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Peace and Justice Commission

CONSENT CALENDAR
December 1, 2026

To: Honorable Mayor and Members of the City Council

From: Peace and Justice Commission

Submitted by: Rev. Dwayne Philips, Chair, Peace and Justice Commission

Subject: On Declaring Berkeley a Sanctuary City for and Affording Legal Protections to Trans and Gender Expansive People in Berkeley

RECOMMENDATION

That the City Council declare Berkeley a **Sanctuary City for Transgender and Gender Expansive People,** and adopt a comprehensive set of policies to protect and support transgender, non-binary, and gender-nonconforming (TGNC) residents through the following actions:

1) Refer to the City Manager to review City of Berkeley data sharing and encryption practices to ensure compliance with SB 107 and SB 497, prohibiting the use of City resources—including staff time, equipment, and databases—in assisting out-of-state or federal agencies in investigating, detaining, or prosecuting individuals for seeking, providing, or assisting in lawful gender-affirming care; refer to the City Manager a review of data encryption policies for the City of Berkeley to prevent potential seizure of data that might nonconsensually "out" a TGNC person to another jurisdiction;
2) Continue current expansion of gender-neutral restrooms in the City by referring to the City Manager to explore updating the Berkeley Building Code requiring all newly constructed or renovated commercial and public buildings to include gender-neutral multi-stall restrooms or all-gender single stall restrooms consistent with the direction established in AB1732 accommodating transgender persons by mandating signage that all restrooms be gender-neutral and current State Code that all single-stall restrooms be gender neutral. This proposed action is also consistent with the City of Berkeley's Department of Parks and Recreation's plans, completed and future, to establish exclusively gender-neutral restrooms, both new and renovated in City parks;
3) Recommend to Council to refer to the Board of Library Trustees to develop a policy that books and materials related to gender identity and trans persons be available in

the library consistent with the Berkeley Public Library's adoption of the American Library Association's Public policy to challenge censorship;

4) Refer to the City Manager to coordinate with the County Continuum of Care and other regional governmental bodies to establish a trans shelter where trans persons experiencing challenges in other shelters can be directed. In the interim, to establish a procedure to otherwise direct trans persons to other settings when they experience bullying or violations of their safety, security and privacy in Berkeley shelters or other Berkeley homeless services programs. Transfers shall be to programs under the City's control or through advocacy and referral with the County Coordinated Entry system. Preferably, there shall be a point person(s) in the City knowledgeable of trans needs to facilitate that trans persons are afforded safety, security, privacy and dignity;
5) Refer to the 4x4 Joint Task Force on Housing to establish objective rental standards through policies and procedures preventing discrimination on the basis of gender identity or sexuality. Such standards could include adopting the First-In-Time standard for residential rentals and establishing local enforcement procedures to prevent housing discrimination based on gender identity or sexual orientation. Adopting this standard would require landlords to:
   a) Publish all minimum screening criteria (e.g., credit, income, references) at the time any residential rental is posted or published;
   b) Date and time stamp all applications submitted; and
   c) Offer tenancy to the first qualified applicant who meets the posted or published criteria;
6) Recommend that Council refer to the 4x4 that the Executive Director of the Rent Board write a letter to Berkeley landlords advising them of the rights of trans persons not to be discriminated against in tenancy;
7) Recommend that Council refer to the City Manager that the Office of Economic Development send a letter advising of employer's obligations under SB 1343 providing for protections of transgender employees and prospective employees and that such letter be sent out in coordination with the annual notice of license renewal;
8) Refer to the City Manager to insure that LGBTQIA+ persons, including trans persons, have access to mental health and behavioral services. Such access shall include services to be covered through Mental Health Services Act (MHSA) monies (to become the Behavioral Health Services Act (BHSA) effective July 1, 2026) with funding for the Pacific Center for Human Growth and other TGNC-specific mental health lifelines. Should the state Mental Health Oversight and Accountability Commission (MHOAC) decide not to accept the City's plan submitted to them to continue contracts for current mental health trauma monies in Berkeley, including for LGBTQIA+ persons, after June 30, 2026 when those contracts expire, that another source of funds be identified to provide these services;
9) Recommend that Council refer to the City Manager to require that when inspections are conducted to workplaces for any reason, that the required SB 1343 posting, which includes trans rights, by employers with 5 employers or more is in compliance;
10) Refer to the City Manager to include the health and wellness needs of LGBTQIA+ persons, including trans persons, in the City Community Health Improvement Plan;

11) Refer to the City Manager to include an addendum to update language in the Berkeley Municipal Code update language in the city code (ie. BMC 13.32.010) that discriminates on the basis of sex and gender (See Attachment 1).

SUMMARY

In response to an unprecedented federal assault on transgender rights, this recommendation codifies Berkeley's role as a haven. By declaring sanctuary status, Berkeley joins California cities including Sacramento and West Hollywood in refusing to comply with out-of-state "gender ideology" investigations. Berkeley continues its long tradition of standing at the vanguard of Civil Rights movements during moments of state-sanctioned bigotry. Many Berkeley departments have already taken steps, including Berkeley Parks opening gender-inclusive restrooms at Ohlone and Willard Parks. This recommendation formalizes and expands accessibility and safety mechanisms throughout the city.

FISCAL IMPACTS OF RECOMMENDATION

None to the General Fund. All recommended actions utilize regulatory updates, existing departmental staff time, or restricted funding sources. Mental health support is directed from MHSA/BHSA state allocations, and employment initiatives are to be funded through federal workforce grants or capital project budgets.

CURRENT SITUATION AND ITS EFFECTS

The TGNC community is under a state of emergency due to coordinated federal actions since January 2025:

- Executive Order 14168 (signed Jan 20, 2025) redefined "sex" as a biological binary at conception for all federal agencies, stripping TGNC individuals of legal recognition in passports, federal housing, and healthcare. Executive Orders 14190, 14201, 14183, and 14187 each seek explicitly to erase transgender people from various areas of public and professional life. [1]
- A December 2025 CMS rule proposed denying Medicare/Medicaid funding to any hospital providing gender-affirming care to minors.
- BPD reports indicate that hate crimes involving gender and sexual orientation were the second highest category of reported incidents in 2024, with anti-transgender events increasing statewide by 12.3% in 2025.[2, 3]

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[1] https://lgbtqbar.org/programs/advocacy-resources/trump-executive-order-tracker/

[2] https://berkeleyca.gov/sites/default/files/documents/BPD%202024%20Annual%20Report.pdf

[3] https://oag.ca.gov/news/press-releases/attorney-general-bonta-releases-third-annual-state-pride-report-honor-pride#:~:text=In%202024%2C%202.8%20million%20people,hate%20crimes%20please%20visit%20here.

- The Pacific Center faces a critical funding expiration in June 2026 as existing MHSA cycles transition to BHSA.
- In response to threats from the Federal Government, many medical facilities throughout California have ended their gender affirming care services, endangering the lives of countless people, particularly trans youth.
- In March 2026, Idaho passed the most extreme anti-trans bathroom ban in the country, with convictions leading to years of incarceration; also in March, Kansas revoked drivers licenses for trans people and mandated medical facilities to report transgender patient data to the state, establishing a de facto registry of trans people.

Precedence:

Multiple cities in California have taken similar steps to declare themselves havens for the trans community. West Hollywood in 2023, Sacramento and San Francisco in 2024, Richmond in 2025 and others all passed city resolutions reaffirming their commitment to the trans community and taking measures to materially protect and support TGNC individuals. Berkeley has already declared itself a sanctuary city for immigrants and has committed significant resources to that important work in response to the Federal government's anti-immigrant stance.

Rationale:

The federal characterization of gender-affirming care (GAC) as "junk science" is directly contradicted by the nation's leading medical authorities:

- American Academy of Pediatrics (AAP): Maintains that evidence-based GAC is medically necessary and life-saving. In December 2025, the AAP called federal restrictions a "baseless intrusion into the patient-physician relationship."[4]
- American Medical Association (AMA): Reaffirms that GAC—including hormones and social transition—is associated with significant decreases in anxiety, depression, and suicidal ideation.[5]
- The American Psychological Association (APA): issued a May 2025 statement criticizing the lack of transparency in federal reports and reaffirming that supportive mental health care and gender-affirming protocols significantly reduce suicide risk.[6]

Research from UCLA's Williams Institute and local Bay Area studies (2025) shows that

[4] https://publications.aap.org/aapnews/news/33988/AAP-Proposed-restrictions-to-gender-affirming-care?autologincheck=redirected

[5] https://www.ama-assn.org/public-health/population-health/advocating-lgbtq-community

[6] https://updates.apaservices.org/statement-on-access-to-treatment-for-transgender-gender-diverse-and-nonbinary-people

LGBTQI+ individuals face a 30% higher rate of housing instability.[7]

A 2019 study of transwomen living in the Bay Area showed that, for every instance of intersectional discrimination, odds of housing instability increased by 1.25%[8]. In Berkeley, gender-nonconforming individuals in shelters report heightened acts of violence and theft when placed in facilities that do not respect their gender identity. Sanctuary status ensures these individuals are not just "housed," but safe.

Studies show that 70% of transgender people have experienced denial of access, verbal harassment, or physical assault in gender-segregated facilities. Furthermore, research from the Williams Institute confirms that inclusive bathroom policies do not increase safety risks for cisgender people.[9] Conversely, forcing TGNC individuals into non-aligned facilities increases their risk of being victimized by 2.5 times the rate of cisgender peers.[10] Beyond the TGNC community, all-gender stalls provide essential safety for caregivers of a different gender (parents with children or assistants for people with disabilities) who otherwise face exclusion or harassment in binary-gendered spaces.

BACKGROUND

On May 4th, 2026, the Peace and Justice Commission passed a motion as follows:

Motion to approve the item to Declare Berkeley a Sanctuary City for Transgender and Gender Expansive People, and adopt a comprehensive set of policies to protect and support transgender, non-binary, and gender-nonconforming (TGNC) residents as amended.

M/S/C: Taylor/Marasovic
Ayes: Commissioners Phillips, Rothbart, Marasovic, Elias, Taylor, Lee, Tabb, Sani, Morizawa, Lippman, McNeil and Press
Noes: None
Abstain: None
Excused: Commissioners Cassidy, Yasavul, Weisburg, Fink and Mencher

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

To be determined by staff.

ALTERNATIVE ACTIONS CONSIDERED

[7] https://williamsinstitute.law.ucla.edu/publications/housing-is-an-lgbtq-issue/
[8]https://www.mdpi.com/1660-4601/16/22/4521
[9] https://williamsinstitute.law.ucla.edu/publications/safety-in-restrooms-and-facilites/
[10] https://bjs.ojp.gov/library/publications/violent-victimization-sexual-orientation-and-gender-identity-2017-2020

Because the challenges facing the TGNC community are myriad and vast, many possible actions were considered for inclusion in this recommendation. Those chosen strike the best balance between non-capital intensive policy change and important declarations in language that resist the narrative shift the Federal administration is seeking with regards to gender identity.

CITY MANAGER
See Companion Report

CONTACT PERSON
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Attachments:
1: **BMC 13.32.010 – Adjustment**

Attachment 1 - BMC Adjustments

BMC 13.32.010 – Current

“It shall be either a misdemeanor or an infraction, in the discretion of the prosecutor, for any person to appear nude in any place open to the public or any place visible from a place open to the public. "Nude" within the meaning of this section means the absence of an opaque covering which covers the genitals, pubic hair, buttocks, perineum, anus or anal region of any person or any portion of the breast at or below the areola thereof of any female person.”

Amendment:
Eliminate “...or any portion of the breast at or below the areola thereof of any female person”.