

DRAFT RESOLUTION TO LIMIT CAMPAIGN CONTRIBUTIONS TO CANDIDATES FOR THE WEST CONTRA COSTA UNIFIED BOARD OF TRUSTEES

WHEREAS, the California Political Reform Act of 1974 (Gov. Code § 81000 et seq.) ("Political Reform Act"), an initiative measure approved by the voters on June 4, 1974, imposed expenditure limitations for state-wide offices; and

WHEREAS, the Board of Trustees ("Board") of the West Contra Costa Unified School District ("District") believes it is in the public's and the District's interest to encourage broader participation in the political process and to prevent corruption and the appearance of corruption by limiting the source and amount of contributions that may be made to candidates for the Board and to committees controlled by candidates for the Board, and to prohibit candidates from knowingly soliciting contributions from employees of the District in violation of Government Code section 3205; and

WHEREAS, the Board of Trustees seeks to limit the influence of corporations on America's electoral system, both nationally and locally; and

WHEREAS, fundraising distracts public officials seeking reelection from focusing on important public matters, encourages contributions which may have a corrupting influence, gives incumbents an unfair fundraising advantage over potential challengers, and provides contributors with greater access to public officials than other members of the public; and

WHEREAS, the amount of money raised by many candidates and committees supporting or opposing candidates also erodes public confidence in local officials by creating the appearance that elected officials may be unduly influenced by contributors who support their campaigns or oppose their opponents' campaigns; and

WHEREAS, monetary contributions to political campaigns are a legitimate form of participation in our political process, but the financial strength of certain individuals or organizations should not enable them to exercise a disproportionate or controlling influence on the election of candidates; and

WHEREAS, the rapidly increasing costs of political campaigns nationwide have forced many candidates to raise larger and larger percentages of money from interest groups with a specific financial stake in matters under consideration from local government. Candidates are raising less money in small contributions and more money in large individual and organizational contributions. This has created the public impression that the small contributor has an insignificant role to play in political campaigns; and

WHEREAS, Education Code Section 35177 authorizes the governing boards for school districts to limit, by resolution, campaign expenditures or contributions in election to district offices; and

WHEREAS, the Board by this Resolution does not seek to limit independent expenditures as defined by Buckley v. Valeo (1976) 424 U.S. 1, 45-47 and the California Fair Political Practices Act (Gov. Code §§ 82031, 85500); and

WHEREAS, it is the intent of the Board that the contribution limits established by this Resolution apply to a legal defense fund as provided in Government Code § 85304.5.

NOW, THEREFORE, BE IT RESOLVED, that no individual shall make, and no candidate or controlled committee shall solicit or accept, a contribution that would cause the total amount contributed by that individual to the candidate or the candidate's controlled committee to exceed one thousand dollars (\$1,000.00) for a single election contest; and BE IT FURTHER RESOLVED, that no person shall make, and no legal defense fund ("LDF") formed pursuant to the California Political Reform Act (Gov. Code § 85304.5) by a candidate for District office or District office holder ("District LDF") shall accept a contribution that would cause the total amount contributed by that person to that LDF to exceed one thousand dollars (\$1,000.00); and

BE IT FURTHER RESOLVED, that no person who contracts with or who amends or proposes to amend such contract with the District, for the rendition of services, for the furnishing of any material, supplies, commodities or equipment to the District whenever the value of such transaction would require approval of the Board, shall make any contribution to a Board member, Board member candidate or a committee controlled by such officeholder or candidate at any time between the earlier of the commencement of negotiations for such contract or the submission of a bid or proposal to the District and three hundred and sixty five (365) days after the completion of such contract, or termination of such contract or of the negotiations for such contract; and

BE IT FURTHER RESOLVED, that an offer of a contribution in excess of the limitations established for contributions to a candidate, controlled committee or LDF, or from prohibited sources described above must be refused by the candidate, controlled committee or LDF. If a candidate, controlled committee or committee treasurer receives a contribution, the acceptance of which would constitute a violation of this Resolution, no penalty shall be assessed if the candidate, controlled committee or committee treasurer either: (1) does not deposit the contribution into the candidate committee bank account; or (2) deposits the contribution but returns the contribution to the contributor within ten calendar days of the deposit or before the filing deadline for the reporting period in which the contribution was received, whichever occurs first. To the extent permitted by law, improper contributions not so treated shall become subject to disgorgement of the amount in excess of the allowable contribution, with any excess funds returned to the donor. If the donor is not identifiable, the excess funds shall be paid to the District for deposit into the District's General Fund. Willful or repeated acceptance of improper contributions or failure to timely return improperly received contributions may be subject to penalties to the

extent allowable under all applicable laws, and may be referred to the District Attorney;
and

BE IT FURTHER RESOLVED, that pursuant to Government Code section 3205, a candidate or controlled committee shall not solicit, directly or indirectly, a contribution from a District employee with knowledge that the person from whom the contribution is solicited is a District employee. This solicitation prohibition shall not apply to the purely incidental solicitation of District employees as part of a broad solicitation made to a significant segment of the public and which does not otherwise violate this Resolution. An employee of the District is not prohibited from making a contribution to a candidate, and a candidate is not prohibited from accepting a contribution from a District employee; and

BE IT FURTHER RESOLVED, that unless otherwise defined in this Resolution, or the contrary is stated or clearly appears from the context, the definitions of the Political Reform Act and the definitions contained in the regulations adopted by the Fair Political Practices Commission shall govern the interpretation of this Resolution; and

BE IT FURTHER RESOLVED, that for purposes of this Resolution, "candidate" shall mean any individual who is listed on the ballot for nomination or election to the Board of Trustees, or who has otherwise taken affirmative action to seek nomination or election to the Board of Trustees or who receives a contribution or makes an expenditure or gives his or her consent for any other person to receive a contribution or make expenditure with a view to bringing about his/her nomination or election to the Board of Trustees, whether or not he or she has announced his or her candidacy or filed a declaration of candidacy at such time, or who otherwise fits the definition of the term "candidate" pursuant to Government Code Section 82007 as that definition may from time to time be revised or renumbered. "Candidate" also includes a member of the Board of Trustees who is the subject of a recall election; and

BE IT FURTHER RESOLVED, that for purposes of this resolution, "independent expenditure" shall mean an expenditure made by any person, including a payment of public moneys by a state or local governmental agency, in connection with a communication which expressly advocates the election or defeat of a clearly identified candidate for the Board of Trustees, or taken as a whole and in context, unambiguously urges a particular result in an election but which is not made to or at the behest of the affected candidate or committee, and an expenditure which otherwise fits the definition of the term "independent expenditure" pursuant to Government Code section 82031 as that definition may from time to time be revised or renumbered; and

BE IT FURTHER RESOLVED, that for purposes of this Resolution, "committee" shall mean any person or combination of persons who directly or indirectly does any of the following:
(a) Receives contributions totaling two thousand dollars (\$2,000) or more in a calendar

year; (b) Makes independent expenditures totaling one thousand dollars (\$1,000) or more in a calendar year; or (c) Makes contributions totaling ten thousand dollars (\$10,000) or more in a calendar year to or at the behest of candidates or committees, and any person or combination of persons which otherwise fits the definition of the term "committee" pursuant to Government Code Section 82013 as that definition may from time to time be revised or renumbered; and

BE IT FURTHER RESOLVED, that for purposes of this Resolution, "contribution" shall mean a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment except to the extent that full and adequate consideration is received, unless it is clear from the surrounding circumstances that it is not made for political purposes, and shall have that meaning described in Government Code Section 82015 as that definition may from time to time be revised or renumbered; and

BE IT FURTHER RESOLVED, that for purposes of this Resolution, "controlled committee" shall mean a committee that is controlled directly or indirectly by a candidate or that acts jointly with a candidate or controlled committee, in connection with the making of expenditures. A candidate controls a committee if he or she, his or her agent, or any other committee he or she controls has a significant influence on the actions or decisions of the committee, and a committee which otherwise fits the definition of the term "controlled committee" pursuant to Government Code Section 82016 as applied to candidates for the West Contra Costa Unified School District Board of Trustees; and

BE IT FURTHER RESOLVED, that for purposes of this Resolution, "expenditure" shall mean a payment, a forgiveness of a loan, a payment of a loan by a third party, or an enforceable promise to make a payment, unless it is clear from the surrounding circumstances that it is not made for political purposes, and shall have that meaning described in Government Code Section 82025 as that definition may from time to time be revised or renumbered; and

BE IT FURTHER RESOLVED, that for purposes of this Resolution, "individual" shall mean a natural individual; and

BE IT FURTHER RESOLVED, that for purposes of this Resolution, "person" shall mean an individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, company, corporation, limited liability company, association, committee, and any other organization or group of persons acting in concert, and shall have that meaning described in Government Code Section 82047 as that definition may from time to time be revised or renumbered; and

BE IT FURTHER RESOLVED, that for purposes of this Resolution, "single election" shall mean any of a general, special or other specific election held in the West Contra Costa Unified School District, including a recall election, at which members of the Board of Trustees are to be elected or recalled; and

BE IT FURTHER RESOLVED, that alleged violations of the provisions of this Resolution shall be referred to the District Attorney for investigation and prosecution to the extent allowed by law. In addition, the District shall enact procedures for the investigation of alleged violations of this Resolution. Until such time as the District enacts investigative procedures, the District Superintendent shall ensure that allegations of violations of this Resolution that are submitted in writing, dated, verified and signed under penalty of perjury, and that include the name, address and telephone number of the complainant, are promptly investigated by an independent investigator and the result of that investigation reported to the Board; and

BE IT FURTHER RESOLVED, that the clerk of the Board shall be and is hereby directed to forward copies of this Resolution to the District Attorney of the County of Contra Costa, the Registrar of Voters of the County of Contra Costa and such other officials and agencies as may be appropriate. The resolution shall also be posted on the West Contra Costa Unified School District website.