



February 22, 2024

Agenda & Rules Policy Committee
Mark Numainville
City Clerk Department
2180 Milvia Street, 1st Floor
Berkeley, CA 94704

Re: Adding Chapter 13.22 to the Berkeley Municipal Code to Prohibit Discrimination on the Basis of Family or Relationship Structure

Dear Members of the Berkeley City Council,

We urge you to support adding Chapter 13.22 to Berkeley's Municipal Code. This ordinance would improve the lives of families living in Berkeley who do not have "traditional" family structures. It would go a long way in affirming the fundamental human rights of all families residing in your municipality by protecting them from discrimination.

The Woodhull Freedom Foundation, founded in 2003, is a national human rights organization working to protect our fundamental human rights through advocacy, education, and research. The right to form and enjoy a family is one of the most fundamental human rights.

These rights are recognized in a variety of international human rights treaties to which the United States is a party. Some relationships exist without challenge, such as husband and wife, parent and child, sibling, grandparents, etc. The challenge comes when modern forms of family relationships exist. The European Court of Human Rights has stated that when considering what constitutes family relationships, the Court "must necessarily take into account developments in society and changes in the perception of social, civil-status and relational issues, including the fact that there is not just one way or one choice in the sphere of leading and living one's family or private life."

Article 16 of the Universal Declaration of Human Rights and Article 23 of the International Covenant on Civil and Political Rights provide the basis for the right to family life as a fundamental human right. The Universal Declaration of Human Rights (UDHR) was adopted by the United Nations General Assembly on December 10, 1948, clarifying universal rights held by all individuals regardless of subjective factors. Arguably, the UDHR now represents customary international law and, as such, has legally binding force over States. The pertinent provision relating to the right to family lies in Article 16(3) of the UDHR:

"The family is the natural and fundamental group unit of society and is entitled to protection by society and the State."

The United Nations General Assembly adopted the International Covenant on Civil and Political Rights (ICCPR) on December 16, 1966, and came into force on March 23, 1976. Articles 17 and 23(1) ICCPR refer to



the right to family:

Article 17:

1. No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home, or correspondence, nor to unlawful attacks on his honor and reputation. 2. Everyone has the right to the protection of the law against such interference or attacks.

Article 23(1):

1. The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Many Berkeley residents have family or relationships that go beyond the traditional forms of family and, as supported by International Human Rights treaties, are entitled to the protection of those families and relationships by society and the state.

The diversity of family forms in today's society can not be ignored when considering legislations and regulations that are outdated in their definition of family. Seniors and friends living together and accepting responsibility for one another, single parents, co-parenting relationships, polyamorous families, blended families, etc. There's also evidence that many Americans pursue some form of non-monogamy during their lives, with 5% of American Adults, or 10 million people, practicing some sort of non-monogamy.¹ Unfortunately, those engaged in non-monogamous relationships report higher rates of discrimination than those in monogamous relationships. According to a 2021 study, nonmonogamous individuals are "highly stigmatized due to their relational practices, and to experience acts of Consensual Non-Monogamy (CNM)-related discrimination, harassment, and violence."² Passing this ordinance and granting protections explicitly based on family or relationship structure is crucial for the protection and safety of individuals in Berkeley.

The bill would provide necessary protections that are long overdue. Additionally, it would ensure additional mental health benefits for those in nontraditional family or relationship structures. It has been reported that those practicing nonmonogamy experience significantly higher rates of psychological distress than those practicing monogamy³ due to the stigma and discrimination they face. Protection from discrimination for basic needs such as housing and employment are necessary for positive mental health. The Biden-Harris administration reported that "our nation is facing a mental health crisis among people of all ages."⁴ Providing the necessary protections for all will improve mental health outcomes. Berkeley City Council Members have a chance to have a massive

¹ Organization for Polyamory and Ethical Non-monogamy. "Non-monogamy Fact Sheet." OPEN (Organization for Polyamory and Ethical Non-monogamy), <https://www.open-love.org/fact-sheet>.

² Witherspoon, Ryan & Theodore, Peter. "Exploring Minority Stress and Resilience in a Polyamorous Sample." *Archives of Sexual Behavior*, vol. 50, 4, 1367-1388. doi: 10.1007

³ Borgogna, Nicholas, et al. "Minority Stress in Consensually Non-monogamous Individuals: Mental Health Implications." *Sexual and Relationship Therapy*, vol 39, 1, 46-65. <https://doi.org/10.1080/14681994.2021.1959545>

⁴ Prabhakar, Arati & Rice, Susan E. "White House Report on Mental Health Research Priorities." February 2023.

<https://www.whitehouse.gov/wp-content/uploads/2023/02/White-House-Report-on-Mental-Health-Research-Priorities.pdf>



positive impact on their citizens by passing the bill to add Chapter 12.22 to the Municipal Code, and we urge them to take that chance!

This bill recognizes that diverse family and relationship structures enrich Berkeley and ensures that all of the city's residents' human rights are recognized and treated fairly and respectfully. We hope that the members of Berkeley's City Council will pass this vital legislation to show their respect for fundamental human rights and to support the families and individuals engaged in diverse relationships and family structures. Berkeley would be joining the ranks of some of the very first cities to adopt this basic and important legislation. We at Woodhull hope that you will choose to be human rights-protecting trailblazers this year!

Sincerely,

A handwritten signature in black ink that reads "Ricci J. Levy". The signature is written in a cursive, flowing style.

Ricci J. Levy
President & CEO
Woodhull Freedom Foundation