody Herman et al., How Many Adults and Youth Identify as Transgender in the United States?, Williams Institute, UCLA School of Law 1 (2022), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Trans-Pop-Update-Jun-2022.pdf (last accessed Feb. 6, 2025).

[15] Bianca D.M. Wilson et al., Nonbinary LGBTQ Adults in the United States, Williams Institute, UCLA School of Law 2 (June 2021), https://williamsinstitute.law.ucla.edu/wp-content/uploads/Nonbinary-LGBTQ-Adults-Jun-2021.pdf (last accessed Feb. 6, 2025).

[16] Carswell, J.M., Lopez, X., and Rosenthal, S.M., *The evolution of adolescent gender-affirming care: An*

52. There is considerable scientific evidence demonstrating a durable biological element underlying gender identity. For example, neuroanatomy studies of brain scan patterns often align with gender identity rather than external genitalia or chromosomes.[17] For example, Yokota et al reported that the shape of the corpus callosum, a structure in the brain, in transgender individuals was closer to subjects with shared gender identities than to subjects who shared the same sex designated at birth.[18] Results of genetic, biologic, and neuroscience studies support the concept that gender identity is not simply a psychosocial construct, but likely reflects a complex interplay of biological, environmental, and cultural factors, which may explain why attempts to change gender identity in intersex patients to match external genitalia or chromosomes are often unsuccessful.[19] Among individuals with XX chromosomes and congenital adrenal hyperplasia (CAH) there is higher exposure to androgens (masculinizing hormones) in utero that corresponds to higher rates of male gender identity compared to those who do not have similar in utero exposure to Testosterone.[20] Individuals with XY chromosomes and complete androgen insensitivity have tissues that are not able to respond to Testosterone and often have female gender identity. Identical twins (twins who share the exact same genetic material) are more likely to both experience transgender identity compared to sets of fraternal twins (non-identical). [21]

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historical perspective. Horm. Res. Paediatr., 2022. **95**(6): p. 649-656.

[17] Saraswat A, Weinand JD, Safer JD. Evidence supporting the biologic nature of gender identity. Endocr Pract. Feb 2015;21(2):199-204. doi:10.4158/ep14351.ra

[18] Yokota, Y., Kawamura, Y., & Kameya, Y. (2006, January). Callosal shapes at the midsagittal plane: MRI differences of normal males, normal females, and GID. In *2005 IEEE Engineering in Medicine and Biology 27th Annual Conference* (pp. 3055-3058). IEEE.

[19] Rosenthal SM. Approach to the patient: transgender youth: endocrine considerations. J Clin Endocrinol Metab. Dec 2014;99(12):4379-89. doi:10.1210/jc.2014-1919

[20] Dessens AB, Slijper FM, Drop SL. Gender dysphoria and gender change in chromosomal females with congenital adrenal hyperplasia. Arch Sex Behav. Aug 2005;34(4):389-97. doi:10.1007/s10508-005-4338-5

[21] Heylens G, De Cuypere G, Zucker KJ, et al. Gender identity disorder in twins: a review of the case report literature. J Sex Med. Mar 2012;9(3):751-7. doi:10.1111/j.1743-6109.2011.02567.x

GENDER DYSPHORIA: DIAGNOSIS AND TREATMENT

53. Gender dysphoria describes the significant emotional distress or impairment in social, occupational, or other important areas of functioning that stems from the incongruence between a person's gender identity and sex designated at birth, and/or body characteristics. Many transgender, non-binary, and intersex people experience gender dysphoria.

54. Gender dysphoria is recognized as a diagnosis in the American Psychiatric Association's Diagnostic & Statistical Manual of Mental Disorders ("DSM V").[22] To be diagnosed with gender dysphoria, the incongruence between a person's gender identity and designated sex must have persisted for at least six months and be accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning. There are two separate diagnoses for gender dysphoria, one for gender dysphoria in childhood and the other for gender dysphoria in adolescence and adulthood.

55. Being transgender is not itself a mental health condition; however, stigma, bullying, and untreated gender dysphoria can lead to severe anxiety, depression, and suicidality. Efforts to change a transgender person's gender identity is associated with adverse mental health outcomes, including suicidality.[23] Mental health and psychosocial support are essential components of care for transgender and gender diverse people as detailed in the Endocrine Society Clinical Care Guideline, published by a professional organization of more than 18,000 endocrinologists.

56. When appropriately treated, gender dysphoria can be effectively managed.

57. The treatment protocols for gender dysphoria are laid out in established, evidence-

[22] See, e.g., Am. Psychiatric Ass'n, Diagnostic and Statistical Manual of Mental Disorders: DSM5-TR at 512–13 (2022)

[23] Turban JL, Beckwith N, Reisner SL, Keuroghlian AS. Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among Transgender Adults. JAMA Psychiatry. Sep 11 2019;77(1):1-9. doi:10.1001/jamapsychiatry.2019.2285

based clinical guidelines: (i) the Endocrine Society Clinical Practice Guideline for Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons, and (ii) the World Professional Association for Transgender Health ("WPATH") Standards of Care ("SOC") for the Health of Transgender and Gender Diverse People, which was initially published in 1979 and is now in its eighth version, which was released in 2022. These guidelines are supported by all major U.S. medical associations and reflect the professional consensus about the psychological, psychiatric, hormonal, and surgical management of gender dysphoria.

58. It is the recognized standard of care to address gender dysphoria with individualized treatment approach designed to bring a person's body and expression of their sex in line with their gender identity. This course of treatment has different components depending on the needs of each person. A professional healthcare provider recommends an individualized course of treatment based on their exercise of professional judgment to achieve the goal of reducing a patient's gender dysphoria. As with other forms of healthcare, the patient considers the benefits, risks, and alternatives of available options and makes treatment decisions in consultation with that provider.

59. Treatment for gender dysphoria brings a person's social interactions, appearance, and body into greater alignment with the person's gender identity, which helps alleviate the distress associated with gender dysphoria. Treatment for gender dysphoria may involve social transition, hormone treatment, non-surgical voice therapy, and/or gender-affirming surgery or surgeries.

60. Gender affirming care refers to support from mental health and medical providers.

61. Transgender individuals report several-fold higher rates of depression, anxiety, suicidal ideation, suicide attempt, and self-harm without lethal intent, compared to their cisgender counterparts, and gender affirming care is known to improve mental health outcomes.[24]

[24] Turban JL, King D, Kobe J, Reisner SL, Keuroghlian AS. Access to gender-affirming hormones during adolescence and mental health outcomes among transgender adults. PLoS One. 2022 Jan

62. Hormone treatment with estrogen or testosterone is used to help a person develop secondary sex characteristics consistent with their gender identity, which may affect how the person receiving such treatment physically presents and is perceived by others.

63. Gender affirming surgeries may include a wide variety of surgeries, many of which also affect how the person undergoing surgery physically presents and is perceived by others, such as augmentation mammoplasty, chest reconstruction surgery, and facial feminization surgery.

64. Gender-affirming medical care may also be appropriate or indicated for some non-binary people.

65. There is nothing unique about undergoing hormone treatment to sustain one's health. Gender-affirming medical care is also appropriate for cisgender people with hypogonadism (low levels of estrogen or testosterone). Other common examples of treatment with hormone therapy for social emotional or gender affirming purposes in cisgender population include use of testosterone in boys with constitutional delay of growth and puberty to "jump start" puberty, and use of estrogen and androgen receptor blockers for girls with polycystic ovarian syndrome (PCOS) to minimize undesired facial and body hair.

TRANSGENDER, NONBINARY AND INTERSEX PEOPLE EXPERIENCE HIGH LEVELS OF DISCRIMINATION, HARASSMENT AND VIOLENCE.

66. Transgender, nonbinary, and intersex people often experience violence, harassment, discrimination, and social stigma when others learn that they are transgender, nonbinary, or intersex.

67. For decades, transgender, nonbinary, and intersex people have been subject to numerous and varied attempts by both private individuals and government actors to discriminate

12;17(1):e0261039. doi: 10.1371/journal.pone.0261039. Erratum in: PLoS One. 2023 Jun 12;18(6):e0287283. doi: 10.1371/journal.pone.0287283. PMID: 35020719; PMCID: PMC8754307.

against and oppress them, and to attempt to erase their existence.

68. Transgender people are more likely to suffer harassment, discrimination, and violence than the population at large. According to the National Center for Transgender Equality's U.S. Transgender Survey:

- Around a quarter (24%) of respondents had been physically attacked in a K-12 school because people thought they were transgender.
- In the year prior to completing the survey, 27% of respondents who had a job reported being fired, denied a promotion, or experiencing some other form of mistreatment in the workplace due to their gender identity or presentation.
- Nearly half (47%) of respondents had been sexually assaulted during their lifetime.
- Among respondents who had interacted with police, 58% of those whom the police perceived as transgender experienced some form of mistreatment.
- Twenty-five percent of transgender people were verbally harassed, 16% denied services or benefits, 9% asked to leave a location or establishment, and 2% assaulted or attacked after showing identification with a name or sex designation that did not match their gender presentation.

69. For transgender people of color, these forms of mistreatment are even more common.

70. As a result of these forms of mistreatment, 39% of respondents experienced serious psychological distress in the month prior to completing the survey, compared with only 5% of the U.S. population. Moreover, 40% percent of respondents attempted suicide in their lifetime—nearly nine times the attempted suicide rate in the U.S. population as a whole (4.6%).

71. Nonbinary people are also subject to violence and discrimination, and many of the

statistics regarding violence against transgender people include nonbinary people.

72. Intersex people also are more likely to suffer violence, discrimination, harassment, and mistreatment. For instance, surveys indicate that anywhere from one quarter to half of intersex people had been subjected to violence.

SOCIAL TRANSITION IS AN IMPORTANT COMPENENT FOR THE TREATMENT OF GENDER DYSPHORIA

73. For transgender people, social transition means presenting in public part- or full-time in a way that is congruent with their gender identity.

74. Social transition can include modifications to appearance through changing hairstyles, clothing, wearing garments that augment physical aspects such as a binder to flatten chest or inserts in a bra to enhance chest.

75. Social transition can also include coming out to family, friends, classmates, co-workers.

76. Social transition may also include the use of a new name, pronouns, and changing legal and identifying documents to match chosen name, pronouns, and gender identity such as driver's license and passport.

77. Treatment for gender dysphoria includes living one's life consistently with one's gender identity, including using identity documents that reflect one's gender identity.

78. Decisions regarding social transition are individualized after considering the potential benefits of alleviating psychological distress and the potential risks including family and peer rejection, harassment, and safety concerns. [25]

79. While social transition is adequate to treat gender dysphoria for some people, others

[25] Management of the transgender adolescent, Olson J, Forbes C, Belzer M, Arch Pediatr Adolesc Med. 2011 Feb;165(2):171-6

may need other forms of gender-affirming care as well.

80. In my own clinical practice and in review of available literature, I've observed the importance of social transition within supportive social structure (family, community, workplace), and interdisciplinary treatment from medical and mental health providers.

81. Successful passing as identified gender and achieving gender embodiment goals are important components to alleviate gender dysphoria and reduce stigma, risk of harassment, and enhance safety.

TRANSGENDER PEOPLE WITH AN IDENTITY DOCUMENT CONSISTENT WITH THEIR GENDER ARE LESS LIKELY TO EXPERIENCE DISCRIMINATION AND ARE MORE LIKELY TO HAVE IMPROVED MENTAL HEALTH.

82. Forcing transgender, non-binary, and intersex people to use identity documents that do not align with what they know their sex to be and present themself as, or forcing them to go without identity documents, is inconsistent with medical protocols. It can cause anxiety and distress to individuals who are transgender and result in discrimination and violence against them. Additionally, for those who have struggled for years with the impact of external invalidation of their identity, the knowledge that one's identification documents label one with the wrong sex can, by itself, cause serious psychological injury.

83. Although rates of suicide are higher amongst the transgender community than the general population, a 2015 study identified several factors that were associated with large reductions in suicide risk. The study reported that having an identity document with a gender marker notation that matched their lived gender was associated with a large reduction in suicidal ideation and attempts. Based on extrapolation of survey findings the researchers noted that in a hypothetical sample, having one or more concordant identity documents has the potential to prevent 90 cases of suicide ideation per 1,000 transgender people. Further, amongst a sample of

transgender people already experiencing suicidal ideation, the risk reduction impact of having congruent identity documents could prevent 230 suicide attempts per 1,000 lives. [26]

84. A review of 24 studies similarly found that social and legal gender validation was positively related to improved health outcomes.[27]

85. Recognizing the importance of identification documents, the American Medical Association "supports every individual's right to determine their gender identity and sex designation on government documents" and urges that governments "allow for a sex designation or change of designation on all government IDs to reflect an individual's gender identity, as reported by the individual and without need for verification by a medical professional."[28]

MY CLINICAL EXPERIENCE AS A PHYSICIAN CONFIRMS THAT TRANSGENDER, NONBINARY AND INTERSEX PEOPLE NEED ACCESS TO USABLE PASSPORTS

86. Witnessing the dramatic and positive transformation of transgender individuals who are thriving after social transition and starting gender affirming care is among the most rewarding aspects of my career.

87. After initiation of gender affirming care, transgender individuals express feeling less anxious, with improved symptoms of depression and decreased distress related to gender dysphoria.

[26] Bauer GR, Scheim AI, Pyne J, Travers R, Hammond R. Intervenable factors associated with suicide risk in transgender persons: a respondent driven sampling study in Ontario, Canada. BMC Public Health. 2015 Jun 2;15:525. doi: 10.1186/s12889-015-1867-2. PMID: 26032733; PMCID: PMC4450977.
[27] King WM, Gamarel KE. A Scoping Review Examining Social and Legal Gender Affirmation and Health Among Transgender Populations. Transgend Health. 2021 Feb 15;6(1):5-22. doi: 10.1089/trgh.2020.0025. PMID: 33644318; PMCID: PMC7906235.
[28] Conforming Sex and Gender Designation on Government IDs and Other Documents H-65.967, Am. Med. Ass'n (2021), https://policysearch.amaassn.org/policyfinder/detail/gender?uri=%2FAMADoc%2FHOD.xml-0-5096.xml (last accessed Feb. 6, 2025).

88. As an Endocrinologist who specializes in the care of transgender, non-binary, and DSD individuals, I routinely am asked to complete paperwork confirming that a sex marker on legal documents be updated to align with an individuals lived and expressed sex that is consistent with their gender identity.

89. Based upon my education, training, clinical experience, and available research, obtaining identification documents that align sex marker with gender identity is a safe, effective, and beneficial intervention for transgender, non-binary, and intersex individuals. It is both life affirming and potentially life-saving.

90. In summary, denying dignity and safety during travel by limiting access to accurate identifying documents will not cause anyone to stop being transgender, non-binary, or change a DSD diagnosis, it will only exacerbate distress from lack of access to established norms. As a medical provider, it is devastating and goes against my ethical obligations to my patients to be legally prohibited from offering standards of medical care.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 2/17, 2025

SARAH D. CORATHERS, MD

EXHIBIT A

Sarah D. Corathers, MD
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Education

Bachelor of Arts, Barnard College, Columbia University (1992-1996)
Art History Major, Departmental honors.
Doctor of Medicine, Wright State University (1998-2002)
Passed Step 1 USMLE June 2000; Passed Step 2 September 2001, Passed Step 3 July 2004
Residency, Internal Medicine and Pediatrics (2002-2006)
University of Cincinnati and Cincinnati Children's Hospital Medical Center (CCHMC)
Fellowship, Adult and Pediatric Endocrinology (2009-2013)
University of Cincinnati and Cincinnati Children's Hospital, Divisions of Endocrinology
Quality Improvement (QI) Training
Cincinnati Children's Hospital: Intermediate Improvement Science Series (August 2010-January 2011); Advanced Improvement Methods (September 2014- May 2015)
Academic Pediatric Association: Advancing Implementation and QI Science (Seminar, 5/2018; 4/2019)
Leadership Training
Cincinnati Children's Hospital CORE leadership training program- Class VI (2017-2018)

Academic Appointments

Associate Professor, Department of Pediatrics, University of Cincinnati College of Medicine (06/2019-)
Assistant Professor, Department of Pediatrics, University of Cincinnati College of Medicine (07/2013-06/2019)
Secondary appointment, James M. Anderson Center for Health System Excellence, (07/2013--)
Chief Resident, Internal Medicine, University of Cincinnati, College of Medicine (07/2006-06/2007)

Licensing and certification

American Board of Pediatrics, Board Certified, 10/2006
American Board of Internal Medicine, Board Certified, 8/2007
Pediatric Endocrinology, Diabetes and Metabolism, Board Certified, 11/2013; MOC in progress
Adult Endocrinology, Diabetes and Metabolism, Board Certified, 10/2013; MOC in progress
State Medical Board of Ohio, License 35.088645, Expiration date 4/1/2025
CITI Program Good Clinical Practice and Research Ethics training, Expiration date 12/25/2026

Awards and Honors

Cincinnati Magazine Top Doctor, 2016--2025
Cincy Magazine, Best Doctor, 2016—2024
Type 1 Diabetes Exchange QI Collaborative Outstanding PI award, November 2019
Venue Media and LEAD magazine, Comprehensive Healthcare Leadership Award, August 2016
Service Quality Award 2015, Permanente Journal, "Effective Follow up for Depression and or Suicidal Ideation in Adolescents with Diabetes."
Ohio Patient Safety Institute, Best Practice Award, "Depression Screening in the Diabetes Center", 2013
Alpha Omega Alpha Honor Society Member

Clinical Service

Clinical Expertise and Activities: Based on dual training in pediatric and adult endocrinology, my interests and experience are in the care of adolescents and adults with endocrine conditions across the lifespan. Areas of clinical concentration include type 1 diabetes, Turner syndrome, transgender health, and successful transition to adult care.

Clinical Director: Oversee the clinical operations and quality improvement portfolio of the Division of Pediatric Endocrinology. Notable accomplishments in the past year include reducing time for 3rd next available visit from mean of 43 days to 24 days, achieving consistent clinic visits for established patients, expanding to Mobile Care Clinic, launching e-visit for diabetes, recognition as top performing ambulatory division for Patient and Family Experience (2023), USNWR Division ranking tied for #1 in the nation (2023).

Diabetes Transition Program Development: Led development of a transition policy and registry to track transition planning and transfers to adult care (2013-2014). In collaboration with Seattle Children's Hospital, developed and implemented a patient reported readiness assessment tool, READDY (2013-2018) that is translated into 6 languages and used internationally (2021--). Increased transition planning from 10% to > 85% for ages 16-18 and > 90% of over age 19 (2018- ongoing). Expanded depression screening and referral for mental health services to people over age 18 (2019), partner with adult receivership programs.

Leadership in Quality Improvement (QI): Engagement with institution-wide Psychosocial Screening task force, the Health Equity Network at Cincinnati Children's (2021-ongoing) and coordinating Division of Endocrinology initiatives with the Type 1 Diabetes Exchange national collaborative (T1Dx-QI). Cincinnati Children's Diabetes Center was one of the first North American centers to join the International Diabetes Registry SWEET (2019). The Division of Endocrinology at Cincinnati Children's Hospital consistently ranks highly in USNWR, most recently tied for 1st in the nation in 2023 and 2nd in 2024.

Clinical improvement activities include: Implementation of depression screening and appropriate referral for youth with diabetes (2011- present), increasing timely insulin administration in hospitalized patients (2014-2015), decreasing loss to follow of congenital hypothyroid patients (2014-2018), development of diabetes registry with selection of quality metrics and data capture strategies (2015-2016), integration of patient reported outcomes into clinical care (2016- current), population health strategies (2017-current). Current work includes expanding uptake of diabetes technology to reduce health equity gaps. Across all ages and insurance coverage, increasing continuous glucose monitor use rates > 90%, while cutting disparity gaps in half (2019- ongoing). Through ConnecT1D project, mean HbA1c for Healthvine Medicaid cohort with T1D improved from 9.4% to 8.8% (2022- ongoing).

Research and Scholarly Activities

Research and Scholarly Activities
The intersection of my research and clinical interests includes psychosocial aspects of diabetes management, mechanisms to promote successful transition between adult and pediatric health care systems, and health system-based interventions to improve care delivery and patient outcomes. As Clinical Director, I lead an interdisciplinary QI team at Cincinnati Children's Division of Endocrinology and directed the Quality Scholars Program in the James M. Anderson Center for Health Systems Excellence for 7 years. Nationally, I serve as a faculty leader for the Type 1 Diabetes Exchange Learning Collaborative (T1DX-QI), a network of 60+ centers throughout the United States. Funded research projects focus on ambulatory safety, diabetes self-management support, use of patient reported outcomes to inform productive clinical interactions, and QI initiatives to achieve excellent and equitable outcomes for youth with type 1 diabetes.

Grants and Contracts

Current Research Support

Helmsley Charitable Trust, Corathers (PI) 02/1/2022-01/31/2026
ConnecT1D: reinforcing connections between patients, the clinic and community partners to achieve excellent and equitable glycemic and psychosocial outcomes for young people with type 1 diabetes (T1D).
The objective of this diabetes clinic innovation grant is development of a more efficient, proactive care delivery model for T1D that supports patients and families through access to diabetes technology, more frequent communication between visits, and establishing a unified clinical information system infrastructure for diabetes devices to interface with the electronic medical record.
Role: Principal Investigator, current year effort 20%
Total Direct Costs: $2,334,715
Total Costs: $2,568,185

Unitio /Helmsley Charitable Trust, Corathers/Rioles (co-PIs) 03/2016 – 06/2025
Type 1 Diabetes Exchange Learning Collaborative
The primary aim is to develop a multi-site national quality improvement collaborative for type 1 diabetes with a focus on outcomes amongst adolescent and young adult population.
Role: Co-Investigator, Clinical Faculty leader, current year percent effort 5%
Total Direct Costs: $47,727
Total Costs: $52,500

Completed Research Support

R01DK121295-01, NIH/NIDDK, Modi/Driscoll (co-PIs) 04/01/19- 03/31/24
Diabetes Journey: From Systematic Screening to Intervention
The objective of this study is to use patient reported outcomes (e.g., adherence barriers) to guide the integration of a novel tailored intervention into clinical care to improve adherence, A1C, and HRQOL.
Role: Co-Investigator, effort 8%
Total Direct Costs: $1,469,842
Total Costs: $1,891,719

R18 HS026644-01, DHHS/AHRQ, Walsh (PI) 09/30/18 - 09/29/23
Ambulatory Pediatric Safety Learning Lab
The specific aims of this longitudinal study are to reduce harm due to medication errors and treatment delay in two conditions (diabetes and autism spectrum disorder) through redesign of the processes for medication dose adjustment of insulin and prompt management of serious illness at home.
Role: Site PI, Co-Investigator, effort 13%
Total Direct Costs: $279,736
Total Costs: $444,779

Place Outcomes Award, Cincinnati Children's Hospital 01/2020-12/2022
AID-T1D (Artificial Intelligence Decision Support in Type 1 Diabetes)
The aim of this research is to determine feasibility and efficacy of using artificial intelligence software to guide glucose pattern review and insulin dose titration at and between clinical encounters.
Role: Primary Investigator, effort 8%
Total Direct Costs: $200,000
Total Costs: $200,000

Helmsley Charitable Trust, DiMeglio (PI) 02/2017 - 06/2019
Strategies to Enhance New CGM Use in Early Childhood (SENCE)
The objective of this multi-site study is to compare the efficacy and safety of CGM alone and CGM in combination with a family behavioral intervention with a control group using blood glucose monitoring.
Role: Site PI, Co-Investigator
Total Direct Costs: $138,818
Total Costs: $152,700

R01 DK069486, NIH/NIDDK, Dolan (PI) 07/2017 - 06/2019
Self-Management of Type 1 Diabetes during Adolescence (SMART)
The aims include 1) test a model of modifiable risk on glycemic control 2) characterize the impact on glycemic control on precursor measures of kidney, eye, and cardiovascular complications.
Role: Co-Investigator, effort 5%
Total Direct Costs: $373,587
Total Costs: $471,605

Unitio /Helmsley Charitable Trust, Anhalt (PI) 03/2016 - 06/2018
Type 1 Diabetes Exchange Learning Collaborative
The primary aim is to develop a multi-site national quality improvement collaborative for type 1 diabetes.
Role: Co-Investigator, Faculty leader, effort 10%
Total Direct Costs: $27,765
Total Costs: $30,265

Unitio /Helmsley Trust, Margolis/Britto (Co-PIs) 08/2014 - 07/2015
A Collaborative Chronic Care Network for Type-I Diabetes: Design Phase
Role: Co-Investigator

Publications
Original Research Publications (peer-reviewed)

1. Huber, A., Jacobson E., **Corathers, S**., and Tomer, Y. Joint susceptibility to autoimmune diabetes and thyroiditis: from epidemiological observations to gene function. Endocr Rev. 2008; Oct 29(6):697-725. PMID 18776148
2. Hillman JB, **Corathers SD**, Wilson SE. Pediatricians and screening for obesity with body mass index: does level of training matter? Public Health Rep. 2009; Jul-Aug; 124(4):561-7 PMID 19618793
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4. **Corathers, S**, Kichler, J, Jones, N, Houchen, A, Jolly, M, Morwessel, N, Dolan, L, Hood, K. Improving Depression Screening for Adolescents with Diabetes. Pediatrics, 2013. 132(5) PMID 24127480
5. Powell, P., **Corathers, S**., Raymond, J., Streisand, R. New Approaches to Providing Individualized Diabetes Care in the 21st Century. Curr Diabetes Rev. 2015 Apr 21. PMID 25901504
6. **Corathers, S**., Schoettker, P., Clements, M., List, B., Mullen, D., Ohmer, A., Shah, A., Lee, J. Health-System-Based Interventions to Improve Care in Pediatric and Adolescent Type 1 Diabetes. Curr Diab Rep 2015 September 15:91. PMID 26374568
7. Dubose SN et al, **collaborating contributor of the Type 1 Diabetes Exchange Clinic Network** (site PI, recruited research subjects, contributed data), Obesity in Youth with Type 1 Diabetes in Germany, Austria and the United States. J Pediatr. 2015 Sep; 167(3):627-32 PMID: 26164381

8. Fair C et al, **collaborating contributor of the International and Interdisciplinary Heath Care Transition Research Consortium** (developed research plan, served as member of writing group). International and Interdisciplinary Identification of Health Care Transition Outcomes. JAMA Pediatr. 2016 Mar; 170(3):205-11. PMID: 26619178
9. Beal, S., Riddle, I., Kichler, J., Duncan, A., Houchen, A., Casnellie, L., Woodward, J., **Corathers, S.** Transition readiness across different clinic populations: The influence of chronic condition and individual characteristics. Acad Pediatr. 2016 Sept-Oct; 16(7):660-7. PMID: 27345693
10. **Corathers, S.** Kichler, J., Fino, N. Lang, W. Lawrence, J., Raymond, J., Yi-Frazier, J., Dabelea, D. MD, PhD, Liese, A. Saydah, S., Seid, M., Dolan, L. High health satisfaction among emerging adults with diabetes: factors predicting resilience. Health Psychology. October 2016. PMID: 27736152
11. Garvey KC, Foster NC, Agarwal S, DiMeglio LA, Anderson BJ, **Corathers SD**, Desimone ME, Libman IM, Lyons SK, Peters AL, Raymond JK, Laffel LM. Health care transition preparation and experiences in a US national sample of young adults with type 1 diabetes. Diabetes Care December 2016. PMID: 2800779
12. Matlock, K., Yayah Jones, N., **Corathers, S.**, Kichler, J. Clinical and psychosocial factors associated with suicidal ideation in adolescents with type 1 diabetes mellitus. J Adolesc Health 2017 Oct; 61(4):4710477 PMID: 28732716
13. Craig et al, **collaborating contributor of the Type 1 Diabetes Exchange** (site PI, recruited research subjects, contributed data), Prevalence of Celiac Disease in 52,721 Youth with Type 1 Diabetes: International Comparison across Three Continents. Diabetes Care. 2017 Aug; 40(8):1034-1040. PMID 28546222
14. Agarwal, S., Raymond, J., Isom, S., Lawrence, J., Klingensmith, G., Pihoker, C, **Corathers, S**, Saydah, S., D'Agostino,R., Dabelea, D. Transition from Pediatric to Adult Care for Young Adults with Type 2 Diabetes: The SEARCH for Diabetes in Youth Study. Diabetic Medicine Vol 35, Issue4, April 2018, Pages 504-512. PMID 29377258.
15. Smego, A., Lawson, S., Jolly, M. Courter, J., Warden, D., **Corathers, S**. Decreasing the Time to Insulin Administration for Hospitalized Patients with Cystic Fibrosis Related Diabetes. Hospital Pediatrics. 2018 May;8 (5):288-292 PMID: 29691278
16. Varni, J, Delatmater, A, Hood, K, Raymond, J, Driscoll, K, Wong, J, Adi, S, Yi-Frazier, J, Grishman, E, Faith, M, **Corathers, S**., Kichler, J, Miller, J, Doskey, E, Aguirre, V, Heffer,R, Wilson, D. Diabetes symptoms predictors of health-related quality of life in adolescents and young adults with type 1 or type 2 diabetes. Qual Life Res, 2018 May 21. PMID: 29785681
17. Varni, JW, Delamater AM, Hood KK, Driscoll KA, Wong JC, Adi S., Yi-Frazier JP, Brishman EK, Faith MA, **Corathers SD**, Kichler JC, Miller JL, Raymond JK, Soskey EM, Aguirre V, Heffer RW, Wilson DP., Diabetes Management Mediating Effects between Diabetes Symptoms and Health-Related Quality of Life in Adolescents and Young Adults with Type 1 Diabetes, Pediatric Diabetes, 2018 June. PMID 29927039
18. Matlock, K., **Corathers, S.,** Yayah Jones, N. Untreated Congenital Hypothyroidism Due to Loss to Follow-Up: Developing Preventative Strategies through Quality Improvement. Journal of Pediatric Endocrinology and Metabolism; July 2018. PMID30030963
19. Varni, JW, Delamater AM, Hood KK, Raymond JK, Chang NT, Driscoll KA, Wong JC, Yi-Frazier JP, Grishman EK, Faith MA, **Corathers SD**, Kichler JC, Miller JL, Doskey EM, Heffer RW, Wilson DP., PedsQL 3.2 Diabetes Module for Children, Adolescents, and Young Adults: Reliability and Validity in Type 1 Diabetes. Diabetes Care, 2018 June. PMID: 30061317
20. Conard, L.A.E., **Corathers, SD** & Trotman, G. Caring for Transgender and Gender Non-Conforming Youth. Curr Pediatr Rep (2018) 6: 139. https://doi.org/10.1007/s40124-018-0173-8
21. **Corathers, S**., Mara CA., Chundi PK., Kichler JC. Depression and Suicide Screening in Adolescents with Type 1 Diabetes: 5-Years of Implementation and Outcomes. J Am Acad Child Adolesc Psychiatry. 2019 Feb 22 PMID: 30802493

22. Daley T, Grossoehme D, McGuire JK, **Corathers SD**, Conard LA, Lipstein EA. "I couldn't see a downside": Decision making about gender-affirming hormone therapy. Journal of Adolescent Health. 2019 Jun. PMID: 31196783
23. Kanj, RV, Conard, LAE, **Corathers, S**., Trotman, G. Hormonal contraceptive choices in a clinic-based series of transgender adolescents and young adults. Int J Transgend 2019 Jul. PMID: 32999626.
24. Trief P, Foster NC, Chaytor N, Hilliard ME, Kittelsrud JM, Jaser SS, Majidi S, **Corathers SD**, Bzdick S, Adkins DW, Weinstock RS. Longitudinal changes in depression and glycemia in adults with type 1 diabetes. Diabetes Care. 2019 Jul. PMID: 31221694
25. Miller KM, et al. **collaborating contributor of the Type 1 Diabetes Exchange** (site PI, recruited research subjects, contributed data), Longitudinal Changes in Continuous Glucose Monitoring Use Among Individuals with Type 1 Diabetes: International Comparison in the German and Austrian DPV and U.S. T1D Exchange Registries. Diabetes Care. 2019 Oct. PMID: 31672703
26. Redel, JM, **Corathers SD**, Yao MV, Backeljauw PF. Multi-level quality improvement education for fellowship trainees. Med Educ. 2019 Nov. PMID: 3165059
27. Gutierrez-Colina, A., **Corathers, S**., Beal, S., Baugh, H., Nause, K., Kichler, J. Young Adults with Type 1 Diabetes Preparing to Transition to Adult Care: Psychosocial Functioning and Associations with Self-Management and Health Outcomes. Diabetes Spectr. 2020 Aug. PMID: 32848347
28. **Corathers, SD**, Yi-Frazier JP, Kichler JC, Gilliam LK, Watts G, Houchen A, Beal S. Development and Implementation of the Readiness Assessment of Emerging Adults with Type 1 Diabetes Diagnosed in Youth (READDY) Tool. Diabetes Spectr. 2020 Feb;33(1):99-103. PMID: 32116461
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30. Malik, F. Stafford, J., Reboussin, B., Klingensmith, G., Dabelea, D., Lawrence, J., Mayer-Davis, B., Saydah, S., **Corathers, S.**, Pihoker, C. Receipt of Recommended Complications and Comorbidities Screening in Youth and Young Adults with Type 1 Diabetes: Associations with Metabolic Status and Satisfaction with Care. Pediatr Diabetes. 2020 Mar;21(2):349-357 PMID: 31797506
31. Alonso, G., **Corathers, S**., Shah A, Clements M, Kamboj M, Sonabend R, DeSalvo D, Mehta S, Cabrera A, Rioles N, Ohmer A, Mehta R, Lee J. Establishment of the T1DX Quality Improvement Collaborative. Clin Diabetes. 2020 Apr;38(2):141-151. Clin Diabetes. 2020. PMID: 32327886
32. Mizokami-Stout KR, et al. **Collaborating contributor of the Type 1 Diabetes Exchange** (site PI, recruited research subjects, contributed data) Contemporary Prevalence of Diabetic Neuropathy in Type 1 Diabetes: Findings from the T1D Exchange. Diabetes Care. 2020 Apr;43(4):806-812. Epub 2020 Feb 6. Diabetes Care. 2020. PMID: 32029635
33. Sheanon, Beal, S., Kichler, J., Casnellie, L., Backeljauw, P., **Corathers, S**. Readiness for Transition to Adult Care in Adolescents and Young Adults with Turner Syndrome. J Pediatr Endocrinol Metab. 2020 Aug. PMID: 32866122
34. A Randomized Clinical Trial Assessing Continuous Glucose Monitoring (CGM) Use with Standardized Education with or without a Family Behavioral Intervention Compared with Fingerstick Blood Glucose Monitoring in Very Young Children with Type 1 Diabetes. **Collaborating author and contributor to Strategies to Enhance New CGM Use in Early Childhood (SENCE) Study Group** (site PI, recruited subjects, reviewed manuscript)**.** Diabetes Care 2021 Feb; 44(2):464-472. PMID: 33334807
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Glycemic outcome associated with insulin pump and glucose sensor use in children and adolescents with type 1 diabetes. Data from the international pediatric registry SWEET. Diabetes Care. 2021 May. PMID: 33653821

37. Prahalad, P., Ebekozien, O., Alonso, G., Clements, M., **Corathers, S**., DeSalvo, D., Desimone, M., Lee, J., Lorincz, I., McDonough, R., Majidi, S., Odugbesan, O., Obrynba, K., Rioles, N., Kamboj, M., Jones, N., Maahs, D., Multi-clinic quality improvement initiative increases CGM use among adolescents and young adults with type 1 diabetes. Clin Diabetes 2021 Jul. PMID: 34421201
38. Ginnard, O. ZB, Alonso, G. T., **Corathers, S.**, Demeterco-Berggren, C., Golden, L. H., Miyazaki, B. T., Nelson, G., Ospelt, E., Ebekozien, O., Lee, J. M., Obrynba, K. S., DeSalvo, D. Quality Improvement in Diabetes Care: A Review of Initiatives and Outcomes in the T1D Exchange QI Collaborative. Clin Diabetes 2021 Jul. PMID: 34421200
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40. Maxwell, A., Yayah Jones, N., Taylor, S., **Corathers, S**., Rasnick, E., Brokamp, C., Riley, C., Parsons, A., Kichler, J., Beck, A. Socioeconomic and racial disparities in diabetic ketoacidosis admissions in youth with type 1 diabetes. J Hosp Med. 2021 Aug 18. PMID: 34424192
41. Lee, J., Garrity, A., Hirschfeld, E., Thomas, I., Rioles, N., Ebekozien, O., **Corathers, S.** Feasibility of Electronic Health Record Assessment of 6 Pediatric Type 1 Diabetes Self-management Habits and Their Association with Glycemic Outcomes. JAMA Network Open 2021 Oct 1; 4(10). PMID: 34709387
42. DeSalvo, D., Noor, N., Xie, C., **Corathers, S**., Majidi, McDonough, R., Polsky, S., Izquierdo, R., Rioles, N., Weinstock, R., Obrynba, K., Roberts, A., Vendrame, F., Sanchez, J, Ebekozien, O. Patient Demographics and Clinical Outcomes Among Type 1 Diabetes Patients Using Continuous Glucose Monitors: Data from T1D Exchange Real-World Observational Study. J Diabets Sci Technol. 2021 Oct 9; PMID: 34632823
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45. Lavik, AR, Ebekozien O., Noor N., Alonso GT, Polsky S., Blackman SM, Chen J., **Corathers SD**, Demeterco-Berggren C., Gallagher MP, Greenfield M., Garrity A., Rompicherla S., Yayah Jones NH. Trends in type 1 diabetic ketoacidosis during COVID-19 surges at seven US centers: highest burden on non-Hispanic Blacks. JCEM, 2022 Jun 16;107(7). PMID 35380700.
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68. Roberts A, **Corathers S**, Rapaport R, Rompicherla S, Majidi S, Rioles N, Ebekozien O, Malik FS. Depression rates in youth with type 1 diabetes during the Covid-19 Pandemic: Data from the T1D Exchange Quality Improvement Collaborative. Clin Diabetes. 2024 Aug 1;42(4):532-539. PMID: 39429445
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Book chapters, Reviews, Case Reports, Clinical Guidelines (peer reviewed)

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2. **Corathers S.**, Falciglia, M. The role of hyperglycemia in acute illness: supporting evidence and its limitations, Nutrition 2010; Sept 22. PMID 20869205
3. **Corathers, S**., Peavie, S, Salehi, M. Complications of Diabetes Therapy. Endocrinol Metab Clin North Am, 2013. 42(4): p. 947-70. PMID 24286957
4. Rose, S., Horne, V., Howell, J, Lawson, S., Rutter, M., Trotman, G., **Corathers, S.** Late Endocrine Effects of Childhood Cancers. Nat Rev Endocrinol. 2016 Jun; 12(6):319-36. PMID: 27032982
5. Gravholt et al, **collaborating author of International Turner Syndrome Consensus Group**, (reviewed literature, participated in international consensus meeting, member of writing group for transition and adult care sections), Clinical Practice Guidelines for the care of girls and women with Turner Syndrome: proceedings from the 2016 Cincinnati International Turner Syndrome Meeting. European Journal of Endocrinology 2017 Sep;177(3) PMID 28705803

6. **Corathers, S.,** Kichler, J, Mara, C. Psychosocial Patient-Reported Outcomes in Pediatric and Adolescent Diabetes: A Review and Case Example. Curr Diab Rep. 2017. PMID: 28508255
7. Wakefield, C., Mehta, P., **Corathers, S**., Geller, J., Gelfand, J., Olowukure, O., Marsh, R. A First Report of Secondary Hemophagocytic Lymphohistiocytosis Associated with Papillary Thyroid Cancer. J Pediatr Hematol Oncol. 2018 Mar;40 (2): e97-98. PMID: 29087969
8. Pihoker, C., Forsander, G., Fanthun, B., Virmani, A., **Corathers, S**., Benitez-Aguirre, P., Fu, J., Maahs, D. ISPAD Clinical Practice Consensus Guidelines 2018: The delivery of ambulatory diabetes care to children and adolescents with diabetes. Pediatric Diabetes, 2018 August. PMID: 30144259
9. Remiker, AS, Chuang, J, **Corathers, S**, Rutter MM, Rutter MJ, Meyer CM 4th, Gelfand MJ, Trout AT, Geller JI. Differentiated Thyroid Cancer in the Pediatric/Adolescent Population: Evolution of Treatment. J Pediatri Hematol Oncol. 2019 Apr. PMID 31033789
10. **Corathers, S.,** Gerstle, M., Casnellie, L., Pater, C., Trotman, G. Transitioning from Pediatric to Adult Care in Endocrinology: A Clinical Handbook, chapter, Transition Considerations for Turner Syndrome. Springer Publishing. April 2019.
11. Backeljauw P, **Corathers S**. Chapter: The Turner Syndrome Resource Center - an Interdisciplinary approach to the Care of Girls and Women with Turner Syndrome. Book, Patricia Fechner, Editor. Turner Syndrome Pathophysiology, Diagnosis, and Treatment. Springer Publishing. March, 2020.
12. Alexandrou, E., **Corathers, S**., Lahoti, A., Redel, J., MD; Tellez, S., Jones, N., Kim, A., Treatment-induced Neuropathy of Diabetes in Children and Young Adults-Rare or Under-reported? J Endocr Soc. 2020 Oct 15;4(12). PMID: 33195956
13. Limbert, C., Tinti, D., Malik, F., Kosteria, I., Messer, L., Jalaludin, Y., Benitez-Aguirre, P., Biester, S., **Corathers, S**., von Sengbusch, S., Marcovecchio, L. ISPAD Clinical Practice Consensus Guidelines 2022: The delivery of ambulatory diabetes care to children and adolescents with diabetes. Pediatric Diabetes 2022; December. PMID: 36537530
14. Gravholt et al, **collaborating author of International Turner Syndrome Consensus Group**, (reviewed literature, participated in international consensus meeting, member of writing group for adult co-morbidities section) Clinical Practice Guidelines for the Care of Girls and Women with Turner syndrome. Eur J Endorcinol. June, 2024; 190(6): G53-G151. PMID 38748847.

Other publications:

Corathers, S. Collaboration is Key to Developing Effective Hormonal Treatment Paradigms for Transgender Youth. (Letter to Editor) J Adolesc Health. 2018 Apr; 62 (4):361-362 PMID: 29571433

Research output from Pediatric Patient Safety Learning Lab (R18 HS026644-01) includes an interactive website to guide families in managing type 1 diabetes when a child is sick: psll-t1d.azurewebsites.net

Quality review of select publications

1. **Corathers, S**., Kichler, J, Jones, N, Houchen, A, Jolly, M, Morwessel, N, Dolan, L, Hood, K. Improving Depression Screening for Adolescents with Diabetes. Pediatrics, 2013. 132(5): p. e1395-402. PMID 24127480
   - This manuscript reports on reliable implementation of routine depression screening for adolescents with diabetes. I was the first author on the paper and led work to spread depression screening using this model across diabetes centers nationally through the T1Dx-QI learning network and locally across other clinical areas of the institution. Total citations 102: 2024 (7); 2023 (9); 2022 (6); 2021 (19); 2020 (13); < 2019 (48).

2. Lotstein, D, Seid, M, Klingensmith, G, Case, D, Lawrence, J, Pihoker, C, Dabelea, D, Mayer-Davis, E, Gilliam, L, **Corathers, S**, Imperatore, G, Dolan, L, Anderson, A, Bell, R, Waitzfelder, B for the SEARCH

for Diabetes in Youth Study Group. Transition from Childhood to Adult Care for Youth with Type 1 Diabetes in Adolescence. Pediatrics, 2013 Apr;131(4):e1062-70. PMID 23530167

- This multi-site study found increased odds of poor glycemic control among young adults with diabetes who transition to adult care compared to those who remain in pediatric care, highlighting urgency of more robust health care transition strategies. I contributed to interpretation of results and writing the manuscript. Total citations 224: 2024 (7); 2023 (23); 2022 (23); 2021 (25); 2020 (21); ≤ 2019 (125).

3. **Corathers, S.** Kichler, J., Fino, N. Lang, W. Lawrence, J., Raymond, J., Yi-Frazier, J., Dabelea, D. MD, PhD, Liese, A. Saydah, S., Seid, M., Dolan, L. High health satisfaction among emerging adults with diabetes: factors predicting resilience. Health Psychology. October 2016. PMID: 27736152
   - Manuscript reframes the study of emerging adults with diabetes from pre-determined risk factors and morbidity to evaluate features associated with positive health outcomes, to advance scientific dialog around modifiable interventions to enhance transition preparation and post transfer outcomes. I conceived of the research plan and led the writing group. Total citations 15: 2023 (3); 2022 (3); 2020 (5) ≤ 2019 (4).

4. Gravholt et al, **collaborating author of International Turner Syndrome Consensus Group**, Clinical Practice Guidelines for the care of girls and women with Turner Syndrome: proceedings from the 2016 Cincinnati International Turner Syndrome Meeting. European Journal of Endocrinology 2017 Sep;177(3) PMID 28705803
   - This guideline represents an international consensus for diagnosis and treatment of Turner syndrome and was the foundation for updated guidelines published in 2024 that reflect the standard of care for our field. I reviewed literature, participated in the guidelines meeting, and served as a member of writing groups for transition and adult care sections. Total citation: 783: 2024 (70); 2023 (137); 2022 (123); 2021 (143); 2020 (127); ≤ 2019 (183).

5. **Corathers, S.,** Kichler, J, Mara, C. Psychosocial Patient-Reported Outcomes in Pediatric and Adolescent Diabetes: A Review and Case Example. Cur Diab Rep.2017 Jul;17(7):45 PMID: 28508255
   - This manuscript provides a framework for selection and integration of patient reported outcomes (PRO) into routine diabetes care to promote meaningful clinical interactions in real time. I led the conception of the work and writing of the paper. Total citations: 18; 2023 (3); 2022 (3); 2021 (1); 2020 (4); 2019 (5); 2018 (2)

6. Pihoker, C., Forsander, G., Fantahun, B., Virmani, A., **Corathers, S**., Benitez-Aguirre, P., Fu, J. Maahs, D. ISPAD Clinical Practice Consensus Guidelines 2018: The delivery of ambulatory diabetes care to children and adolescents with diabetes. Pediatric Diabetes. Vol 19, Oct 2018. PMID: 30144259
   - This guideline provides international standards of clinical care for youth with diabetes. I was also a co-author of updated guidelines published in 2022. Total citations: 69; 2023 (7); 2022 (16); 2021 (18); 2020 (19); 2019 (8); < 2019 (1).

7. Kanj, RV, Conard, LAE, **Corathers, S**., Trotman, G. Hormonal contraceptive choices in a clinic-based series of transgender adolescents and young adults. Int J Transgend 2019 Jul. PMID: 32999626.
   - Study highlights special considerations for hormonal contraceptives for menstrual management and/or pregnancy prevention among cohort of transgender adolescents designated female at birth. I was a member of the research team and co-wrote the manuscript. Total citations 23. 2024 (1); 2023 (11); 2022 (9); 2021 (1); 2020 (1).

8. **Corathers, SD**, Yi-Frazier JP, Kichler JC, Gilliam LK, Watts G, Houchen A, Beal S. Development and Implementation of the Readiness Assessment of Emerging Adults with Type 1 Diabetes Diagnosed in Youth (READDY) Tool. Diabetes Spectr. 2020 Feb;33(1):99-103. PMID: 32116461
    - Study of the development and psychometric properties of a diabetes condition specific transition to adult care readiness tool has since been adopted by over 50 diabetes centers and translated into 6 languages. I led the research team and wrote the manuscript. An updated study for READDY 2.0 is under review for publication. Total citations 14. 2024 (4); 2023 (2); 2022 (4); 2021 (2); 2020 (2).

9. Alonso, G., **Corathers, S**., Shah A, Clements M, Kamboj M, Sonabend R, DeSalvo D, Mehta S, Cabrera A, Rioles N, Ohmer A, Mehta R, Lee J. Establishment of the T1DX Quality Improvement Collaborative. Clin Diabetes. 2020 Apr;38(2):141-151. Clin Diabetes. 2020. PMID: 32327886
    - This manuscript describes a system-based approach to the design and implementation of a learning health network to accelerate improved outcomes for type 1 diabetes. The T1Dx-QI collaborative is the largest network of diabetes centers in the United States, representing nearly 100,000 lives of people with type 1 diabetes. I contributed to the design phase of the network, was a faculty leader, co-led QI interventions and co-wrote the paper. Total citations 56. 2024 (10); 2023 (13); 2022 (19); 2021 (12); 2020 (2).

10. Cardona-Hernandez, R., Schwandt, A., Alkandari, H., Bratke, H., Chobot, A., Coles, N., **Corathers, S.,** Goksen, D., Goss, P., Imane, Z., Nagl, K., O'Riordan, S., Jeffries, C. for the SWEET study group. Glycemic outcome associated with insulin pump and glucose sensor use in children and adolescents with type 1 diabetes. Data from the international pediatric registry SWEET. Diabetes Care. 2021 May. PMID: 33653821
    - This international study demonstrates variation in global clinical practice and association of improved glycemic outcomes with increased access to diabetes technology, highlighting need for equitable access to standard of care tools for management of type 1 diabetes. I was a member of the research team and co-wrote the manuscript. Total citations 81. 2024 (16); 2023 (30); 2022 (26); 2021 (9).

Abstracts

1. Hillman, J.B**.**, **Corathers, S.D**, Wilson, S.E. The Impact of Provider Level of Training on Screening and Treatment of Pediatric Overweight. Pediatric Academy Society Annual Meeting, Poster Session, May 2007, Boston, MA.
2. **Corathers, S.** Lucky, A. Komlos, M, Tamai, J., Tamura, D., Khan, S., Digiovanna, J., Kraemer, K., Stenger, P. Increased bone mineral density provides clue to elusive diagnosis of trichothiodystrophy. Pediatric Endocrine Society/Pediatric Academic Society, Poster Session, April 2011, Denver, CO.
3. **Corathers, S.,** Salehi, M**.** Virilization and hypertension resolved after oophorectomy: case report of ovarian Leydig cell tumor. Endocrine Society, Poster Session, June 2011, Boston, MA.
4. **Corathers, S.,** Yayah Jones, NH. Crawford, P., Houchen, A., Morwessel, N., Dolan, L., Hood, K**.** Outpatient screening for depression: Feasibility and outcomes in adolescents with type 1 diabetes. American Diabetes Association, Moderated Poster Session, June 2012, Philadelphia, PA.
5. Kudel, I., Kichler, J., Hood, K., **Corathers, S**. Psychometric analysis of the Children's Depression Inventory short form in adolescents with type 1 diabetes. Society for Behavioral Medicine, Poster Session, March 2013, San Francisco, CA.
6. **Corathers, S.** Kichler, J., Beavers, D., Dabelea, D., Lawrence, JM., Liese, A., Raymond, J., Saydah, S., Seid, M., Yi-Frazier, J., Dolan, L. for the SEARCH for Diabetes in Youth Study Group. Improving

Health Outcomes in Emerging Adults with Diabetes. American Diabetes Association, Poster Session, June 2013, Chicago, IL.

7. **Corathers, S.**, Houchen, A., Cafasso, M., D'Alessio, D., Hennard, C., Horewitz, D., Klein, D., Dolan, L. Bridging the Gap in Transition from Pediatric to Adult Health Care for Adolescents and Young Adults (AYA): A Diabetes Pilot Program. Fifth Annual Health Care Transition Research Consortium, Poster Session, October 2013, Baylor University, Houston, Tx.
8. **Corathers, S**., Beal, S., Kichler, J., Houchen, A. Readiness for transition to adult care in adolescents and young adults (AYA): a comparison of youth with and without type 1 diabetes (T1D). International Society for Pediatric and Adolescent Diabetes, Moderated Poster Session, September 2014, Toronto, Canada.
9. **Corathers, S.**, Beal, S., Yi-Frazier, J., Kichler, J., Houchen, A., Pihoker, C. Confirmatory factor analysis of a novel transition to adult care readiness assessment tool for adolescents and young adults (AYA) with type 1 diabetes (T1D). International Society for Pediatric and Adolescent Diabetes, Moderated Poster Session, September 2014, Toronto, Canada.
10. Fair,C., Javalkar, K., Betz, C., Okumura, M., Wood, D., LeComte, J., Jan, S., Maslow, G., Bozik, K., Porter, J., **Corathers, S.,** Tolleson-Rinehart, S., Shah, P., Woodward, J., Ferris, T., Ferris, R., Ferris, M. on behalf of the HCTRC. Health Care Transition Outcomes: A Delphi Stage 3 Survey. Sixth Annual Health Care Transition Research Consortium, Poster Session, October 2014, Baylor University, Houston, Tx.
11. Beal, S. J., Riddle, I., Kichler, J., Duncan, A., Houchen, A., Casnellie, L., **Corathers, S**. Transition Readiness among Teens – Differences by Chronic Condition. Sixth Annual Healthcare Transitions Research Consortium, Poster Session, October 2014, Baylor College of Medicine, Houston, TX.
12. Matlock, K., Yayah Jones, N., Kichler, J., **Corathers, S.** Clinical and Psychosocial Factors Associated with Suicidal Ideation in Adolescents with Type 1 Diabetes Mellitus. Pediatric Academic Society, Poster Session, April 2015, San Diego, CA.
13. Smego, A., Lawson, S., Courter, J., Warden, D., **Corathers, S.** Decreasing the Time to Insulin Administration for Hospitalized Patients with Cystic Fibrosis-Related Diabetes. Pediatric Academic Society, Poster Session, April 2015, San Diego, CA.
14. **Corathers, S**., Beal, S., Kichler, J., Casnellie, L., Backeljauw, P. Personal health knowledge and preparation for transition to adult care in adolescents with Turner Syndrome (TS). Pediatric Academic Society, Poster Session, April 2015, San Diego, CA.
15. Alexander, C., Ellsworth, S., Melvin, P., Kichler, J., **Corathers, S**., Yayah Jones, N., Houchen, A., Jolly, M. Effective Screening and Follow up for Depression and Suicidal Ideation in Adolescents with Diabetes Mellitus. The 27th Annual National Forum on Quality Improvement in Healthcare, Poster Session, December 2015, Orlando, Fl.
16. Garvey, K., Foster, N., Laffel, L., DiMeglio, L., Agarwal, S., Desimone, M., Libman, I., Lyons, S., Peters, A., Anderson, B., **Corathers, S**., Miller, K., Beck, R. Health Care Transition Preparation and Experience in a US National Sample of Young Adults with Type 1 Diabetes. International Diabetes Federation, Poster Session, December 2015, Vancouver, CA
17. Conard, L., **Corathers, S**., Lawlis, S. & Restle, H. Improving Standardization of Care in Trans* Clinic. WPATH Symposium, Poster Session, June 2016, Amsterdam, Netherlands.
18. Ikomi, C, Alexander, C, Mallon, D, Dykes, D, Anderson, V, Davis, B, Jolly M, Gahl, J, Ellsworth, S, **Corathers, S**, Crimmins, N. Improving Screening for Celiac Disease in Patients with New-Onset Type 1 Diabetes. International Society for Pediatric and Adolescent Diabetes, Poster Session, October 2016, Valencia, Spain.
19. **Corathers, SD**, Kichler, JC, Mara, C. Implementation of patient reported outcomes (PROs) through quality improvement methods to enhance patient care. International Society for Pediatric and Adolescent Diabetes, Moderated Poster Session, October 2016, Valenica, Spain.

20. Remiker, A., Chuang, J, **Corathers, S**, Rutter, M, Ho, Brian, Rutter, M, Gelfand, M, Trout, A, Geller, J. Differentiated thyroid cancer outcomes in the pediatric/adolescent population: a longitudinal review from a single center. ASPHO, Poster Session, April 2017, Montreal, Quebec.
21. Malik, F, Stafford, J, Klingensmith, G, Dabelea, D, Lawrence, J, Mayer-Davis, E, Sayday, S, **Corathers, S**, Reboussin, B, Pihoker, C. Receipt of Recommended Clinical Tests for Youth and Young Adults with Type 1 Diabetes: Associations with Glycemic Control and Satisfaction with Care. American Diabetes Association, Poster Session, June 2017, San Diego, California.
22. Boyle, C, Foster, N, Scheer, K, Anhalt, H, Shah, A, Lee, J, **Corathers, S**. Funnel Plots for Statistical Quality Control in a Large, Multi-Site Registry. Society of Clinical Trials, Poster Session, May 2017. Liverpool, UK.
23. Krishnamurthy, M, Blunden, C, **Corathers, S**, Sheanon, N. Diazoxide-responsive Hyperinsulinism in an Infant with Sotos Syndrome. Pediatric Endocrinology Society, Poster Session, April 2017, Orlando, Florida.
24. Warning, A, Rohan, J, McGrady, M, Pendley, Delamater, J, **Corathers, S**., Drotar, D., Dolan, L. Changes in Depressive Symptoms over Time Differ between Males and Females with Type 1 Diabetes. Society of Pediatric Psychology, Poster Session, April 2017, Portland, OR.
25. Mallon, D., Crimmins, N., Ikomi, C., **Corathers, S**., Dykes, D., Gahl, J., Jolly, M. Improving Celiac Screening for Children with Type 1 Diabetes and Lessons from False Positive Serology. National American Society for Pediatric Gastroenterology, Hepatology, and Nutrition, Poster Session, November 2017, Las Vegas, NV.
26. Wood, J, Boyle, C, Quinn, M, Wong, J, Haller, M, Nelson, B, Shatz, D, Tamborlane, W, Fox, L, Prahalad, P, **Corathers, S**, Maahs, D, Alonso, T, DeSalvo, D, Wadwa, P, DiMeglio, L, Impact of Target HbA1c Change in Pediatric Participants in the T1D Exchange Clinic Registry. American Diabetes Association, Poster Session, June 2018, Orlando, FL.
27. Majidi, S, Jolly, M, Alonso, G, Buckingham, D, Cabrera, A, Clements, M, Garrity, A, Gibbs, K, Click, B, ong, K, Kamboj, M, Lambert, K, Lee J, Nadkarni, P, McDonough, R, Ohmer, A, Rioles, N, Stanek, K, Thomas, S, Weinstock R, **Corathers S.** Incorporating Depression Screening into Diabetes Clinics across the T1DX Learning Collaborative. American Diabetes Association, Poster Session, June 2018, Orlando, FL.
28. Shah, A., **Corathers, S.,** Alonso, G**,** Buckingham, D, Cabrera, A, Clements, M, DeSalvo D, Kamboj, M, Lambert K, Mehta, S, Ohmer, A, Rioles, N, Sonabend, R, Lee, J. Establishment of the Type 1 Diabetes Exchange QI Learning Collaborative (T1DX-LC). American Diabetes Association, Poster Session, June 2018, Orlando, FL.
29. Agarwal, S. Hirshfeld, E., Garrity, A., Shah, A., **Corathers, S**., Weinstock, R., Lambert, K., Bobik, C., Cabrera, A., Rioles, N., Lee, J. Comparison of adult and pediatric resources for type 1 diabetes among T1D exchange centers. American Diabetes Association, Poster Session, June 2018, Orlando, FL.
30. Trief, P., Foster, N., Chaytor, N., Hilliard, M., Kittelsrud, J, Jaser, S., Majidi, S., **Corathers, S.**, Bzdick, S., Adkins, D., Weinstock, R. Longitudinal Changes in Depression and Glycemia in Adults with Type 1 Diabetes. American Diabetes Association, Poster Session, June 2018, Orlando, FL.
31. Kichler, J., Monaghan, M., **Corathers, S**., Hilliard, M. Protective Factors in Emerging Adulthood: Reliability and Validity of a New Measure of Diabetes Strengths and Resilience. Society of Pediatric Psychology Annual Conference, New Orleans, April 2019.
32. Mara, C., Kichler, J., **Corathers, S**., Chundi, P., Daeschner, M., Mulvaney, S. Psychometric Evaluation of the Barriers to Diabetes Adherence Scale. Society of Pediatric Psychology Annual Conference, New Orleans, April 2019.
33. Hilliard, Monaghan, **Corathers**, Kichler, Protective Factors in Emerging Adulthood: Reliability and Validity of a New Measure of Diabetes Strengths and Resilience, Society of Pediatric Psychology Annual Conference, New Orleans, 2019

34. Lipstein, E. **Corathers, S**. I couldn't see a downside: Adolescent and Parent Decision-making about gender-affirming hormone therapy. Pediatric Academic Society, Baltimore, April 2019
35. Kamoun, C., Khoury, J., Crimmins, N., **Corathers, S**. Opportunities for Enhanced Type 1 Diabetes Transition Preparation. Pediatric Academic Society, Baltimore, April 2019.
36. Quinn, M., Bailey, R., Foster, N., Simmons, J., Eyth, E., Rodriguez, H., **Corathers, S**., Levy, C., Sheanon, N., Wasserman, R., Seiple, D., Sparling, D., Adkins, D., Albanese, A., DeSalvo, D. Diabetes Management Supplies in Youth with Type 1 Diabetes: Don't Leave Home Without Them! American Diabetes Association, San Francisco, June 2019
37. Cabrera, A., Alonso, G., **Corathers, S**., Lee, J., Prahalad, P., Rioles, N. Assessing Data Availability and Benchmarking Performance of Quality Measures for the T1D Exchange Improvement Collaborative, American Diabetes Association, San Francisco, June 2019
38. Sutherland, M, Lohmna, M, Reboussin, B, Flory, K, Brown, M, **Corathers, S**, Bellatorre, A, Lawrence, J, Yi-Frazier, J, Pihoker, C., Liese, A. Depressive Symptom Trajectories among Youth and Young Adults with Type 1 Diabetes. American Diabetes Association, San Francisco, June 2019.
39. Alonso, T, Thomas, S, Garey C, Buckingham, DA, Cabrera AB, Clements MA, **Corathers S**, DeSalvo DJ, Garrity A, Lee JM, McDonough R, Mostajabi F, Kamboj MK. Outpatient Diabetes Encounter Visit Frequency in the T1D Exchange Quality Improvement Collaborative (T1Dx-QI). American Diabetes Association, San Francisco, June 2019.
40. Yao, M. Alexandrou, E., Arora, S., Biery, M., Jones, R., Nasomyont, N., Petrovic, E., Seitz, S., Sylvester, A., Chundi, P., Mostajabi, F., Redel, J., **Corathers, S.** Outpatient Quality of Life Screening: Feasibility and outcomes in parents of children 2-7 with T1D. International Society of Adolescent and Pediatric Diabetes (ISPAD), Boston, November 2019.
41. Noor, N., Rioles, N., **Corathers, S**., Majid, S., McDonough, R., Polsky, S., Greenfield, M., Obrynba, K., Ebekozien, O., DeSalvo, D. Patient Demographics and clinical outcomes among type 1 diabetes patients using continuous glucose monitors: real world evidence from a large US Collaborative. American Diabetes Association (ADA), Virtual meeting, June 2020.
42. McDonough, R., Thomas, S., Rioles, N., Ebekozien, O., **Corathers, S**., Jolly, M, Lee, J., Garrity, A., Prahalad, P., Kamboj, M., Buckingham, D., Alonso, T. Reducing lost-to-follow rates in the T1D Exchange Quality Improvement Collaborative (T1DX-QI). American Diabetes Association (ADA), Virtual meeting, June 2020.
43. Ebekozien, O., Rioles, N., DeSalvo D., Gallagher, K., Lee, J.M, McDonough, R., Obrynba, K., Prahalad, P., Thomas, S., Weinstock, R.S., **Corathers, S**. Improving Continuous Glucose Monitoring (CGM) Use across Ten National Centers: Results from the T1D Exchange Quality Improvement Collaborative (T1DX-QI). American Diabetes Association (ADA), Virtual meeting, June 2020.
44. Improving Diabetes Care Through Population Health Studies: Insights from the largest U.S Population Based T1D Cohort. ISPAD virtual conference, October 2020.
45. Patient demographics and clinical outcomes among type 1 diabetes (T1D) patients using Continuous Glucose Monitors (CGMs): real world evidence from a large U.S. collaborative. ISPAD virtual conference, October 2020.
46. Multi-site quality improvement project: improving Continuous Glucose Monitor (CGM) uptake across ten U.S Centers. ISPAD virtual conference, October 2020.
47. Deconstructing Diabetes Strengths: Factor Analysis of the Diabetes Strengths and Resilience Measure for Young Adults (DSTAR-YA). Carreon, S., Iturralde, E., Monaghan, M., Kichler, J., Raymond, J., **Corathers, S**., Hilliard, M. Virtual Society of Pediatric Psychology Annual Conference, April 2021.
48. Bone Marrow Adipose Tissue Assessment in Transgender Youth Undergoing Pubertal Suppression: A Pilot Study. Nasomyont, N., Meisman, A., Ecklund, K., Vajapeyam, S., Cecil, K., Tkach, J., Altaye, M., **Corathers, S**. Conard, L,, Kalkwarf, H., Dolan, L, Gordon, C. Pediatric Endocrine Society virtual meeting April 2021.

49. Challenges to Telemedicine Transition During Covid-19; Insights From 21 Us Diabetes and Endocrinology Clinics, oral presentation at 14th International Conference on Advanced Technologies & Treatments for Diabetes (ATTD 2021) virtual conference June 2-5, 2021.
50. Transition of Care in Type 1 diabetes and Association with Student and Employment Status. Majidi, S., Roberts, A., Suerken, C., Reboussin, B., Malik, F., Marcovina, S., **Corathers, S**., Reynolds, K., Imperatore, G, Wadwa, P., Pihoker, C. American Diabetes Association Virtual Scientific Sessions, June 25-29, 2021.
51. Insulin Pump Use and Glycemic Control Among Patients With Type 1 Diabetes: Trends From The T1Dx-QI Cohort. Noor N, McDonough R, Carlson E, Mekhoubad A, Hsieh S, Demeterco-Berggren C, Majidi S, Desimone M, De-Tutu S, Obrynba K, Ebekozien O, **Corathers S**. Poster at American Diabetes Association Virtual Scientific Sessions; June 25-29, 2021.
52. HbA1c trends in the T1D Exchange Quality Improvement Collaborative (T1DX-QI) 2017-2020. Ebekozien O, Noor N, Jones NH-Y, Alonso GT, Desimone M, Izquierdo R, **Corathers S**, DeSalvo DJ, Gandhi K, Odugbesan O, Prahalad P, Clements M. Poster at American Diabetes Association Virtual Scientific Sessions; June 25-29, 2021.
53. Six Habits: Quality Metrics to Support Glycemic Outcomes in Type 1 Diabetes. Lee, J., Garrity, A., Hirschfeld, E., Thomas, I., Rioles, N., Ebekozien, O., **Corathers, S.** Poster at American Diabetes Association Virtual Scientific Sessions: June 25-29, 2021.
54. Lavik, A.R, Jones, N.H.Y, Rompicherla, S, Greenfield, M, Chen, J, Polsky, S, Alonso G. T, **Corathers, S**, Blackman, S, Gallagher, M. P, Demetero-Berggren, C, Garrity, A, Ebekozien, O. Diabetic ketoacidosis rates rose among patients with type 1 diabetes during U.S. COVID-19 peaks with highest burden on non-Hispanic Blacks. ePoster at the 47th ISPAD 2021 virtual Annual Conference.
55. Muthuvel, G., Brady, P., Daraiseh, N., Khoury, J., Tellez, S., **Corathers, S**., Using Artificial Intelligence Decision Support to Enhance Care for Type 1 Diabetes, ePoster at the 47th ISPAD 2021 virtual Annual Conference.
56. H. Nelson, S.D. Corathers, P.W. Brady, E. Kirkendall, R.M. Ruddy, T.B. Wetterneck, K.E. Walsh. Ambulatory Patient Safety Learning Lab: Failure modes and effects analysis for management of type 1 diabetes during illness, ePoster at the 47th ISPAD 2021 virtual Annual Conference.
57. Tellez, S., Brady, P., Daraiseh, N., Khoury, J., Muthuvel, G., **Corathers, S**., Evaluation of an Enhanced Care Intervention Using an Artificial Intelligence-Guided Decision Tool in Children and Emerging Adults with Type 1 Diabetes. Accepted for ePoster at Advanced Technologies and Treatments for Diabetes annual conference, Barcelona, Spain, April 27-30, 2022.
58. **Corathers, S.** et al. Implementation of Psychosocial Screening in Diabetes Centers. American Diabetes Association, New Orleans, June 2022.
59. Tatum, J., Murray, A., Roberge, S., Thomas, V., Baute, D., Lavik, A., Grant, A., **Corathers, S.** Quality Improvement in Action: Addressing continuity of care in pediatric endocrinology fellowship. T1DX-QI Learning Session, Miami, FL., Journal of Diabetes V.14., November 2022
60. Lavik, A., Rodas, P., Grant, A., Gumz, M., DiMuzio, T., **Corathers, S**., Deisinger, A., Tilton, K., Keppler, K., Patten, G. In sync with diabetes: Increasing remote upload of insulin pump data. T1DX-QI Learning Session, Miami, FL., Journal of Diabetes V.14., November 2022
61. Jones, N., Corathers, S., Grant, A., Kelly, J., Williams, M., Kaplan, K., Hart, K., Mansour, M. Equity in Diabetes Care: Implementation and spread of social determinants of health screening. T1DX-QI Learning Session, Miami, FL., Journal of Diabetes V.14., November 2022
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capital: A family-centered approach to measurement development. Abstract accepted for presentation at the Society of Pediatric Psychology Annual Conference, Chicago, IL. April, 2023.

64. Samantha Roberge, MD; Sarah **Corathers**, MD; Rula Kanj, MD; Nat Nasomyont, MD. 10-Year Retrospective Chart Review of Ordering Practices of Laboratory and Imaging Surveillance for Gender Diverse Youth During Pubertal Suppression Therapy, Abstract accepted for Pediatric Endocrine Society, San Diego, California, May 2023.
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66. Murray, A., Hottor, S., Bimpeh, Y., Ojilong, J., Sun, Q., **Corathers, S**., Yayah-Jones, N. Reduction of Diabetes-Related Hypoglycemia in Children and Adolescents with Type 1 Diabetes in Ghana. ISPAD, Rotterdam, The Netherlands, October 2023.
67. Roberge, S., **Corathers, S**., Roberge, T., Nasomyont, N., "Determinants of Bone Mass Accrual in Transgender and Gender Diverse Youth undergoing Pubertal Suppression Therapy." Submitted to USPATH, Westminster, Colorado, November 2023.
68. Yayah-Jones, N., Grant, A., **Corathers, S**., Smith, L., Kelly, J., Riley, A., Wiliford, D., Fazio, C., Kaplan, K., Howell, A. EDICT: Equity in Diabetes Care and Transformation. T1Dx-QI National Meeting, NYC, NY, November 2023.
69. **Corathers, S**., Desai, R., Deisinger, A., Jones, R., Kaplan, K., Jolly, M., Grant, A., Kichler, J. Sustained QI Implementation of a Transition Preparation Program for Adolescents and Emerging Adults with Type 1 Diabetes. T1Dx-QI National Meeting, NYC, NY, November 2023.
70. **Corathers, S**., Yayah Jones, N., Smith, L., Brady, P., Grant, A., Howell, A. Tellez, S., Muthuvel, G., Kelly, J., Noh, Y., Riley, A., Town, M. ConnecT1D: Reinforcing connections between patients, clinic, and community partners. T1Dx-QI National Meeting, NYC, NY, November 2023.
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72. Howell, A., Jones, N., Brady, P., Knopp, M., Grant, A., Smith, L., Riley, A., Town, M., **Corathers, S**., ConnecT1D data visualization: Informing interventions and equitable improvement in outcomes for patients with T1D. T1Dx-QI Learning Session, Chicago, November 2024. Journal of Diabetes, Vol.16
73. Kelly, J., Noh, Y., Tellez, S., Grant, A., Howell, A., Muthuvel, G., Brady, P., **Corathers, S.** ConnecT1D: Proactive outreach intervention to improve equitable car for youth with type 1 diabetes. T1Dx-QI Learning Session, Chicago, November 2024. Journal of Diabetes, Vol.16
74. Muthuvel, G., Magella, B., Howell, A., Riley, A., Town, M., Taylor, R., Jones, N., Brady, P., Smith, L., **Corathers, S**. Moving on up: Mobile care clinic to enhance access to care for youth with T1D. T1Dx-QI Learning Session, Chicago, November 2024. Journal of Diabetes, Vol.16
75. Smith, L., **Corathers, S**., Williams, M., Grant. A., Town, M., Riley, A., Howell, A., Jones, N. Implementation of psychosocial support interventions to narrow equity gaps in T1D outcomes. T1Dx-QI Learning Session, Chicago, November 2024. Journal of Diabetes, Vol.16

Teaching and Mentoring

Teaching

1. Direct clinical teaching of teaching medical students, residents, fellows on the endocrine inpatient service at Cincinnati Children's Hospital 4 weeks/year and precept residents and fellows in ambulatory clinics on a weekly basis.
2. Local academic courses, lectures, grand rounds, professor rounds, participation in firms:

a. CCHMC, Intermediate Improvement Science Series, Creating a Portfolio: Integrating Improvement into the Daily Work of Pediatric Endocrinology, (Feb 2023, Feb 2024).
b. CCHMC, Department of Pediatrics Grand Rounds, Innovations and Achievements from Recent Place Outcomes Research Awards, (June 2022).
c. CCHMC, Division of Endocrinology Grand Rounds, Living with Change, Care Delivery for transgender and Gender Expansive Youth, (Feb 2021).
d. CCHMC, NRSA Fellowship, Integrating Improvement Methods into Clinical Care and Research, (May 2020).
e. Virtual lecture for pediatric residents on Endocrinology rotation, "Thyrotoxicosis and Hyperthyroidism in Adolescents" (March 2020).
f. University of Cincinnati, Diabetes Day Symposium, Childhood into Adolescence with Diabetes, (Nov 2019).
g. CCHMC, Division of Psychology, Adherence Center Grand Rounds, Division of Behavioral Medicine and Clinical Psychology, Loss to Follow-Up: An Indicator of Health Care Delivery Adherence? (July 2019).
h. CCHMC, Division of Endocrinology Fellowship Core Curriculum: Hyperglycemic Hyperosmolar Syndrome (July 2013-2023); Hypocalcemia nuts and bolts (July 2013-2016).
i. Speaker, IHI Open House, Integrating Improvement into Academic Medicine (May 2017)
j. Speaker at the Ohio Valley Chapter, Society of Adolescent Health, "Cases in Transgender Care; Inter-disciplinary panel discussion", (November 2017)
k. University of Cincinnati, CCHMC combined endocrinology grand rounds: Glycemic Targets for Individuals and Patient Health (September 2017); Transition Preparation (October 2015); Transition to Transfer: (November 2015).
l. University of Cincinnati, College of Medicine Intersession Careers in Quality Improvement Panel (Feb 2018).
m. University of Cincinnati, Child and Adolescent Development, Undergraduate Psychology Course. Type 1 diabetes: Psychosocial considerations for children, adolescents, emerging adults and their families (November 2015).
n. Speaker at Southwest Ohio Professional Transgender Conference, Endocrine Care for Transgender Adults (November 2015)
o. Endocrine nurse lecture series: Thyroid cancer (September 2014); Routine screening and prevention of diabetes co-morbidities (January 2011).
p. Mini-Medical College, University of Cincinnati, "Type 1 diabetes across the lifespan" (October 2014)
q. Internal Medicine Residency Ambulatory long block curriculum, University of Cincinnati (June 2016, June 2015, June 2014).
r. Department of Pediatrics Residency noon conference (Cis Puberty and Trans Puberty Blocking September 2017, Hypocalcemia nuts and bolts June 2014).
s. Ohio Patient Safety Institute Best Practice Webinar (September 2014).
t. Division of Infectious Diseases University of Cincinnati Grand Rounds: Management of hormone therapy for transgender adults (July 2012).

3. National/International Invited Lectures, Grand Rounds, Symposia, Conferences:
   a. Speaker, Pediatric Endocrine Society, Workshop, How to Start and Sustain QI, San Diego, California, May 2023.
   b. Speaker, International Society for Pediatric and Adolescent Diabetes (ISPAD), ConnecT1D: reinforcing connections between patients, clinic, and community to achieve excellent and equitable outcomes. Rotterdam, The Netherlands, October 2023.

c. Speaker, ISPAD, Transition Workshop, Secrets of Successful Transition: Readiness and Receivership, Rotterdam, The Netherlands, October 2023.
d. Participant, Diabetes Expert Panel for the National Committee for Quality Assurance (NCQA), Washington DC, September 2023.
e. Delegate, International Turner Syndrome Guidelines Committee, Aarhus, Denmark, June 2023.
f. National Webinar sponsored by USNWR Making a Difference for Kids with Type 1 Diabetes: Advances and Challenges, March 2023.
g. Guest Speaker (virtual due to Covid-19) University of Colorado Endocrinology Grand Rounds, Applying Lessons from Community Pediatrics in Pursuit of Equity in Type 1 Diabetes, April 2022.
h. Guest Speaker (virtual due to Covid-19), Vanderbilt University, Diabetes, Research and Training Center (DRTC) Seminar, Patient Reported Outcomes: Using Clinic Based Screening and Intervention to Inform Diabetes Care, Feb 2021.
i. Speaker, European Society Pediatric Endocrinology, Condition Specific Tools for Transition Care: Lessons from Turner Syndrome Models, Athens, Greece, September 2018.
j. Type 1 Diabetes Exchange Learning Collaborative national meeting organizer and presenter, Cincinnati, Ohio, May 2018.
k. Speaker, Pediatric Endocrine Society, "Quality Improvement in Endocrinology", May 2018, Toronto, Canada
l. Speaker, NIDDK/ADA workshop, "Patient Reported Outcomes that Matter to Providers", Nov 2017, Bethesda, Maryland
m. Visiting Professor, "Integrating Improvement into Daily work of Pediatric Endocrinology" University of Michigan, September 2017, Ann Arbor, Michigan
n. Speaker, American Diabetes Association, "Patient Reported Outcomes- Using Clinic Based Screening and Intervention to Inform Diabetes Care", June 2017
o. Speaker, American Diabetes Association, "Getting to Goal in Pediatric Type 1 Diabetes" June 2016
p. Speaker, American Diabetes Association, "Design and Validation of Diabetes Transition Preparation Readiness Skills Measure" June 2016
q. Speaker, Health Care Transition Research Consortium, "One Year Outcomes of Planned Transition of Pediatric to Adult Diabetes Care". Houston, TX. September 2015
r. Speaker, Society of Adolescent Health and Medicine, "Transitioning Trans patients". Los Angeles, California, March 2015
s. International Turner Syndrome Consensus Guideline Delegate, Cincinnati, Ohio, July 2016

4. Participation in patient and family educational activities
   a. Speaker, Friends for Life Conference, Getting the Most out of your Automated Insulin Delivery System, College Park, MD, (October 2022).
   b. Speaker, PFLAG, Living with Change, Endocrinology Care for Transgender and Gender Expansive Youth and Adults, (December 2021).
   c. Speaker, Children with Diabetes National Conference, Friends for Life, "Transition from Pediatric to Adult Care", (July 2018).
   d. Planning committee member and speaker at JDRF community outreach summits (Nov 2019, Nov 2017, Nov 2016, Nov 2015, March 2015, March 2013).
   e. Speaker at Turner Syndrome community outreach events (May 2017, May 2015, May 2014, May 2012).
   f. Speaker and event coordinator, Building Bridges for a Successful Future with Diabetes, family outreach program (February 2014).

5. Listing of teaching materials developed:
    a. Pediatric Endocrine Society Webinar Series for Fellows on Quality Improvement (3/2021).
    b. American Board of Pediatrics Roadmap project website video resources, Talking About Emotional Health (09/2020). The full set of videos and associated guides are on the Roadmap webpage at: https://www.abp.org/foundation/roadmap
    Direct link to my video on talking to teens with diabetes about depression: https://fast.wistia.net/embed/channel/til9iwsorj?wchannelid=til9iwsorj&wvideoid=3bl9aqh8ur
    c. Content review and editing of American Board of Pediatrics Roadmap materials for maintenance of certification module, Emotional Health and Resilience for Patients and Families with Chronic Pediatric Conditions, (12/2019).
    d. "Demystifying MOC Part 4, Quality Improvement for Endocrinologists" National Webinar for Pediatric Endocrine Society (11/2019).
    e. Type 1 Diabetes Exchange Depression Screening Change Package (2018) Depression Screening on 2019 : Nov Learning Session | Trello
    f. Depression Screening on 2019 : Nov Learning Session | Trello
    g. "Future with Diabetes" transition materials for patients (2014-2015).
    h. Diabetes transition readiness assessment curriculum development for diabetes team (2015-2018)
    i. "Talking T1D" electronic book resource for adolescents and young adults developed in with graduate students at University of Cincinnati professional writing course, published on JDRF website, http://jdrf.org/swo/2016/01/15/talking-t1d-ebook/ (01/2016)

6. Evidence of teaching excellence: Fellow ratings of teaching performance in an anonymous survey in four categories (support/latitude of management; accurate information/fosters problem solving skills; encourages self-learning/provides mentoring; treats with respect/provides feedback) using a seven-point scale (range 1-7, maximum =7). Scores for the last 8 years were:

    2014: 6.55 (Division mean = 6.43, median = 6.45, range = 6.98-5.880)
    2015: 6.56 (Division mean = 6.49, Median = 6.47; range = 6.96-5.89)
    2016: 6.61 (Division mean = 6.46, Median = 6.46; range = 6.96-5.34)
    2017: 6.67 (Division mean = 6.35, median = 6.18, range = 6.83-5.78)
    2019: 6.61 (Division mean = 6.66, median = 6.64, range = 6.93 – 6.41)
    2020: 6.68 (Division mean = 6.72, median = 6.75, range = 7.00 - 6.55)
    2021: 6.79 (Division mean = 6.73, median = 6.77, range = 6.98 - 6.50)
    2022: 6.77 (Division mean = 6.63, median = 6.66, range = 5.50-6.98)
    2023: 6.45 (Division mean = 6.32, median = 6.43, range = 6.84-5.64)

Mentoring

Fellows and Students

As Director of the Quality Scholars Program, I participated in the scholarly oversight committee or career development committee of 19 scholars in the program over 7 years.

Additional mentees:

1. Dr. Alison Smego, (clinical and research mentor, 2014-2017). Dr. Smego was recognized for excellence at national Pediatric Academic and Pediatric Endocrine Society meetings and published her QI project, "Decreasing the Time to Insulin Administration for Hospitalized Patients with Cystic Fibrosis Related

Diabetes" in Journal Hospital Pediatrics 2018. Present position: Assistant Professor, Division of Endocrinology, Department of Pediatric, University of Utah School of Medicine. University of Utah.

2. Dr. Kristal Matlock, (clinical and research mentor, 2015-2018). Dr. Matlock presented nationally and published, "Clinical and psychosocial factors associated with suicidal ideation in adolescents with type 1 diabetes mellitus" and "Untreated Congenital Hypothyroidism Due to Loss to Follow-Up: Developing Preventative Strategies through Quality Improvement". Present position: Assistant Professor, Division of Endocrinology, Department of Pediatric, Vanderbilt University School of Medicine.
3. Dr. Alissa Roberts, visiting Endocrinology Fellow from Seattle Children's for clinical transition medicine elective (March 2017). Dr. Roberts is an emerging leader in transition research and quality improvement. Present position: Assistant Professor (promotion pending), Division of Endocrinology, Department of Pediatrics, University of Washington.
4. Dr. Jacob Redel, (clinical mentor, 2016-2018). Dr. Redel led a Prevnar/Pneumovax immunization QI initiative for patients with diabetes and as chief fellow, Dr. Redel coached a team of first year fellows led by Dr. Michael Yao to address parental worry in parents of young children with diabetes and detailed a method for applying QI training in sub-specialty fellowship setting published in Medical Education in 2019. Present position: Assistant Professor, Division of Endocrinology, Department of Pediatric, University of Kansas School of Medicine.
5. Dr. Eirene Alexandrou, Endocrinology Fellow (clinical mentor, 2017-2020). Dr. Alexandrou completed a QI project on screening for anxiety symptoms among girls and women with Turner Syndrome published in Hormone Research Paediatrics in 2022. Present position: Assistant Professor, Division of Endocrinology, Department of Pediatric, University of Iowa School of Medicine.
6. Dr. Nat Nasomyont, (clinical and research mentor, 2017--2020). Dr. Nasomyont completed and published a prospective pilot study of bone health outcomes amongst youth with gender dysphoria treated with puberty blockers. Present position: Assistant Professor, Division of Endocrinology, Department of Pediatrics, University of Cincinnati College of Medicine.
7. Dr. Priscilla Rodas, Endocrinology Fellow (clinical mentor, 2019-2022). Dr. Rodas completed a QI project on uploading diabetes devices prior to and between clinic visits. Present Position: Staff Physician, Huntsville, Alabama.
8. Dr. Andrew Lavik, (research mentor, 2019-2022), was a RISE award recipient as a pediatric resident, for project, "Utilization of a condition-specific registry to improve patient-reported and health-related outcomes in children with type 1 diabetes." During fellowship, Dr. Lavik completed research with T1Dx-QI about DKA concurrent with COVID-19 with results published in JCEM 2022. Present Position: Assistant Professor, Division of Endocrinology, Department of Pediatric, Cleveland Clinic, Case Western Reserve School of Medicine.
9. Dr. Samantha Roberge, (research mentor, 2022-2024). Dr. Roberge developed a curriculum for adolescent medicine and endocrinology fellows about transgender health and led a project and published original research on bone health outcomes among youth that receive GnRH agonist treatment. Present position (Sept 2024): Assistant Professor, Division of Endocrinology, Department of Pediatrics, University of Cincinnati College of Medicine.
10. Dr. Alison Murray, (research mentor, 2022-2024). Dr. Murray pursued global health initiative to study outcomes of a new multidisciplinary care model for diabetes in Ghana. Data was presented at ISPAD in 2023 and submitted to Diabetes Care for publication. Present position (July 2024): Assistant Professor, Division of Endocrinology, University of Wisconsin.
11. Dr. Hailee Delsart, (research mentor, 2022--). Dr. Delsart is a member of the Pediatric Ambulatory Safety Learning Lab AHRQ sponsored research team. Dr. Delsart is first author on manuscript describing pilot study developing and testing simulation scenarios for diabetes sick day management. She is a co-author on a publication in Pediatric Quality and Safety on "Safer Type 1 Diabetes Care at Home". Present position: Fellow, Division of Endocrinology, Cincinnati Children's.

12. Dr. Michelle Knopp, (research mentor, 2023-2024). Dr. Knopp joined the ConnecT1D research team during her clinical informatics fellowship to support diabetes device integration into the electronic health record and design a research database, in addition to her own primary research project related to CGM use in primary care. Present position: Research Assistant Professor of Pediatrics, University of Cincinnati College of Medicine.

Division of Endocrinology faculty peer mentorship:

1. Dr. Sarah Lawson (QI mentorship, collaborator). I coached Dr. Lawson on a project to increase timeliness and safety of insulin ordering (2015-2016). Dr. Lawson has since fundamentally restructured care delivery for new onset diabetes from an inpatient to a Day Hospital model (2016-2017) and developed protocols for insulin ordering and administration throughout the institution.
2. Dr. Nancy Crimmins (QI mentorship, collaborator). I assisted Dr. Crimmins and Dr. Daniel Mallon to develop a clinical algorithm for screening for Celiac Disease amongst new onset and established diabetes patients (2015-2017). This work has been presented at national and international meetings and helps support innovative inter-disciplinary clinical care for dual diagnosis patients.
3. Dr. Halley Wasserman (mentorship). I meet with Dr. Wasserman every month to discuss current research and clinical projects, and coach on professional and career development.
4. Dr. Nana Hawa-Yayah Jones (QI mentorship, collaborator). I coached Dr. Jones during an improvement methodology course with Dr. Matlock, (2014-2015) that led to a reliable process to prevent loss to follow up for children with congenital hypothyroidism. I am a collaborator with Dr. Jones to identify interventions for the population of youth at high risk of diabetes complications (2017-ongoing). Through the Health Equity Network, and ConnecT1D, Dr. Jones leads the screening for social determinants of health in diabetes clinics, and systematically identifying, and addressing, health equity gaps for youth with diabetes including use of CGM and insulin pumps.

Service and Leadership

Service:

Professional Organization Memberships

- American Diabetes Association, Member
- Pediatric Endocrine Society, Member and Quality Improvement Committee Member
- International Society of Pediatric and Adolescent Diabetes, Member
- Endocrine Society, Member
- American Academy of Pediatrics, Member, Former Chair of Resident Section

Local Committee Involvement:

- Institutional Psychosocial Screening and Response Taskforce (2022-2024)
- Institutional Ambulatory Access Steering Committee (2022-2023)
- Institutional Adult Care Taskforce (2023--)
- Institutional Digital Care Transformation Taskforce (2023--)
- Institutional Governance Committee for patient reported outcomes (2018-2022)
- Place Outcomes Grant Reviews (2017, 2021, 2024)

Manuscripts Reviewed:

- JAMA Network Open 2022 (1)
- Diabetes Spectrum 2015 (1) 2016 (1)
- Pediatrics 2014 (1) 2015 (1) 2016 (1) 2017 (2)
- Journal of Health Psychology 2014 (1)
- Lancet Journal of Diabetes and Endocrinology 2014 (2)

- Journal of Diabetes Science and Technology 2016 (1)
- Pediatric Diabetes 2016 (2) 2017 (2) 2019 (1) 2020 (5) 2021 (2) 2022 (2)
- Diabetes Care 2018 (1) 2022 (2) 2024 (2)
- The Permanente Journal 2017 (1)
- Journal of Adolescent Health 2017 (1) 2018 (1)
- Endocrine Practice 2017 (1)
- Diabetic Medicine 2020 (2) 2023 (1)
- Journal of American Medical Informatics 2020 (1)
- Diabetes Research and Clinical Practice 2020 (1)
- Journal of Clinical Endocrinology and Metabolism 2020 (1)
- Canadian Journal of Diabetes 2020 (1) 2021 (1)
- Diabetes Technology and Therapeutics 2022 (1)
- Contemporary Clinical Trials 2024 (1)

Professional Activities:

- Data Publications and Presentation Committee (DPPC) member, SWEET international diabetes network (2021-2024)
- Diabetes Expert Panel for the National Committee for Quality Assurance (NCQA) (2020--)
- Data Safety and Monitoring Board Participation
    - 4T Study (PI, David Maahs)
    - ReDUCEe Study (Co-PIs, Shivani Agarwal and Jeffrey Gonzolez)
- Advisory Board Member
    - Rising T1DE Alliance innovation in type 1 diabetes care (2020-2024)
    - Advisory board member, Turner Syndrome clinical centers of excellence (2017-2020)
    - Advisory board member, T1D Outcome Program, JDRF national initiative (2016-2017)
    - Clinical advisory board member, College Diabetes Network (2015-2019)
- Part-time Position: Expert Witness, Reports, Deposition, and Testimony (2024)
  Moe et al. vs. Yost, et al., Court of Common Pleas of Franklin, Ohio, Case Number 24 CV 002481

Recruitment activities:

- Participated in recruitment of endocrinology fellows and faculty candidates annually (2013-2024)
- Participated in interviews for faculty members in divisions of adolescent medicine, behavioral medicine and clinical psychology, hematology and oncology, emergency medicine, gastroenterology, critical care (2017-2024)

Community activities:

- Board member of SW Ohio JDRF chapter (July 2014-2020)
- Team Captain, American Diabetes Association, Step Out to Stop Diabetes Walk (2010-2013)
- Volunteer, Children's International Summer Village, Peace Education Program (2022--)

<u>Leadership:</u>

Associate Chief of Staff, Ambulatory, Cincinnati Children's (March 2024-)
Clinical Director, Division of Pediatric Endocrinology, Cincinnati Children's (January 2022-)
Director, Quality Scholars Program, Cincinnati Children's (September 2017- March 2024)
Co-President, WIMS, (Women in Medicine and Science) with Dr. Jennifer O'Toole (2020-2023)

EXHIBIT B

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR et al.,

Plaintiffs,

v.

DONALD J. TRUMP, *in his official capacity as President of the United States*, et al.,

Defendants.

Civil Action No. 1:25-cv-10313

DEFENDANTS' MOTION TO DISSOLVE THE JUNE 17, 2025 PRELIMINARY INJUNCTION AND FOR A STAY OF THAT INJUNCTION PENDING RESOLUTION OF THE MOTION TO DISSOLVE AND REQUEST FOR AN INDICATIVE RULING CONCERNING THE APRIL 18, 2025 PRELIMINARY INJUNCTION

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INTRODUCTION

On June 17, 2025, this Court issued an order extending to a class of potential passport applicants an April 18, 2025 preliminary injunction that enjoined the State Department from applying its Passport Policy implementing Executive Order 14168 to six named plaintiffs. Among other things, the Court adopted its prior determinations that the Policy—which permits issuance of passports in only "M" or "F" based on the holder's sex at birth—likely discriminates on the basis of sex and is thus subject to intermediate scrutiny. The Court further held that the Policy fails heightened scrutiny because it is not substantially related to an important government interest. *Orr v. Trump*, No. 25-cv-10313-JEK, 2025 WL 1695941, at *11 (D. Mass. June 17, 2025). In assessing the government's asserted harm from the intrusion into foreign affairs, the Court further found that any "such harm is the consequence of the State Department's adoption of a Passport Policy that likely violates the constitutional rights of thousands of Americans." *Id.* at *15.

The next day, the Supreme Court decided *United States v. Skrmetti*, 145 S. Ct. 1816 (2025), a case involving an equal protection challenge to a state law's prohibition on certain medical interventions for gender dysphoria and related disorders in minors. Like Plaintiffs here, the *Skrmetti* plaintiffs argued that the state law discriminated on the basis of sex and "transgender status" and could not withstand intermediate scrutiny. *Id.* at 1829, 1832–33. The Supreme Court rejected those arguments and upheld the law under rational basis review, which requires only the existence of any conceivable state of facts that could provide a rational basis for the classification. *Id.* at 1835.

Skrmetti compels the conclusion that rational basis review—not heightened scrutiny—should apply to the equal protection challenge in this case. Plaintiffs here do not challenge the government's use of "sex" as a designation on passports. Indeed, the preliminary injunction that Plaintiffs requested—and that this Court granted—*requires* the government to continue to classify passport holders based on "sex." What Plaintiffs challenge is not the "sex" designation itself, but the Passport Policy's rejection of Plaintiffs' preferred definition of "sex." Whereas under the Passport Policy, the Department adjudicates passport applications based on the applicant's sex at

birth, Plaintiffs would prefer to self-select a "sex" marker based on whatever "gender" the applicant identifies as. As *Skrmetti* makes clear, however, the Passport Policy's rejection of Plaintiffs' preferred definition of "sex" does not constitute discrimination based on sex and therefore does not warrant heightened scrutiny. Because the Court applied a more demanding level of scrutiny than what the law requires, and because the Passport Policy clears the highly deferential rational basis standard, the Court erred in concluding that Plaintiffs had demonstrated a substantial likelihood of success on the merits of their equal protection challenge. Moreover, because the Court's assessment of the equities was heavily influenced by its belief that thousands of Americans would likely suffer a constitutional wrong absent an injunction, the Court should now conclude that the balance of harms favors the government.

Further, in issuing the June 17 preliminary injunction, the Court also adopted its April 18 determination that the Department's actions likely violate the Administrative Procedure Act ("APA") because, among other things, forms used by the Department to implement Executive Order 14168 were not approved by the Director of the Office of Management and Budget ("OMB") as required by the Paperwork Reduction Act ("PRA"). Since the Court's ruling, however, the Director of the OMB has approved the relevant forms and implementation of those forms is forthcoming, as explained in the attached declaration of the Director of the Office of Program Management & Operational Support for Passport Services (Ex. 1, Agnew Decl.). Plaintiffs therefore are also unlikely to succeed on their PRA arguments.

Accordingly, the Court should dissolve the June 17, 2025 preliminary injunction and issue an indicative ruling that it would dissolve the April 18, 2025 preliminary injunction currently on appeal to the First Circuit, *see* Fed. R. Civ. P. 62.1(a)(3). Given the possibility that the Court may dissolve the June 17 injunction, Defendants further request that the Court stay the injunction pending resolution of Defendants' motion pursuant to its inherent power "to control the disposition of the cases on its docket with economy of time and effort for itself, for counsel, and for litigants." *Landis v. N. Am. Co.*, 299 U.S. 248, 254 (1936). Although the Department has worked diligently to implement new procedures to comply with the June 17 injunction, a stay would avoid, among

other things, expending any further resources and burdening State's passport program when such a burden may ultimately prove to have been unnecessary. And such a stay is particularly appropriate here because the Solicitor General has authorized appeal of the June 17 injunction, and Defendants intend to promptly appeal from that injunction and seek a stay pending appeal if the Court denies the present motion to dissolve the injunction. Defendants accordingly further respectfully request that if the Court is inclined to deny the instant motion, that it also indicates whether it is inclined to grant a stay pending appeal based on the present record. *See* Fed. R. App. P. 8(a)(1)(C) ("A party must ordinarily move first in the district court . . . an order suspending, modifying, restoring, or granting an injunction while an appeal is pending.").

BACKGROUND

On January 20, 2025, President Trump issued Executive Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, 90 Fed Reg. 8,615 (Jan. 20, 2025), which declares the government's policy to recognize two sexes, male and female, and sets forth definitions of sex, female, and male that are to be used across the federal government. The Executive Order also instructs the State Department to implement changes to passports such that they accurately reflect the holder's sex according to those definitions. *Id.* To comply with the Executive Order and to further the goal of government-wide uniformity in the definition of sex, the Department changed its policy, issuing passports with only "M" or "F" designations based on birth certificates or other documentation close to birth and removing the "X" marker option from the sex field. For a more extensive background discussion about the Passport Policy, Defendants respectfully refer the Court to their Opposition to Plaintiffs' Motion to Stay Agency Action and for Preliminary Injunction (ECF No. 53, at 2–5).

Plaintiffs filed this action on February 7, 2025, asserting, among other things, equal protection and APA claims. Compl., ECF No. 1. Plaintiffs thereafter moved for a preliminary

injunction, ECF No. 29, which the Court granted on April 18, 2025, on both equal protection and APA grounds as to six of the named plaintiffs, ECF No. 75. After amending the complaint, ECF No. 76, and moving for class certification, ECF No. 77, Plaintiffs further moved to extend the preliminary injunction to a Preliminary Injunction Class ("PI Class"), ECF No. 79. On June 17, 2025, the Court granted the motion and extended the preliminary injunction to the PI Class. ECF No. 116.

LEGAL STANDARD

Dissolution of a preliminary injunction "should depend on the same considerations that guide a judge in deciding whether to grant or deny a preliminary injunction in the first place." *Knapp Shoes, Inc. v. Sylvania Shoe Mfg. Corp.*, 15 F.3d 1222, 1225 (1st Cir. 1994). "The familiar quartet includes likelihood of success, the threat of irreparable injury to the party seeking interim relief, the equities and the public interest." *Id.* The third and fourth factors merge when the government is a party. *Nken v. Holder*, 556 U.S. 418, 435 (2009). These same considerations also guide a court's determination on a motion to stay a preliminary injunction. *Acevedo-Garcia v. Vera-Monroig*, 296 F.3d 13, 16 n.3 (1st Cir. 2002).

"[A] significant change in . . . law warrants revision or dissolution of [an] injunction." *Ollivierra v. Wilmington Sav. Fund Soc'y, FSB as Tr. for Pretium Mortg. Acquisition Tr.*, No. 17-11271 (MLW), 2018 WL 11432714, at *5 (D. Mass. Jan. 2, 2018) (citation omitted); *see also Sys. Fed'n No. 91, Ry. Emp. Dep't, AFL-CIO v. Wright*, 364 U.S. 642, 650 n.6 (1961) ("There are many cases where a mere change in decisional law has been held to justify modification of an outstanding injunction."); *Brown v. Bussone*, 754 F. Supp. 2d 163, 166 (D. Mass. 2010) ("The Court may modify or dissolve an injunction where there has been a significant change in the law or facts so as to make modification equitable.") (internal quotation marks and citation omitted)). "Preliminary injunctions require courts to make [an] assessment [of the four factors] at an early stage of the litigation . . . [b]ut as a case progresses, subsequent changes in the law or facts may threaten to convert a previously proper injunction 'into an instrument of wrong.'" *FemHealth*

USA, Inc. v. Williams, 83 F.4th 551, 556 (6th Cir. 2023) (quotation marks omitted) (quoting *Gooch v. Life Invs. Ins. Co. of Am.,* 672 F.3d 402, 414 (6th Cir. 2012)); *cf. United States v. Allen*, 573 F.3d 42, 53 (1st Cir. 2009) (reconsideration is appropriate when "there has been an intervening change in the law" (citation omitted)).

ARGUMENT

I. Plaintiffs Are Unlikely to Succeed on the Merits.

A. Under *Skrmetti*, Plaintiffs Are Unlikely to Succeed on Their Equal Protection Claims.

The Supreme Court's decision in *Skrmetti* is a significant change in law that warrants dissolution of the preliminary injunction. There, the Supreme Court considered a state law that restricted certain medical interventions for minors whose "gender identity does not align with their biological sex." *Skrmetti*, 145 S. Ct. at 1824. The state statute under review provided that "no minor may be administered puberty blockers or hormones to treat gender dysphoria, gender identity disorder, or gender incongruence" but "minors of any sex may be administered puberty blockers or hormones for other purposes." *Id.* at 1831. The plaintiffs argued that the statute classified based on sex, because "a minor whose biological sex is female cannot receive puberty blockers or testosterone to live and present as a male, but an adolescent whose biological sex is male can, while an adolescent whose biological sex is male cannot receive puberty blockers or estrogen to live and present as a female, but an adolescent whose biological sex is female can." *Id.* at 1830. The Supreme Court rejected that argument, holding that access to medical intervention did not turn on sex because both boys and girls can get access to the medical intervention if it is not for a restricted use. *Id.* at 1830–31.

Skrmetti undermines this Court's conclusion that the Passport Policy discriminates on the basis of sex and is therefore subject to heightened scrutiny. As Defendants have previously

explained, for decades, U.S. passports have included a "sex" designation. The Passport Policy maintains that "sex" designation and requires that it reflect "an individual's immutable biological classification as either male or female." EO 14168, § 2. Thus, under the Passport Policy, a person's "sex" designation must represent "biological reality," *id.* § 1; no one is "allowed to self-select their sex marker based on their gender identity," *Orr v. Trump*, --- F. Supp. 3d ----, No. 1:25-cv-10313-JEK, 2025 WL 1145271, at *2 (D. Mass. Apr. 18, 2025). Here, Plaintiffs do not challenge the government's use of a "sex" designation on U.S. passports. Indeed, the preliminary injunction that they sought—and that this Court granted—*requires* the government to maintain a "sex" designation on passports. Instead, Plaintiffs challenge the Passport Policy's rejection of Plaintiffs' preferred definition of "sex"—whereas under the Passport Policy the Department adjudicates passport applications based on the applicant's biological sex, Plaintiffs would prefer to define "sex" to mean whatever "gender" the applicant self-identifies as.

As *Skrmetti* makes clear, however, the Passport Policy's rejection of Plaintiffs' preferred definition does not constitute discrimination based on sex. In prohibiting the self-selection of a sex marker based on one's gender identity, the Passport Policy does not, in the words of *Skrmetti*, "prohibit conduct for one sex that it permits for the other." 145 S. Ct. at 1831. Under the Passport Policy, *no one* may self-select their sex marker based on their gender identity; individuals of *any* sex are prohibited from engaging in such self-selection. *See id.* Thus, the aspect of the Passport Policy that Plaintiffs challenge—namely, the Policy's prohibition on self-selection—does not discriminate based on sex. That prohibition applies evenhandedly to men and women alike. Indeed, such a prohibition on self-identifying as a particular sex no more discriminates based on sex than a prohibition on self-identifying as a citizen discriminates based on alienage. A state government does not discriminate based on alienage when it denies a non-citizen's application for

an identity document that lists her as a citizen, even if she requests such a designation because she self-identifies as a citizen. Just as such a prohibition on self-identification would not be subject to heightened scrutiny, so too heightened scrutiny is not warranted here.

In fact, on June 30, 2025, the Supreme Court granted the State of Oklahoma's petition for a writ of certiorari in a case challenging the state governor's executive order prohibiting individuals from amending their birth certificates to reflect their gender identities. *Stitt v. Fowler*, No. 24-801, 2025 WL 1787695 (June 30, 2025), *granting cert.* and *vacating Fowler v. Stitt*, 104 F.4th 770 (10th Cir. 2024). The Tenth Circuit had held that the policy violates the Equal Protection Clause because it unlawfully discriminates based on "transgender status" and sex, and at a minimum, fails rational basis review. *Fowler*, 104 F.4th 770 at 783–97. The Supreme Court vacated the Tenth Circuit's judgment and remanded the case "for further consideration in light of *United States v. Skrmetti*, 605 U.S. ---- (2025)." *Stitt*, 2025 WL 1787695, at *1. Just as *Skrmetti* would affect that outcome in *Stitt*, it similarly compels the conclusion that Plaintiffs are unlikely to succeed on the merits of their equal protection claim here.

In previously concluding that the Passport Policy discriminates based on sex, this Court relied on the Supreme Court's interpretation of Title VII of the Civil Rights Act of 1964 in *Bostock v. Clayton County*, 590 U.S. 644 (2020). *See Orr*, 2025 WL 1145271, at *9. *Skrmetti*, however, recognized that "Title VII's 'because of' test incorporates the traditional but-for causation standard, which 'directs [the court] to change one thing at a time and see if the outcome changes[,]'" and if it does, there is a "but-for cause." 145 S. Ct. at 1834 (quoting *Bostock*, 590 U.S. at 656). As Justices Thomas and Alito explained in their concurring opinions in *Skrmetti*, the "but-for cause" analysis in *Bostock*—derived from "the specific language employed in Title VII"—has no application "in cases in which a law is challenged as an unconstitutional sex

classification." *Id.* at 1859 (Alito, J., concurring in part and concurring in the judgment); *see id.* at 1838 (Thomas, J., concurring) ("Extending the *Bostock* framework here would depart dramatically from this Court's Equal Protection Clause jurisprudence."); *Students for Fair Admissions, Inc. v. President & Fellows of Harvard Coll.*, 600 U.S. 181, 308 (2023) (Gorsuch, J., concurring) (explaining that *Bostock* does not apply to the Equal Protection Clause because the fact "[t]hat such differently worded provisions should mean the same thing is implausible on its face"); *cf. Dep't of Educ. v. Louisiana*, 603 U.S. 866, 867 (2024) (per curiam) (unanimously holding that "preliminary injunctive relief" was warranted to enjoin a rule extending *Bostock*'s reasoning to Title IX of the Education Amendments of 1972).

Even if *Bostock*'s reasoning extended beyond the Title VII context, it still would not help Plaintiffs here, any more than it helped the plaintiffs in *Skrmetti*. Here, as in *Skrmetti*, "changing the [applicant's] sex . . . does not automatically change the operation of" the challenged aspect of the Passport Policy. *See* 145 S. Ct. at 1834–35. If a female seeks to choose her own sex marker, the Passport Policy prohibits her from doing so—and requires that her sex marker instead reflect "biological reality," EO 14168, § 1, regardless of whether that reality matches the gender with which she self-identifies. Change that person's sex from "female to male," *Skrmetti*, 145 S. Ct. at 1834, and the Passport Policy would still prohibit the male from choosing his own sex marker—and would still require that his sex marker instead reflect "biological reality," EO 14168, § 1, regardless of whether that reality matches the gender with which he self-identifies. Thus, under the Policy, sex is not "the but-for cause" of one's inability to self-select a sex marker based on one's "gender identity." *Skrmetti*, 145 S. Ct. at 1834. Here, as in *Skrmetti*, the challenged aspect of the policy at issue does not "intentionally penalize[]" a male "for a trait" that the policy

"tolerates" in a female and vice versa, *id.*, and thus does not discriminate based on sex, even under *Bostock*'s reasoning.

Because the challenged aspect of the Passport Policy does not discriminate based on sex, rational basis review applies. Such review "is a paradigm of judicial restraint." *Gonzalez-Droz v. Gonzalez-Colon*, 660 F.3d 1, 9 (1st Cir. 2011) (quoting *FCC v. Beach Commc'ns, Inc.*, 508 U.S. 307, 313–14 (1993)). Under rational basis review, courts should uphold a classification "so long as there is any reasonably conceivable state of facts that could provide a rational basis for the classification." *Skrmetti*, 145 S. Ct. at 1835 (citation omitted). It is "the most relaxed and tolerant form of judicial scrutiny under the Equal Protection Clause[,]" *City of Dallas v. Stanglin*, 490 U.S. 19, 26 (1989), and the challenged law enjoys "a strong presumption of validity," *Beach*, 508 U.S. at 314–15. The challenger "must negate any and all conceivable bases upon which the challenged regulation might appropriately rest." *Gonzalez-Droz*, 660 F.3d at 9. Courts are further "compelled under rational-basis review to accept a legislature's generalizations even when there is an imperfect fit between means and ends." *Heller v. Doe*, 509 U.S. 312, 321 (1993). Legislative classifications may be "both underinclusive and overinclusive" and "perfection is by no means required." *Vance v. Bradley*, 440 U.S. 93, 108 (1979) (citation omitted). And "[r]ational basis review does *not* permit consideration of the strength of the individual's interest or the extent of the intrusion on that interest caused by the law; the focus is entirely on the rationality of the state's reason for enacting the law." *Cook v. Gates*, 528 F.3d 42, 55 (1st Cir. 2008) (emphasis in original).

Here, the Passport Policy's prohibition on self-identification furthers the Executive Order's stated purpose of avoiding harms "to scientific inquiry, public safety, morale, and trust in government itself" flowing from efforts to "eradicate the biological reality of sex" and promotes the goal of using "clear and accurate language and policies" that recognize "an individual's

immutable biological classification as either male or female." EO 14168, §§ 1, 2(a). The Passport Policy's prohibition on self-identification also furthers the government's interest in maintaining a consistent definition of sex throughout the federal government. As the Department explains, "the Executive Order indicates a government-wide shift to using one uniform definition of 'sex,' so a change in the Department's policies was also needed to support the goal of uniformity." Decl. of Matthew Pierce ¶ 19, ECF No. 53-1 ("Pierce Decl."). Passport data would not be useful for other agencies if the State Department adopted definitions inconsistent with the policy of the United States. *Id.* Courts have recognized that the government has a legitimate interest "in maintaining a consistent, historical, and biologically based definition of sex," and requiring government documents to reflect only one's biological sex furthers that interest. *Gore v. Lee*, 107 F.4th 548, 561 (6th Cir. 2024); *see also Corbitt v. Sec'y of the Ala. L. Enf't Agency*, 115 F.4th 1335, 1348 (11th Cir. 2024) (recognizing a "State's interest in ensuring consistency with the State's existing requirements for amending a birth certificate" by "'objectively defining sex' for purposes of driver's license designations"). For these same reasons, the Passport Policy's prohibition on self-identification is not "inexplicable by anything but animus," *Trump v. Hawaii*, 585 U.S. 667, 706 (2018), and thus does not violate the Equal Protection Clause on these grounds either.

To the extent Plaintiffs contend that the Passport Policy fails to account for individuals' desire to identify with the opposite sex or as nonbinary, the law is clear that "[r]ational basis review does *not* permit consideration of the strength of the individual's interest or the extent of the intrusion on that interest caused by the law." *Cook*, 528 F.3d at 55. Rather, the focus is on the government's conceivable reasons that could justify the law, and here, the Policy clears that very low bar. *See id.* And even if the Policy fails to account for the small number of intersex individuals who do not fall within the Executive Order's definition of "male" or "female," a classification does

not fail under rational basis review simply because it "is not made with mathematical nicety or because in practice it results in some inequality." *Dandridge v. Williams*, 397 U.S. 471, 485 (1970) (citation omitted). Moreover, the Department's decision to revert to a prior policy to ensure prospective uniformity is not irrational and clears rational basis review. This is particularly so when the State Department has been directed by the President to revert to that policy in order to further the purposes stated in the Executive Order. *Cf. Sherley v. Sebelius*, 689 F.3d 776, 784–85 (D.C. Cir. 2012) ("[An agency] may not simply disregard an Executive Order. To the contrary, as an agency under the direction of the executive branch, it must implement the President's policy directives to the extent permitted by law.").

B. Plaintiffs Are Unlikely to Succeed on Their APA Claims.

The above discussion further illustrates that Plaintiffs' APA claims are similarly unlikely to succeed. The Department's actions were not arbitrary and capricious given Executive Order 14168. *Cf. Sherley*, 689 F.3d at 784–85 (not arbitrary and capricious where agency failed to respond to comments recommending a course of action that "is diametrically opposed to the direction" of an Executive Order). Moreover, a key premise of the Court's prior APA ruling—that forms used by the Department to implement the Executive Order were not approved by the Director of the Office of Management and Budget as required by the PRA—no longer exists.

The Court previously held that Plaintiffs were likely to succeed on their arguments that Defendants were using expired passport forms that had not been approved by the OMB director. *Orr*, 2025 WL 1145271, at *19–21. As the Government explained during prior briefing on the issue, the State Department had initiated the PRA process for the three passport forms: DS-11, DS-82, and DS-5504. ECF No. 53 at 4–5. Consistent with the PRA, the State Department issued 60-day notices for all three forms in November 2024 and issued 30-day notices for all three forms in February 2025. Pierce Decl. ¶¶ 9, 20.

Since the Court's grant of a preliminary injunction, the OMB director approved all three forms. Ex. 1 (Agnew Decl.) ¶ 4. As detailed in the Agnew Declaration, the forms were approved on June 25, 2025, and will be available for use in approximately two to three months. *Id.* ¶¶ 4, 6. Thus, Plaintiffs are unlikely to succeed on the merits of the PRA claim because the State Department has completed the PRA process for the new set of forms.

II. The Balance of Equities Favors the United States.

Given the above discussion and as further explained, the balance of equities also dramatically shifts in the Government's favor. Among other things, the Government's interest in controlling the content of the passport is significant because a passport, at its core, is an instrument of diplomacy through which the President, on behalf of the United States, "in effect request[s] foreign powers to allow the bearer to enter and to pass freely and safely, recognizing the right of the bearer to the protection and good offices of American diplomatic and consular officers." *United States v. Laub*, 385 U.S. 475, 481 (1967). It is also an official communication "by which the Government vouches for the bearer and for his conduct." *Haig v. Agee*, 453 U.S. 280, 293 (1981). It is "addressed to foreign powers . . . and is to be considered . . . in the character of a political document." *Id.* at 292 (quoting *Urtetiqui v. D'Arcy*, 34 U.S. (9 Pet.) 692, 699 (1835)). Particularly considering the Supreme Court's longstanding recognition that the President is "the sole organ of the federal government in the field of international relations," *United States v. Curtiss-Wright Exp. Corp.*, 299 U.S. 304, 320 (1936); *cf. Haig*, 453 U.S. at 293 ("the common perception was that the issuance of a passport was committed to the sole discretion of the Executive"), not even Congress "may . . . force the President" to exercise his Article II foreign affairs powers in any particular way, as "[t]hat congressional command would not only prevent

the Nation from speaking with one voice but also prevent the Executive itself from doing so in conducting foreign relations," *Zivotofsky ex rel. Zivotofsky v. Kerry*, 576 U.S. 1, 30 (2015).

The preliminary injunction intrudes into the President's core foreign-affairs prerogatives by requiring the Executive Branch to issue passports addressed to foreign nations that the President deems inappropriate. This weighty concern about constitutional separation of powers is further amplified in that "[t]he information contained in a passport is unquestionably government speech," *Doe v. Kerry*, Civ. A. No. 16-0654, 2016 WL 5339804, at *16 (N.D. Cal. Sept. 23, 2016), and yet the injunction compels the government to convey what it believes to be inaccurate information. *Cf.* 22 C.F.R. § 51.9 (other than "for the convenience of the U.S. Government, no passport may be amended"). The government must have "the authority to control its own message when it speaks or advocates a position it believes is in the public interest." *Chiras v. Miller*, 432 F.3d 606, 612 (5th Cir. 2005); *see also Doe*, 2016 WL 5339804, at *16 (the United States, not the passport holder, must be allowed to control the content of the passport). Without that ability, "government would not work." *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 207 (2015). The government would not be able to implement the policy goals and uniformity it seeks "if officials also had to voice the perspective of those who oppose" the Government's message. *Id.* at 208. "'[I]t is not easy to imagine how government could function if it lacked th[e] freedom' to select the messages it wishes to convey." *Id.* (citation omitted); *accord Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 468 (2009).

Indeed, "[w]hen a government entity embarks on a course of action, it necessarily takes a particular viewpoint and rejects others." *Matal v. Tam*, 582 U.S. 218, 234 (2017). "It is the very business of government to favor and disfavor points of view." *Nat'l Endowment for the Arts v. Finley*, 524 U.S. 569, 598 (1998) (Scalia, J., concurring). "If every citizen were to have a right to

insist that no one paid by public funds express a view with which he disagreed, debate over issues of great concern to the public would be limited to those in the private sector, and the process of government as we know it radically transformed." *Keller v. State Bar of Cal.*, 496 U.S. 1, 12–13 (1990). These concerns are especially pronounced on the topic of gender identity, which is the focus of "fierce . . . policy debates." *Skrmetti*, 145 S. Ct. at 1837. Plaintiffs should not be permitted to force the Executive Branch to take a side on such "ongoing debate," contrary to the Executive's policy determination that the promotion of gender ideology is against the government's interest. *Id.* at 1836; *see also id.* at 1840 (Thomas, J., concurring) (explaining problems with courts deferring "to so-called expert consensus" in field of gender ideology). Thus, in addition to intruding into the President's core foreign affairs prerogatives, the Court's injunction imposes discrete harm on the government each and every time an individual presents a passport to a foreign nation that contains statements that the Executive believes to be incorrect.

In addition to the harms related to the President's core foreign affairs prerogatives and significant resource costs expended in developing and implementing a process for the PI Class, which the Court recently found complied with its Order (Electronic Order, July 9, 2025), "[e]ach U.S. passport issued by the Department to a member of the PI Class in compliance with the Court Order requires additional time and effort for processing that otherwise would be used for adjudicating and issuing passports to U.S. citizens who are not members of the PI Class." Ex. No. 2 (2d. Dooley Decl.) ¶ 9. As the declaration describes, passports issued to the PI class entail processing of an Attestation, processing of an Information Request Letter (if additional information is needed), and a systems override to issue a passport with an "X" sex marker. *Id.* Additionally, if the Court Order is vacated by a higher court and the Department proceeds to revoke and replace passports issued in compliance with the Court Order, the Department will incur

additional administrative costs. *Id.* ¶ 11. For these reasons and those previously discussed, the balance of equities favors the United States.

CONCLUSION

For the foregoing reasons, the Court should dissolve the June 17, 2025 preliminary injunction, stay the June 17, 2025 injunction pending resolution of Defendants' request to dissolve that injunction, and issue an indicative ruling that it would dissolve the April 18, 2025 preliminary injunction currently on appeal to the First Circuit, *see* Fed. R. Civ. P. 62.1(a)(3), and dissolve the June 17, 2025 preliminary injunction. The Court should also stay the June 17, 2025 injunction pending resolution of Defendant's request to dissolve that injunction. Moreover, because Defendants intend to appeal from the June 17, 2025 injunction and to seek a stay of the injunction pending appeal if the Court denies the instant motion, Defendants also respectfully request the Court to indicate whether it is inclined to grant a stay of the June 17, 2025 injunction pending appeal based on the present record.

Defendants' counsel has conferred with Plaintiffs' counsel, who stated that Plaintiffs oppose this motion.

Dated: July 9, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true copy of the above document was served upon Plaintiffs' counsel by the Electronic Case Filing system on July 9, 2025.

/s/ *Elizabeth B. Layendecker*
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IN THE UNITED STATES COURT OF APPEALS
FOR THE FIRST CIRCUIT

ASHTON ORR, ZAYA PERYSIAN, SAWYER SOE, CHASTAIN ANDERSON, DREW HALL, BELLA BOE, REID SOLOMON-LANE, VIKTOR AGATHA, DAVID DOE, AC GOLDBERG, RAY GORLIN, CHELLE LEBLANC, on behalf of themselves and others similarly situated,

Plaintiffs-Appellees,

v.

DONALD J. TRUMP, in his official capacity as President of the United States, U.S. DEPARTMENT OF STATE, MARCO RUBIO, in his official capacity as Secretary of State, UNITED STATES,

Defendants-Appellants.

On Appeal from the United States District Court
For the District of Massachusetts

MOTION FOR STAY PENDING APPEAL

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INTRODUCTION

The government respectfully requests a stay pending appeal of the district court's preliminary injunction, ECF 115, 116, requiring the State Department to issue inaccurate passports that wrongly state an individual's sex as their self-selected "gender identity" rather than their actual sex.

A commonsense policy that declines to equate "gender identity" with sex is not a sex classification that is subject to heightened scrutiny, let alone one that fails that scrutiny. Nor does such a policy violate the Administrative Procedure Act (APA), especially since the President in an Executive Order required the State Department to adopt the challenged Passport Policy that reflects objective biological reality and not subjective (and dangerous) gender ideology. Executive Order 14168, Defending Women From Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, 90 Fed. Reg. 8615 (Jan. 20, 2025) (Ex. 1).

The President has broad discretion under both the Constitution and applicable statutes to determine the rules governing the issuance of passports. *Haig v. Agee*, 453 U.S. 280, 289-300 (1981); 22 U.S.C. 211a. In the Executive Order, President Trump declared that "it is the

policy of the United States to recognize two sexes, male and female" and specifically directed the State Department to require passports to "accurately reflect the holder's sex." E.O. 14168, § 2-3. The State Department promptly implemented the Passport Policy, as the Executive Order required.

The district court issued a preliminary injunction prohibiting enforcement of that policy—first as to six named plaintiffs and, after certifying a class action, on a class-wide basis. The injunction hinges on the court's incorrect conclusion that the Passport Policy discriminates based on sex and is therefore subject to heightened scrutiny under the Constitution's equal protection guarantee. As the Supreme Court's recent decision in *United States v. Skrmetti*, 145 S. Ct. 1816 (2025), makes clear, however, the Passport Policy's rejection of plaintiffs' preferred definition of "sex" does not constitute discrimination based on sex and is thus subject to rational-basis review. A policy based on the government's strong interests in applying a consistent, biologically-based definition of sex throughout the government, particularly on documents that function as official communications with foreign sovereigns, easily satisfies rational-basis review. And those same interests likewise satisfy the APA, even

assuming some aspects of the Department's implementation of the Executive Order's policy are subject to judicial review.

The district court's injunction irreparably harms the government by improperly circumscribing the President's discretion concerning communications to foreign sovereigns; by undermining federal policy on sex and gender; and by imposing significant, unrecoverable resource costs on the State Department. And it does so to remedy speculative harms that cannot support class-wide relief. This Court should accordingly stay the preliminary injunction pending resolution of the government's appeal.

STATEMENT

1. a. For over four decades, U.S. passports have identified a person's sex as an identity attribute. ECF 53-1, ¶ 5 (First Pierce Decl.) (Ex. 2). For most of that time, from 1977 to 2021, U.S. passports were available only with sex markers of "M" or "F." *Id.* Under discretionary policies adopted by the prior Administration, the State Department began permitting "passport applicants to self-select their sex marker as 'M' or 'F' based upon their gender identity" in June 2021. *Id.* ¶ 7. The Department also began offering passport applicants "a third

option of 'X' as a gender marker for non-binary, intersex, and gender non-conforming persons." *Id.* ¶ 8.

On the day he was inaugurated, President Trump rescinded the executive order that supported the Department's prior passport policy. *See* E.O. 14148, 90 Fed. Reg. 8237 (Jan. 20, 2025). That same day, President Trump issued Executive Order 14168. As relevant here, the Executive Order declares it "the policy of the United States to recognize two sexes, male and female." E.O. § 2. The order defines "sex" as "an individual's immutable biological classification as either male or female," which "does not include the concept of 'gender identity.'" *Id.* § 2(a). And the order specifically directs "[t]he Secretar[y] of State … to require that … passports, visas, and Global Entry cards, accurately reflect the holder's sex, as defined" by the order. *Id.* § 3(d).

b. As required by the Executive Order, "on January 22, 2025, the [State] Department instructed all domestic passport agencies that the Department would no longer issue U.S. passports with an 'X' marker" or a marker other than the applicant's sex; it transmitted that instruction to diplomatic and consular posts abroad the next day. First Pierce Decl. ¶ 15. In late January 2025, the Department

replaced passport application forms that offered the "X" sex-marker as a choice with earlier versions of the forms that offered only "M" and "F" sex-markers. *Id.* ¶ 17. Beginning February 7, 2025, the Department began processing all affected applications using documentation such as birth certificates. *Id.* ¶ 18. These steps "reinstate[d] the Department's pre-2021 practice of issuing passports with only an 'M' or 'F' sex marker." *Id.* ¶ 21.

2. a. Plaintiffs, "seven transgender or non-binary American citizens," ECF 74 (Op.), at 9 (Ex. 3), filed a putative class action alleging that the Passport Policy violates their equal protection and substantive due process rights under the Fifth Amendment and that the Department's adoption of the policy violates the APA. *Id.* at 14-16. The district court granted a preliminary injunction to six of the seven named plaintiffs, requiring the Department to issue them passports consistent with the prior Administration's passport policy. ECF 75 (Ex. 4).

First, the court concluded that plaintiffs were likely to succeed on the merits of their equal-protection and APA claims. Relying on *Bostock v. Clayton County*, 590 U.S. 644 (2020), which interpreted the prohibition against sex discrimination in Title VII, the court

determined that the Passport Policy employs sex-based classifications requiring heightened scrutiny for purposes of equal-protection analysis. Op. 18-22. And the court concluded that the government failed to establish that the Passport Policy "is substantially related to an important government objective." *Id.* at 22. The court thus concluded that plaintiffs were likely to succeed on their equal-protection claim. *Id.* at 22-25. The court also determined that plaintiffs were likely to succeed on that claim because the Passport Policy is "inexplicable by anything but animus." *Id.* at 27.

The district court next concluded that the Passport Policy likely violates the APA. As a threshold matter, the court concluded that the policy was reviewable, even though it was mandated by the President, whose actions are not reviewable under the APA. Op. 34-39. The court then determined that the Passport Policy is arbitrary and capricious because the Department gave no explanation for its adoption other than that the Executive Order required it. *Id.* at 39-43. The court also concluded that the policy was procedurally flawed because the Department implemented it using forms that did not comply with the requirements of the Paperwork Reduction Act. *Id.* at 44-46.

Second, the court concluded that six of the seven named plaintiffs would likely suffer irreparable harm without a preliminary injunction. Relying on plaintiffs' declarations, the court determined that their "inability to obtain passports bearing sex markers consistent with their gender identity" would likely "impede efforts to treat and manage their gender dysphoria." Op. 47. The court also concluded that six of the named plaintiffs would likely suffer violence or harassment if they traveled with passports that did not reflect their gender identity. *Id.* at 48-50. But the court found that one of the named plaintiffs, who already has a passport consistent with that person's self-selected "gender identity," was not likely to suffer irreparable harm and was therefore not entitled to preliminary injunctive relief. *Id.* at 50.

Finally, the court concluded that a "narrow and limited" preliminary injunction that affords relief only to the six named plaintiffs would not likely impair the Department's effective functioning. Op. 51. For that reason, the court found that the remaining preliminary injunction factors favored plaintiffs. *Id.*

b. The district court later certified two classes under Federal Rule of Civil Procedure 23(b)(2). ECF 115 (Ex. 5). As defined by the district court, the certified classes are

> 1. A class of all people (1) whose gender identity is different from the sex assigned to them under the Passport Policy and/or who have been diagnosed with gender dysphoria, and (2) who have applied, or who, but for the Passport Policy, would apply, for a U.S. passport issued with an "M" or "F" sex designation that is different from the sex assigned to that individual under the Passport Policy ("M/F Designation Class"); and
>
> 2. A class of all people whose gender identity is different from the sex assigned to them under the Passport Policy and who have applied, or who, but for the Passport Policy, would apply, for a U.S. passport with an "X" designation ("X Designation Class").

Id. at 32.

The district court extended the preliminary injunction to a subset of the classes (the PI Class) who do not have a valid passport, need to renew their passport because the current passport expires within a year, need to change their passport to align the sex designation with their "gender identity," or need to replace a lost, stolen, or damaged passport. ECF 115, at 20-21; *see* ECF 116 (Ex. 6). The court concluded that its prior determination concerning the named plaintiffs' success on the merits "applies with equal force" to

the PI Class. ECF 115, at 21. The court also determined that "the risk of irreparable harm [the named plaintiffs] face is representative of the risk faced by all members of the PI Class." *Id.* at 24. And it concluded that the increased harms the government identified from a class-wide injunction were insufficient to outweigh the harms plaintiffs asserted would flow from the denial of class-wide relief. *Id.* at 28-31.

The day after the district court certified the class and extended the preliminary injunction to the PI Class, the Supreme Court issued its decision in *Skrmetti*. The government filed a motion to dissolve the injunction in light of that decision, arguing that *Skrmetti* makes clear that the Passport Policy should be reviewed under rational-basis review, which it easily satisfies. The government also explained that it had resolved the procedural error the district court identified. In a minute order, the district court denied that motion without addressing either the procedural issue or how *Skrmetti* affects the court's equal-protection analysis. ECF 130 (Ex. 7). Instead, the court stated that its animus and substantive APA analysis was sufficient to support the preliminary injunction. *Id.* In addition, the district court stated that it would not grant a stay pending appeal. *Id.*; *see* Fed. R. App. P. 8(a)(1).

ARGUMENT

The district court's preliminary injunction, which effectively forces the government to retain the prior Administration's novel "self-selection" approach to sex markers in passports, hinges on a deeply flawed determination of plaintiffs' likelihood of success on the merits. Especially after the Supreme Court's recent decision in *Skrmetti*, the injunction cannot stand. Without a stay, the government will face irreparable injury, and the balance of equities and public interest support a stay. *See Nken v. Holder*, 556 U.S. 418, 426 (2009). A stay of the district court's class-wide preliminary injunction pending appeal is accordingly warranted.

I. The Government Is Likely to Win on the Merits

A. The Government Is Likely to Succeed on Plaintiffs' Equal-Protection Claims

The Supreme Court's decision in *Skrmetti* compels the conclusion that rational-basis review—not heightened scrutiny—applies to plaintiffs' equal-protection claims. Because the district court applied heightened scrutiny and rejected the government's argument that *Skrmetti* clarified the law in ways requiring the dissolution of the injunction, ECF 130, the court erred in finding that

plaintiffs are likely to succeed on the merits of their equal-protection claims.

Plaintiffs do not challenge the government's use of "sex" as a designation on passports. Indeed, the preliminary injunction that plaintiffs requested—and that the district court granted—requires the government to *continue* to classify passport holders based on "sex." What plaintiffs challenge is not the "sex" designation itself, but the Passport Policy's rejection of plaintiffs' *preferred definition* of "sex." Whereas under the Passport Policy the Department adjudicates passport applications based on the applicant's biological sex (based on documentation of sex at birth), plaintiffs would prefer to self-select a "sex" marker based on the applicant's purported "gender identity." As *Skrmetti* makes clear, however, the Passport Policy's rejection of plaintiffs' preferred definition of "sex" does not constitute discrimination based on sex and therefore does not warrant heightened scrutiny. And the Passport Policy easily satisfies rational-basis review.

The plaintiffs in *Skrmetti* challenged a state law under which "*no* minor may be administered puberty blockers or hormones to treat gender dysphoria, gender identity disorder, or gender

incongruence; minors of *any* sex may be administered puberty blockers or hormones for other purposes." 145 S. Ct. at 1831. The plaintiffs argued that the statute classified based on sex because, for example, "a minor whose biological sex is female cannot receive puberty blockers or testosterone to live and present as a male, but an adolescent whose biological sex is male can." *Id.* at 1830. The Court rejected that argument, holding that access to medical interventions did not turn on sex because both boys and girls have access to medical treatment if it is not for a restricted use. *Id.* at 1830-31.

Skrmetti undermines the district court's conclusion that the Passport Policy classifies based on sex and is therefore subject to heightened scrutiny.

For decades, U.S. passports have included a "sex" designation. First Pierce Decl. ¶ 5. The Passport Policy maintains that "sex" designation and requires that it reflect "an individual's immutable biological classification as either male or female." E.O. § 2. Thus, under the Passport Policy, a person's "sex" designation must represent "biological reality," *id.* § 1; no one is "allowed to self-select their sex marker based on their gender identity," Op. 5. The Passport Policy does not, in the words of *Skrmetti*, "prohibit conduct for one

sex that it permits for the other." 145 S. Ct. at 1831. Under the Passport Policy, no one may self-select their sex marker based on their gender identity; individuals of any sex are prohibited from engaging in such self-selection. *See id.*

In short, the aspect of the Passport Policy that plaintiffs challenge—namely, the policy's prohibition on self-selection—does not discriminate based on sex. That prohibition applies evenhandedly to men and women alike. By analogy, a state government does not discriminate based on alienage when it denies a non-citizen's application for an identity document that lists her as a citizen, even if she self-identifies as a citizen. Just as such a prohibition on self-identification would not be subject to heightened scrutiny, so too heightened scrutiny is not warranted here.

In concluding that the Passport Policy discriminates based on sex, the district court relied on the Supreme Court's interpretation of Title VII in *Bostock*. Op. 18-19. *Skrmetti* explained, however, that "Title VII's 'because of' test incorporates the traditional but-for causation standard." 145 S. Ct. at 1834 (quoting *Bostock*). As Justices Thomas and Alito explained in their concurring opinions, the "but-for cause" analysis in *Bostock*—derived from "the specific language

employed in Title VII"—has no application "in cases in which a law is challenged as an unconstitutional sex classification." *Id.* at 1859 (Alito, J., concurring in part and concurring in the judgment); *see id.* at 1838 (Thomas, J., concurring); *Tennessee v. Cardona*, 2024 WL 3453880, at *2 (6th Cir. July 17) (collecting cases).[1]

Even if *Bostock*'s reasoning extended to the equal-protection context, it still would not help plaintiffs here any more than it helped the plaintiffs in *Skrmetti*. Here, as in *Skrmetti*, "changing the [applicant's] sex … does not automatically change the operation of" the challenged aspect of the Passport Policy. 145 S. Ct. at 1834-35. If a female seeks to choose her own sex marker, the Passport Policy prohibits her from doing so—and requires that her sex marker reflect "biological reality," E.O. § 1, regardless of whether that reality matches the gender with which she self-identifies. Change that

[1] In extending *Bostock*'s reasoning to the equal-protection context, the district court followed the Tenth Circuit's lead in a case that bears a strong resemblance to this one. *See* Op. 19 (discussing *Fowler v. Stitt*, 104 F.4th 770 (10th Cir. 2024)). *Fowler* held that a governor's executive order prohibiting individuals from amending their birth certificates to reflect their "gender identities" discriminated based on sex and failed heightened scrutiny. *Fowler*, 104 F.4th at 788-94. After *Skrmetti*, the Supreme Court granted certiorari, vacated the Tenth Circuit's judgment, and remanded the case for reconsideration. *Stitt v. Fowler*, 2025 WL 1787695 (June 30, 2025).

person's sex from "female to male," *Skrmetti*, 145 S. Ct. at 1834, and the Passport Policy would still prohibit the male from choosing his own sex marker—and would still require that his sex marker reflect "biological reality," E.O. § 1, regardless of whether that reality matches the gender with which he self-identifies. Thus, under the policy, sex is not "the but-for cause" of one's inability to self-select a sex marker based on one's "gender identity." *Skrmetti*, 145 S. Ct. at 1834. Here, as in *Skrmetti*, the challenged aspect of the Passport Policy does not "intentionally penalize[]" a male "for a trait" that the policy "tolerates" in a female and vice versa, *id.*, and thus does not discriminate based on sex, even under *Bostock*'s reasoning.

Because the challenged aspect of the Passport Policy does not discriminate based on sex, rational-basis review applies. Under that highly deferential standard of review, courts uphold a classification "so long as there is any reasonably conceivable state of facts that could provide a rational basis for the classification." *Skrmetti*, 145 S. Ct. at 1835 (quotation marks omitted). Here, it was entirely rational for the Passport Policy to adopt an objective, rather than subjective, definition of sex—a definition grounded in biological reality, rather than self-selected notions of "gender identity." The

Passport Policy's prohibition on self-identification furthers the Executive Order's important purpose of ensuring accuracy in government documents, avoiding harms "to scientific inquiry, public safety, morale, and trust in government itself" flowing from efforts to "eradicate the biological reality of sex," and promoting the goal of using "clear and accurate language and policies" that recognize "an individual's immutable biological classification as either male or female." E.O. §§ 1, 2(a). That alone is more than sufficient to satisfy rational-basis review (or even intermediate scrutiny).

The Passport Policy's prohibition on self-identification also furthers the government's important interest in maintaining a consistent definition of sex throughout the federal government. As the Department explains, "the Executive Order indicates a government-wide shift to using one uniform definition of 'sex,' so a change in the Department's policies was also needed to support the goal of uniformity." First Pierce Decl. ¶ 19. Passport data would not be useful for other agencies if the Department adopted definitions inconsistent with U.S. policy. *Id.* Courts have repeatedly recognized that the government has a legitimate and important interest "in maintaining a consistent, historical, and biologically based definition

of sex," and requiring government documents to reflect only one's biological sex furthers that interest. *Gore v. Lee*, 107 F.4th 548, 561 (6th Cir. 2024); *see Corbitt v. Sec'y of the Ala. L. Enf't Agency,* 115 F.4th 1335, 1348 (11th Cir. 2024).

Moreover, because these are valid reasons for the Passport Policy's prohibition on self-identification, that policy is not "inexplicable by anything but animus." *Trump v. Hawaii*, 585 U.S. 667, 706 (2018). The district court plainly erred in concluding otherwise. Op. 27-32.

B. The Government Is Likely to Succeed on Plaintiffs' APA Claims

The government is also likely to succeed on plaintiffs' APA claims, both substantively and procedurally.

1. To start, the Passport Policy is not subject to review under the APA because it is compelled by Executive Order 14168, which established a rule governing the issuance of passports. *See Franklin v. Massachusetts*, 505 U.S. 788, 800-801 (1992) (explaining that presidential action is not reviewable under the APA); 20 U.S.C. § 211a ("The Secretary of State may grant and issue passports … under such rules as the President shall designate and prescribe for and on behalf of the United States."). The Executive Order affords the Department

no discretion about whether to continue to permit passport applicants to select their "gender identity" as "M," "F," or "X" instead of their sex. Permitting an arbitrary-and-capricious challenge to the Department's implementation of the President's passport rule would therefore amount to an end run around the prohibition against APA review of presidential actions. *Bradford v. DOL*, 101 F.4th 707, 731 (10th Cir. 2024) (holding that agency's action "could not have been an arbitrary and capricious exercise of agency discretion because the agency had *no discretion* to act otherwise" as its action was "compelled by" an executive order); *Sherley v. Sebelius*, 689 F.3d 776, 784-85 (D.C. Cir. 2012) (explaining that "an agency under the direction of the executive branch … must implement the President's policy directives to the extent permitted by law," so the agency properly "limited the scope of its" action and did not have to consider issues settled by the Presidential directive); *see also* Elena Kagan, *Presidential Administration*, 114 Harv. L. Rev. 2245, 2351 (2001).

The only discretion the Department exercised was in establishing *how* to determine a passport applicant's biological sex, which the Department does by relying principally on birth certificates. First Pierce Decl. ¶¶ 15, 18; *see id.* ¶ 14. The district court

did not question that methodology, and it is a plainly rational way to identify "an individual's immutable biological classification as either male or female." E.O. § 2(a). That is all that is required under the APA. *See Littlefield v. DOI*, 85 F.4th 635, 643 (1st Cir. 2023) (under the APA, court will uphold agency action "if it is supported by any rational view of the record"). Deference to the Department is especially appropriate in this context, where an agency is taking action to implement a rule prescribed by the President under his constitutional and statutory foreign affairs powers. *See Jama v. ICE*, 543 U.S. 335, 348 (2005) (noting the Supreme Court's "customary policy of deference to the President in matters of foreign affairs").

In short, to the extent the Passport Policy is reviewable under the APA, it easily passes muster as a rational implementation of Executive Order 14168. Moreover, even if the substance of the Passport Policy were subject to review under the APA, the reasons for the policy articulated in the Executive Order and relied on by the Department are sufficient for the same reasons that the Executive Order satisfies rational-basis review, as discussed above.

2. The government is also likely to succeed on the merits of plaintiffs' procedural APA claim. Plaintiffs argued that the

Department failed to comply with the Paperwork Reduction Act by using passport application forms that had not been properly published in the Federal Register and approved by the Director of the OMB. *See* Op. 44-46. But the Department issued the required notices in the Federal Register in November 2024 and February 2025. First Pierce Decl. ¶¶ 9, 20. And on June 25, 2025, after the district court entered the preliminary injunction, the Director of OMB approved the forms. ECF 127-1, ¶¶ 4, 6 (Ex. 8). Those forms will be available for public use in approximately two to three months. Because the Department has now completed the statutory process for use of the passport application forms, the government is likely to succeed on the merits of plaintiffs' procedural APA claims. The district court did not dispute that the government's actions resolved plaintiffs' procedural APA challenge. ECF 130. At a minimum, the district court's procedural determination can no longer be a basis for enjoining the Passport Policy, which will remain blocked even after the new forms are published.

II. The Balance of Equities Favors a Stay

The district court also erred in evaluating the balance of harms between plaintiffs and the government, particularly in extending its plaintiff-specific injunction to a broad class.

A. The government will face irreparable injury absent a stay. The President has a significant interest in controlling the content of passports because a passport is an instrument of diplomacy, *Agee*, 453 U.S. at 292-93, through which the President, on behalf of the United States, "in effect request[s] foreign powers to allow the bearer to enter and pass feely and safely, recognizing the right of the bearer to the protection and good offices of American diplomatic and consular officers," *United States v. Laub*, 385 U.S. 475, 481 (1967). Thus, a passport functions both as a "travel control document" that provides "proof of identity and proof of allegiance to the United States," and an official communication "by which the Government vouches for the bearer and for his conduct." *Agee*, 453 U.S. at 293.

The preliminary injunction intrudes into the President's core foreign-affairs prerogatives by requiring the Executive to issue passports addressed to foreign nations that the President deems inappropriate. Moreover, although "[t]he information contained in a

passport is unquestionably government speech," *Doe v. Kerry*, 2016 WL 5339804, at *16 (N.D. Cal. Sept. 23, 2016), the injunction compels the government to convey what it believes to be inaccurate information, *cf.* 22 C.F.R. § 51.9 (other than "for the convenience of the U.S. Government, no passport may be amended"). The government must have "the authority to control its own message when it speaks or advocates a position it believes is in the public interest." *Chiras v. Miller*, 432 F.3d 606, 612 (5th Cir. 2005); *see Doe*, 2016 WL 5339804, at *16 (concluding that the United States, not the passport holder, controls a passport's content). Without that ability, "government would not work." *Walker v. Texas Div., Sons of Confederate Veterans, Inc.*, 576 U.S. 200, 207 (2015). The government could not implement the policy goals and uniformity it seeks "if officials also had to voice the perspective of those who oppose" the government's message. *Id.* at 208; *accord Pleasant Grove City, Utah v. Summum*, 555 U.S. 460, 468 (2009).

Indeed, "[w]hen a government entity embarks on a course of action, it necessarily takes a particular viewpoint and rejects others." *Matal v. Tam*, 582 U.S. 218, 234 (2017). "If every citizen were to have a right to insist that no one paid by public funds express a view with

which he disagreed, debate over issues of great concern to the public would be limited to those in the private sector, and the process of government as we know it radically transformed." *Keller v. State Bar of Cal.*, 496 U.S. 1, 12-13 (1990). These concerns are especially pronounced on the topic of "gender identity," which is the focus of "fierce … policy debates." *Skrmetti*, 145 S. Ct. at 1837. The preliminary injunction forces the Executive to take a side on such "ongoing debate," contrary to the Executive's policy determination that the promotion of gender ideology is against the public interest. *Id.* at 1836; *see also id.* at 1840 (Thomas, J., concurring) (explaining problems with courts deferring "to so-called expert consensus" in the field of gender ideology). Thus, in addition to intruding into the President's core foreign affairs prerogatives, the injunction imposes discrete harm on the government each and every time an individual presents a passport to a foreign nation that contains statements that the Executive views as false.

The class-wide injunction in particular has also imposed, and will continue to impose, significant burdens on the State Department, as it develops and implements a process for identifying and issuing passports to the PI Class. As the Department explained, "[e]ach U.S.

passport issued by the Department to a member of the PI Class in compliance with the Court Order requires additional time and effort for processing that otherwise would be used for adjudicating and issuing passports to U.S. citizens who are not members of the PI Class." ECF 127-2 ¶ 9 (Ex. 9). Specifically, passports issued to the PI Class entail processing of an Attestation, processing of an Information Request Letter (if additional information is needed), and a systems override to issue a passport with an "X" sex marker. *Id.* Plus, if the government prevails in this case and the Department proceeds to revoke and replace passports issued pursuant to the preliminary injunction, the Department will incur additional administrative costs. *Id.* ¶ 11.

B. The district court's speculation about potential harms to absent class members cannot outweigh these significant harms to the government.

The district court concluded that six of the named plaintiffs had established a likelihood of irreparable injury based on their specific allegations that they would suffer psychological harm if they had to travel with passports reflecting their sex. Op. 47-48. The court further credited declarations from three of the named plaintiffs that they had

suffered harassment when traveling with "identity documents bearing sex markers corresponding to their sex assigned at birth." *Id.* at 48. But the court recognized that all the named plaintiffs were not similarly situated and denied preliminary injunctive relief to one of them. *Id.* at 50.

In expanding the preliminary injunction to the PI Class, the district court abandoned the careful, plaintiff-specific approach to harms it employed in issuing its original injunction and issued a much broader injunction based on a facially implausible assumption that the irreparable harm of the named plaintiffs "is representative of the risk of irreparable harm faced by every member of the PI Class." ECF 115, at 27. That approach was flawed; at a minimum, the class-wide injunction should be stayed.

Even assuming the six named plaintiffs established that *they* would suffer irreparable harm, the district court made "an obvious mistake of judgment," *DraftKings Inc. v. Hermalyn*, 118 F.4th 416, 419 (1st Cir. 2024), in assuming that the named plaintiffs' injuries represent the PI Class. The district court based its conclusion on expert declarations plaintiffs submitted. ECF 115, at 24-25. One of those declarations stated that a *minority*—32%—of trans-identifying

individuals "who had presented an identity document that did not match their gender presentation had at least one negative experience." *Id.*; ECF 78-14, ¶ 22. It similarly stated that trans-identifying individuals "who had changed the gender marker on their passports were 18% less likely to meet the criteria for serious psychological distress." ECF 78-14, ¶ 37. The other declaration provided no quantitative basis for extrapolating the harms alleged by the six named plaintiffs to the PI Class. *See* ECF 78-13, ¶¶ 86-90. Such evidence indicating that *some* trans-identifying individuals might experience *some* types of harm under the Passport Policy does not provide a sufficient basis for the district court's conclusion that harms the named plaintiffs identified in specific declarations are likely representative of the class *as a whole*.

The Supreme Court requires "plaintiffs seeking preliminary relief to demonstrate that irreparable injury is *likely* in the absence of an injunction." *Winter v. NRDC*, 555 U.S. 7, 22 (2008). Plaintiffs established at most that it is possible that some members of the PI Class may suffer injury without a preliminary injunction. Because a mere possibility of harm is not enough, *id.*, the balance of equities

favors the government, and a stay of the class-wide injunction is warranted.

CONCLUSION

The Court should grant a stay of the class-wide preliminary injunction pending appeal.

Respectfully submitted,

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July 2025

CERTIFICATE OF COMPLIANCE

I hereby certify that the foregoing motion complies with the word limit of Federal Rule of Appellate Procedure 27(d)(2)(A) because the motion contains 5,136 words. The motion complies with the typeface and type-style requirements of Federal Rules of Appellate Procedure 27(d)(1)(E) because it has been prepared using proportionally spaced 14-point Georgia typeface.

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CERTIFICATE OF SERVICE

I hereby certify that on July 18, 2025, I electronically filed the foregoing motion with the Clerk of the Court for the United States Court of Appeals for the First Circuit by using the appellate CM/ECF system. Participants in the case are registered CM/ECF users, and service will be accomplished by the appellate CM/ECF system.

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ASHTON ORR, *et al.*, *Plaintiffs*, v. DONALD J. TRUMP, *et al.*, *Defendants*.	Case No. 1:25-cv-10313-JEK

JOINT STATUS REPORT

Pursuant to the Court's August 6, 2025 Order, *see* ECF No. 137, the Parties hereby respectfully submit the following Joint Status Report.

On August 27, 2025, Defendants filed the administrative record. *See* ECF No. 140. The Parties each intend to file motions for summary judgment on Plaintiffs' non-stayed APA-related claims (Counts 6 and 7) ("Plaintiffs' APA Claims"), *see* ECF No. 137, and propose the below briefing schedule and page limits:

DEADLINE	**DATE**
Plaintiffs file opening motion for summary judgment on Plaintiffs' APA Claims (20 pages total)	October 17, 2025
Defendants file (i) opposition to Plaintiffs' motion for summary judgment on Plaintiffs' APA Claims and (ii) cross-motion for summary judgment on Plaintiffs' APA Claims (30 pages total)	November 17, 2025
Plaintiffs file (i) reply in further support of Plaintiffs' motion for summary judgment on Plaintiffs' APA Claims and (ii) opposition to Defendants' cross-motion for summary judgment on Plaintiffs' APA Claims (20 pages total)	December 3, 2025
Defendants file reply in further support of Defendants' cross-motion for summary judgment on Plaintiffs' APA Claims (10 pages total)	December 17, 2025

Dated: September 11, 2025

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on September 11, 2025, a true copy of the foregoing will be electronically filed with the Clerk of Court using the CM/ECF system, which will then send a notification of such filing (NEF) to counsel of record.

/s/ Isaac D. Chaput
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Document Number: 142(No document attached)

Docket Text:

District Judge Julia E. Kobick: ELECTRONIC ORDER entered.

The Court notes the parties' joint status report, ECF [141], and hereby ADOPTS the schedule and page limits proposed by the parties for briefing summary judgment motions. (Currie, Haley)

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