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FAIR POLITICAL PRACTICES COMMISSION

April 22, 1997

Judy Cias
Director, Policy Services
California School Boards Association
3100 Beacon Boulevard
Post Office Box 1660
West Sacramento, California 95691

**Re: Your Request for Advice
Our File No. I-97-165**

Dear Ms. Cias:

This letter is a response to your request for advice on behalf of the California School Boards Association regarding the provisions of the Political Reform Act (the "Act").¹ Since it does not appear that the California School Boards Association has a duty to advise local school boards, we are treating your request as one for informal assistance.²

QUESTIONS

1) Is a school district a "local jurisdiction" for the purposes of section 85400(c)? Specifically, may a governing board of a school district establish a voluntary expenditure ceiling amount for school board candidates?

2) How does Proposition 208 impact Education Code section 35177 which provides that the governing board of a district may by resolution limit campaign expenditures or contributions in elections to district offices? How does Proposition 208 affect any resolutions that a local school district may have adopted?

¹ Government Code sections 81000 - 91014. Commission regulations appear at title 2, sections 18109 - 18995, of the California Code of Regulations.

² Informal assistance does not provide the requestor with the immunity provided by an opinion or formal written advice. (Section 83114; Regulation 18329(c)(3).)

CONCLUSIONS

1) Yes, a school district is a "local jurisdiction" for purposes of section 85400(c). Therefore, the governing board of a school district may establish spending limits for school board candidates as long as the limits do not exceed \$1 per resident and are voluntary.

2) Proposition 208 does not remove a school board's authority under Education Code section 35177 to enact campaign finance laws. To the extent that Education Code section 35177 could conflict with certain provisions of Proposition 208, the statutes may be harmonized by providing that a school board has the power to enact campaign finance laws that are consistent with Proposition 208. Accordingly, such laws must be at least as strict as Proposition 208. However, a school board may enact contribution and spending limits that are higher than those specified in Proposition 208 if such limits are approved by a vote of the residents of the school district. Existing resolutions adopted pursuant to the Education Code that meet the above standards will be unaffected by Proposition 208.

FACTS

The California School Boards Association provides sample policies, regulations, and exhibits to a large majority of California's school districts. The Association is currently in the process of revising its bylaw on Governing Board Elections in order to reflect the provisions of Proposition 208 as it applies to local school district governing boards.

ANALYSIS

Question #1

Proposition 208, which went into effect on January 1, 1997, amended certain provisions of the Act. Among other things, the initiative establishes voluntary spending limits for candidates running for legislative and statewide office. (Section 85400.) With respect to local candidates, Proposition 208 permits local jurisdictions to establish local voluntary spending limits. Specifically, section 85400(c) provides that:

"Any local jurisdiction, municipality, or county may establish voluntary expenditure ceilings for candidates and controlled committees of such candidates for elective office not to exceed one dollar (\$1) per resident for each election in the district in which the candidate is seeking elective office. Voluntary expenditure ceilings may be set at lower levels by the local governing body."

You want to know whether section 85400(c) applies to school districts. "Local jurisdiction" refers to the jurisdiction of a local government agency. (Section 82035.) A local government agency is defined as "a county, city or district of any kind including school district,

or any other local or regional political subdivision, or any department, division, bureau, office, board, commission or other agency of the foregoing.” (Section 82041.) Accordingly, a school district constitutes a local jurisdiction for purposes of section 85400(c). Thus, the governing board of the school district may establish voluntary spending limits for school board candidates pursuant to section 85400(c).

Question #2

1. Education Code Section 35177

Education Code section 35177 provides that “the governing board of a district may by resolution limit campaign expenditures or contributions in elections to district offices.” You want to know how Proposition 208 affects Education Code section 35177. Construed broadly, Education Code section 35177 would permit school boards to enact contribution and expenditures limits without restriction. Such an interpretation would conflict with certain provisions of Proposition 208. (*See* sections 85301, 85400, and 85706.)

It is the general rule that statutes relating to the same subject matter are to be construed together and harmonized if possible. (*Fuentes v. Workers’ Comp. Appeals Bd.*(1976) 16 Cal.3d 1, 6-7; 2B Sutherland on Statutory Construction (5th ed. 1992) § 51.02 , pp. 121-123.) We believe Education Code section 35177 and Proposition 208 can be harmonized by interpreting Education Code section 35177 to provide that the power to enact contribution and expenditure limits applicable to school board candidates resides with the particular school board for which the candidate is running and by requiring such limits to be consistent with the provisions of Proposition 208. This approach is supported by section 81013 which provides that if any act of the Legislature conflicts with the provisions of the Act, the Act will prevail. Thus, a school board may establish by resolution contribution and expenditure limits for school board candidates as long as such limits comply with Proposition 208.

2. Resolutions Adopted Pursuant to Education Code Section 35177

You want to know how Proposition 208 affects existing resolutions adopted before Proposition 208 went into effect. With respect to contribution limits, Proposition 208 provides that the initiative will have no effect on contribution limits of any local jurisdiction that are as or more stringent than the limits set forth in the initiative. (Section 85706(a).) In districts with fewer than 100,000 residents, section 85301(a) imposes a contribution limit of \$100 per person per election. In districts of 100,000 residents or more, section 85301(b) establishes a contribution limit of \$250 per person per election. Therefore, Proposition 208 will not affect any existing resolution imposing contribution limits that are as or more stringent than the limits imposed by section 85301.

With respect to expenditure limits, section 85400(c) permits local jurisdictions to establish spending limits for local candidates as long as such limits are voluntary and do not exceed \$1 per resident. In order to harmonize Education Code section 35177 and Proposition

208, we interpret section 85400(c) as providing that the initiative will have no effect on existing spending limits of any school district that meets the requirements of section 85400(c). Thus, Proposition 208 does not affect existing school board resolutions imposing spending limits on school board candidates that are voluntary and are not in excess of \$1 per resident.

With respect to local contribution limits and local spending limits that do not meet the criteria of sections 85706(a) and 85400(c), section 85706(b) permits a local jurisdiction to impose higher contribution or expenditure limitations than those specified in Proposition 208, if enacted by a vote of the people. Thus, a school district may impose higher contribution or spending limits than those authorized by the initiative, as long as such limits are adopted by a vote of the district residents. Therefore, Proposition 208 will not affect any existing resolutions providing higher contribution and voluntary spending limits, if such limits were approved by a vote of the district residents.

If you have any other questions regarding this matter, please contact me at (916) 322-5660.

Sincerely,

Steven G. Churchwell
General Counsel



By: Julia Butcher
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