

July 10, 2026

Submitted via samhsapra@samhsa.hhs.gov

Alicia Broadus
Public Health Advisor
U.S. Department of Health and Human Services
200 Independence Ave, S.W.
Washington, DC 20201

RE: SAMHSA Notice, “Agency Information Collection Activities: Proposed Collection; Comment Request”; Docket No. 2026-09287

Dear Ms. Broadus:

We are scholars at the Ethics and Public Policy Center, and we write to offer brief comment on the Substance Abuse and Mental Health Services Administration’s (SAMHSA) Notice, “Agency Information Collection Activities: Proposed Collection; Comment Request,” (Doc. No. 2026-09287).¹

The Department of Health and Human Services’ (HHS) SAMHSA invites public comment on a Notice to extend approval of changes made to forms used to “to identify appropriate peer reviewers” for “review[] of discretionary grant programs.”² The Notice proposes to modify these forms by 1) replacing the term “gender” with “sex and 2) removing the options “transgender” and “prefer not to answer” from the forms’ “sex” category.³ **We support these proposed changes.**

We applaud SAMHSA for opposing gender ideology and recognizing biological truth in its forms. 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.”⁴

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.”⁵ 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.⁶ As Rachel Morrison has told the *Washington Times*, “Using the term ‘sex’ instead of ‘gender’ provides clarity, improves the quality and

¹ 91 Fed. Reg. 25586 (May 11, 2026), <https://www.federalregister.gov/d/2026-09287>.

² *Id.*

³ *Id.*

⁴ *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)).

⁵ 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”).

⁶ *Id.*

utility of information collected, protects sex-based rights, and reflects biological reality, not subjective self-perception.”⁷

Thank you for the opportunity to provide public comment.

Sincerely,

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

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Legal Associate
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⁷ 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/>.