

Superior Court of California, Contra Costa County

Department 39  
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K. Bieker  
Court Executive Officer

FILED  
MAR 04 2025

**ORDER AFTER HEARING**

K. BIEKER CLERK OF THE COURT  
SUPERIOR COURT OF CALIFORNIA  
COUNTY OF CONTRA COSTA

By E. Romero N25-0353

**MARC JOFFE VS KRISTEN CONNELLY**

**HON. EDWARD G. WEIL**

**HEARING DATE: 03/04/2025**

**PROCEEDINGS: PETITION FOR WRIT OF MANDATE**

**DEPARTMENT 39**

**JUDICIAL OFFICER: EDWARD G. WEIL**

**CLERK: ELLEN ROMERO**

**COURT RECORDER: CARI GONZAGA #12401**

**BAILIFF: KIAN LAVASSANI**

**ORDER PARTLY GRANTING AND PARTLY DENYING PETITION FOR WRIT OF MANDATE**

Mark Joffe and Adrian Malagon (Petitioners) petition for a writ of mandate under Elections Code 9509 and 13119 compelling Respondent Kristin B. Connelly, in her official capacity as Contra Costa County Clerk-Recorder and Registrar of Voters, to make changes to the ballot materials for Measure T, a matter to be submitted to the voters of the Acalanes Union High School District on May 6, 2025 for a mailed ballot election. Real Parties in interest are Acalanes Union High School District and the AUHSD Board of Education. The petition was timely filed. In order to avoid substantially interfering with the conduct of the election, the matter was heard on an expedited schedule. By way of an amended petition, petitioners also challenge the analysis of the measure prepared by the County Counsel. The Court has reviewed the parties' filings and considered oral argument.

The burden of proof is on the petitioners. The standard of proof is found in Elections Code 9509(b)(2), which provides that a writ shall be issued "only upon clear and convincing proof that the material in question is false, misleading, or inconsistent with this chapter[.]" Even if the standard of proof were only a preponderance of the evidence, however, the Court would reach the same result on each issue.

*All requests for judicial notice are granted.*

As to the Nickerson declaration, the Court admits the reference to Advance Placement programs, college enrollment rates, California Distinguished Schools, and the number of Advanced Placement courses; paragraphs 1-4, 8 (third sentence only) and 9 -14. The remainder is excluded under Evidence Code section 352.

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Based on the Declaration of Helen Nolan, Assistant Registrar for Contra Costa County, the Court finds that issuance of this writ/injunction will not substantially interfere with the printing or distribution of official election materials as provided by law, because it is rendered no later than 5:00 p.m. on March 6, 2025.

The measure is titled "Sustaining Educational Excellence Act of 2025."

The Summary of the Measure reads

To protect high quality education in local high schools by continuing advanced academic programs in math, science, engineering and arts; attracting and retaining highly qualified teachers; preparing students for college and in-demand careers; and maintaining manageable class sizes, shall Acalanes Union High School District's measure be adopted, levying a \$130 parcel tax for eight years, with senior exemptions, annual adjustments, independent oversight, and providing \$4,500,000 annually in local school funding that cannot be taken by the State?

Petitioners seek ten specific changes in the ballot label, and the Court rules on them as follows;

1. Strike "annual adjustments" and substitute with "annual inflation increases" [or "annual increases" or "annual inflation adjustments"] and move the revised phrase to just after "levying a \$130 parcel tax".

Denied, except the phrase "annual adjustments" shall be changed to "annual inflation adjustments."

2. Strike "protect" and substitute with "support" in "To protect high quality education"  
Granted.

3. Delete 'high quality' in "To protect high quality education."

Denied.

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4. Delete "highly qualified" in "attracting and retaining highly qualified teachers"

Denied.

5. Strike "continuing" and substitute with "funding in "continuing advanced academic programs"

Denied.

6. Delete the phrase "cannot be taken by the State"

Denied.

7. Delete the word "independent" in "independent oversight"

Denied.

8. Delete the words "manageable" and "in-demand."

Denied.

9. Delete the term "Sustaining Educational Excellence Act" from the Ballot Title.

Denied, except to delete the word "Excellence" and replace it with "Funding, i.e., to read "Sustaining Educational Funding Act."

10. Conform the text to the "shall the Measure...Be Adopted?" question format required by Elections Code section 13119(a).

Granted.

The first amended petition, in the Fifth Cause of Action, includes a challenge to the analysis prepared by the county counsel. Six specific changes are proposed:

- A. Amend "The District currently levies an annual parcel tax of \$112 per year on each parcel of taxable real property within the District."

Granted in part, in that the respondents shall either change \$112 to \$301, or delete the entire sentence.

- B. Change "increased TO \$130 to read "increased by \$130."

Granted.

- C. Delete "as a principal residence"

Denied.

- D. Conform "the ballot measure states" to the changes ordered in the ballot "label."

Granted.

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E. Amend "require" to state "provide for" oversight committee

Denied.

F. Delete "independent"

Denied.

Based on the above rulings the ballot measure shall read as follows:

Shall the measure supporting high quality education in local high schools by continuing advanced academic programs in math, science, engineering and art; attracting and retaining highly qualified teachers; preparing students for college and in-demand careers; and maintaining manageable class sizes, with Acalanes Union High School District levying a \$130 parcel tax for eight years, with senior exemptions, annual inflation adjustments, independent oversight, providing \$4,500,000 annually in local school funding that cannot be taken by the State, be adopted?

Dated: \_\_\_\_ MARCH 04, 2025 \_\_\_\_

A handwritten signature in black ink, appearing to read "Edward G. Weil", is written over a horizontal line.

HON. EDWARD G. WEIL  
Judge of the Superior Court