

January 26, 2026

Via Federal eRulemaking Portal

Aaron T. Siegel
Alternate OSD Federal Register Liaison Officer
U.S. Department of Defense
1400 Defense Pentagon
Washington, DC 20301-1400

RE: DoD Interim Final Rule, “Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals; Amendment,” Docket ID: DoD-2025-OS-0009, RIN 0790-AL85

Dear Officer Siegel:

We write to offer brief comment on the Department of Defense’s (DoD) interim final rule (IFR) “Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals; Amendment.”¹ Rachel Morrison is a Fellow at the Ethics and Public Policy Center (EPPC), director of EPPC’s Administrative State Accountability Project (ASAP), and a former attorney with the Equal Employment Opportunity Commission. Samuel Lucas is a Legal Associate with ASAP.

The IFR amends regulations concerning the policies and procedures for issuing DoD ID cards. Specifically, the IFR removes a procedure established in 2024² for retirees, dependents, and contractor employees to request a change to their “gender marker” based on preference (and without an administrative error) in the Defense Enrollment Eligibility Reporting System (DEERS).³ The IFR also removes and replaces three instances of the term “gender” with “sex” and one instance of the term “gender marker” with “sex code.”⁴ **We support these changes.**

This IFR complies with President Trump’s Executive Order 14168 on “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” which “recognize[s] two sexes, male and female, and ... that ‘these sexes are not changeable and are grounded in fundamental and incontrovertible reality’” and “requires Federal agencies to ensure that all applicable policies and documents, including rules, use the term “sex”

¹ 90 Fed. Reg. 55042 (Dec. 1, 2025), <https://www.federalregister.gov/d/2025-21723>.

² See DoD, Identification (ID) Cards for Members of the Uniformed Services, Their Dependents, and Other Eligible Individuals, 89 Fed. Reg. 11172 (Feb. 14, 2024), <https://www.federalregister.gov/d/2024-02621>.

³ 90 Fed. Reg. at 55042.

⁴ *Id.*

and not “gender.”⁵

We applaud DoD for opposing gender ideology and recognizing biological truth. Biological realities should take precedence over preferences or “gender identity.” There are two sexes—male and female. While “gender” historically was used synonymously with sex, the term is now often used to mean something other than binary, biological sex. Biology is not bigotry. As Supreme Court Justice Ruth Bader Ginsburg recognized, “Physical differences between men and women ... are enduring: ‘[T]he two sexes are not fungible.’”⁶

We agree with DoD that there was good cause for the IFR to be effective immediately upon publication and that the IFR will help “avoid confusion and prevent unnecessary time spent on self-attestation requests.”⁷ As Rachel Morrison told the *Washington Times*, “Using the term ‘sex’ instead of ‘gender’ provides clarity, improves the quality and utility of information collected, protects sex-based rights, and reflects biological reality, not subjective self-perception.”⁸

In short, DoD should finalize the IFR.

Sincerely,

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⁵ Exec. Order 14168, Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government, 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/d/2025-02090>.

⁶ *United States v. Virginia*, 518 U.S. 515, 533 (1996) (second alteration in original) (quoting *Ballard v. United States*, 329 U.S. 187, 193 (1946)).

⁷ 90 Fed. Reg. at 55043.

⁸ Stephen Dinan, *Trump’s First Year Has Changed the Way Government Speaks*, Wash. Times (Dec. 24, 2025), <https://www.washingtontimes.com/news/2025/dec/24/trumps-first-year-changed-way-government-speaks/>.