

April 22, 2011

Alexys Garcia,
U.S. Department of State,
2100 Pennsylvania Ave., NW., Room 3031,
Washington, DC 20037

Re: Form: DS-5513, Biographical Questionnaire for U.S. Passport; FR Doc. 2011-4154

Dear Ms. Garcia:

Family Equality Council, the national organization working to ensure full social and legal equality for lesbian, gay, bisexual, and transgender (LGBT) families by providing direct support, educating the American public, and securing inclusion in legislation, policies, and practices impacting families, along with the undersigned organizations, submits the following comments to express our strong concerns about the proposed new Biographical Questionnaire for U.S. Passport form (DS-5513).

Comments

Document as a whole

Family Equality Council is concerned that the information requested in this questionnaire is invasive, irrelevant, and overly burdensome for many American citizens. For LGBT families in particular, who may create their families through adoption, fostering, or advanced reproductive technologies such as donor insemination or surrogacy, this form will have a disproportionately adverse impact. Much of the information requested in this form would be difficult to obtain for an applicant who was adopted or fostered as a child. Such an applicant would, for example, have no way of obtaining information regarding a birth mother's residence or pre-natal care. Likewise, if a child is conceived through surrogacy, many of the questions about the "mother's" immigration status, work history, and medical care are unattainable and completely irrelevant for the purpose of obtaining a passport.

There is no conceivable rationale as to why information on schools attended by birth parents or birth parents' former places of employment in and outside of the United States is relevant to obtaining a U.S. passport. Given the difficulty that many applicants may have in obtaining the information requested on this form, and the volume of information requested, we are concerned that filling out the form would take much longer than the stated estimate of 45 minutes and would be too onerous for most people to complete.

Page 1, Section B

Page 1, Section B requires the passport applicant to list information about the child's "Father," "Step-father," "Mother," and "Step-mother." There is no space or explanation as to how families with two mothers or two fathers should fill in this section. Moreover, we are disappointed that given the Department of State (DOS) has led the effort to make forms more inclusive of diverse family formations by using "Parent 1" and "Parent 2" designations, this form appears to take a step backward and excludes an entire category of families.

We also fail to see the relevance of the place of birth and citizenship status of the applicant's siblings. For adopted or fostered applicants it may be impossible to obtain this information.

Page 2

The questions asked on Page 2 place an unreasonable burden on many individuals seeking U.S. passports. The form indicates that this page is specifically designed to elicit information about births that took place within the U.S. outside of a hospital setting. It is unclear what purpose information about a birth-mother's prenatal care would have in determining eligibility for a passport. Not only is this information potentially onerous for a person to gather, it also requires providing information contained in private medical records. A question that asks a person to describe who was present at his or her birth is absurd on its face; no one has any memory of his or her own birth. Nor do many applicants, including those who have been adopted or spent time in the foster care system, have any means of accessing this information.

The form requires the applicant to swear the truth of its contents under oath, when by definition, many of the questions on the form can only be known to the applicant through second or third-party hearsay. This is illogical and could lead applicants to feel uncomfortable signing the form. Moreover, questions about the entry documents of the birth-mother are not relevant to the citizenship status of a child who was born on U.S. soil.

While we understand the need to verify that passport applicants who were born outside of hospital settings establish that their birth did occur in the United States (if that is necessary to prove citizenship for the particular applicant), this form disproportionately burdens children of same-sex couples by failing to acknowledge their existence in the language of the form and by asking them to provide information that many of them will be unable to obtain. The information sought by this form would be particularly difficult to ascertain if an applicant was conceived through surrogacy, was adopted or fostered, or otherwise had no contact with his or her biological parents.

Guidance Requested

We are concerned about the lack of guidance indicating when this supplementary form will be required. Given the sensitive and private nature of much of the information requested, strict clear guidelines as to how this form will be used must be implemented. We request that the Department promulgate guidance as to when the supplementary form will be required and to what extent applicants are expected to complete the form so that use of the form is consistent and not arbitrary.

Given the serious concerns outlined above, we respectfully request that you not implement this form until it is substantially revised and comprehensive accompanying guidance is proposed. We would be happy to meet with the Department to discuss any of the above comments.

Thank you for your consideration.

Sincerely,



Jennifer Chrisler
Executive Director
Family Equality Council

Co-signatory Organizations

American Civil Liberties Union

PFLAG National (Parents, Families and Friends of Lesbians and Gays)

The National Gay and Lesbian Task Force

The Gay & Lesbian Medical Association