

United States Senate

July 16, 2026

The Honorable Marco Rubio
Secretary
Department of State
2201 C Street, NW
Washington, D.C. 20520

The Honorable Markwayne Mullin
Secretary
Department of Homeland Security
2707 Martin Luther King Jr. Ave., SE
Washington, D.C. 20536

Dear Secretary Rubio and Secretary Mullin,

Thank you for your important work defending our nation against mass migration and foreign efforts to devalue American citizenship. I write regarding foreign diplomats unlawfully claiming birthright citizenship for their children born in the United States during their diplomatic missions. Neither the Constitution nor federal statutory law grants foreign diplomats' children birthright citizenship. Yet public reporting indicates that potentially thousands of foreign diplomats' children have been given citizenship documentation. Foreign diplomats' children using improperly procured citizenship documentation to illegally claim citizenship degrades the meaning of American citizenship, undermines our sovereignty, and threatens our national security.

I therefore urge both of your agencies to take immediate action to investigate the extent of improper grants of citizenship documentation to foreign diplomats' children, implement policies and procedures to prevent it from occurring in the future, identify the individuals who have illegally procured citizenship documentation in this manner, and revoke those individuals' illegally procured citizenship documentation.

The Fourteenth Amendment confers American citizenship upon persons born in the United States while "subject to the jurisdiction thereof."¹ For more than a century, statutory law, judicial precedent, and executive-branch policy have recognized that foreign diplomats' children born in the United States are not "subject to [its] jurisdiction" and therefore do not acquire citizenship at birth.² Indeed, even though the majority in *Trump v. Barbara* wrongfully expanded birthright citizenship to cover the children of illegal aliens and temporarily present aliens, it too recognized that the children of diplomats do not acquire birthright citizenship.³

¹ U.S. CONST. amend. XIV, § 1.

² See, e.g., *Elk v. Wilkins*, 112 U.S. 94, 102 (1884) (explaining that "children born within the United States" to "ambassadors or other public ministers of foreign nations" do not acquire birthright citizenship); *Muthana v. Pompeo*, 985 F.3d 893, 903 (D.C. Cir. 2021) (holding that an individual born in the United States to foreign diplomat did not acquire citizenship at birth); 8 U.S.C. § 1401 (listing children who obtain birthright citizenship at birth yet not mentioning diplomats' children); 7 U.S. Dep't of State Foreign Affairs Manual § 1116.2-2 (1995) ("[C]hildren born in the United States to diplomats to the United States are not subject to U.S. jurisdiction and do not acquire U.S. citizenship under the 14th Amendment or the laws derived from it."); 7 U.S. Citizenship & Immigr. Servs., Policy Manual pt. O, ch. 3, § B (2026) (similar); 8 C.F.R. § 1101.3(a)(1) (similar).

³ E.g., *Trump v. Barbara*, No. 25-365, slip op. at 10, 22 (U.S. June 30, 2026).

Despite the law's clarity, federal and state governments have not maintained sufficient procedures to ensure foreign diplomats' children do not usurp birthright citizenship. For example, the federal guidelines that states use to design birth certificates have not recommended a space on the form to designate that a child's parents are foreign diplomats.⁴ Additionally, state health agencies do not require or instruct hospitals to inquire about parents' potential diplomatic status before issuing a standard birth certificate.⁵ Nor does the Social Security Administration inquire into parents' potential diplomatic status before issuing the child a Social Security number.⁶

Consequently, the "children of foreign diplomats who are born in the United States are routinely given U.S. birth certificates upon birth, and shortly afterwards apply for and are provided Social Security numbers," meaning they have "all the requisite documents for proof of U.S. citizenship" despite not legally being a citizen.⁷

Complicating matters is the fact that prior administrations introduced ambiguity into the State Department's policies regarding the status of diplomats' children. In 1995, the Foreign Affairs Manual clearly indicated that "children born in the United States to diplomats to the United States are not subject to U.S. jurisdiction and do not acquire U.S. citizenship under the 14th Amendment or the laws derived from it."⁸ But during the Obama Administration, that provision was replaced with one promising that "extensive guidance on the issue of children born in the United States to parents serving as foreign diplomats, consuls, or administrative and technical staff...and whether such children are born 'subject to the jurisdiction of the United States'" was "under development."⁹ Yet it remains unclear whether this guidance was ever actually released, implemented, or enforced.¹⁰ Accordingly, the Foreign Affairs Manual is "strangely ambiguous about whether children of foreign diplomats born in the United States are entitled to U.S. citizenship."¹¹

Additionally, the Biden Administration appears to have not publicly published an updated Blue List (also known as the Diplomatic List, which contains the names of diplomatic staff and their spouses who possess diplomatic rank) or White List (which contains the names of diplomatic-mission employees not printed in the Diplomatic List).¹² So even if a state or federal agency tried

⁴ Jon Feere, *Birthright Citizenship for Children of Foreign Diplomats?*, CTR. FOR IMMIGR. STUD. (Jul. 11, 2011), <https://cis.org/Report/Birthright-Citizenship-Children-Foreign-Diplomats>.

⁵ *Id.* at 3.

⁶ *Id.* at 3–4.

⁷ Daniel Pines, *Violating the Constitution and Risking National Security: How the Children of Foreign Diplomats Born in the United States Become U.S. Citizens in Contravention of the Fourteenth Amendment*, 3 NAT'L SEC. L.J. 232, 251–56 (2015).

⁸ 7 U.S. Dep't of State Foreign Affairs Manual § 1116.2-2 (1995).

⁹ 7 U.S. Dep't of State Foreign Affairs Manual § 1111(d)(3) (2013).

¹⁰ Jon Feere, *Birthright Citizenship: Is it the Right Policy for America?*, CTR. FOR IMMIGR. STUD. (Apr. 29, 2015), <https://cis.org/Testimony/Birthright-Citizenship-it-Right-Policy-America>.

¹¹ Pines, *supra* note 7, at 271.

¹² U.S. Dep't of State, *Diplomatic List* (Fall 2020), <https://2017-2021.state.gov/wp-content/uploads/2020/10/Fall-2020-Diplomatic-List1.pdf>; U.S. Dep't of State, Office of the Chief Protocol, *Diplomatic List*, <https://www.state.gov/office-of-the-chief-of-protocol/diplomatic-list> (State Department webpage stating: "We are no longer publishing the Diplomatic List").

to inquire into whether a child was born to diplomats or diplomatic staff who enjoy immunity and therefore are not “subject to the jurisdiction” of the United States, such an effort would be futile.

The State Department during the Biden Administration was aware of these risks but did nothing to address them. Indeed, the Biden-era State Department published a rule acknowledging that erroneous jurisdictional determinations for diplomats’ children remain an ongoing risk.¹³ Yet the Biden-era rule did nothing to enable federal and state agencies to prevent foreign diplomats’ children from improperly acquiring citizenship documentation.

The federal and state agencies responsible for issuing birth certificates, Social Security numbers, and other governmental documents therefore lack adequate information and safeguards to identify children of foreign diplomats before those documents are issued. Public reporting from foreign nations indicates that thousands of diplomats’ children may have illegally procured citizenship documentation due to these gaps. For example, recent reporting found that more than 100 children of diplomats from the Republic of Korea alone procured United States citizenship, seemingly in violation of our laws.¹⁴

Allowing diplomats’ children to claim birthright citizenship violates the Constitution, statutory law, and decades of judicial and administrative practice. And it degrades the value and integrity of American citizenship, presents serious national security risks, and undermines our nation’s sovereignty.¹⁵ American citizenship is the sacred bond between the sovereign “We the People” and our government. We cannot allow it to be cheapened into a mere bureaucratic status to be usurped by diplomats and foreign functionaries who owe their allegiance to other countries.

Accordingly, I respectfully request that the Department of State and the Department of Homeland Security take immediate action to investigate the extent of these illegal grants of citizenship documentation, implement policies and procedures to prevent it from occurring in the future, identify the individuals who have illegally procured citizenship documentation in this manner, and revoke those individuals’ illegally procured citizenship documentation.

Thank you for your attention to this important matter. I appreciate your continued commitment to protecting the integrity of American citizenship and safeguarding our national security.

Sincerely,



Eric S. Schmitt
United States Senator

¹³ See generally U.S. Dep’t of State, *Diplomatic Agent-Level Immunity*, 89 Fed. Reg. 68778 (Aug. 28, 2024).

¹⁴ See, e.g., Yi Whan-woo, *145 children of diplomats hold dual citizenship*, KOREA TIMES, (Sep. 25, 2017) <https://www.koreatimes.co.kr/foreignaffairs/20170925/145-children-of-diplomats-hold-dual-citizenship>

¹⁵ Pines, *supra* note 7, at 256–77.