

CONSENT CALENDAR

September 15, 2026

To: Honorable Mayor and Members of the City Council

From: Jenny Wong, City Auditor *zw*

Subject: Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies

RECOMMENDATION

We recommend that City Council receive this report and direct the City Manager to implement Recommendations 1 and 2 consistent with Management's Response. We further recommend that City Council refer Recommendation 3 to the Agenda and Rules Committee for consideration of whether to pursue adoption of nepotism and cronyism provisions in the Berkeley Municipal Code.

FISCAL IMPACTS OF RECOMMENDATION

There is no direct fiscal impact associated with receiving this report or referring Recommendation 3 to the Agenda and Rules Committee. Implementation may involve staff time for policy development, meet-and-confer obligations, training, legal review, and administrative process updates.

CURRENT SITUATION AND ITS EFFECTS

The City Auditor's Office conducted a policy review following a whistleblower report raising concerns about a workplace relationship involving a supervisor and an employee and the potential for perceived favoritism. While the conduct described was not prohibited under current City policy and the allegation could not be substantiated, the report identified a gap in the City's policy framework.

The review found that current City policies do not address romantic, dating, or cohabiting relationships when those relationships intersect with hiring, supervision, or other employment decisions. As a result, employees are not required to disclose these relationships, and the City does not have a consistent process to manage potential conflicts of interest when they arise.

The review also found that the City's definition of family relationships is narrower than those used in peer jurisdictions, limiting the City's ability to identify and address potential or perceived conflicts of interest. These gaps create a risk of actual or perceived favoritism and may undermine confidence in the fairness and objectivity of employment decisions.

Management reviewed the report and agreed with its findings and recommendations. Management's response commits to reviewing and updating Administrative Regulation 2.12 through the City's policy development and labor relations process and providing guidance and training following implementation. Recommendation 3 concerns whether broader nepotism and cronyism standards should be established in the Berkeley Municipal Code for elected

officials, Charter Officers, appointed officials, boards, commissions, and employees. Because these standards would extend beyond the City Manager's administrative authority, Council consideration is needed.

BACKGROUND

This review was initiated after the City Auditor's Office received a whistleblower report through the Whistleblower Program raising concerns about workplace relationships and potential favoritism. Because the conduct described was not addressed under current City policy, the Auditor's Office did not open an investigation and instead conducted a policy-focused review.

The review included analysis of Administrative Regulation 2.12 (Employment of Near Relatives) and other relevant City policies, as well as comparison with policies from peer jurisdictions and state-level guidance. This report is issued as part of the City Auditor's Whistleblower Program to identify and address risks related to fraud, waste, and abuse, including gaps in policy that may allow such risks to occur.

ENVIRONMENTAL SUSTAINABILITY

There are no identifiable environmental sustainability or climate impacts associated with this report.

RATIONALE FOR RECOMMENDATION

Management has agreed to implement Recommendations 1 and 2 by reviewing Administrative Regulation 2.12 through the City's policy development and labor relations process and providing guidance and training following implementation. These actions will strengthen the City's conflict-of-interest framework related to workplace relationships by addressing a broader range of personal relationships, establishing clear disclosure and recusal expectations, and implementing a consistent conflict-management process.

Recommendation 3 presents a broader governance question regarding whether the City should establish nepotism and cronyism standards in the Berkeley Municipal Code that apply consistently to City employees, elected officials, Charter Officers, appointed officials, boards, and commissions. Referring this recommendation to the Agenda and Rules Committee would allow the Council to consider the appropriate legislative path forward before determining whether amendments to the Municipal Code should be pursued.

CONTACT PERSON

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Attachments:

- 1: Berkeley City Auditor Whistleblower Program Special Report: Evaluation of Workplace Relationship Policies April 2026



BERKELEY CITY AUDITOR

Special Report

Whistleblower Program: Evaluation of Workplace Relationship Policies

August 2026

Jenny Wong, City Auditor

Erin Mullin, Whistleblower Program Manager



Berkeley's current policies do not address romantic, cohabitating, or extended family relationships, creating potential conflicts of interest and undermining fairness in employment decisions. Expanding and updating these policies would align Berkeley with peer jurisdictions and improve transparency.

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Purpose

A whistleblower report raised concerns about a workplace relationship that intersected with City employment and the potential for perceived favoritism. We reviewed the complaint and found that City policy did not address the conduct described and therefore could not substantiate the allegation. However, the report prompted a review of the City's policies regarding workplace relationships.

Berkeley's primary policy governing workplace relationships is Administrative Regulation 2.12 (Employment of Near Relatives), which is intended to prevent nepotism by requiring disclosure and restricting supervision among certain family members. This report examines whether that framework, together with other related policies adequately address romantic, cohabiting, and related family relationships that may affect, or appear to affect, employment decisions, such as decisions regarding hiring, promotion, transfer, discipline, or termination.

Allegation History

The Berkeley City Auditor's Whistleblower Program received a report concerning a romantic relationship involving a manager and an employee within the same work unit, and the potential for perceived favoritism connected to supervisory influence. The allegation highlighted a category of workplace relationships that is not currently addressed by City policy. The information was used solely to inform a policy review. The Whistleblower Program has also received other reports raising similar concerns involving close personal relationships in the workplace that fall outside current policy coverage, indicating the issue is not isolated and reinforcing the need for policy review.

Conclusions

We found that Berkeley's current policies do not address romantic, dating, or cohabiting relationships in the workplace, leaving the City without a way to identify or manage situations where such personal relationships overlap with hiring, supervision, or other employment decisions. As a result, employees are not required to disclose these relationships, managers may participate in personnel decisions involving a romantic or cohabitating partner, and no formal recusal or conflict-management process applies when supervisory or decision authority is involved. These conditions create a risk of actual or perceived favoritism and can undermine employee confidence in the fairness and objectivity of employment decisions.

We also found that Berkeley's Employment of Near Relatives policy defines family relationships more narrowly than comparable policies in peer jurisdictions. While Berkeley covers core family members, it does not include certain extended family relationships that San Francisco and Oakland address, even though these relationships can present similar conflict-of-interest concerns. This narrower definition creates additional gaps in the City's ability to manage potential or perceived conflicts arising from workplace relationships.

Taken together, these findings indicate that Berkeley's current policies do not fully address the range of personal relationships that may affect, or appear to affect, employment decisions. Updating the City's policy framework to address romantic and cohabiting relationships and to reassess the scope of covered family relationships would strengthen conflict-of-interest controls, align Berkeley with peer jurisdictions, and support transparency and fairness in the City's employment practices.

Findings

Current City policy does not address disclosure of romantic or cohabiting relationships in the workplace.

Berkeley's current policies do not address romantic, dating, or cohabiting relationships when those relationships intersect with hiring, supervision, or other employment decisions. As a result, the City lacks a framework to identify or manage conflicts of interest that may arise from these relationships. While the City has policies governing harassment, discrimination, retaliation, financial conflicts of interest, and the employment of near relatives, none require disclosure of romantic or cohabiting relationships, restrict supervisors from participating in employment decisions involving a partner, or provide a mechanism for managing related conflicts of interest.

The table below summarizes how Berkeley's policies compare with peer jurisdictions and state-level guidance with respect to coverage, disclosure requirements, and conflict-management tools related to romantic and cohabiting workplace relationships.

Table 1: Comparison of Policies Addressing Romantic and Cohabiting Workplace Relationships

Key Feature	Oakland	San Francisco	California State Guidance	Berkeley
Who is covered	Broad (officers, officials, and employees)	Broad (officials, employees, interns, volunteers)	Agencies determine	Employees only
Romantic relationships covered	Yes	Yes	Only if cohabitating	No
Cohabiting relationships covered	Yes (romantic and non-romantic)	Romantic only	Romantic only	No
Disclosure required	Yes	Yes	Yes (department policy required)	Yes (near relatives only; not romantic or cohabiting relationships)
Restrictions on hiring or supervision of covered relationships	Yes (direct and indirect)	Yes (direct and indirect)	Yes (agency-defined)	Yes (applies only to near relatives; not romantic or cohabiting relationships)

Note: California state guidance provides recommended practices for state agencies and does not impose requirements on local governments.

Source: Auditor analysis of City of Oakland Municipal Code Chapter 2.40; San Francisco Civil Service Commission Family and Romantic Relationships at Work Policy; California CalHR Nepotism Guidance; and City of Berkeley AR 2.12

Peer jurisdictions, including Oakland and San Francisco, have adopted more comprehensive approaches. These cities require disclosure and active management of romantic and cohabitating relationships when such relationships intersect with employment decisions. State-level guidance for California public agencies similarly recommends managing conflicts of interest arising from romantic, cohabitating relationships through disclosure, recusal, and mitigation to address both actual and perceived conflicts.

Berkeley's existing policy framework focuses on compliance-based risks, such as harassment, discrimination, financial conflicts of interest, and nepotism. Romantic and cohabitating relationships fall outside the scope of these policies and have not been explicitly addressed through an administrative regulation or standalone policy.

Without a policy framework, employees are not required to disclose such relationships, and managers may participate in employment decisions involving a partner without a recusal or conflict-management process. These gaps create a risk of actual or perceived favoritism and can undermine employee trust and confidence in the fairness and objectivity of personnel decisions, even when no misconduct occurs. In the absence of clear disclosure and recusal requirements, the City also lacks a consistent basis for responding to complaints or concerns involving personal relationships that intersect with employment decisions.

Berkeley's definition of family relationships is narrower than peer jurisdictions and creates additional coverage gaps.

In addition to the absence of policies covering romantic or cohabitating relationships, Berkeley's Employment of Near Relatives policy reflects a more limited definition of family relationships than those used by peer jurisdictions like San Francisco and Oakland. While all three cities include core family relationships such as spouses, parents, and siblings, Berkeley does not include certain extended family categories that peer jurisdictions address.

The table below compares how Berkeley and peer jurisdictions define family relationships in employment policies, with emphasis on extended and non-traditional relationships that may present similar conflict-of-interest concerns but are not included in Berkeley's current definition.

Table 2. Comparison of Family Relationships Definitions

Relationship Category	Included in Berkeley	Included in San Francisco	Included in Oakland
<i>Cousin</i>	X	✓ (First)	✓ (First and Second)
<i>In-laws, Step Relations</i>	✓ (Specific)	✓ (Broad)	✓ (Broad)
<i>Foster Relations</i>	X	✓	✓
<i>Great-grandparent / great-grandchild</i>	X	X	✓
<i>Cohabitants (Non-Domestic Partner)</i>	X	X	✓
<i>Spouses, domestic partner of any relative or cohabitant</i>	X	X	✓

Source: Auditor analysis of City of Oakland Municipal Code Chapter 2.40; San Francisco Civil Service Commission Family and Romantic Relationships at Work Policy; and City of Berkeley AR 2.12

Berkeley does not include certain extended family categories like cousins or foster relationships that San Francisco and Oakland include. These relationships can raise similar conflict-of-interest concerns in hiring and supervisory contexts. While Berkeley includes some in-law and step relationships, it does so through a fixed list rather than a broader categorical definition. As a result, certain relationships, such as a step-grandparent, step-aunt or uncle, or aunt- or uncle-in-law, are not explicitly covered, even though they may present similar risks. By contrast, Oakland defines covered family relationships more expansively by category, extending beyond immediate family to include multiple degrees of relatives, foster relationships, cohabitants, and the spouses or domestic partners of covered individuals. A broader approach allows jurisdictions to identify and manage conflicts of interest across a wider range of familial and household relationships. Berkeley's narrower definition, by comparison, creates gaps in coverage and limits the City's ability to proactively identify and manage potential or perceived conflicts of interest arising from personal relationships.

Peer jurisdictions have adopted broader policy frameworks to manage conflicts arising from personal relationships.

Berkeley's Employment of Near Relatives policy establishes a framework for managing conflicts of interest arising from specified familial relationships. However, the structure and authority of Berkeley's policy limit its reach. The policy applies only to employees and does not apply to elected officials, appointed officers, or other non-employee City officials. It is established through an administrative regulation issued by the City Manager and is confined to the specific relationships listed in the definition of "near relative." As a result, the City has limited authority to address conflicts of interest arising from other personal relationships or to apply consistent standards across elected officials, officers, and other individuals working for the City.

Berkeley's current policy relies primarily on transfer or reassignment authority when a prohibited near-relative supervisory relationship exists. While the City Manager may grant written exceptions to supervisory-relationship prohibitions, the policy does not establish a structured conflict-management plan process for how supervisory conflicts or approved exceptions must be mitigated. In some operational settings, such as small divisions, specialized technical teams, or public safety departments with limited supervisory layers, reassignment alone may not fully remove indirect supervisory relationships. By contrast, San Francisco requires a formal written conflict-management plan when supervisory conflicts cannot be fully removed, and Oakland mandates documented alternate arrangements and mitigation controls through its Personnel Director and City Attorney process.

San Francisco's policy, adopted by its Civil Service Commission, and Oakland's policy, codified in its municipal code, apply to a wider range of individuals, including elected officials and City officers. Oakland also requires annual disclosure of specified personal relationships by City officials and supervisors, reinforcing ongoing accountability rather than one-time reporting.

In addition to disclosure requirements, Oakland's policy explicitly defines and prohibits cronyism, meaning participation in employment decisions involving close personal, professional, political, or commercial relationships that could result in preferential treatment or compromise the appearance of fairness. While this prohibition does not expand disclosure requirements, it establishes broader expectations for individuals covered by the policy to avoid conflicts of interest arising from relationships beyond those specifically identified for disclosure. This approach recognizes that conflicts of interest and the potential for favoritism are not limited to predefined familial relationships.

As a result, the policy provides a clear basis for reviewing and addressing employment decisions influenced by personal relationships that fall outside narrowly defined categories. Oakland's policy also requires the Director of Personnel to provide an annual report to the City Council describing the nature and number of prohibited relationships disclosed and the alternate arrangements implemented. Together, these features provide broader authority, clearer oversight, and more flexible mitigation tools than those currently available under Berkeley's policy framework.

Recommendations

1. To ensure comprehensive conflict-of-interest controls within employment and supervisory contexts, we recommend that the Human Resources Department update AR 2.12 to:
 - require disclosure of romantic, dating, and cohabiting relationships, in addition to near-relative relationships.
 - extend supervisory and decision-making restrictions to romantic and cohabiting relationships that create actual or perceived conflicts of interest.
 - update the definition of "near relative" to better align with peer jurisdictions.
 - incorporate a clear definition and prohibition of cronyism in supervision and employment decisions.
 - establish a documented conflict-management process that clearly defines responsibilities for reviewing relationship disclosures, implementing mitigation measures, maintaining records of all actions taken, and alternate decision authority where needed.

2. To support effective implementation, we recommend the Human Resources Department provide training to supervisors and managers on the updated relationship conflict-of-interest policy.
3. To extend relationship conflict safeguards beyond employees, we recommend the City consider adopting both nepotism and cronyism provisions in the Berkeley Municipal Code. These provisions should apply to all City employees, elected officials, charter offices, appointed officials, boards and commissions, ensuring consistent citywide standard.

Implementation Considerations

Implementation of the recommended policy updates will require coordination among Human Resources, the City Attorney's Office, and City leadership. Relationship disclosures should be limited to information necessary for conflict management and treated as confidential. Clear guidance and documentation standards will be important to ensure consistent application of recusal, conflict-management measures, and exceptions. The City may also wish to consider how updates to AR 2.12 align with existing ethics and conflict-of-interest policies to support clarity and effective administration. Currently, Human Resources maintains relationship disclosures within individual paper-based personnel files, which may present challenges for consistently tracking and managing disclosures as policy coverage expands.

Management Response

Management agrees that the City should review and update its framework for identifying and managing actual or perceived conflicts of interest arising from workplace relationships. Human Resources will work with City leadership to evaluate potential revisions to AR 2.12, including appropriate disclosure requirements, supervisory and decision-making restrictions, definitions of covered relationships, confidentiality safeguards, and conflict-management procedures.

The specific policy provisions recommended in this report should not, however, be understood as predetermined outcomes. Changes of this nature would affect represented employees and may implicate matters within the scope of representation. Accordingly, any proposed policy changes will require extensive notice, consultation, and meet-and-confer with the City's labor organizations. The final scope, definitions, disclosure obligations, mitigation procedures, and implementation requirements will be developed and refined through that process. The City must also carefully consider employee privacy, consistent application across departments, operational feasibility, records management, and compliance with applicable law.

Following completion of the policy-development and labor-relations process, Human Resources will provide appropriate guidance and training to managers and supervisors regarding the final requirements and their responsibilities.

Management also agrees that the City should evaluate whether broader nepotism or cronyism standards are appropriate for elected officials, charter officers, appointed officials, boards, and commissions. Because those individuals may fall outside the scope of an administrative regulation issued by the City Manager, any such expansion would require separate legal and governance review, coordination with affected offices, and possible action by the City Council.

Scope and Methodology

We conducted a policy-focused review to assess whether the City's current policies address romantic and cohabiting relationships that intersect with hiring, supervision, or other employment decisions, and whether the City's definition of family relationships provides sufficient coverage to manage related conflicts of interest.

Specifically, we analyzed Berkeley's relevant policies, including:

- AR 2.12 – Employment of Near Relatives
- AR 1.2 – Conflicts of Interest
- Harassment Prevention Policy
- Equal Employment Opportunity Policy

Reviewed workplace-relationship and conflict of interest policies from peer jurisdictions, including Oakland and San Francisco, as well as state-level guidance applicable to California public agencies.

This review was limited to evaluating policy design and coverage in employment and supervisory context. We did not conduct an investigation related to the reported relationship, did not interview individuals, and did not review personnel files, as the conduct described in the Whistleblower Report is not prohibited under current City policy. Additionally, we only examined one specific aspect of conflict-of-interest risks, those arising in employment and supervisory decisions. Other types of conflicts, such as financial interests in contracting, procurement, or policy decisions, as well as other potential conflicts in governance or personal financial dealings, are governed by separate policies and legal frameworks and were outside the scope of this review.

Office of the City Auditor

City of Berkeley

Mission Statement

Promoting transparency and accountability in Berkeley government.

Report Preparation

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