



Office of the Mayor

CONSENT CALENDAR
May 21, 2024

To: Honorable Mayor and Members of the City Council
From: Mayor Jesse Arreguín
Subject: Amendment to Commissioner Leave of Absence Process

RECOMMENDATION

Adopt first reading of an Ordinance amending Berkeley Municipal Code Section 3.02 to allow the Mayor to approve a Leave of Absence for a Commissioner appointed by the Council as a whole.

FISCAL IMPACTS OF RECOMMENDATION

There are no fiscal impacts associated with this recommendation.

BACKGROUND

The City of Berkeley has dozens of citizen commissions, providing opportunities for residents to advise the Council on topics they have experience in. Commissions play a key role in the democratic process of City governance, allowing people of diverse backgrounds and views to provide input on legislative and policy matters that impact the community.

Normally, under the Fair Representation Ordinance, most commissions have representatives appointed by each member of the City Council and the Mayor. But there are exceptions to this. Some Commissions, such as the Mental Health Commission and Environment and Climate Commission, have seats appointed by the full Council. For almost all Commissions where each commissioner is appointed by a specific Councilmember, that Councilmember can provide a Leave of Absence (LOA) for their appointee at any time, so long as it happens before the meeting in which the LOA is requested as LOAs are not allowed retroactively. However, for Commissioners appointed by the Council as a whole, they must seek approval from the entire Council for a LOA. This process requires the Secretary of the Commission to submit a Council item for approval, a process that takes approximately five weeks. In many cases, a LOA is requested due to illness or a scheduling conflict that can come up suddenly, meaning that they will not be able to get an approved LOA under the current process. A Commissioner is automatically terminated if their miss three consecutive meetings or at least 50% of regular meetings in a six-month period.

The process for a Leave of Absence is defined in Berkeley Municipal Code Section 3.02.030. To ensure that Commissioners appointed by the whole Council who need to

request a LOA are able to receive one in a timely manner, it is recommended that this section is updated to allow the Mayor, as President of the Council, to submit a request just like any Councilmember can do for their individual appointees.

ENVIRONMENTAL SUSTAINABILITY AND CLIMATE IMPACTS

There are no identifiable environmental effects or opportunities associated with adopting this recommendation.

RATIONALE FOR RECOMMENDATION

This action will simplify the process of obtaining a Leave of Absence, freeing up staff time who otherwise would have to create a Council item, and reduce the likelihood of an automatic termination happening, which in turn will help Commissions operate effectively.

ALTERNATIVE ACTIONS CONSIDERED

An alternative recommendation would be to allow for a Leave of Absence retroactively, but such action would not resolve the tedious process currently in place.

CONTACT PERSON

Mayor Jesse Arreguín 510-981-7100

Attachments:

1: Ordinance

ORDINANCE NO. -N.S.

AMENDING BMC SECTION 3.02.030 – LEAVES OF ABSENCE

BE IT ORDAINED by the Council of the City of Berkeley as follows:

Section 1. That Berkeley Municipal Code 3.02.030 is amended to read as follows:

3.02.030 Leaves of absence.

The following circumstances shall not count as absences for the purposes of Section [3.02.020](#):

A. A member of a board, commission or committee may be granted a leave of absence not to exceed three months by the appointing Councilmember, the appointing Commission, or the ~~Mayor Council~~, when the appointment is made by the Council as a whole, and a temporary vacancy shall thereupon exist for the period of such leave of absence. Notice of the leave of absence must be filed with the City Clerk prior to the absence.

1. During the period of such temporary vacancy, the appointing Councilmember, the appointing Commission, or the ~~Council Mayor~~, when the appointment is made by the Council as a whole, may fill such vacancy by a temporary appointment to said commission; provided, however, that the period of such temporary appointment shall not exceed the period of the temporary vacancy. At the expiration of a leave of absence so granted, the member shall automatically resume full membership on the board, commission or committee.

2. Alternatively, the appointing Councilmember or Mayor may select one of their Alternate Commissioners to serve temporarily as provided for in Section [3.02.030.A.1](#) when a leave of absence is granted for one of their appointees.

B. Commissioners may request that an absence be excused due to a conflict between the date of a scheduled commission meeting on which the commissioner sits and a religious or cultural holiday. Such a request shall be made in writing on a form provided by the City and submitted to the secretary prior to the meeting for which the commissioner's absence is to be excused. The request shall not be subject to the approval of the commission but shall be accepted upon request. The secretary shall then excuse that absence and exclude it from the attendance report sent semi-annually to the City Clerk.

The definition of a religious or cultural holiday shall be left to the individual commissioner. However, the following list may be considered illustrative of the religious and cultural holidays for which a commissioner may seek an excused absence: Al Hijrah New Year, Ash Wednesday, Chinese New Year, Diwali, Easter Sunday, Eid Al Fitr, Eid Al Adha,

Good Friday, Hanukkah, Holi, Kwanzaa, Palm Sunday, Passover, Rosh Hashanah, St. Patrick's Day and Yom Kippur.

C. Members of the Police Accountability Board may be granted a leave of absence upon the filing of a notice for leave of absence with the City Clerk by the nominating Councilmember or the Mayor for their nominee. All other conditions and regulations for leaves of absence in this Code and adopted by resolution, that are not inconsistent with the City Charter, shall apply.

Section 2. Copies of this Ordinance shall be posted for two days prior to adoption in the display case located near the walkway in front of the Maudelle Shirek Building, 2134 Martin Luther King Jr. Way. Within 15 days of adoption, copies of this Ordinance shall be filed at each branch of the Berkeley Public Library and the title shall be published in a newspaper of general circulation.