

Superior Court of California, Contra Costa County

Department 39
925-608-1300
www.cc-courts.org



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
E. Romero, Deputy Clerk
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.

Superior Court of California, Contra Costa County

Department 39
925-608-1300
www.cc-courts.org



K. Bieker
Court Executive Officer

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.

Superior Court of California, Contra Costa County

Department 39
925-608-1300
www.cc-courts.org



K. Bieker
Court Executive Officer

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.

Superior Court of California, Contra Costa County

Department 39
925-608-1300
www.cc-courts.org



K. Bieker
Court Executive Officer

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", written over a horizontal line.

HON. EDWARD G. WEIL
Judge of the Superior Court

LAW OFFICES OF JASON A. BEZIS
California State Bar No. 225641
3661-B Mosswood Drive
Lafayette, CA 94549-3509
(925) 708-7073
Jason@BezisLaw.com
Attorney for Petitioners

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
COUNTY OF CONTRA COSTA**

MARC JOFFE and ADRIAN F
MALAGON, individuals and electors in
the Acalanes Union High School District,

Petitioners,

vs.

Case No.: N25-0353

**VERIFIED FIRST AMENDED PETITION
FOR WRIT OF MANDATE AND
PRELIMINARY INJUNCTION**

**(California Elections Code §§ 9051, 9509, 13119,
13314; California Code of Civil Procedure §§
527, 1085)**

KRISTIN B. CONNELLY, in her official
capacity as CONTRA COSTA COUNTY
CLERK-RECORDER AND REGISTRAR
OF VOTERS, and THOMAS L. GEIGER,
in his official capacity as CONTRA
COSTA COUNTY COUNSEL,

***[PRIORITY MATTER PURSUANT TO
CALIFORNIA ELECTIONS CODE
§ 13314(a)(3)]***

Respondents.

GOVERNING BOARD OF THE
ACALANES UNION HIGH SCHOOL
DISTRICT and ACALANES UNION
HIGH SCHOOL DISTRICT,

Real Parties in Interest.

**VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE AND
PRELIMINARY INJUNCTION**

Petitioners MARC JOFFE and ADRIAN F MALAGON (hereinafter “Petitioners”), individuals and electors in the Acalanes Union High School District (hereinafter “AUHSD”), hereby petition this Court through this First Amended Petition for a peremptory writ of mandate and preliminary injunction pursuant to Elections Code sections 9509 and 13314(a)(1) and Code of Civil Procedure sections 527 and 1085.

Petitioners file this First Amended Petition by right, pursuant to Code of Civil Procedure section 472(a), which states in part, “A party may amend its pleading once without leave of the court at any time before the answer, demurrer, or motion to strike is filed ...” No responsive pleading yet has been filed by any party. This First Amended Petition includes the exact same text in the First, Second, Third, and Fourth Causes of Action and in the related portion of the Prayer for Relief as in the original Petition filed on February 18, 2025, with the exception of the paragraph numbering.

This case concerns the 2025 AUHSD Measure T parcel tax ballot measure that Real Party in Interest AUHSD GOVERNING BOARD (“AUHSD BOARD”) voted at its January 27, 2025 meeting to place on the ballot in a May 6, 2025 mailed ballot election. This action challenges untrue, partial, argumentative, and/or prejudicial wording in the ballot question (also called “ballot label” or “statement of the measure”) in violation of the Elections Code sections 9051(e) and 13119(c)¹ standards and partial, false, and/or misleading wording in the ballot question, in the text of the measure printed in the Voter Information Guide, and in the Impartial Analysis printed in the Voter Information Guide, under the Elections Code section 9509/*McDonough v. Superior Court* (2012) 204 Cal.App.4th 1169 standard. This action petitions for a peremptory writ of mandate ordering that the ballot question, ballot measure text, and Impartial Analysis be amended and corrected. This action also requests injunctive relief.

//
//
//

¹ All further references to Code sections refer to the Elections Code, unless otherwise noted.

1 **EXPEDITED HEARING REQUIRED**

2 As an elections-related writ, this Petition is entitled to preferential, expedited hearing per
3 Elections Code section 13314(a)(3). At an ex-parte hearing on February 20, 2025, the Court set an
4 expedited briefing and hearing schedule for the first four causes of action. On February 28, 2025,
5 Petitioners will present to the Court and file an ex-parte application for an order to set an expedited
6 briefing and hearing schedule as to the new Fifth Cause of Action in this First Amended Petition.
7 Counsel for Petitioners will provide an advance courtesy copy of this First Amended Petition to
8 additional Respondent County Counsel THOMAS L. GEIGER, in addition to regular service.
9

10 **THE PARTIES**

11 Specifically, Petitioners allege as follows:

- 12 1. Petitioner MARC JOFFE (“JOFFE”) is a registered voter in the AUHSD and is, therefore,
13 beneficially interested in the upcoming election of May 6, 2025 as an elector. The *East Bay*
14 *Times/Mercury News* editorial of June 26, 2020 titled “Cities, schools should stop deceiving voters on
15 ballot tax measures”² inspired Petitioner JOFFE to file this lawsuit. Mr. JOFFE also drew inspiration
16 from a column by Daniel Borenstein titled “Ballot Measures: Tricks local officials use to deceive
17 voters” in the January 21, 2022 edition of the *East Bay Times*.³ Mr. JOFFE currently is President of the
18 Contra Costa Taxpayers Association, which opposes the new AUHSD Measure T parcel tax.
- 19 2. Petitioner ADRIAN F MALAGON (“MALAGON”) is a registered voter in the AUHSD and is,
20 therefore, beneficially interested in the upcoming election of May 6, 2025 as an elector. Mr.
21 MALAGON is Chair of the Libertarian Party of California and “At-Large Representative” on the
22 Libertarian National Committee.
- 23 3. Respondent KRISTIN B. CONNELLY (hereinafter “CONNELLY”) is the CONTRA COSTA
24 COUNTY CLERK-RECORD AND REGISTRAR OF VOTERS. Ms. CONNELLY is the county
25 elections official in Contra Costa County.
26

27 ² See: bayareane.ws/2A1lj06

28 ³ See: <https://www.eastbaytimes.com/2022/01/21/borenstein-tricks-california-local-officials-use-to-deceive-voters/>

1 4. Respondent THOMAS L. GEIGER (hereinafter “GEIGER”) is the Contra Costa County
2 Counsel. Mr. GEIGER is the author of the Impartial Analysis for Measure T in the May 6, 2025 mailed
3 ballot election. (See Exhibit 7 to Petitioners’ Second Request for Judicial Notice, 2PRJN118.)

4 5. Real Party in Interest ACALANES UNION HIGH SCHOOL DISTRICT (“AUHSD” or “the
5 District”) is a California public entity. AUHSD is the sponsor of a parcel tax measure on the May 6,
6 2025 mailed ballot election that Respondent Registrar CONNELLY has designated as Measure T.

7 6. Real Party in Interest ACALANES UNION HIGH SCHOOL DISTRICT GOVERNING
8 BOARD (hereinafter “AUHSD BOARD”), is the governing body of the District.

9
10 **FACTUAL BACKGROUND**

11 7. Petitioners seek a writ of mandate to compel amendment of the ballot question (also known as
12 “ballot label” or “statement of the measure”) that Respondent Registrar CONNELLY is preparing for
13 voter use in the mailed ballot election to be held in AUHSD on May 6, 2025. The ballot question
14 approved by the AUHSD BOARD on January 27, 2025 reads:

15 *To protect high quality education in local high schools by continuing*
16 *advanced academic programs in math, science, engineering and arts;*
17 *attracting and retaining highly qualified teachers; preparing students for*
18 *college and in-demand careers; and maintaining manageable class sizes,*
19 *shall Acalanes Union High School District’s measure be adopted, levying*
20 *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’ RJN
 (“PRJN”) Exh. 1, “Exhibit A Summary of Measure,” PRJN014.)

21 8. Real Party in Interest AUHSD BOARD voted at its January 27, 2025 meeting to call a mailed
22 ballot election on May 6, 2025 and to place a parcel tax measure on the ballot (later designated as
23 Measure T). The AUHSD BOARD adopted “Resolution 24-25-21 Resolution of the Governing Board
24 of the Acalanes Union High School District of the County of Contra Costa, State of California, Calling a
25 Mailed Ballot Election, Establishing Specifications of the Election Order, and Requesting Consolidation
26 With Other Elections Occurring on May 6, 2025.” (See PRJN Exh. 1.) The AUHSD BOARD “authored
27 the material in question.” (§ 9509(b)(3).)
28

1 9. The AUHSD has spent public funds to prepare and promote Measure T on the May 6, 2025 bal-
2 lot. AUHSD spent public funds on a “Parcel Tax Feasibility Survey Conducted for the Acalanes Union
3 High School District” by True North Research dated January 12, 2025. (See PRJN Exhibits 2 and 3.)

4 10. Petitioners assert that the AUHSD BOARD wrote the ballot question for AUHSD Measure T on
5 the May 6, 2025 ballot in a way that is confusing or misleading to voters.

6 11. Petitioners assert that Mr. GEIGER wrote the Impartial Analysis for Measure T in a way that is
7 not impartial. (See Second PRJN, Exh. 7, 2PRJN118.) Petitioners also assert that the Impartial Analysis
8 is false, misleading, and/or inconsistent with the Elections Code section 9500 et seq. chapter.

9 12. As required by law, issuance of a peremptory writ of mandate will not substantially interfere
10 with the printing or distribution of election materials, because this writ is filed well before the first
11 ballots must be distributed. Elections Code section 4101 states in part, “[T]he elections official shall not
12 commence to mail the combined county voter information guide and mail ballot before the 29th day
13 before the election and shall complete the mailing by the 10th day before the election.” The 29th day
14 before the May 6, 2025 mailed ballot election is Monday, April 7, 2025, at least six weeks after the date
15 of filing of the original Petition on February 18 and at least five weeks after the filing of this First
16 Amended Petition on February 27.

17 13. Petitioners have no adequate remedy at law because of the imminence of the election.
18

19 **STANDING**

20 14. Each Petitioner has individual standing as an “elector” pursuant to Elections Code section
21 321(a). Each Petitioner has a concrete, significant interest in the matters set forth. The passage of
22 Measure T on the May 6, 2025 ballot would impose a parcel tax throughout the AUHSD.
23

24 **JURISDICTION**

25 15. The Court has jurisdiction over this matter pursuant to Elections Code sections 9509 and 13314;
26 and Code of Civil Procedure section 1085.

27 16. Code of Civil Procedure section 527 authorizes injunctive relief.
28

1 17. Elections Code section 9509 authorizes a writ of mandate and injunction to review election
2 materials (including the Impartial Analysis prepared by Respondent County Counsel GEIGER pursuant
3 to Section 9500) under certain circumstances.

4 18. Elections Code section 13314(a)(1) authorizes an elector to seek a writ of mandate “alleging that
5 an error or omission has occurred, or is about to occur ... in the print of, a ballot, sample ballot, voter
6 pamphlet, or other official matter, or that any neglect of duty has occurred, or is about to occur.”

7 19. Elections Code section 13314(a)(3) provides priority for this action “over all other civil matters.”

8 20. Code of Civil Procedure section 1085 authorizes a writ of mandate “to compel the performance
9 of an act which the law specifically enjoins, a duty resulting from an office, trust, or station ...”

10
11 **VENUE**

12 21. The acts complained of herein as the subject of this action occurred in the County of Contra
13 Costa, California. Acalanes Union High School District is located in Contra Costa County. Thus, venue
14 is properly with the Superior Court of the State of California for the County of Contra Costa.

15
16 **LEGAL STANDARDS**

17 22. Elections Code section 13314(a)(2) provides the analytical standard for a writ brought pursuant
18 to Section 13314(a)(1): “A peremptory writ of mandate shall issue only upon proof of both of the
19 following: (A) That the error, omission, or neglect is in violation of this code or the Constitution (B)
20 That issuance of the writ will not substantially interfere with the conduct of the election.”

21 23. Elections Code section 13119(b) requires the statement of the measure/ballot question/ballot
22 label for any proposed tax or tax rate increase to “include in the statement of the ordinance to be voted
23 on the amount of money to be raised annually and the rate and duration of the tax to be levied.”

24 24. Elections Code section 13119(c) states, “The statement of the measure shall be a true and
25 impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither
26 argumentative nor likely to create prejudice for or against the measure.”

1 25. Election Code section 13119(d)(1) states, “ ‘Local governing body’ means the governing body of
2 a city, county, city and county, including a charter city or charter county, or district, including a school
3 district.”

4 26. Elections Code section 13247 states, “The statement of all measures submitted to the voters shall
5 be abbreviated on the ballot in a ballot label as provided for in Section 9051. The ballot label shall be
6 followed by the words, ‘Yes’ and ‘No.’”

7 27. Elections Code section 9051(b) requires ballot labels to have no more than seventy-five (75)
8 words. Section 9051(e) requires the ballot title and summary to be “a true and impartial statement of the
9 purpose of the measure in such language that the ballot title and summary shall neither be an argument,
10 nor be likely to create prejudice, for or against the proposed measure.”

11 28. Elections Code section 9500 states in full:

12 (a) Whenever a school measure qualifies for a place on the ballot, the county
13 elections official shall transmit a copy of the measure to the county counsel or to
14 the district attorney in a county that has no county counsel.

15 (b) The county counsel or district attorney shall prepare an impartial analysis of
16 the measure, showing the effect of the measure on the existing law and the
17 operation of the measure. The analysis shall include a statement indicating that
18 the measure was placed on the ballot by the governing board of the district. The
19 analysis shall be printed preceding the arguments for and against the measure.

20 The analysis shall not exceed 500 words in length.

21 29. Elections Code section 9509(b)(1) states, “During the 10-calendar-day public examination period
22 provided by this section, any voter of the jurisdiction in which the election is being held, or the elections
23 official, himself or herself, may seek a writ of mandate or an injunction requiring any or all of the
24 materials to be amended or deleted. The writ of mandate or injunction request shall be filed no later
25 than the end of the 10-calendar-day public examination period.”

26 30. Elections Code section 9509(b)(2) states, “A peremptory writ of mandate or an injunction shall
27 be issued only upon clear and convincing proof that the material in question is false, misleading, or
28

1 inconsistent with the requirements of this chapter, and that issuance of the writ or injunction will not
2 substantially interfere with the printing or distribution of official election materials as provided by law.”

3 31. Each Petitioner has a beneficial interest in the outcome of this action. (*Green v. Obledo* (1981)
4 29 Cal.3d 126, 144; *Bd. Soc, Welfare v. County of Los Angeles* (1945) 27 Cal.2d 98, 100-01(“where the
5 question is one of public right and the object of the mandamus is to procure the enforcement of a public
6 duty ... it is sufficient that [a petitioner] is interested as a citizen in having the laws executed and the
7 duty in question enforced.”))

8 32. Respondent and Real Parties in Interest AUHSD and AUHSD BOARD have a ministerial duty to
9 follow the law and have violated that duty as described herein.

10 33. Petitioners have no adequate remedy at law. Publication of the ballot question/ballot label, as
11 approved by the AUHSD BOARD on January 27, 2025, the Full Ballot Text, and the Impartial Analysis
12 will result in irreparable harm as Petitioners, and all Electors of AUHSD, will have to vote based on
13 erroneous, inaccurate, partial, argumentative, prejudicial, false, and/or misleading information.

14
15 **FIRST CAUSE OF ACTION**

16 **AUHSD Measure T Ballot Question Text is Untrue, Partial, Argumentative and/or**
17 **“Likely to Create Prejudice” in Favor of Measure T**
18 **(Petition for Writ of Mandate – Elections Code sections 9051(e), 13119(c) and/or 13314)**
19 **(Against Registrar CONNELLY and Real Parties in Interest)**

20 34. Petitioners hereby allege and incorporate by reference Paragraphs 1 through 33, inclusive.

21 35. Based on the foregoing, AUHSD BOARD and AUHSD have violated the law by approving a
22 ballot question (ballot label) for 2025 Measure T that does not comply with Elections Code sections
23 9051 and/or 13119, and Respondent Registrar CONNELLY has violated the law by accepting the ballot
24 question in unlawful form, for printing and distribution to electors in the AUHSD.

25 36. Elections Code section 13119(c) is the legal standard for all local ballot questions/ballot labels.
26 Section 13119(c) states, “The statement of the measure shall be a true and impartial synopsis of the
27 purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to
28 create prejudice for or against the measure.” (Emphasis added.)

37. Section 13119(c) is a relatively new statute, enacted in its current form in 2017 via Statutes of
2017, chapter 105, § 1 (AB 195), effective January 1, 2018. There is not yet a published appellate

1 opinion interpreting Section 13119(c), so Petitioners are compelled to ask the Court also to apply
2 Section 9051(e), which mainly applies to review of statewide ballot propositions.

3 38. Section 9051(e) provides that in a statewide election the ballot title and summary of an initiative
4 or referendum must be a “true and impartial statement of the purpose of the measure in such language
5 that the ballot title and summary shall neither be an argument, nor be likely to create prejudice, for or
6 against the proposed measure.”⁴ (Emphasis added.) Before enactment of Section 13119(c) in 2017,
7 Section 9051 was the primary means for judicial review ballot questions for local measures. (See
8 *McDonough*.)

9 39. Elections Code section 9051(e) applies to ballot questions for local measures through Sections
10 10403 and 13247.⁵ Section 9051(e) provides an alternative basis to Section 13119(c) for judicial review
11 of the wording of ballot questions for local measures based upon similar untrue, impartial,
12 argumentative, and “likely to create prejudice for ... the measure” standards.

13 40. Petitioners contend that more judicial scrutiny is warranted for ballot questions for local
14 measures reviewed under the new Section 13119(c) than for state measures reviewed under Section
15 9051(e) because local measure sponsors are inherently more self-interested in writing ballot questions
16 for their own measures than is the Attorney General in writing ballot labels and summaries for statewide
17 measures. In stark contrast to local measures wherein sponsors prepare ballot questions, for statewide
18 measures “[t]he Attorney General shall invite and consider public comment in preparing each ballot title
19 and summary.” (§ 9051.)⁶

20
21 ⁴ In *McDonough v. Superior Court* (2012) 204 Cal.App.4th 1169 (“*McDonough*”), Santa Clara County
22 Superior Court and the Sixth Appellate District altered a City of San Jose ballot question/ballot label
23 based upon violation of Section 9051 through Section 10403 (via Section 9295). This same standard
24 applies to school district measures through Section 9509. Following issuance of *McDonough* in 2012,
25 the Legislature has added Section 13119(c), providing a direct statutory basis for challenging the
26 wording of ballot questions for local measures.

27 ⁵ Elections Code section 10403(a)(2) requires a ballot question (also called “ballot label” or “summary
28 of the measure”) for a local ballot measure to “conform to this code governing the wording of
propositions submitted to the voters at a statewide election.”

⁶ Furthermore, in evaluating the applicability of Section 9051 cases to local ballot measures, the Court
should consider that ballot materials relating to state ballot measures have a broader basis for judicial
review under the Elections Code than do local measure ballot materials. Section 9092 provides for a 20-

1 41. In *Amador Valley Joint Union High Sch. Dist. v. State Bd. of Equalization* (1978) 22 Cal.3d 208,
2 243, the California Supreme Court interpreted the statute now known as Elections Code section 9051
3 (then codified at Section 3531), which set forth the requirements for arguments being true, impartial, and
4 non-prejudicial: “The main purpose of these requirements is to avoid misleading the public with
5 inaccurate information.”

6 42. In *McDonough*, the petitioners alleged that a City of San José ballot question was misleading and
7 biased in favor of passage, rather than neutral as required by the Elections Code. The Sixth Appellate
8 District concluded that the ballot title “PENSION REFORM” and text were impermissibly partisan. By
9 combining the word "reform" with "pension" in the title, all in capital letters, the city council had
10 implicitly characterized the existing pension system as defective, wrong, or susceptible to abuse, thereby
11 taking a biased position in the very titling of the measure itself. The Court of Appeal determined the
12 title should be altered to read "PENSION MODIFICATION" to eliminate the use of the argumentative
13 word "reform." The advocacy inherent in the introductory language of the ballot label was deemed
14 partisan and prejudicial. It was necessary to amend the ballot question to conform to the standards of
15 impartiality required by the Elections Code. The court issued a peremptory writ of mandate and ordered
16 the ballot title and ballot question be amended.

17 43. Courts have interpreted the meaning of “partial” in the context of ballot labels/ballot questions.
18 “We understand ‘partial’ to mean [that] the council's language signals to voters the council's view of
19 how they should vote, or casts a favorable light on one side of the [issue] while disparaging the opposing
20 view.” (*McDonough v. Superior Court* (2012) 204 Cal.App.4th 1169, 1174 (quoting *Martinez v.*
21 *Superior Court* (2006) 142 Cal.App.4th 1245, 1248).)

22 44. “The use of the ballot form to favor a particular side in the election directly conflicts with the
23 legislative intent to submit the measure to the voters in a concise and neutral manner. In the present case,
24 the use of partisan language was a sufficiently egregious deviation from the prescribed form to fall
25

26
27 day public examination period for the copy for the State Voter Information Guide. Local measures do
28 not have an equivalent section to Section 9092 for general review of a local Voter Information Guide.

1 outside the limits of substantial compliance.” (*Citizens for Responsible Government v. City of Albany*
2 (1997) 56 Cal.App.4th 1199, 1228.)

3 45. The Alameda County Grand Jury, in a neighboring county, criticized “argumentative” wording
4 of ballot questions for local measures in its 2020-21 report. The Grand Jury concluded, “Ballot
5 questions often contain language that may be relevant to a measure, but that is nevertheless
6 argumentative because it describes a reason for favoring the measure rather than describing the measure
7 itself.” (PRJN053.)

8 46. Based on the foregoing, Petitioners are entitled to a writ of mandate pursuant to Elections Code
9 sections 9051 and/or 13119 and 13314, to direct Respondent CONNELLY and/or Real Parties in
10 Interest AUHSD BOARD and AUHSD to amend the 2025 AUHSD Measure T parcel tax ballot
11 question⁷ to be consistent with Elections Code sections 9051 and/or 13119 prior to submission to the
12 Electors for the May 6, 2025 election.

13 47. To comply with the Elections Code section 9051(e) standard (as explicated by *McDonough* and
14 other cases) and the Elections Code section 13119(c) standard, several statements must be amended or
15 deleted from the 2025 AUHSD Measure T parcel tax ballot question because they are argumentative
16 and/or “likely to create prejudice” in favor of Measure T, or are untrue or not impartial.

17 48. In *McDonough*, the Sixth Appellate District deleted a long clause from a ballot label that stated,
18 “To protect essential services, including neighborhood police patrols, fire stations, libraries, community
19 centers, streets and parks.” (204 Cal.App.4th at 1173.) The Court mandated entry of “a new order
20 granting the petition and compelling respondents below to ... delete the introductory phrase in the ballot
21 question, beginning with ‘To protect essential services’ and ending with ‘streets and parks.’ ” (204
22 Cal.App.4th at 1176.)

23 49. The *McDonough* court explains why the phrase “protect essential services” was impermissibly
24 partisan and prejudicial:

25
26
27 ⁷ Section 13119 uses the phrase “statement of the measure” interchangeably with the phrases “ballot
28 label” and “ballot question” as used in the Elections Code and as referenced in this Petition.

1 The text of the ballot question also contains a more extensive flaw
2 rendering it inconsistent with the applicable Elections Code provisions.
3 The central objective of Measure B appears to be the reduction of pension
4 and retirement costs paid by the City. The introductory phrase, however,
5 suggests that the proposed measure is designed principally to “protect
6 essential services, including neighborhood police patrols, fire stations,
7 libraries, community centers, streets and parks.” In other words, it
8 promotes Measure B by implying that if voters do not endorse pension
9 reform by passing the measure, the public will lose fire and police
10 protection and be deprived of popular community resources. (204
11 Cal.App.4th at 1175.)(Emphasis added.)

12 50. AUHSD’s 2025 Measure T ballot question, as approved on January 27, 2025 by the AUHSD
13 BOARD, promotes the Measure T, *inter alia*, by implying that if voters do not approve the measure, the
14 public will be deprived of “high quality education,” “advanced academic programs,” “highly qualified
15 teachers,” and “manageable class sizes.”

16 51. The AUHSD May 6, 2025 ballot question is inherently “likely to create prejudice” in favor of
17 Measure T. AUHSD tested a parcel tax ballot question in a survey of 1,109 “likely voters.” (“Parcel
18 Tax Feasibility Survey Conducted for the Acalanes Union High School District” by True North
19 Research; see PRJN026, PRJN028.) Through that voter survey, AUHSD determined 2025 parcel tax
20 ballot question wording that most appealed to voters. The ballot question tested in the AUHSD’s voter
21 survey read:

22 “In order to:
23 o Protect the high quality of education in local high schools
24 o Continue funding advanced academic programs in math, science,
25 engineering, arts, and career technology
26 o Attract and retain highly qualified teachers
27 o And maintain manageable class sizes
28 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 million dollars
annually in school funding that can’t be taken by the State?” (PRJN026,
PRJN028.)

52. The ballot question in the “Initial Ballot Test” in AUHSD’s voter survey is substantially similar
to the ballot question approved by the AUHSD BOARD on January 27, 2025, with a few minor
differences (mostly grammatical style):

- 1 a. “In order to: protect” in the voter survey was re-written as “To protect” in the approved
2 ballot question;
- 3 b. “high quality of education” in the voter survey was re-written as “high quality education”
4 in the approved ballot question;
- 5 c. “Continue funding advanced academic programs in math, science, engineering, arts, and
6 career technology” in the voter survey was re-written as “by continuing advanced
7 academic programs in math, science, engineering and arts;” in the approved ballot
8 question;
- 9 d. “Attract and retain highly qualified teachers” in the voter survey was re-written as
10 “attracting and retaining highly qualified teachers;” in the approved ballot question;
- 11 e. “preparing students for college and in-demand careers;” is in the approved ballot
12 question, but entirely absent from the ballot question in the vote survey;
- 13 f. “And maintain manageable class sizes” in the voter survey was re-written as “and
14 maintaining manageable class sizes,” in the approved ballot question;
- 15 g. “4 million dollars” in the voter survey was re-written as “\$4,500,000” in the approved
16 ballot question;
- 17 h. “can’t be taken by the State” in the voter survey was re-written as “cannot be taken by the
18 state” in the approved ballot question;

19 53. The following sections propose Petitioners’ amendments of the 2025 AUHSD Measure T ballot
20 question, in accordance with the Elections Code Section 9051(e) and Section 13119(c) standards, which
21 proscribe local measure ballot questions that are untrue, partial, argumentative, and/or “likely to create
22 prejudice” in favor of 2025 AUHSD Measure T:

23 **Strike “annual adjustments” and substitute with “annual inflation increases” [or “annual**
24 **increases”] and move the revised phrase to just after “levying a \$130 parcel tax” in the Measure T**
25 **ballot question.**

26 54. First, the phrase “annual adjustments” should be amended to “annual inflation increases” or
27 “annual increases”. The revised phrase should be moved to just after the “levying \$130 parcel tax” and
28 before “for eight years” in the Measure T ballot question.

1 55. The “annual adjustments” phrase is argumentative and/or “likely to create prejudice” in favor of
2 Measure T without the addition of words like “inflation” or “inflationary” and “increases”, as explained
3 *infra*.

4 56. Elections Code section 13119(b) states in full, “If the proposed measure imposes a tax or raises
5 the rate of a tax, the ballot shall include in the statement of the measure to be voted on the amount of
6 money to be raised annually and the rate and duration of the tax to be levied.” Therefore, AUHSD and
7 AUHSD BOARD have mandatory legal duties to state “the rate ... of the tax to be levied” in the ballot
8 question (a.k.a. “statement of the measure”).

9 57. The Full Ballot Text expressly states, “[T]he tax rate shall be increased annually to account for
10 inflation ...” and “Each year, beginning with the 2026-2027 tax year, the tax rate shall be increased to
11 account for inflation ...” (PRJN Exh. 3, p. “Exhibit B-2,” Section B, PRJN016.) That is a direct
12 admission by AUHSD and AUSHD that the Measure T parcel tax rate will be increased annually.
13 Hence, it will not be merely “a \$130 parcel tax for eight years,” but instead a “\$130 parcel tax” with
14 annual inflation increases “for eight years.”

15 58. Inflation, as measured by the national Consumer Price Index (CPI), will be greater than zero
16 percent for the eight-year life of the AUHSD Measure T parcel tax, from 2025 to 2033, according to a
17 recent Congressional Budget Office report titled “The Budget and Economic Outlook: 2025 to 2035.”
18 (See PRJN Exh. 6.) The text of that CBO report states, “Inflation as measured by the price index for
19 personal consumption expenditures (PCE) falls from an estimated 2.5 percent in 2024 to a rate roughly
20 in line with the Federal Reserve’s long-run goal of 2 percent in 2027 and stabilizes thereafter.” (PRJN
21 Exh. 6, PRJN074.) CBO forecasts the CPI inflation rate to exceed 2.0 percent from 2025 to 2035.
22 (PRJN Exh. 6, “By the Numbers” on second page (PRJN067), and Appendix C, Table C-1 (PRJN096).)
23 Thus the AUHSD Measure T parcel tax rate very likely will increase every year of the eight-year life of
24 the measure.

25 59. The current wording and location of the “annual adjustments” phrase is “likely to create
26 prejudice” in favor of Measure T because it is separated the “\$130 parcel tax” base rate by six words.
27 The “annual adjustments” should be part of the tax rate disclosure required by Section 13119(b). The
28 “annual inflation increases” phrase should be directly adjacent to the “\$130 parcel tax” base rate, not

1 “hidden” among the provisions of Measure T that are favorable to voters: “senior exemptions” and
2 “independent oversight.”⁸

3 60. Therefore, the amended phrase “annual inflation increases” [or “annual increases”] should be
4 moved to directly follow the words “\$130 parcel tax” because the annual inflation increases are to the
5 rate of the parcel tax.

6
7 **Strike “protect” and substitute with “support” in “To protect high quality education” in Measure
T ballot question.**

8 61. Second, the Measure T ballot question cannot permissibly assert that the new parcel tax would
9 “protect high quality education.” The word “protect” in this context is argumentative, partial, and/or
10 “likely to create prejudice” in favor of Measure T in violation of the Section 9051(e) and/or Section
11 13119(c) standards. The introductory words of the ballot question “To protect” suggests that if voters
12 disapprove of the new 2025 Measure T parcel tax, then the district will not have “high quality
13 education.”

14 62. The verb “protect” is an extremely partisan, argumentative, and prejudicial word, especially at
15 the beginning of a ballot question. The *Merriam-Webster Dictionary* defines “protect” as “*transitive*
16 *verb* 1a: to cover or shield from exposure, injury, damage, or destruction : GUARD b: DEFEND sense
17 1c *protect* the goal ...” (<https://www.merriam-webster.com/dictionary/protect>)

18 63. Courts have deleted the infinitive “To protect” from a ballot question. In *McDonough*, the Sixth
19 Appellate District ordered removal from a ballot question an introductory clause that, similar to the 2025
20 AUHSD ballot question, began with the words “To protect”:

21 The introductory phrase ... suggests that the proposed measure is designed
22 principally to “protect essential services, including neighborhood police patrols,
23 fire stations, libraries, community centers, streets and parks.” In other words, it
24 promotes Measure B by implying that if voters do not endorse pension reform by
25

26
27 ⁸ AUHSD’s voter survey found that a senior exemptions argument “Very convincing” or “Somewhat
28 convincing” to 75.5 percent of respondents and an “independent oversight committee” argument was
“Very convincing” or “Somewhat convincing” to 74.5 percent of respondents. (PRJN033.)

1 passing the measure, the public will lose fire and police protection and be
2 deprived of popular community resources. (*McDonough* at p. 1175.)

3 64. Similar to the “To protect” clause beginning the *McDonough* ballot question, the “To protect”
4 clause beginning the 2025 AUHSD Measure T ballot question also is impermissible. The “To protect”
5 introductory clause promotes 2025 AUHSD Measure T by implying if voters do not endorse the new
6 parcel tax by passing the measure, the public will lose “high quality education.”

7 65. The *McDonough* court further held:

8 These points, however, properly belong in the ballot arguments in favor of the
9 measure, not in the ballot question, which must be cast in neutral, unbiased
10 language. Even if the preservation of City services and resources is a compelling
11 reason to vote in favor of Measure B, the advocacy inherent in the introductory
12 language of the ballot question is partisan and prejudicial. Consequently, the
13 ballot question must be amended to conform to the standards of impartiality
14 required by the Elections Code ... (*McDonough* at p. 1176; emphasis added.)

15 66. The verb “protect” is “partisan” under the *McDonough* standard because “the [AUHSD
16 BOARD]’s language signals to voters the [BOARD]’s view of how they should vote, or casts a favorable
17 light on one side of the [issue] while disparaging the opposing view.” (*McDonough v. Superior Court*
18 (2012) 204 Cal.App.4th 1169, 1174.) The phrase “To protect high quality education” signals to voters
19 the AUHSD BOARD’s view of how they should vote: a “Yes” vote “protect[s] high quality education”
20 in AUHSD while a “No” vote presumably deprives the community of “high quality education” in
21 AUHSD.

22 67. The phrase “To protect highly quality education” is inherently “likely to create prejudice” in
23 favor of Measure T. AUHSD’s own voter survey for Measure T demonstrated that the statement
24 beginning “All money will be used to protect quality of ed in high schools ...” was the most
25 “convincing” of fourteen “Positive Arguments” tested. (PRJN032-033.) Nearly 81.2 percent of
26 respondents found that statement to be “Very convincing” or “Somewhat convincing.” (PRJN032.)

27 68. Therefore, the partisan, argumentative, and/or prejudicial word “protect” must be replaced with a
28 more neutral verb, such as “support”, in the 2025 AUHSD Measure T ballot question.

1 **Delete “high quality” in “To protect high quality education” from the 2025 AUHSD Measure T**
2 **ballot question.**

3 69. Third, the phrase “high quality” must be deleted from the 2025 AUHSD Measure T ballot
4 question, for the reasons already discussed in the section immediately *supra*. The phrase “high quality”
5 in this context is argumentative, partial, and/or “likely to create prejudice” in favor of Measure T in
6 violation of the Section 9051(e) and/or Section 13119(c) standards.

7 70. The phrase “high quality” signals to voters that if they vote “no” on Measure T, then the “local
8 high schools” would be deprived of “high quality” education.

9 71. Furthermore, AUHSD and the AUHSD BOARD can provide no guarantee to voters that “highly
10 quality education” actually would be “protect[ed]” by passage of Measure T.

11 **Delete “highly qualified” in “attracting and retaining highly qualified teachers” from the 2025**
12 **AUHSD Measure T ballot question.**

13 72. Fourth, the phrase “highly qualified” must be stricken from the 2025 AUHSD Measure T ballot
14 question, in violation of the Section 9051(e) and/or Section 13119(c) standards.

15 73. The phrase “highly qualified” is impermissibly “argumentative.” It suggests that if the new
16 parcel tax is not approved by voters, then AUHSD would hire unqualified or under-qualified teachers.

17 74. The phrase “attracting and retaining highly qualified teachers” is impermissibly “likely to create
18 prejudice” in favor of 2025 AUHSD Measure T. The voter survey found that the statement “Attract and
19 retain highly qualified teachers” had the second-highest favorability rating of all eight “Programs &
20 Services” tested. (PRJN031.) Nearly 83.8 percent of respondents selected “Strongly favor” or
21 “Somewhat favor” for that statement.

22 75. AUHSD’s voter survey also found that the argument “Competition for high quality teachers has
23 become a big challenge for school districts in Bay Area; measure will help schools attract, keep highly
24 qualified teachers” was “Very convincing” or “Somewhat convincing” to 78.7 percent of respondents.
(PRJN032.)

25 76. The phrase “highly qualified” is “partisan” under the *McDonough* standard because “the
26 [AUHSD BOARD]'s language signals to voters the [BOARD]'s view of how they should vote, or casts a
27 favorable light on one side of the [issue] while disparaging the opposing view.” (*McDonough v.*
28 *Superior Court* (2012) 204 Cal.App.4th 1169, 1174.) The phrase “highly qualified” signals to voters the

1 AUHSD BOARD’s view of how they should vote: a “Yes” vote “retain[s] highly qualified teachers”
2 while a “No” vote presumably removes “highly qualified teachers” from AUHSD.

3 77. Therefore, the partisan, argumentative, and/or prejudicial phrase “highly qualified” must be
4 deleted or stricken from the 2025 AUHSD Measure T ballot question.

5 **Strike “continuing” and substitute with “funding” in “continuing advanced academic programs”**
6 **in Measure T ballot question.**

7 78. Fifth, the Measure T ballot question cannot permissibly assert that the new parcel tax would be
8 “continuing advanced academic programs.” In this context, the word “continuing” is misleading,
9 argumentative and/or “likely to create prejudice” in favor of Measure T.

10 79. The *Merriam-Webster Dictionary* defines “continue” as:

11 continued, continuing *intransitive verb*

12 1: to maintain without interruption a condition, course, or action The boat
13 *continued* downstream.

14 2: to remain in existence : ENDURE The tradition *continues* to this day.

15 3: to remain in a place or condition : STAY We cannot *continue* here much
16 longer. ... (<https://www.merriam-webster.com/dictionary/continue>)

17 80. The word “continuing” in the Measure T ballot question suggests that a “no” vote on Measure T
18 would “discontinue” or terminate “advanced academic programs.” The word “continuing” suggests to
19 voters that “advanced academic programs” would not “remain in existence,” “endure,” “remain,” or
20 “stay” if Measure T were to fail.

21 81. The word “continuing” along with the conjunction “and” suggests to voters that all “advanced
22 academic programs in math, science, engineering and arts” (emphasis added) potentially would be
23 discontinued or terminated if Measure T were to fail. This is extremely misleading to voters.

24 82. The phrase “continuing academic programs” is highly prejudicial in favor of Measure T, based
25 upon the AUHSD voter survey results. The voter survey found that the statement “Continue providing
26 advanced programs in science, technology, engineering and math” had the highest favorability rating of
27 all eight “Programs & Services” tested. (PRJN031.) Nearly 84.0 percent of respondents selected
28 “Strongly favor” or “Somewhat favor” for that statement. (PRJN031.)

1 83. The phrase “continuing advanced academic programs” could cause voter confusion, especially
2 whether or not “Advanced Placement” programs, which are standard courses at many California high
3 schools, are included within its definition.

4 84. Therefore, Petitioners request that the word “continuing” be amended to “funding” or
5 “supporting” or some other neutral word.

6 **Delete the phrase “cannot be taken by the State” from the 2025 AUHSD Measure T ballot**
7 **question.**

8 85. Sixth, Petitioners allege that the phrase “cannot be taken by the State” is misleading,
9 argumentative and/or “likely to create prejudice” in favor of Measure T and therefore should be deleted.

10 86. The California Constitution states, “The Legislature may not reallocate, transfer, borrow,
11 appropriate, restrict the use of, or otherwise use the proceeds of any tax imposed or levied by a local
12 government solely for the local government’s purposes.” (Cal. Const., art. XIII, § 24(b).) The statement
13 in the ballot question that the parcel tax funding “cannot be taken by the State” is misleading and
14 argumentative because it ignores the State Constitution and implies that the AUHSD BOARD, voters,
15 and/or the parcel tax measure text control whether or not the State of California may take the funds.
16 Hence, Petitioners ask the Court to delete the argumentative and/or prejudicial phrase “that cannot be
17 taken by the State.”

18 87. In June 2021, the Alameda County Grand Jury criticized ballot questions that included “cannot
19 be taken by the State” claims. (See PRJN Exhibit 4.) The Grand Jury report stated:

20 Both the San Leandro and Dublin USD questions mention that the proposed funds
21 cannot be “taken by the state” even though it is not clear how school district or
22 municipal revenues can ever be “taken” by the state government absent extreme
23 circumstances such as insolvency. We found similar language such as “all funds
24 benefiting San Leandro” and “all funds staying in Dublin” to be unnecessary and
25 partisan. By definition, funds raised by a government entity will benefit and
26 “stay” with that agency. (PRJN054.)

27 88. The phrase “cannot be taken by the State” is argumentative and/or “likely to create prejudice” in
28 favor of Measure T. The AUHSD voter survey tested the argument “All money raised by measure will
stay local to support students; it can’t be taken away by State or used for administrator salaries.” Nearly
80 percent of respondents found that argument “Very convincing” or “Somewhat convincing.”

1 (PRJN032.) As evidenced by the AUHSD voter survey results, the inclusion of the phrase “cannot be
2 taken by the State” in the ballot question is a deliberate attempt by AUHSD to sway the electorate to
3 vote in favor of the Measure T parcel tax.
4

5 **Delete the word “independent” in “independent oversight.”**

6 89. Seventh, Petitioners allege that the word “independent” in “independent oversight” is untrue,
7 partial, argumentative and/or “likely to create prejudice” in favor of the measure and therefore should be
8 deleted. Voters are given no guarantee in the Full Ballot Text that the “committee” established would be
9 “independent” or would be have an actual “oversight” function.

10 90. The Full Ballot Text states in Section F.3:

11 *Independent Citizens’ Oversight Committee.* The Board shall provide for
12 the existing independent oversight committee to continue to ensure that
13 moneys raised under this Measure are spent only for the purposes
14 described in this Measure. The Committee shall continue to operate
15 pursuant to its current requirements regarding the composition, duties,
16 funding and other necessary information regarding the Committee’s
17 formation and operation, subject to revision by the Board. (PRJN Exh. 1,
18 p. “Exhibit B-4, PRJN018.)

16 91. Nowhere in the Full Ballot Text are voters guaranteed that this committee would be created by a
17 certain date, that it would exist for the life of the measure, how it would be “independent,” that would
18 actually be composed of “citizens,” or that would have authentic “oversight” powers. There is no
19 requirement for a minimum meeting (e.g., one per year). There is no requirement that the “Committee”
20 issue any report. The Full Ballot Text gives the Committee no role in the “Annual Reports” in Section
21 F.2. Because of the absence of such language, Petitioners ask the Court to delete the argumentative
22 and/or prejudicial word “independent” in the phrase “independent oversight.”

23 92. The Bylaws for the existing AUHSD “Measures ‘G & A’ Citizens’ Oversight Committee” for
24 two existing AUHSD parcel taxes demonstrate that the “Oversight Committee” is not actually
25 “independent” and has virtually no oversight powers.⁹ (See PRJN Exh. 5.) According to Exhibit 5, the
26

27 _____
28 ⁹ There is no requirement in California law for a school district parcel tax measure to provide for a
citizen oversight committee, under Government Code § 50075 et seq. or otherwise. In stark contrast,

1 AUHSD BOARD adopted the Bylaws on May 4, 2011. The word “independent” appears nowhere in
2 the existing parcel tax “Oversight Committee” Bylaws. Section 3 states, “The Superintendent and
3 Associate Superintendents shall serve on the Committee as ex-officio Members”, and that “Vacancies on
4 the Committee may only be filled by the District Governing Board” (PRJN Exh. 5, PRJN062.) The
5 bylaws do not contain any requirement that one or more oversight committee represent a taxpayer
6 organization or any other group whose interests may differ with those of the board. Given these facts,
7 AUHSD’s assertion in the Measure T ballot question that the “Oversight Committee” would be
8 “independent” is ludicrous. Moreover, note that the bylaws do not provide the “Oversight Committee”
9 any express investigatory authority.

10 93. The 2021 Alameda County Grand Jury report criticized “citizen oversight” assertions in ballot
11 questions:

12 [I]n the context of such unnecessary or irrelevant language in ballot questions,
13 additional terms describing apparently related “audits” or “citizen oversight”
14 compound the problem by overstating, by implication, the scope of such oversight
15 mechanisms. (PRJN Exh. 4, p. 65, PRJN053.)

16 94. The phrase “independent oversight” in the ballot question is impermissibly prejudicial in favor of
17 the measure because it showed up prominently in AUHSD voter survey. The argument “Measure
18 requires clear system of accountability annual audits, independent oversight committee to ensure money
19 spent properly” was “Very convincing” or “Somewhat convincing” to 74.5 percent of respondents.
20 (PRJN Exh. 3, p. 9, PRJN032.) Merely having the prejudicial phrase “independent oversight” in the
21 ballot question sways voters, regardless of whether “independent oversight” would actually be provided
22 by Measure T.

23 95. Therefore, the prejudicial, argumentative, and/or misleading word “independent” in the phrase
24 “independent oversight” should be deleted from the 2025 AUHSD Measure T ballot question.

25 //

26 //

27 _____
28 Education Code § 15264 et seq. provides for “oversight committees” for certain school district bond
measures.

1 **Delete the words “manageable” and “in-demand”.**

2 96. Finally, Petitioners ask the Court to delete the word “manageable” in the phrase “maintaining
3 manageable class sizes” and “in-demand” in the phrase “college and in-demand careers.”

4 97. The words “manageable” and/or “in-demand” are misleading, argumentative, and/or “likely to
5 create prejudice” in favor of Measure T.

6 98. According to the *Merriam-Webster Dictionary*, “manageable” is defined as “capable of being
7 managed.” (See: <https://www.merriam-webster.com/dictionary/manageable>.) Hence, the word
8 “manageable” is argumentative in the phrase “maintaining manageable class sizes.” The argumentative
9 word “manageable” suggests to voters that if Measure T fails, then classes would be incapable of being
10 managed by teachers and other school staff, creating an inherently unruly learning environment, which
11 would be undesirable to most voters.

12 99. The word “manageable” also is “likely to create prejudice” in favor of Measure T. The AUHSD
13 voter survey found that the statement “Maintain manageable class sizes” had the third-highest
14 favorability rating of all eight “Programs & Services” tested. (PRJN Exh. 3, p. 8, PRJN031.) Nearly
15 81.6 percent of respondents selected “Strongly favor” or “Somewhat favor” for that statement.

16 100. The undefined term “in-demand” is speculative, misleading, argumentative, and/or “likely to
17 create prejudice” for Measure T. The Full Ballot Text does not define which careers are “in-demand,”
18 and which course offerings to be funded by Measure T would prepare students for such careers. Further,
19 due to technological changes, it is possible that careers that are “in-demand” at this time will not
20 continue to be in-demand when AUHSD students will be seeking full-time jobs, often after four years of
21 college.

22 **SECOND CAUSE OF ACTION**

23 **AUHSD Measure T Ballot Question Text and Ballot Measure Text Are**
24 **Untrue, Partial, False and/or Misleading**
25 **(Petition for Writ of Mandate – Elections Code section 9509, *Huntington Beach & McDonough*)**
26 **(Against Registrar CONNELLY and Real Parties in Interest)**

27 101. Petitioners hereby allege and incorporate by reference Paragraphs 1 through 100, inclusive.
28

1 102. Petitioners argue that the ballot question and text of the measure to be printed in the Voter
2 Information Guide contain materials that are untrue, partial, false, and/or misleading under section 9509
3 and the holdings of *Huntington Beach* and *McDonough*.

4 103. Although sections 9190, 9295 and 9509 do not expressly include judicial review of ballot
5 measure questions and ballot measure text, the Sixth Appellate District in *McDonough* held, “When a
6 measure is to be placed on the ballot for an upcoming municipal election, it must be subjected to a 10-
7 day public examination period, during which any voter in the jurisdiction may seek a writ of mandate to
8 delete or amend the language of the measure. (§ 9295, subd. (b)(2); see also §§ 9092 [same writ review
9 procedure and standard for statewide election materials], 9190 [same writ review procedure and standard
10 for county election materials].)” (204 Cal.App.4th at 1173.) Therefore, Petitioners seek the instant writ
11 of mandate to delete or amend the language of the measure and the ballot question.

12 104. Consistent with section 9509, Petitioners have filed this petition for writ of mandate and
13 injunction seeking to delete or amend the language of the 2025 AUHSD parcel tax Measure T during the
14 public examination period following the February 7, 2025 submission deadline. The public examination
15 period extended to Tuesday February 18, 2025 because Monday, February 17, 2025 was a court holiday.
16 (Code Civ. Proc., §§ 12, 12a, 135; Gov. Code, § 6700.)

17 105. Consistent with section 9509(b)(2), “issuance of the writ or injunction will not substantially
18 interfere with the printing or distribution of official election materials as provided by law.” This petition
19 for writ and injunction has been filed during the public examination period for the 2025 AUHSD
20 Measure T parcel tax. Petitioners will seek by ex parte application for the merits hearing to be
21 scheduled as soon as possible. Elections Code section 4101 states in part, “[T]he elections official shall
22 not commence to mail the combined county voter information guide and mail ballot before the 29th day
23 before the election and shall complete the mailing by the 10th day before the election.” The 29th day
24 before the May 6, 2025 mailed ballot election is Monday, April 7, 2025, at least six weeks after the date
25 of filing of this Petition.

26 106. The following sections propose Petitioners’ amendments of the 2025 AUHSD Measure T Full
27 Ballot Text and ballot question, in accordance with the Elections Code 9509 standard, which proscribes
28 official election materials that are false and/or misleading:

1 **Strike the misleading and/or insufficiently neutral ballot measure title and substitute with**
2 **“SUSTAINING EDUCATIONAL EXCELLENCE ACT OF 2025” to “2025 PARCEL TAX**
3 **MEASURE” and enjoin AUHSD from referring to the 2025 Measure T as the “Sustaining**
4 **Educational Excellence Act” in official election materials.**

5 107. The title of the 2025 AUHSD Measure T parcel tax measure is “ACALANES UNION HIGH
6 SCHOOL DISTRICT SUSTAINING EDUCATIONAL EXCELLENCE ACT OF 2025.” (See PRJN
7 Exhibit 1, pages “Exhibit B-1” and “Exhibit B-4;” PRJN015, PRJN018.)

8 108. Petitioners believe that the “Sustaining Educational Excellence Act of 2025” title must be
9 amended because it is misleading and/or insufficiently neutral in violation of Elections Code section
10 9509 and the *Huntington Beach City Council v. Superior Court* (2002) 94 Cal.App.4th 1417
11 (“*Huntington Beach*”) and *McDonough v. Superior Court* (2012) 204 Cal.App.4th 1169 (“*McDonough*”)
12 standards.

13 109. In both *Huntington Beach* and *McDonough*, the courts of appeal required ballot titles to be re-
14 written. In *Huntington Beach*, the ballot title originally read, “Amendment of Utility Tax by Removing
15 Electric Power Plant Exemption.” (*Id.* at p. 1434; emphasis added.) The *Huntington Beach* court stated,
16 “The question in this case, then, is whether the word ‘exemption’ is insufficiently neutral to appear in
17 the title of the measure on the ballot.” (*Id.* at p. 1433.) The court altered the ballot title to read,
18 “Amendment of Utility Tax by Removing Electric Power Plant Exclusion.” (*Id.* at p. 1434; emphasis
19 added.)

20 110. In *McDonough*, the Court altered the “PENSION REFORM” ballot title to read “PENSION
21 MODIFICATION” in order “to eliminate the use of the argumentative word ‘reform.’” (*Id.* at p. 1175.)

22 111. The AUHSD parcel tax measure title must be amended because it violates the aforementioned
23 legal standards. The AUHSD parcel tax measure title “SUSTAINING EDUCATIONAL
24 EXCELLENCE ACT OF 2025” is misleading and/or insufficiently neutral. Measure T cannot guarantee
25 that “educational excellence” would result from its passage. The title “SUSTAINING EDUCATIONAL
26 EXCELLENCE ACT OF 2025” suggests that a “no” vote on 2025 AUHSD Measure T would
27 undermine “educational excellence.”

28 112. Therefore, Petitioners demand that the ballot measure title be amended to delete “SUSTAINING
EDUCATIONAL EXCELLENCE ACT OF 2025” and to replace that text with “2025 PARCEL TAX
MEASURE.”

1 113. Petitioners also request that the Court delete the phrase “Sustaining Educational Excellence Act
2 of 2025” everywhere in the “Full Ballot Text,” including in the “This Proposition may be known and
3 referred to ...” paragraph directly below the “Full Ballot Text” title and in the “Introduction and
4 Purpose” section, for similar reasons.

5 114. In addition, pursuant to Code of Civil Procedure section 527 and/or Elections Code section 9509,
6 Petitioners ask that the Court enjoin Real Parties in Interest AUHSD and AUHSD BOARD, and all
7 persons acting pursuant to their direction and control, henceforth from referring to the 2025 AUHSD
8 parcel tax measure (Measure T) as the “Sustaining Educational Excellence Act” in any and all official
9 election materials relating to the May 6, 2025 election, within the scope of Section 9509.

10 **Amend or delete the following false and/or misleading phrases in the Measure T ballot question.**

11 115. For reasons already explained *supra* in the First Cause of Action, Petitioners request the
12 following amendments to the 2025 AUHSD Measure T ballot question under the Section 9509 “false”
13 and/or “misleading” standard:

- 14 a. Amend the phrase “annual adjustments” to read “annual inflation increases” [or “annual
15 increases”] and move that amended phrase to directly after the words “\$130 parcel tax”
16 and before “for eight years” in the ballot question;
- 17 b. Amend “protect” to “support” in the ballot question;
- 18 c. Delete the phrase “high quality” in the ballot question;
- 19 d. Amend “continuing” to “funding” in the ballot question;
- 20 e. Delete the phrase “highly qualified” in the ballot question;
- 21 f. Delete the phrase “in-demand” in the ballot question;
- 22 g. Delete the adjective “manageable” in the ballot question;
- 23 h. Delete “independent” in the ballot question;
- 24 i. Delete the phrase “that cannot be taken by the State” in the ballot question;

25 116. Petitioners believe that the “annual adjustments” phrase is misleading without the addition of a
26 word like “inflation” or “inflationary” and “increases.” As discussed in the First Cause of Action *supra*,
27 the amended phrase “annual inflation increases” [or “annual increases”] should be moved to directly
28

1 follow the words “\$130 parcel tax” because the annual inflation adjustments [annual inflation increases]
2 are to the rate of the parcel tax.

3
4 **THIRD CAUSE OF ACTION**

5 **Measure T Ballot Question Text Must Conform to “Shall the measure ... be adopted” Format**
6 **(Petition for Writ of Mandate – Elections Code section 13119(a))**

7 **(Against Registrar CONNELLY and Real Parties in Interest)**

8 117. Petitioners hereby allege and incorporate by reference Paragraphs 1 through 116, inclusive.

9 118. AUHSD must conform its parcel tax ballot question to the format required by Elections Code
10 section 13119(a), read in conjunction with Elections Code section 354. The ballot question must begin
11 with the word “Shall” and must end with the phrase “be adopted?”

12 119. Elections Code section 13119(a) states in relevant part, “The ballots used when voting upon a
13 measure proposed by a local governing body or submitted to the voters as an initiative or referendum
14 measure pursuant to Division 9 (commencing with Section 9000), including a measure authorizing the
15 issuance of bonds or the incurrence of debt, shall have printed on them the words ‘Shall the measure
(stating the nature thereof) be adopted?’” (Emphasis added.)

16 120. The “definitions” section of the California Elections Code states, “‘Shall’ is mandatory and
17 ‘may’ is permissive.” (Elections Code § 354.) Therefore, the ballot question format in Section 13119(a)
18 is mandatory upon the AUHSD Board, which is “a local governing body.”

19 121. “[T]he error, omission, or neglect is in violation of this code.” (Elections Code section
20 13314(a)(2)(A).)

21 122. Through Section 13119(a), read in conjunction with the definition of “shall” in Section 354), the
22 Legislature has imposed a mandatory duty upon local governing bodies, including Real Parties in
23 Interest AUHSD BOARD and AUHSD and Respondent County Elections Official CONNELLY to use a
24 ballot question in the format, “Shall the measure (stating the nature thereof) be adopted?”

25 123. The Legislature has commanded through Section 13119(a) (read in conjunction with Section
26 354) that Respondent CONNELLY and Real Parties in Interest AUHSD BOARD and AUHSD must
27 begin the ballot question with the word “Shall”. The AUHSD Measure T ballot question is legally
28 defective because it does not use the word “Shall” until the 40th word. The word “Shall” is “buried,”

1 “hidden,” and/or “lost” in the middle of other text. The Court must amend the AUHSD Measure T
2 ballot question to place the word “Shall” as the first word in the call of the ballot question.

3 124. The Legislature has commanded through Section 13119(a) (read in conjunction with Section
4 354) that Respondent CONNELLY and Real Parties in Interest AUHSD BOARD and AUHSD must end
5 the ballot question with the phrase “be adopted?”. The AUHSD Measure T ballot question is legally
6 defective because it does not use the precise phrase “be adopted?” The phrase “be adopted” is separated
7 from the question mark. The phrase “be adopted” is separated from the question mark by 30 intervening
8 words. The phrase “be adopted” is “buried,” “hidden,” and/or “lost” in the middle of other text. The
9 Court must order the AUHSD Measure T ballot question to be amended to place the phrase “be
10 adopted?” as the last (final) words in the ballot question, immediately preceding the question mark.

11
12 **FOURTH CAUSE OF ACTION**

13 **Peremptory Traditional Writ of Mandate**
14 **(Petition for Writ of Mandate - Code of Civil Procedure section 1085 et seq.)**

15 **(Against Registrar CONNELLY and Real Parties in Interest)**

16 125. Petitioners hereby allege and incorporate by reference Paragraphs 1 through 124, inclusive.

17 126. Based on the foregoing, the AUHSD BOARD and AUHSD have violated the law by submitting
18 a ballot question that does not comply with Elections Code sections 9051, 9509, and/or 13119, and
19 Respondent Registrar CONNELLY has violated the law by accepting the AUHSD Measure T ballot
20 question in unlawful form, for printing and distribution to Electors in the AUHSD.

21 127. Based on the foregoing, as alternative to or in addition to relief on other bases, Petitioners are
22 entitled to a peremptory writ of mandate pursuant to Code of Civil Procedure section 1085 et seq., to
23 direct Respondent Registrar CONNELLY and/or Real Parties in Interest AUHSD BOARD and AUHSD
24 to amend the AUHSD Measure T ballot question to include the information required by, and consistent
25 with, Elections Code sections 9051, 9509, and/or 13119, as the Court so directs, prior to submission to
26 the Electors for the May 6, 2025 election.

27 //

28 //

29 //

1 **OVERALL SUGGESTED AMENDMENTS TO AUHSD MEASURE T BALLOT QUESTION**

2 128. Petitioners request the Court to order amendments to the 2025 AUHSD Measure T parcel tax
3 ballot question to include, or be substantially similar to (“redline version” not conforming to Section
4 13119(a) “Shall the measure ... be adopted?” format):

5 *To ~~protect~~ [support] high-quality education in local high schools by ~~continuing~~ [funding]*
6 *advanced academic programs in math, science, engineering and arts; attracting and*
7 *retaining ~~highly-qualified~~ teachers; preparing students for college and ~~in-demand~~ careers;*
8 *and maintaining ~~manageable~~ class sizes, shall Acalanes Union High School District’s*
9 *measure be adopted, levying a \$130 parcel tax [with annual inflation increases] for eight*
10 *years, senior exemptions, ~~annual adjustments, independent~~ oversight, and providing*
11 *\$4,500,000 annually in local school funding ~~that cannot be taken by the State?~~*

12 129. Assuming that the Court does not apply the Section 13119(a) format, Petitioners request the
13 Court to order amendments to the 2025 AUHSD Measure T parcel tax ballot question to include, or be
14 substantially similar to:

15 *To support education in local high schools by funding advanced academic programs in math,*
16 *science, engineering and arts; attracting and retaining teachers; preparing students for*
17 *college and careers; and maintaining class sizes, shall Acalanes Union High School*
18 *District’s measure be adopted, levying a \$130 parcel tax with annual inflation increases for*
19 *eight years, senior exemptions, oversight, and providing \$4,500,000 annually in local school*
20 *funding?*

21 130. Alternatively, Petitioners request the Court to order amendments to the 2025 AUHSD Measure T
22 parcel tax ballot question to include, or be substantially similar to (“redline version” conforming to
23 Section 13119(a) “Shall the measure ... be adopted?” format, as requested in the Third Cause of
24 Action):

25 **[Shall Acalanes Union High School District’s measure levying a \$130 parcel tax with**
26 **annual inflation increases for eight years,]** *senior exemptions, ~~annual adjustments,~~*
27 *~~independent~~ oversight[; t]o ~~protect~~ [support] high-quality education in local high schools by*
28 *~~continuing~~ [funding] advanced academic programs in math, science, engineering and arts;*

1 *attracting and retaining highly-qualified teachers; preparing students for college and in-*
2 *demand careers; and maintaining manageable class sizes, and providing \$4,500,000*
3 *annually in local school funding that cannot be taken by the State [, be adopted]?*

4 131. Assuming that the Court applies the Section 13119(a) “Shall the measure ... be adopted?”
5 format, as requested in the Third Cause of Action, Petitioners request the Court to order amendments to
6 the 2025 AUHSD Measure T parcel tax ballot question to include, or be substantially similar to:

7 *Shall Acalanes Union High School District’s measure levying a \$130 parcel tax with annual*
8 *inflation increases for eight years, senior exemptions, oversight; to support education in*
9 *local high schools by funding advanced academic programs in math, science, engineering*
10 *and arts; attracting and retaining teachers; preparing students for college and careers; and*
11 *maintaining class sizes, and providing \$4,500,000 annually in local school funding, be*
12 *adopted?*

13
14 **FIFTH CAUSE OF ACTION**

15 **AUHSD Measure T Impartial Analysis Is Partial, False, and/or Misleading**
16 **(Petition for Writ of Mandate – Elections Code sections 9500 and 9509)**

17 **(Against Registrar CONNELLY and County Counsel GEIGER)**

18 132. Petitioners hereby allege and incorporate by reference Paragraphs 1 through 131, inclusive.

19 133. On or about February 21, 2025, County Counsel GEIGER issued his Impartial Analysis of
20 Measure T, pursuant to Elections Code section 9500. (See Exhibit 7 to Petitioners’ Second Request for
21 Judicial Notice, 2PRJN118.)

22 134. County Counsel GEIGER issued his Impartial Analysis of Measure T on February 21 after
23 Petitioners filed their original Petition on February 18, and after the ex-parte hearing to expedite briefing
24 and hearing on the original Petition on February 20. Petitioners could not possibly have challenged the
25 Impartial Analysis in their February 18 original Petition or at the February 20 ex-parte hearing.
26 Therefore, Petitioners have made this allegation for the first time in this First Amended Petition.

27 135. Petitioners have timely filed this challenge to Respondent County Counsel GEIGER’s Impartial
28 Analysis during the 10-day public examination period provided by Elections Code section 9509. The

1 Impartial Analysis bears a date stamp of February 21, 2025. (See PRJN Exh. 7, 2PRJN118.) The 10-
2 day public examination period began on February 21, 2025 and ends on March 3, 2025.

3 136. In *Hull v. Rossi* (1993) 13 Cal.App.4th 1763, the court emphasized “[t]he public’s right to an
4 accurate impartial analysis” and the import of an accurate Impartial Analysis to the electoral process:

5 The public's right to an accurate impartial analysis under Elections Code section
6 3781, subdivision (b)¹⁰, constitutes an important right within the meaning of
7 section 1021.5. [Citation omitted.] The state has a strong interest in providing the
8 electorate with accurate information in the voter pamphlets. (*Washburn v. City of*
9 *Berkeley* (1987) 195 Cal.App.3d 578, 585 [240 Cal.Rptr. 784].) Since this
10 pamphlet accompanies the ballot, it appears to give an imprimatur of official
11 approval to its contents and is likely to carry greater weight in the minds of the
12 voters than normal campaign literature. (*Id.* at p. 1768.)

13 137. First, the second sentence of the Impartial Analysis (at the beginning of the second paragraph)
14 makes the misleading claim, “The District currently levies an annual parcel tax of \$112 per year on each
15 parcel of taxable real property within the District.” (Emphasis added.) As stated in the District’s
16 “Measures G & A Parcel Tax Annual Report 2022-23” (Petitioners’ Second Request for Judicial Notice
17 Exh. 8), the District currently levies two annual parcel taxes, \$189 through Measure G and \$112 through
18 Measure A, each of which has “no sunset.” (2PRJN122-123.) Those two annual parcel taxes total to
19 \$301 per parcel per year. The current Impartial Analysis misleads voters by including just the Measure
20 A tax (\$112 per year) while excluding the Measure G tax (\$189 per year). Therefore, the second
21 sentence of the Impartial Analysis should be amended to read, “The District currently levies two annual
22 parcel tax totaling \$301 per year on each parcel of taxable real property within the District.”

23 138. Second, the third sentence of the Impartial Analysis (the second sentence of the second
24 paragraph) makes the false and/or misleading claim, “If this measure passes, beginning on July 1, 2025,
25 the parcel tax would be increased to \$130 annually on parcels of taxable real property within the District
26 ...” (Emphasis added.) That is a false statement because the existing parcel tax with “no sunset” is \$301

27 _____
28 ¹⁰ Effective in 1995, the section has been re-codified as Elections Code section 9160.

1 per year. If voters were to approve Measure T, then the total District parcel tax actually would be
2 increased to \$431 annually ($\$112 + \$189 + \$130 = \431). Hence, Petitioners suggest that the Court
3 correct this clause by striking the phrase “increased to \$130” and replacing it with “increased by \$130”.

4 139. Third, the fourth paragraph of the Impartial Analysis uses the false and/or misleading phrase “as
5 a principal residence” three times. Petitioners request that the Court delete all three “as a principal
6 residence” phrases. The phrase “as a principal residence” appears nowhere within the Full Ballot Text
7 of Measure T. (See PRJN Exh. 1, 1PRJN015-019.) The phrase “principal residence” also appears
8 nowhere in Government Code section 50079, which permits “any school district [to] impose qualified
9 special taxes ...” that may include “exemption[s]” for “[p]ersons who are 65 years of age or older,” etc.
10 Therefore, no legal authority supports Respondent County Counsel GEIGER’s assertions.

11 140. Fourth, the sentence in the fifth paragraph is partial, false, and/or misleading that asserts:

12 The ballot measure states that the proceeds of the parcel tax will be used to
13 “protect high quality education in local high schools by continuing advanced
14 academic programs in math, science, engineering and arts; attracting and retaining
15 highly qualified teachers; preparing students for college and in-demand careers;
 and maintaining manageable class sizes.” (Second PRJN Exh. 7, 2PRJN118.)

16 The ballot measure does not make such an assertion. Only the ballot question (a.k.a. ballot label) makes
17 such a statement. Hence, the Impartial Analysis makes a false claim. Furthermore, as stated *supra* in
18 the first four causes of action, Petitioners assert that the ballot question is partial and/or misleading.
19 Respondent County Counsel GEIGER cannot include in his so-called “Impartial Analysis” partisan
20 material. Therefore, Petitioners request that the Court delete that sentence completely or, alternatively,
21 amend it to replace “ballot measure” with “ballot question” or “ballot label” and to replace the ballot
22 question language within the quotation with the ballot question language amended by the Court after
23 review of the first four causes of action.

24 141. Fifth, the Court should order the false and/or misleading phrase "chief fiscal officer" amended to
25 read "Superintendent or Associate Superintendent, Business Services of the District". Nowhere does the
26 Full Ballot Text for Measure T refer to the phrase “chief fiscal officer.” (See PRJN Exh. 1, 1PRJN015-
27 019.) Instead the “Annual Reports” section states, “... the Superintendent or Associate Superintendent,
28 Business Services of the District shall cause a report to be filed ...” (1PRJN018.) The phrase “chief

1 fiscal officer” also is absent from Government Code section 50079. Respondent County Counsel
2 GEIGER has no legal authority supporting his use of the phrase “chief legal officer”.

3 142. Sixth, the Court should order the word “require” to be replaced by the phrase “provide for” so
4 that the clause "The measure also would require the District to have an appointed ..." instead would read
5 "The measure also would provide for the District to have an appointed ...". The Full Ballot Text for
6 Measure T states, “The Board shall provide for the existing Independent oversight committee to
7 continue ...” (Petitioners’ RJN Exh. 1, 1PRJN018.) Note well that the Full Ballot Text does not
8 “require” an oversight committee; it merely “provide[s] for” an oversight committee.

9 143. Finally, the Court should order the deletion of the false, misleading, and/or partial word "inde-
10 pendent". As discussed in paragraph nos. 89 through 95 *supra*, the so-called “independent citizens’
11 oversight committee” would not be truly independent. The Measure T Full Ballot Text does not ex-
12 pressly define the committee’s “composition, duties, funding.” (1PRJN018.) The Full Ballot Text makes
13 those fundamental matters “subject to revision by the Board.” (1PRJN018.) No California statute, inclu-
14 ding Government Code section 50079, otherwise defines or regulates a parcel tax oversight committee.

15 144. Pursuant to Elections Code sections 9500 and 9509, Petitioners request that the Court amend
16 County Counsel GEIGER's Impartial Analysis to delete and/or amend material that is partial, false,
17 and/or misleading, including but not limited to:

- 18 a. Amend “levies an annual parcel tax of \$112 per year” to read “levies two annual parcel
19 taxes totaling \$301 per year” in the second paragraph (emphasis added; emphasis would
20 not appear in the court-ordered amendment);
- 21 b. Amend “increased to \$130” to read “increased by \$130” in the second paragraph
22 (emphasis added; emphasis would not appear in the court-ordered amendment);
- 23 c. Delete all three clauses in the fourth paragraph which read “as a principal residence”;
- 24 d. Delete the sentence in the fifth paragraph which begins, “The ballot measure states ...”,
25 or amend said sentence to replace “ballot measure” with “ballot question” or “ballot la-
26 bel” and to replace the ballot question language within the quotation with the ballot ques-
27 tion language amended by the Court after review of the first four causes of action, *supra*;

- e. Amend “chief fiscal officer” to read “Superintendent or Associate Superintendent, Business Services of the District” in the sixth paragraph;
- f. Amend “would require” to read “would provide for” in the sixth paragraph; and
- g. Delete the word “independent” in the sixth paragraph.

145. Furthermore, Petitioners request that the Court issue a peremptory writ of mandate directing Respondent County Elections Official CONNELLY to publish the Court’s amended Impartial Analysis in the County Voter Information Guide for the Measure T mailed ballot election on May 6, 2025.

PRAAYER FOR RELIEF

WHEREFORE, Petitioners MARC JOFFE and ADRIAN F MALAGON pray for relief as follows:

1. That this Court issue a peremptory writ of mandate ordering Respondent CONNELLY and/or Real Parties in Interest AUHSD BOARD OF EDUCATION and AUHSD, and all persons acting pursuant to their direction and control, to amend and correct the ballot question for the AUHSD Measure T in the May 6, 2025 mailed ballot election specifically as this Court directs, to conform with the “true and impartial synopsis” of the purpose of the proposed measure, not argumentative, and/or not “likely to create prejudice” in favor of the measure standards of Elections Code sections 9051 and 13119, as provided in Paragraphs 34 through 100 of this Petition, including:

- a. Amend the phrase “annual adjustments” to read “annual inflation increases” [or “annual increases”] and move that amended phrase to directly after the words “parcel tax for eight years, with”;
- b. Amend “protect” to “support”;
- c. Delete the phrase “high quality”;
- d. Delete the phrase “highly qualified”;
- e. Amend “continuing” to “funding”;
- f. Delete the phrase “in-demand”;
- g. Delete the adjective “manageable”;
- h. Delete “independent”;

- 1 i. Delete the phrase “that cannot be taken by the State”;
- 2 2. That this Court issue a peremptory writ of mandate ordering Respondent CONNELLY and/or
3 Real Parties in Interest AUHSD BOARD and AUHSD, and all persons acting pursuant to their direction
4 and control, to amend and correct the Full Ballot Text and the ballot question for the AUHSD Measure
5 T in the May 6, 2025 mailed ballot election specifically as this Court directs, to conform with the false
6 and/or misleading standard of Elections Code section 9509 and *McDonough*, as provided in Paragraphs
7 100 through 116 of this Petition, including:
- 8 a. Amend the ballot measure title in the Full Ballot Text from “SUSTAINING
9 EDUCATONAL EXCELLENCE ACT OF 2025” to “2025 PARCEL TAX MEASURE”;
- 10 b. Amend the phrase “annual adjustments” to read “annual inflation increases” [or “annual
11 increases”] and move that amended phrase to directly after the words “\$130 parcel tax”
12 and before “for eight years” in the ballot question;
- 13 c. Amend “protect” to “support” in the ballot question;
- 14 d. Delete the phrase “high quality” in the ballot question;
- 15 e. Delete the phrase “highly qualified” in the ballot question;
- 16 f. Amend “continuing” to “funding” in the ballot question;
- 17 g. Delete the phrase “in-demand” in the ballot question;
- 18 h. Delete the adjective “manageable” in the ballot question;
- 19 i. Delete “independent” in the ballot question;
- 20 j. Delete the phrase “that cannot be taken by the State” in the ballot question;
- 21 3. That this Court issue a peremptory writ of mandate ordering Respondent CONNELLY and/or
22 Real Parties in Interest AUHSD BOARD and AUHSD, and all persons acting pursuant to their direction
23 and control, to amend and correct the ballot question for the AUHSD Measure T in the May 6, 2025
24 mailed ballot election specifically as this Court directs, to conform with the “Shall the measure ... be
25 adopted?” format required by Elections Code section 13119(a), as provided in Paragraphs 117 through
26 124 of this Petition;
- 27 4. As alternative to or in addition to relief on other bases, that this Court issue a peremptory
28 traditional writ of mandate pursuant to Code of Civil Procedure section 1085 et seq., to direct

1 Respondent CONNELLY and/or Real Parties in Interest AUHSD BOARD and AUHSD to amend the
2 AUHSD Measure T ballot question to include the information required by, and consistent with,
3 Elections Code sections 9051, 9509, and/or 13119, as the Court so directs, prior to submission to the
4 Electors for the May 6, 2025 election;

5 5. That this court, pursuant to Code of Civil Procedure section 527 and/or Elections Code section
6 9509, enjoin Real Parties in Interest AUHSD and AUHSD BOARD, and all persons acting pursuant to
7 their direction and control, henceforth from referring to the 2025 AUHSD parcel tax measure (Measure
8 T) as the “Sustaining Educational Excellence Act” in any and all official election materials relating to
9 the May 6, 2025 election within the scope of Section 9509;

10 6. If the Court were to order all of the amendments and corrections suggested by Petitioners *supra*,
11 in the First and Second Causes of Action, the ballot question would read:

12 *“To support education in local high schools by funding advanced academic*
13 *programs in math, science, engineering and arts; attracting and retaining*
14 *teachers; preparing students for college and careers; and maintaining class sizes,*
15 *shall Acalanes Union High School District’s measure be adopted, levying a \$130*
16 *parcel tax with annual inflation increases for eight years, senior exemptions,*
17 *oversight, and providing \$4,500,000 annually in local school funding?”*

18 7. If the Court were to order all of the amendments and corrections suggested by Petitioners *supra*,
19 in the First, Second, and Third Causes of Action, applying the Section 13119(a) “Shall the measure ...
20 be adopted?” format, the ballot question would read:

21 *“Shall Acalanes Union High School District’s measure levying a \$130 parcel tax*
22 *with annual inflation increases for eight years, senior exemptions, oversight; to*
23 *support education in local high schools by funding advanced academic programs*
24 *in math, science, engineering and arts; attracting and retaining teachers;*
25 *preparing students for college and careers; and maintaining class sizes, and*
26 *providing \$4,500,000 annually in local school funding, be adopted?”*

1 8. That the Court order that County Counsel GEIGER's Impartial Analysis be amended to delete
2 and/or amend material that is partial, false, and/or misleading, as provided in Paragraphs 132 through
3 145 of this First Amended Petition, including but not limited to:

- 4 a. Amend the phrase “levies an annual parcel tax of \$112 per year” to read “levies two
5 annual parcel taxes totaling \$301 per year” in the second paragraph;
- 6 b. Amend “increased to \$130” to read “increased by \$130” in the second paragraph;
- 7 c. Delete all three clauses in the fourth paragraph which read “as a principal residence”;
- 8 d. Delete in the fifth paragraph the sentence which begins, “The ballot measure states ...” or
9 alternatively amend said sentence to replace “ballot measure” with “ballot question” or
10 “ballot label” and replace the ballot question language within the quotation with the bal-
11 lot question language amended by the Court after review of the first four causes of action;
- 12 e. Amend in the sixth paragraph “chief fiscal officer” to read “Superintendent or Associate
13 Superintendent, Business Services of the District”;
- 14 f. Amend in the sixth paragraph “would require” to read “would provide for”; and
- 15 g. Delete the word “independent” in the sixth paragraph;

16 9. That the Court issue a peremptory writ of mandate directing Respondent County Elections
17 Official CONNELLY to publish the Court’s amended Impartial Analysis in the County Voter
18 Information Guide for the Measure T mailed ballot election on May 6, 2025;

19 10. That the Court award Petitioners costs, including reasonable attorney’s fees pursuant to
20 California Code of Civil Procedure section 1021.5, as permitted by law; and

21 11. That this Court grant such other and further relief as may be just and proper.

22
23 Dated: February 27, 2025

Respectfully submitted,

LAW OFFICES OF JASON A. BEZIS

24
25 by /s/ *Jason A. Bezis*

26 Jason A. Bezis
27 Attorney for Petitioners
28

1 **VERIFICATION**

2 I, Marc Joffe, am a registered voter in the Acalanes Union High School District and a petitioner
3 in this action. All facts alleged in the above First Amended Petition for Writ of Mandate and
4 Preliminary Injunction, not otherwise supported by citations to the record, exhibits or other documents,
5 are true of my own personal knowledge, unless otherwise so stated.

6 I declare under penalty of perjury under the laws of the State of California that the
7 foregoing is true and correct.

8 Executed this 27th day of February, 2025, in Walnut Creek, Contra Costa County, California.

9
10 /s/ Marc Joffe

11
12 _____
13 MARC JOFFE
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

1 **PROOF OF SERVICE**

2 *Marc Joffe et al. v. Kristin B. Connelly et al.*
3 Contra Costa County Superior Court Case No. N25-0353

4 At the time of service, I was over 18 years of age and not a party to this action. My business
5 address is 3661-B Mosswood Drive, Lafayette, CA 94549-3509.

6 On February 27, 2025, I served true copies of the following document(s) described as:

7 **VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE AND PRELIMINARY**
8 **INJUNCTION**

9
10 on the interested parties in this action as follows:

11 Respondent KRISTIN B. CONNELLY, in her official capacity as CONTRA COSTA COUNTY
12 CLERK-RECORDER AND REGISTRAR OF VOTERS and THOMAS L. GEIGER, in his
13 official capacity as CONTRA COSTA COUNTY COUNSEL:

14 Thomas Geiger: Thomas.Geiger@cc.cccounty.us,
15 Rebecca J. Hooley: Rebecca.Hooley@cc.cccounty.us; and
16 Andrea Russi: Andrea.Russi@cc.cccounty.us
OFFICE OF THE CONTRA COSTA COUNTY COUNSEL
Attorneys for Respondents KRISTIN B. CONNELLY and THOMAS L. GEIGER

17 Real Parties in Interest GOVERNING BOARD OF THE ACALANES UNION HIGH SCHOOL
18 DISTRICT and ACALANES UNION HIGH SCHOOL DISTRICT:

19 William B. Tunick: wtunick@dwkesq.com
20 DANNIS WOLIVER KELLEY
Attorney for Real Parties in Interest AUHSD BOARD and AUHSD

21 **BY ELECTRONIC SERVICE:** I served the document(s) on the persons listed above to the e-
22 mail addresses listed above.

23 I declare under penalty of perjury under the laws of the State of California that the foregoing is
24 true and correct.

25 Executed on February 27, 2025, at Lafayette, California.

26 /s/ Jason A. Bezis

27 _____
JASON A. BEZIS