

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 source and amount of contributions that may be made to, and coordinated expenditures on behalf of, committees controlled by candidates for the Board, and to prohibit candidates from soliciting contributions from employees of the District; and

WHEREAS, the holding in Citizens United v. Federal Election Commission (2010) 558 U.S. 310 does not limit contributions for independent expenditures as that term is defined in Buckley v. Valeo (1976) 424 U.S. 1,45-47 and the Political Reform Act (see Gov. Code §§ 82031, 85500), leading to big money groups regardless of political persuasion seizing more and more control of America's electoral system both nationally and locally; 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, 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 it is unlawful for an individual to make, or for a candidate or a controlled committee to solicit or accept, a contribution that would cause the total amount contributed by that individual to the candidate and the candidate's controlled committee to exceed one thousand dollars (\$1,000.00) for a single election contest; and

BE IT FURTHER RESOLVED, that it is unlawful for a person, other than an individual or a political party committee, to make a contribution to a candidate or controlled committee for a District election and it is unlawful for a candidate or controlled committee, or any treasurer thereof, or any other person acting on behalf of any candidate or controlled committee, to solicit or accept a contribution from any person other than an individual or a political party committee for a District candidate election; and

BE IT FURTHER RESOLVED, that it is unlawful for an independent expenditure committee to exceed one thousand dollars (\$1,000.00) for a single election contest on behalf of a candidate or controlled committee for a District election; and

BE IT FURTHER RESOLVED, that it is unlawful for an individual to make or for a 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"), to accept a contribution that would cause the total amount contributed by that individual to that LDF to exceed one thousand dollars (\$1,000.00). No person other than an individual or political party committee shall make a contribution to a District LDF; 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, candidate or a committee controlled by such officeholder or candidate at any time between three hundred and sixty five (365) days prior to or after the completion of, or termination of 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. If a candidate, committee or treasurer receives a contribution, the acceptance of which would constitute a violation of this Resolution, no penalty shall be assessed if the candidate, committee or committee treasurer either:

(1) does not deposit the contribution into the committee bank account or

(2) deposits the contribution but returns the contribution to the contributor within ten

(10) calendar days of the deposit or before the filing deadline for the reporting period in which the contribution was received, whichever occurs first.

Improper contributions not so treated shall become subject to disgorgement of the amount in excess of the allowable contribution (if any) to 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 an administrative penalty of up to three (3) times the amount of the amount improperly received and/or referral for prosecuted by the District Attorney as a criminal misdemeanor violation; and

BE IT FURTHER RESOLVED, that any contribution made by a person whose contribution activity is financed, reimbursed, maintained or controlled by an organization or any other person shall be deemed to have been made by that organization or other person. If the contribution is deemed made by an organization, it is prohibited; and

BE IT FURTHER RESOLVED, that it is unlawful for a candidate or controlled committee to 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 solicitation provision. 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, "committee" shall have that meaning described in 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 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 have that meaning described in 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 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 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 pursuant to Government Code Section 26500. In addition, the District shall enact procedures for the investigation of alleged violations of this Resolution including the imposition of civil penalties provided in 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.