

commission and wants to apply for appointment to a City commission should seek the City Attorney's advice as to whether the two offices may be deemed incompatible.

**4) Incompatible Activities for Compensation**

Government Code Section 1126 prohibits a public official from engaging in activities for compensation that are incompatible with their public office. A commissioner engaged in compensated activities that may be incompatible with their duties as a commissioner should consult the City Attorney.

**5) State-Mandated Ethics Training**

State law (AB 1234) requires certain local agency officials to receive training in ethics. In Berkeley, the officials identified for this requirement are Mayor and City Council, City Auditor, Rent Stabilization Board Commissioners, Board of Library Trustees, and Police Accountability Board members.

These officials will receive a notice from the City Clerk advising them of the required training. The training may be completed on the FPPC website. The training must be completed within one year of the date of appointment and every two years thereafter. A certification of completion must be filed with the City Clerk. For more information, please contact the City Clerk Department.

## **F. COMMISSION ORGANIZATION**

**1) Election of Officers and Terms of Office**

Unless otherwise provided by ordinance,<sup>1</sup> the chair and vice-chair are elected by the majority of the commission for a one-year term and hold office until their successors are elected or until their terms as members of the commission expire. No commissioner shall serve as chair for more than two consecutive years. There is no term limit for vice-chair.

Unless otherwise provided for in the enabling legislation, the annual election of commission officers should occur during the month of February. The election of officers must be listed as an item on the agenda.

Two meetings prior to the meeting at which officers will be elected, commissions are encouraged to list as an agenda item a discussion of the election, to inform all commissioners of the opportunity to seek nomination and election for the offices of chair and vice chair, to discuss and agree to the nomination process and timing for nominations (if no policy has been enacted by the commission), and to add clarity for commissioners and the public. In order to facilitate an orderly and fair nomination process, commissions may open nominations at the January meeting (or the meeting prior to the February meeting) and then hold the vote on officers at the February meeting. A commission may enact a policy on officer elections in conformance with the requirements stated below, specifying the timing for nominations, the order in which nominations will be voted upon, and any

<sup>1</sup> Election of officers to the Police Accountability Board is governed by the City Charter. Board of Library Trustees and Landmarks Preservation Commission officer elections are regulated by BMC Sections 3.04.040, and 3.24.030, respectively.

other details that support a fair, orderly and transparent process for election of officers.

If there are multiple nominees for chair or vice-chair, the commission may wish to use a process by which all nominations can be made prior to voting. Full discussion of nominations is recommended, including the ability of nominees to speak on behalf of their own candidacy.

Additional regulations for officer elections:

- Nominations for chair and vice-chair require a motion (with second).
- A commissioner may nominate themselves.
- Any member of the commission, regardless of length of tenure on the commission may be elected chair or vice-chair.
- There is no automatic succession from vice-chair to chair.
- Motions to nominate and elect must be voted on in the public forum, and no secret ballots are allowed.
- A roll call vote is recommended for votes on commission officers, and is required if any commissioner requests a roll call vote.
- The results of the vote must be publicly announced and the vote recorded in the minutes. (Resolution No. 63,876-N.S.).
- A commissioner may not be elected chair if they will not be able to finish the term due to the two-year limitation.

Terms of office for officers are determined by the date the election regularly occurs, not by the date it may have actually occurred. If there is a slight variation in the date of the election, the sitting chair may serve on an interim basis provided that they do not exceed the two-year limit.

Scenario:

The chair is elected in February 2024. The chair resigns in April 2024. A new chair is elected in May 2024. The newly elected chair will serve from May 2024 to February 2025, when the next regular election is held.

**2) Mandatory Annual Training for Chairs and Vice-Chairs**

Chairs and vice-chairs are required to complete mandatory annual training. Resolution Nos. 60,531-N.S. and 63,876-N.S. were adopted by the City Council to implement video training for commission officers.

The chair and vice-chair must view, in its entirety, a training video on commission procedures and legal requirements. Upon completion, the chair and vice-chair must file with the City Clerk an Affirmation of Completion.

This training video must be viewed and the Affirmation of Completion must be filed with the City Clerk no later than 60 calendar days from the date of election as chair or vice-chair. Failure to complete the video training and file the Affirmation of Completion within 60 days of election will result in the immediate forfeiture of the position of chair or vice-chair.

**NOTE: Commission officers must file an Affirmation of Completion within 60 days from the date of election or forfeit their seat as chair or vice-chair.**

While not mandatory for commissioners other than the chair and vice-chair, completion of this training is encouraged for all commissioners.

The required training video may be viewed online through the city website - <https://berkeleyca.gov/your-government/boards-commissions/serving-board-or-commission>

### 3) **Duties of Officers**

The “presiding officer” (chair or, in their absence, the vice-chair), performs the following duties.

- Presides at all meetings of the commission and ensures that the work of the commission is accomplished. To this end, the chair must exert sufficient control of the meeting to eliminate irrelevant, repetitious, or otherwise unproductive discussion. At the same time, the chair must ensure that all viewpoints are heard and are considered in a fair and impartial manner.
- Ensures that commission bylaws, if any, and procedures are followed. The chair cannot make rules related to the conduct of meetings; only the full commission may do so.
- Appoints commissioners to temporary committees subject to the approval of the full commission.
- Approves the agenda prior to distribution. This is limited to the structure and order of the agenda and does not grant the chair the authority to remove an item submitted by commissioners or staff if submitted by the established deadline.
- Signs correspondence on behalf of the commission.
- Represents the commission before the City Council. Other commissioners may be the representative with the formal approval of the commission by motion and vote.
- Approves commission reports to Council. The chair cannot modify content that was approved by the full commission.
- The chair or a quorum of the commission may call a special meeting.
- The chair and vice-chair have full rights to vote and to make or second motions.

### 4) **Transfer of Chair**

In the absence of the chair or their inability to act, the vice-chair presides in place of the chair, but does not assume the office of chair. In the event of the absence or the inability to act of both the chair and the vice-chair, the remaining commissioners elect one of their members to act as temporary chair.

If a chair is terminated from the commission for any reason, or resigns, the office is vacated, and a new election for chair must be held to fill the office. The vice-chair does not assume the office of chair, rather they preside over the meetings and execute the chair’s duties as the vice-chair. If a vice-chair is terminated, the office is vacated, and a new election would be held to fill the office. If an officer is terminated and subsequently reappointed to the commission, they shall not resume the office and must be reelected to the office by the majority of the membership.