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Office of the City Manager

CONSENT CALENDAR
December 1, 2026

To: Honorable Mayor and Members of the City Council

From: Paul Buddenhagen, City Manager

Submitted by: Tasha Tervalon, Assistant to the City Manager, Office of the City Manager

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

RECOMMENDATION

Review and adopt the alternate recommendations from the City Manager for the eleven recommendations from the Peace & Justice Commission regarding policies to protect and support transgender, non-binary, and gender-nonconforming residents.

SUMMARY

The Peace and Justice Commission passed an item on May 4, 2026 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. The City Manager's Office explored each of the 11 recommendations and proposes the actions listed within this report.

FISCAL IMPACTS OF RECOMMENDATION

Staff work time and additional resources may be needed to conduct the research or implement any initiatives that are advanced. There will need to be further research to predict costs of each initiative.

CURRENT SITUATION AND ITS EFFECTS

The City Manager recommends the following actions for the items proposed by the Peace and Justice Commission:

1) Commission Referral: 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.

City Manager response: No action needed. The City does not extract, transmit, or share IT system data except in response to a formal Public Records Act (PRA) request. The City does not have, and does not use, any informal pathways or "backdoor" methods for data access.

2) Commission Referral: 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.

   City Manager response: The California Building Standards Code already contains provisions requiring gender-neutral restrooms in newly constructed nonresidential buildings. Both the California Plumbing Code (CPC) and California Building Code (CBC) address the design and accessibility requirements for single-user and multi-user all-gender restroom facilities. The State Code does not make gender neutral restrooms mandatory. While many commercial and public projects already include Gender Neutral restrooms, the City Council could refer to the City Manager direction to bring forward modifications to appropriate Municipal or Building Code sections to require all newly constructed or renovated commercial and public buildings to include gender-neutral multi-stall restrooms or all-gender single stall restrooms consistent with AB1732. In developing these modifications, City staff would need to determine the appropriate triggering threshold, such as building valuation, percentage of building that is altered, change of occupancy, or another measurable standard.

3) Commission Referral: 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.

   City Manager response: The City Manager takes no position on this item.

4) Commission Referral: 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.

City Manager response: The City adheres to current Alameda County standards that include the following protections related to transgender access and placement: Shelters must comply with California law regarding transgender access to emergency shelter. The ACLU has a useful summary here: https://www.aclusocal.org/know-your-rights/rights-transgender-and-nonbinary-people-ca-shelters/.

1. Participants must be placed in rooms or beds consistent with their gender identity, while also considering the participant's own views about placements that best protect their health and safety.

3. Shelters may not ask about or seek documentation regarding a participant's anatomy, medical history, or sex assigned at birth when making placement decisions.

4. Shelters may not deny placement or alter placement based solely on complaints from other participants related to a person's nonconformance with gender stereotypes. The City will agendize, for meetings with provider, providers' procedures for responding to bullying, harassment, or violence particularly for LGBTQ+ clients and ensure they are following the latest shelter standards at a future meeting.

The City manager recommends no further action at this time.

5) Commission Referral: 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.

City Manager response: The City Manager takes no position on this item.

6) Commission Referral: 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;

   City Manager response: The City Manager takes no position on this item.

7) Commission Referral: 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.

   City Manager response: Refer to the City Manager to include a document identifying SB 1343 employer sexual harassment training requirements to all Berkeley businesses during the annual business license renewal (anticipated December 1 of each calendar year).

8) Commission Referral: 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;

   City Manager response: The City Manager takes no position. BHSA guidelines are established by the State and the City undergoes a rigorous public process to propose to council which proposed projects should be funded.

9) Commission Referral: 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.

   City Manager response: Refer to the Budget process. It is anticipated that the volume of work required to implement the recommendations in the report is significant.

10) Commission Referral: 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.

    City Manager response: No action needed. The Community Health Assessment included input for the health and wellness needs of LGBTQIA+ persons, including trans persons, through population health data and qualitative community engagement data.

11) Commission Referral: Refer to the City Manager to include an addendum to update language in the Berkeley Municipal Code (i.e.. BMC 13.32.010) that discriminates on the basis of sex and gender (See Attachment 1).

    City Manager response: The City Manager takes no position on this item.

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

Staff are not aware of any environmental impacts from these proposals.

RATIONALE FOR RECOMMENDATION

The City Manager assessed each recommendation with related departments and developed the above recommendations in response to the Peace and Justice Commission item.

ALTERNATIVE ACTIONS CONSIDERED

None.

CONTACT PERSON

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