

March 27, 2026

Submitted via email to OCRassuranceofcomplianceform@hhs.gov

Catherine Howard
Paperwork Reduction Act Reports Clearance Officer
Office of the Secretary
Department of Health and Human Services
Hubert Humphrey Building
200 Independence Avenue, SW
Washington, DC 20201

RE: HHS Notice, “Agency Information Collection Request; 60-Day Public Comment Request”; Docket ID: OS-0945-0008; Assurance of Compliance, Form HHS-690

Dear Officer Howard:

We are scholars at the Ethics and Public Policy Center, and we write to offer brief comment on the Department of Health and Human Services’ (HHS) notice, “Agency Information Collection Request; 60-Day Public Comment Request,” which involves revisions to collection Assurance of Compliance, Form HHS-690.¹

As the Notice explains, such assurance of compliance is “required by the federal civil rights laws, conscience, and religious nondiscrimination laws enforced by the Office for Civil Rights.”² We agree with HHS that requiring an assurance of compliance by covered entities when they apply for and receive HHS funds is one way HHS can ensure compliance with civil rights laws; it alters covered entities of their legal obligations to respect civil rights, conscience rights, and religious nondiscrimination rights and gives HHS “a valuable enforcement tool” in the form of a contractual obligation under the False Claims Act.³

The notice explains that the form’s revisions conform to Executive Order 14168, “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,”⁴ and a federal court order in *Texas v. Becerra*,⁵ which stayed nationwide the Biden Section 1557 Final Rule’s definition of sex discrimination that included “sex characteristics, including intersex traits”; “pregnancy or related conditions”; “sexual orientation”; “gender identity”; and “sex stereotypes.”⁶

¹ 91 Fed. Reg. 3205 (Jan. 26, 2026), <https://www.federalregister.gov/d/2026-01465>.

² 91 Fed. Reg. at 3205.

³ *Id.*

⁴ 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/d/2025-02090>.

⁵ No. 6:24-CV-211-JDK, 2024 WL 4490621, at *2 (E.D. Tex. Aug. 30, 2024).

⁶ 91 Fed. Reg. at 3205.

We applaud HHS for opposing gender ideology and recognizing biological truth in its assurance of compliance form. 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,” “inherent,” and “remain cause for celebration”: “[T]he two sexes are not fungible.”⁷

EO 14168 recognized that there are “two sexes, male and female,” “these sexes are not changeable,” and the sexes are “grounded in fundamental and incontrovertible reality.”⁸ The order further directed agencies, like HHS, to “enforce all sex-protective laws to promote this reality” and to use the term “sex” and not “gender” in relevant polices, documents, and regulations.⁹

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.”¹⁰ The revisions will likewise improve the assurance of compliance form by enhancing the quality, utility, and clarity of the information collected and also ensure that the form reflects current regulatory obligations in light of *Texas v. Becerra*.

In short, the request should be approved.

Sincerely,

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Fellow and Director
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Ethics & Public Policy Center

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Legal Associate
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⁷ *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)).

⁸ 90 Fed. Reg. 8615 (Jan. 20, 2025), <https://www.federalregister.gov/d/2025-02090> (defining “sex” for the purpose of Executive Branch interpretation and application of federal law as referring “to an individual’s immutable biological classification as either male or female”).

⁹ *Id.*

¹⁰ 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/>.