

April 27, 2026

Via Federal eRulemaking Portal

Mark Steffensen
General Counsel
Deputy Commissioner for Law and Policy
Social Security Administration
6401 Security Blvd.
Baltimore, MD 21235

RE: SSA Notice “Agency Information Collection: Proposed Request”; Document No. 2026-03843

Dear Mr. Steffensen:

We write to offer brief comment on the Social Security Administration’s (SSA) proposed information collection “Agency Information Collection: Proposed Request”, Document No. 2026-03843.¹ 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 notice contains extensions and revisions of 19 OMB-approved information collections by SSA. Relevant to our comment, the notice requests comment on revisions to *Complaint Form for Allegations of Discrimination in Programs or Activities Conducted by the Social Security Administration—0969-0585* (Form SSA-437).² Per the notice, this form is used “to investigate and formally resolve complaints of discrimination based on disability, race, color, national origin (including limited English language proficiency), sex (***including sexual orientation and gender identity***), age, religion, or retaliation for having participated in a proceeding under this administrative complaint process in connection with an SSA program or activity.”³

The reference to sexual orientation and gender identity appears to be at odds with current Form SSA-437 available on SSA’s website which does not include that language.⁴

The reference is also at odds with President Trump’s Executive Order 14168 on “Defending Women from Gender Ideology Extremism and Restoring Biological Truth to the Federal Government,” which rightly recognized that there are “two sexes, male and female,”

¹ 91 Fed. Reg. 9671 (Feb. 26, 2026), <https://www.federalregister.gov/d/2026-03843>.

² *Id.* at 9679.

³ *Id.* (emphasis added).

⁴ See Form SSA-437, <https://www.ssa.gov/forms/ssa-437.pdf> (available at <https://www.ssa.gov/forms/>).

“these sexes are not changeable,” and the sexes are “grounded in fundamental and incontrovertible reality.”⁵ The executive order directed agencies, like SSA, to “enforce all sex-protective laws to promote this reality.”⁶

We urge SSA to ensure that its notices and information collections align with the Trump Administration’s efforts to oppose gender ideology and recognize biological truth. 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

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 By eliminating references to sexual orientation and gender identity as part of sex discrimination, SSA would likewise provide clarity, protect sex-based rights, and reflect biological reality, not subjective self-perception.

Sincerely,

Rachel N. Morrison, J.D.
Fellow and Director
Administrative State Accountability Project
Ethics & Public Policy Center

Samuel Lucas
Legal Associate
Administrative State Accountability Project
Ethics & Public Policy Center

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 *Id.*

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 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/>.