

## Selecting Gender on USCIS Forms

On March 31, 2023, U.S. Citizenship and Immigration Services (USCIS) announced it is revising the USCIS Policy Manual to clarify that benefit requestors may select their gender on USCIS forms (or change a prior gender selection) without the need to provide supporting documentation. Documents issued by USCIS as a result of the benefit adjudication will reflect the gender selected by the benefit requestor.

Prior USCIS guidance required benefit requestors seeking to change their gender marker on immigration documents to submit documentation about their gender identity to support the requested change. USCIS is removing these evidentiary requirements in line with priorities from existing Executive Orders and to reduce barriers for USCIS' applicants.

Removing evidentiary requirements regarding gender markers better ensures that all secure identity documents and biographic data are accurate, particularly for noncitizens who were unable to accurately state their gender in their initial applications or who may otherwise need an update to their gender marker; it also removes the burden imposed by requiring that requestors have to publicly discuss or provide documentation regarding the gender listed on their identity documents in order to obtain a benefit or service. This update is also intended to reduce barriers to travel, employment, services, and benefits by eliminating delays and preventing discrimination and harassment due to inconsistent identity documents. In response to stakeholder feedback as well as recent changes made by a number of state and federal agencies, USCIS is now removing the requirement that benefit requestors submit proof of their gender identity when seeking to change their gender marker on USCIS benefit requests or secure documents, except for the Application for Replacement Naturalization/Citizenship Document (Form N-565).

USCIS also stated that the only gender markers currently available on forms and documents are "Male" or "Female," but they are working to add an additional gender marker of "X" for another or unspecified gender identity.

This guidance, contained in Volumes 1, 11, and 12 of the Policy Manual, is effective immediately and applies to all cases filed or pending on or after March 31, 2023. The guidance contained in the Policy Manual is controlling and supersedes any related prior guidance on the topic.

### Policy Highlights:

- Explains that benefit requestors may self-select their gender marker (in an initial filing or a subsequent change to a prior gender selection) without the need to provide supporting documentation or to match the gender listed on their identity documents.
- Removes the prior requirement that benefit requestors submit proof of their gender identity to change gender markers or to update their selected gender marker to match other supporting documentation.

Please reach out to a member of our Immigration Team if you have further questions.



Elizabeth A. Olivera

Associate

eolivera@cozen.com  
Phone: (312) 382-3139  
Fax: (612) 260-9080



Frances Rayer

Member

frayer@cozen.com  
Phone: (215) 665-3704  
Fax: (215) 665-2013

### Related Practice Areas

- Immigration Policy & Strategy
- Labor & Employment