



AGENDA REPORT

TO: City Council

FROM: City Attorney
Barbara J. Parker

SUBJECT: City Policy to Use Gender-Inclusive
and Gender-Neutral Language

DATE: October 6, 2020

RECOMMENDATION

City Attorney Barbara J. Parker, Mayor Libby Schaaf, Council President Rebecca Kaplan, Councilmember Sheng Thao, Councilmember Lynette McElhaney, and Councilmember Nikki Fortunato Bas Recommend that the City Council Adopt:

A RESOLUTION ESTABLISHING A CITY POLICY TO CONDUCT CITY AFFAIRS IN A MANNER THAT USES GENDER-INCLUSIVE AND GENDER-NEUTRAL LANGUAGE IN THE DRAFTING OF NEW LEGISLATION OR REVISED LEGISLATION, POLICIES, AND OTHER CITY COMMUNICATIONS AND WRITINGS

EXECUTIVE SUMMARY

The proposed resolution will require that the City of Oakland draft new and revised legislation, policies, and other official writings using language that is gender-inclusive (meaning that it accurately addresses and accounts for all gender identities, including persons who do not ascribe to strictly male or female gender identities) and gender-neutral (meaning that terminology does not unnecessarily implicate any particular gender).

The resolution also expresses the Council's intent to submit a Charter amendment to the voters in 2022 that would update the City Charter in its entirety to use gender-inclusive language, including non-gendered language and gender-neutral pronouns; and further requests that the City Administrator prepare such amendments, that the City Attorney review such amendments for form and legality, and that the City Administrator submit the amendments to the Council sufficiently in advance of the 2022 election to place the amendments on the 2022. Ballot.

The gender-inclusive and gender-neutral policy will ensure that nonbinary, transgender, pangender, intersex, genderqueer, agender, and other persons who fall somewhere outside of the

traditional conceptions of strictly “male” or “female,” are appropriately addressed and accounted for, and will reduce the bias and inequity that is inherent in outdated androcentric terminology.

BACKGROUND / LEGISLATIVE HISTORY

Over the past several years, there has been increasing public awareness and recognition of the existence of nonbinary gender identities, the importance of gender-inclusive language, and the need for government agencies to revise policies, laws, and other writings to appropriately reflect the diversity of constituents and remove language that is outdated and inherently biased.

In 2017, the California Legislature (“Legislature”) enacted the Gender Recognition Act (Senate Bill 179) amending the Health and Safety Code, the Vehicle Code, and other state codes to recognize a third gender option on California state-issued documents including driver’s licenses, identification cards, and birth certificates. The following year, the Legislature adopted Assembly Concurrent Resolution (ACR) 260, calling for the use of gender-neutral pronouns and gender-inclusive language in the drafting of all state legislation, and calling on state agencies to engage in similar efforts to use gender-neutral pronouns and avoid the use of gendered pronouns when drafting policies, regulations, and other guidance.

In 2018, the League of California Cities issued extensive guidance to municipalities setting forth best practices for city officials related to promoting inclusive workplaces. Amongst other recommendations, the League recommends updating all municipal codes, ordinances, policies, and procedures to replace all gendered language with terminology that is gender-neutral. The League also advised that failure to use appropriate pronouns in addressing transgender and/or gender nonconforming people may constitute harassment and recommended that local governments review operating procedures (such as record keeping, reporting, and intergovernmental relations) to prepare for integration of the third gender marker authorized by SB 179.

ANALYSIS AND POLICY ALTERNATIVES

Language plays a significant role in shaping cultural and social attitudes, as well as signaling certain biases and historical inequities. Use of certain language may inadvertently perpetuate stereotypes and/or unintentionally exclude certain groups of people. Avoiding gendered language is an easy and important means of promoting gender equality and reducing gender bias.

Using gender-neutral language also ensures that persons of all gender identities, particularly persons who do not ascribe to or identify with strictly “male” or “female” pronouns and other gender markers, are appropriately addressed, included, and represented. For example, the use of pronouns “he” or “she” for individuals is not inclusive of all persons, including many nonbinary, transgender, and other people who otherwise use different pronouns. Reusing nouns in lieu of pronouns, using plural noun forms, and using the word “they” as a singular pronoun are all examples of language that is inclusive of transgender and nonbinary persons in addition to persons of the male and female genders.

The proposed resolution will not require that the City revise existing legislation and written documents. Rather, it applies only to the drafting of new or revised policies, ordinances, and other official writings, and expresses the City Council's intent to submit a Charter amendment to the voters in 2022 that would update the City Charter to be consistent with this policy.

FISCAL IMPACT

This resolution will have little if any direct or indirect fiscal impact or cost. The resolution impacts the drafting of future legislation, policies and other writings and does not require the City to take any affirmative steps to revise existing municipal code provisions. Further, we do not anticipate that any outreach or informational material would be necessary to implement the policy.

PUBLIC OUTREACH / INTEREST

The City Attorney's Office consulted with the City's Race and Equity Department and various interest groups representing the LGBTQ+ community in the development of this resolution.

COORDINATION

The City Attorney's Office, Office of the Mayor, and City Council sponsors coordinated with the City Administrator's office regarding the proposed resolution.

SUSTAINABLE OPPORTUNITIES

Economic: Having laws, policies, and other City communications that accurately reflect the diversity of residents and employees will help encourage greater civic participation, engagement, and productivity among residents and employees who may otherwise feel excluded, undervalued, and/or discouraged as a result of perceived bias, stigma, and/or frequent misgendering.

Environmental: Using language that is inclusive and affirming of people of all genders promotes a welcoming and safe environment and reduces negative health impacts of perceived bias and exclusion.

Race & Equity: The use of gender-inclusive and gender-neutral language is consistent with and directly promotes the City's commitment to equity. The use of gendered language frequently has an exclusionary impact on persons who identify as transgender, nonbinary, intersex, two-spirit, and/or who otherwise identify outside of the strictly "male" or "female" gender binary. The use of gendered terminology can also negatively impact persons of all genders by conveying and reinforcing outdated professional and social gender norms (for example, using the word "firemen" instead of "firefighters" reinforces the idea that only men are or should be firefighters).

ACTION REQUESTED OF THE CITY COUNCIL

The co-sponsors request that the Council pass a Resolution Establishing a City Policy to Conduct City Affairs in a Manner that Uses Gender-Inclusive and Gender-Neutral Language in the Drafting of New Legislation or Revised Legislation, Policies, and Other City Communications and Writings.

For questions regarding this report, please contact Braz Shabrell, Deputy City Attorney, at (510) 238-6625.

Respectfully submitted,



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