

UNITED STATES TRAVEL ALERT



This document is based on the best
available information as of 14 April 2025.

www.equalityaustralia.org.au

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This advice is general in nature and cannot be taken as legal advice specific to a person's situation. We encourage individuals to contact a migration lawyer or agent for specific advice if they are planning to travel.

The following information is drawn from a range of sources.¹ However, the situation is evolving rapidly and what you experience may not be consistent with official policy.

Equality Australia is monitoring instances of travellers experiencing difficulties entering the US due to their gender. If you are aware of any cases or experience difficulties yourself, **please consider alerting us at info@equalityaustralia.org.au.**

Who is affected?

This advice is relevant if you are travelling to the US and you:

- hold a passport with a gender X marker;
- have identity documents with gender markers different to those assigned to you at birth, or where other relevant details (such as your name) have been changed;
- have gender markers in your identity documents that do not match your gender expression;
- have a track record of LGBTIQ+ activism or other political activity.

This applies whatever your reason for travel - tourism, education, work or moving to the US – even if you hold a valid visa.

Travel to the US carries serious risks that should be considered before planning any travel, particularly if you fall under one of the above categories.

¹ Public US Government documents, media reporting, internal US Government documents circulated online, written advice available to the public on request from DFAT, travel advice from other governments and travel advisories issued by LGBTIQ+ organizations, including forthcoming advice from DC WorldPride.

What are the risks?

Overview

Travellers to the US have very few rights or protections.

Key risks relating to the ESTA and visa application process at present include:

- Refusal of visa
- Permanent ineligibility to travel to the US

Key risks relating to admission to the US at present include:

- Denial of entry
- Mistreatment, including deliberate misgendering, targeted questioning, humiliating treatment, accessing private information including political views, and invasive searches of trans travellers
- Arbitrary detention, with limited legal recourse

Additionally, travel within the US carries risks associated with state-level anti-LGBTIQ (particularly anti-trans) laws that may affect you. The “Further advice” section below contains links to information about individual states.

Visas and ESTAs

Based on our reading of available documents, US Government policy appears to be:

- to use the term “biological sex”;
- to only use the gender marker recorded at a person’s birth, even if this differs from their gender;
- that valid foreign passports with an X gender marker and a valid visa (if needed) may continue to be admitted, however this is contingent upon satisfying inspection of their admissibility by the US Customs and Border Protection officer at the port of entry. See below for more detail regarding risks at the port of entry;
- that any previously issued, valid visa may remain current until its expiration date and the visa holder does not need to apply for a new visa with an amended gender marker until the current visa expires (it is unclear whether this applies to ESTAs);
- that new visas will only be issued under the gender marker recorded for the applicant at birth (it is unclear whether this applies to ESTA applications, although only M and F gender marker options are available for ESTA applications);
- that if consular officers assessing visa applications become aware an application does not contain the gender marker recorded at the applicant’s birth, they should assess additional evidence (such as previous travel records, although the scope is unclear), and/or conduct interviews; and
- that where individuals are not using the gender marker recorded at their birth, consular officers should consider classifying the application as procuring a visa through material misrepresentation or fraud, which results in a lifetime bar from the US.

Admission to the US at ports of entry

Customs and Border Protection Officers (CBP) have broad-based powers to decide if travellers are eligible for entry to the US. CBP officers may deny you entry and are not obliged to offer a reason. We have concerns regarding how individual officers may respond to the current LGBTIQ+ policy environment. It is important to understand CBP is a separate agency to the State Department, which is responsible for visas.

Even if you have a valid passport and visa, risks at the port of entry include:

- **Denial of entry** – it is the jurisdiction of CBP officers to assess travellers for eligibility, including on the basis of factors such as appearance. CBP officers have the right to require you to unlock your phone and other electronic devices and provide them with access to your personal communications, content and social media.
- **Mistreatment** – CBP officers and Transportation Security Administration (TSA) officers may engage in deliberate misgendering and mockery, targeted and invasive questioning, humiliating treatment and invasive searches. TSA body scanners may flag some items such as gender-affirming prosthetics for additional screening. Community members have reported experiencing these practices.
- **Arbitrary detention** – media reporting indicates an increase in the number of travellers being subjected to extremely distressing arbitrary detention in US immigration detention facilities. The risk is likely higher for members of the LGBTIQ+ community. Travellers in this situation have had restricted access to communications, including having their phone confiscated, which limits access to legal recourse.
- **Reductions in protection** – federal anti-discrimination laws protecting LGBTIQ+ individuals have been rolled back.

What can you do?

Travel to the US carries serious risks that should be considered before planning any travel, particularly if you fall under one of the above categories. Some additional steps you can take are set out below.

Emergency consular assistance is available 24 hours a day by calling DFAT's Consular Emergency Centre (CEC) in Canberra on 1300 555 135 within Australia, or +61 2 6261 3305 from anywhere in the world.

Prior to travel

If you are considering travelling to the US and have concerns:

- DFAT are monitoring the situation and have additional on-request advice that they can provide if you contact them. <https://www.smartraveller.gov.au/about-us/contact-us>
- Consider contacting a migration lawyer or agent for independent advice and assistance.
- Consult [your local US consulate](#).
- Consult TransHub's [information on visas](#).

- Continue to monitor media coverage of the situation.

During travel

- If you are travelling on a passport with a gender or name that has changed compared what was previously listed on your identity documents, or if your gender expression does not match the gender markers in your identity documentation, be prepared for intense scrutiny and the types of treatment outlined above.
- Make sure a family member, friend or other trusted contact has a copy of your itinerary, is aware of the risks set out here, and is contactable. Ensure you memorize their contact details, as well as contact details for a US-based lawyer.
- Assess the personal risks if your devices are searched. For example, a temporary or secondary device may raise suspicions and may not be warranted if you do not have political or LGBTQ+ content on your devices in the first place. Refer to [The Guardian's guide on this topic](#).
- If possible, travel with someone else.
- Familiarise yourself with your rights and entitlements vis-à-vis CBP and TSA officers, such as when you can ask for a supervisor.
- If you are carrying hormone therapy (HRT) & medical supplies:
 - Keep all medications in original packaging with a doctor's note.
 - Pack HRT & syringes in your carry-on to avoid loss or damage.
 - Inform TSA officers of medical items before screening if you feel comfortable.

If you are taken aside or detained

- If you are taken aside at the border, even for an interview, it is important to notify someone as soon as possible – either the Australian consulate or a trusted contact who has been briefed on what to do. Contact details for emergency consular assistance from DFAT are listed above.

Further advice

People with innate variations of sex characteristics can also approach [Interaction for Health & Human Rights](#) for further advice.

You can also consult travel advice from the [Australian](#), [Danish](#), [Dutch](#), [Finnish](#)², [French](#) and [German](#) governments, find some of the relevant US government documents [here](#) and track the detention of foreign nationals [here](#). Guides to travellers' rights when entering the US have been

² As of 24 March 2025, the English language version of the website has not been updated; the travel advice only appears on the Finnish language version (use a translation app)

provided by [The Guardian](#) and [The Conversation](#). The Guardian also has a specific guide on [phone and data privacy](#).

DFAT have additional written advice for LGBTIQ+ travellers that they can provide on request: <https://www.smartraveller.gov.au/about-us/contact-us>

Further information on state-level anti-LGBTIQ+ laws can be found at:

- <https://www.erininthemorning.com/p/anti-trans-national-risk-assessment>
- <https://translegislation.com>
- <https://www.aclu.org/legislative-attacks-on-lgbtq-rights-2025>
- <https://www.lgbtmap.org/equality-maps>