



Santa Clara County Office of Education

Mary Ann Dewan, Ph.D.  
County Superintendent of Schools

Via Email and US Mail

October 1, 2020

Joseph Di Salvo, Trustee, Santa Clara County Board of Education, Area 5  
1225 Malone Road  
San Jose, CA 95125

Re: Prohibited Use of SCCOE Resources for Your Campaign

Dear Trustee Di Salvo:

It has been brought to my attention that you have used SCCOE resources in furtherance of your campaign for re-election to the Santa Clara County Board of Education ("SCCBOE"). Please accept this letter as an official notice to immediately cease and desist from the use of SCCOE resources for your campaign for re-election to the SCCBOE as such use is inconsistent with the purpose for which such resources were appropriated.

Specifically, on September 21, 2020, the SCCOE received a written complaint alleging that you have listed the SCCOE's mailing address on your campaign website as your mailing contact address. A review of your campaign website confirms the allegation, since the address listed is in fact the SCCOE's mailing address, 1290 Ridder Park Drive MC 201, San Jose, CA 95131-2304. Additionally, another member of the public complained that you had used your SCCOE email account to solicit campaign donations. Subsequently, I was informed by our Technology Division that you in fact had used your SCCOE-issued email on July 20, 2020, to send emails soliciting campaign contributions. Attached are copies of those emails.

State laws and SCCOE policies prohibit Board members from using SCCOE resources to engage in political activity. As a Trustee, you have been periodically provided with written guidelines of the laws that restrict use of SCCOE resources for political activities. The most recent of such guidelines were sent to you, and the rest of the Board, on August 27, 2020. A copy of the memorandum providing legal guidelines restricting the use of public resources for political activities is attached for ease of reference.

Education Code section 7054 prohibits the use of public agency funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Governing Board. This prohibition likewise applies to the Santa Clara County Board of Education, as well as any individual member of the Governing Board.

County Board of Education: Joseph Di Salvo, Rosemary Kamei, Kathleen M. King, Grace H. Mah, Peter Ortiz, Claudia Rossi, Anna Song  
1290 Ridder Park Drive, San Jose, CA 95131-2304 (408) 453-6500 [www.sccoe.org](http://www.sccoe.org)

Transforming Education through Leadership, Service, and Advocacy



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In addition, under California law it is illegal for anyone to use public agency resources for personal purposes, political purposes or purposes not related to agency business without authorization. (Gov. Code § 8314.) Section 8314 provides, in relevant part:

*8314. (a) It is unlawful for any elected state or local officer, including any state or local appointee, employee, or consultant, to use or permit others to use public resources for a campaign activity, or personal or other purposes which are not authorized by law.*

*(b) For purposes of this section:*

*(2) "Campaign activity" means an activity constituting a contribution as defined in Section 82015 or an expenditure as defined in Section 82025. "Campaign activity" does not include the incidental and minimal use of public resources, such as equipment or office space, for campaign purposes, including the referral of unsolicited political mail, telephone calls, and visitors to private political entities.*

*(3) "Public resources" means any property or asset owned by the state or any local agency, including, but not limited to, land, buildings, facilities, funds, equipment, supplies, telephones, computers, vehicles, travel, and state-compensated time.*

*(4) "Use" means a use of public resources which is substantial enough to result in a gain or advantage to the user or a loss to the state or any local agency for which a monetary value may be estimated.*

*(c) (1) Any person who intentionally or negligently violates this section is liable for a civil penalty not to exceed one thousand dollars (\$1,000) for each day on which a violation occurs, plus three times the value of the unlawful use of public resources. The penalty shall be assessed and recovered in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney or any city attorney of a city having a population in excess of 750,000. If two or more persons are responsible for any violation, they shall be jointly and severally liable for the penalty.* (Emphasis added.)

In addition to the legal prohibition against using SCCOE resources for political activity, Board Bylaw 9005 provides that Board members are expected to govern responsibly and maintain the highest standards of integrity and honesty and consider their positions as County Board members as a public trust. Board Bylaw also provides that County Board members shall not act in a manner in conflict with the SCCOE.

Your use of SCCOE's address and internal email system benefits your campaign and has the



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potential to confuse prospective voters into assuming you have an official endorsement from the SCCOE. As such, please remove the SCCOE mailing address from your campaign website. Additionally, I respectfully request that you cease and desist from using any SCCOE resources, services, supplies or equipment — including the SCCOE internal email system — in order to engage in political activity, including for your campaign.

Most Respectfully,

Dr. Mary Ann Dewan  
County Superintendent of Schools  
Santa Clara County Office of Education



**DATE:** August 24, 2020

**TO:** Members of the Santa Clara County Board of Education (SCCBOE) Trustees,  
Santa Clara County Office of Education (SCCOE) Employees, and Charter School  
Operators

**FROM:** Dr. Mary Ann Dewan, County Superintendent of Schools

**SUBJECT:** Notice: Political Activities of SCCBOE Trustees and SCCOE Employees

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The Santa Clara County Office of Education ("SCCOE") periodically provides reminders and notices to employees regarding certain policies and regulations. At least annually, reminders regarding Political Activities are provided.

This memorandum will summarize the rules that govern involvement in political activities and the laws that restrict use of SCCOE resources for political activities.

There are two foundational concepts, which Santa Clara County Board of Education ("SCCBOE") trustees and SCCOE employees should keep in mind: (1) the law prohibits the use of public funds, services, supplies or equipment to support or defeat any ballot measure or candidate; and (2) even though the SCCBOE trustees and SCCOE employees are free to engage in political activities while off-duty, there are limitations on those activities while on-duty. However, the potential effect of a proposed or qualified ballot measure, including any resolution referencing a proposed or qualified ballot measure, may be agendaized for an open public meeting of the SCCBOE, and may be discussed at such meeting. Please note that compliance with these basic tenets is required by the SCCOE's Board Policy ("BP") 1160 and the law.

A determination regarding whether specific actions are legally appropriate is fact and situation specific. For this reason, this memorandum is intended to serve as a general reference, rather than a substitute for the advice of legal counsel.

**A. Prohibition Against Use of Public Resources and On-Duty Personnel**

It is unlawful for SCCOE employees to use SCCOE resources or personnel for any political activity. Education Code section 7054 prohibits the use of SCCOE funds, services, supplies or equipment to urge the passage or defeat of any ballot measure or candidate, including any candidate for election to the Governing Board. This prohibition likewise applies to the SCCBOE, charter school board or any individual member of the governing board. Examples of prohibited activities include (but are not limited to) the following: using SCCOE

email, telephones, photocopiers, fax machines, computers, office supplies, circulating petitions, addressing envelopes, or engaging in any other activities that use public resources or divert public employees from their assigned duties.

The law prohibits any misuse of public resources or personnel for political activities, no matter how small. A county office of education officer or employee need not intend to misuse public resources for a violation to be found, nor are violations limited to theft. The law covers all SCCBOE trustees and SCCOE employees. It does not require that the officer or employee have actual possession of public monies, or primary duties related to such monies. The prohibition against using SCCOE resources for political purposes is prohibited even if it is done during non-work time, including but not limited to, lunchtime.

Additionally, SCCBOE trustees and SCCOE employees may not use their official positions to influence candidates' campaigns, ballot measures, or other contested elections. SCCBOE trustees and SCCOE employees may, however, lawfully use public resources (where budgeted for such a purpose) to investigate and objectively evaluate the potential impact of a bond issue, parcel tax or other measure on public operations, so long as the style, tenor and timing of this information preserves its fair and impartial nature. SCCBOE trustees and SCCOE employees may then make that analysis available to the public. SCCBOE trustees and SCCOE employees may also respond to public requests for information, including requests to participate in public discussions about a bond issue, parcel tax measure, or other measure if the officer's or employee's statements are limited to balanced and objective assessments of the measures.

Courts will evaluate such communications in terms of whether they make a balanced presentation of facts designed to enhance the ability of the voters to intelligently exercise their right to vote or whether the communications promote a particular position for or against the bond issue, parcel tax or other measure.

**B. Limitations on Off-Duty Political Activities by SCCBOE Trustees and SCCOE Employees**

SCCBOE trustees and SCCOE employees have a Constitutional right to engage in political activities while off-duty. With very limited exceptions, SCCBOE trustees and SCCOE employees may not participate in political activities of any kind during working hours, using SCCOE resources, or on SCCOE premises. However, under the California Civic Center Act, it is permissible for an off-duty SCCOE employee to participate as a private citizen in a political activity on SCCOE premises as long as the discourse is open to all viewpoints. The SCCBOE of Education may restrict such a public forum in its time, place, or manner, in order to serve a significant government interest, such as protecting the primary purpose of school premises, which is education (BP 1160).



As discussed above, SCCBOE trustees and SCCOE employees may not use their official positions to influence candidates' campaigns, ballot measures, or other contested elections. However, this prohibition does not affect the ability of individual officers and employees to take a public position as private citizens in a contested election. A question that frequently arises during election season is whether SCCBOE trustees or SCCOE employees may use their official titles in campaign communications. As long as they do not use SCCOE resources to do so, SCCBOE trustees and SCCOE employees may use their official titles in campaign communications. However that communication must make clear that it is made in the officer's or employee's personal, not official capacity and that the person's title is provided for identification purposes only.

SCCBOE trustees and SCCOE employees may not directly or indirectly solicit campaign contributions from other SCCBOE trustees or SCCOE employees. An SCCOE officer or employee may request campaign contributions from other SCCBOE trustees or SCCOE employees only if the request is part of a solicitation made to a significant segment of the public that may include and the request does not use SCCOE resources in making the solicitation.

### C. Examples of Prohibited Activities

The following are examples of political activities which are prohibited by law and by SCCOE policy:

- Use of SCCOE resources or "advocacy words" to urge a particular result in an election or to support or oppose a candidate or ballot measure – e.g., by disseminating campaign literature, purchasing advertisements, or conducting similar activities.
- Production and/or dissemination of materials purporting to give a fair presentation of the facts (that is, information, not promotional materials) but which, by their "style, tenor, and timing," nonetheless constitute improper campaign literature.
- Use of public funds to purchase such items as bumper stickers, posters, advertising "floats," or television and radio "spots."
- Dissemination, at public expense, of campaign literature prepared by private proponents or opponents of a ballot measure.
- Use of SCCOE equipment for the preparation or reproduction of political campaign materials.

- Presentation of viewpoints on particular candidates or ballot measures in the classroom without giving equal time to the presentation of opposing views and without express approval by the SCCBOE.
- Use of students in any capacity during school hours and on SCCOE school grounds to further a candidate's political campaign. (This prohibition does not apply to ballot measures or legislative lobbying efforts.)
- Production or dissemination of one-sided materials, that is, materials that do not include the arguments from both sides of an issue.
- Use of on-duty government staff on election campaigns; i.e., to prepare campaign literature, obtain voter lists, work on fundraisers, and mail campaign brochures.
- All political activity related to ballot measures or issues are prohibited on SCCOE school grounds during school hours unless expressly approved by the Santa Clara County Board of Education.
- An SCCOE facility may be used for a public forum regarding a political issue as long as all sides have the opportunity to be heard.
- Wearing buttons or clothing that expresses a political opinion on a ballot measure or candidate during instructional time.

**D. Examples of Acceptable Activities**

The following are examples of political activities which are allowed by law and by SCCOE policy:

- The Board may discuss and study the potential effect of proposed or qualified ballot measures on the SCCOE's schools at an open and agendaized Board meeting. The Board's discussion of the effect of such measures shall include an opportunity for staff and members of the public to speak on all sides of the issue. At that meeting, the Board may adopt a position or resolution in support of or in opposition to a ballot measure. The language in any resolution adopted by the Board shall not urge the public to take any action regarding the measure.
- Lobby state and federal legislators and governmental agencies in connection with legislation affecting the SCCOE, such as lobbying in relation to the state budget process. However, lobbying is not allowed in relation to contested elections such as a parcel tax measure, presidential elections, etc.



- Enter into associations that lobby legislators on the SCCOE's behalf; and research, develop and draft legislative proposals that serve the SCCOE's interests. As above, such associations and research are not allowed in relation to contested elections such as a parcel tax measure, presidential elections, etc.
- Disseminate information about a bond issue, parcel tax, or other measures as long as it provides the public with a fair and impartial presentation of relevant facts to aid the electorate in reaching an informed judgment regarding such issue or initiative.
- Use of SCCOE funds to objectively analyze the impact on the SCCOE of a bond issue, parcel tax, or other measure and provide such information to the public.
- Have a representative attend a meeting of a citizens' group, upon request and at any time, to explain the factual basis for the SCCOE's decision to call an election to submit to voters a bond issue, or to respond to inquiries for the citizen's group.
- Individual employees and officers have a right to speak out in partisan matters as long as there is no improper expenditure of public funds by such individuals (i.e., they may speak out during unpaid, non-work hours and must make it clear that they speak for themselves as individuals).
- Employees are permitted to wear political buttons during non-instructional time.

#### **E. Penalties**

Courts may impose very substantial penalties for violation of these rules. For example, the misappropriation of public funds is a felony, and under Penal Code section 424 and Political Reform Act of 1974 (2 California Code of Regulations section 91000), may result in fines up to Ten Thousand Dollars (\$10,000) per violation and up to 4 years of imprisonment. A person convicted of violating that statute is barred from holding public office, and his or her employment may be terminated. Other sanctions may also apply.

#### **Conclusion**

This memorandum is intended as a general guideline and is provided as a resource for staff. The SCCOE's policies and applicable state law recognize that SCCOE employees have a right to engage in protected political activity, but prohibit the use of SCCOE resources and forbid such activity during an employees working hours.

In summary, the following "Election Guidelines" may be useful to review:

1. Employees may not use SCCOE funds, services or supplies to urge support of a ballot measure or candidate.



2. Employees may not use SCCOE computers, copiers, fax machines, phones or other equipment to prepare or to transmit campaign materials or to urge support of a ballot measure or candidate.
3. Employees may not store campaign buttons or posters on SCCOE property.
4. Employees may not transmit campaign buttons or posters to others on SCCOE property, including the parking lot.
5. Administrators and teachers may not offer credit to students for participating in an election phone bank.
6. Union members and officers may solicit funds for a bond measure or parcel tax election during non-working hours, including during their duty free lunch. They may never solicit during working time.
7. It is a criminal offense to violate Education Code section 7054. Violations are punishable by one year in county jail, a fine up to \$1,000 or state prison for 16 months up to three years.

Attached to this communication is a selection of “Do’s and Don’ts” regarding political activities that will provide additional guidance on permissible and impermissible activities.

Legal Authority:

Education Code section 7054

Education code section 7056

Political Reform Act: Gov’t Code sections 81000-91014

Fair Political Practices Commission Regulations—Title 2 California Code of Regulations sections 18109—18997.

People v. Hubbard (2016) 63 Cal. 4<sup>th</sup> 378

# Political Activity Guidelines

## *A legal guide for SCCOE employees*

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### What is allowed?

**THE SCCOE MAY** provide fair and impartial informational materials about the possible effects of a ballot measure and present relevant facts to aid voters in making an informed decision.

**YOU MAY** solicit or receive funds for political matters from non-employees outside of working hours and not on SCCOE property.

**YOU MAY** use SCCOE meeting rooms under the Civic Center Act in the same manner as non-SCCOE individuals, to hold meetings, forums, and debates provided equal access is given to all groups.

**YOU MAY** encourage people to register to vote for an election.

**YOU MAY** engage in political activities on non-working time and on non-school and, or non-SCCOE property.

**YOU MAY** discuss political issues with co-workers during non-duty hours for all employees in the discussion.

**YOU MAY** permit classroom “debates” or discussions of political matters, as long as employees do not endorse a particular viewpoint or permit only a biased debate or discussion.

*SCCOE respects the right of school officers and employees and SCCOE officers and employees to engage in political discussions and activities on their own time and at their own expense. On such occasions, school officers and employees and SCCOE offices and employees should make it clear that they are acting as individuals, not as SCCOE representatives in their official capacities. This guide is intended to provide general guidelines on common election-related situations. If you have any questions about an issue that is not covered by this guide, please contact the SCCOE Public Affairs Department at 408-453-6514.*

### What is NOT allowed?

**YOU MAY NOT** use SCCOE funds, equipment, services, staff time, email system, or employee mailboxes for political campaign activity, even if the SCCOE is reimbursed.

**YOU MAY NOT** solicit funds from other employees for political matters during duty hours for all employees involved.

**YOU MAY NOT** post or distribute campaign or political materials, or solicit signatures that advocate for or against a ballot measure on SCCOE property during work hours or copy at SCCOE expense.

**YOU MAY NOT** encourage people during working hours to register to vote in order to vote for or against a ballot measure or candidate.

**YOU MAY NOT** conduct political activity during working hours, on SCCOE property or in an instructional setting.

**YOU MAY NOT** wear political campaign buttons during instructional settings.

**YOU MAY NOT** solicit or receive political contributions during working hours or in instructional settings.

**YOU MAY NOT** use students to write, address, or distribute campaign materials, or permit student campaign activity during instructional time.

**YOU MAY NOT** use the authority of an office or employment to encourage or discourage political activity by any other person.

August 2020

## Carmen Aminzadeh

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**Sent:** Monday, September 21, 2020 1:50 PM  
**To:** Carmen Aminzadeh  
**Subject:** Ethics Complaint

Hi-

I would like to call your attention to an ethics violation by County Board of Education Trustee Joe DiSalvo. Trustee DiSalvo is using County resources for his re-election campaign, which is in direct violation of county, state and federal laws.

Trustee DiSalvo is using the County Office of Education as the mailing address for his campaign.

trusteedisalvo@gmail.com'. Below the email is a row of social media icons for Facebook, Twitter, Instagram, and LinkedIn. At the bottom of the section is a button that says 'Volunteer and Support Trustee Di Salvo'." data-bbox="85 325 705 626"/&gt;

That is a picture of his campaign website at <https://www.trusteedisalvo.com/contact>

This is illegal and the district must act. Please consider this an ethics complaint against Trustee DiSalvo, although I'd like to remain anonymous.

Thank You.

**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments or reply unless you recognize the sender and know the content is safe. Contact the Help Desk at 4357 if you need assistance.



**From:** Mail Delivery Subsystem  
**To:**  
**Subject:** ...request For Campaign Contribution  
**Date:** Monday, July 20, 2020 12:58:25 PM  
**Attachments:** Request For Campaign Contribution.msg

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The original message was received at Mon, 20 Jul 2020 12:54:21 -0700  
from m0200517.pops.net [127.0.0.1]

----- The following addresses had permanent fatal errors -----

<Ghuff@gmail.com>

(reason: 550-5.1.1 The email account that you tried to reach does not exist. Please try)

----- Transcript of session follows -----

... while talking to gmail-smtp-in.l.google.com.:

>>> DATA

<<< 550-5.1.1 The email account that you tried to reach does not exist. Please try

<<< 550-5.1.1 double-checking the recipient's email address for typos or

<<< 550-5.1.1 unnecessary spaces. Learn more at

<<< 550 5.1.1 [https://urldefense.com/v3/\\_https://support.google.com/mail/?p=NoSuchUser\\_!!LqsEMg!EznvkPLXR8zChgAUKC1Kbz6TbxjcnrOsm-rXqKjVVKYKI7O2WwJvR4WvTICGTYS\\_z4si6936773pff.119-gsmtp](https://urldefense.com/v3/_https://support.google.com/mail/?p=NoSuchUser_!!LqsEMg!EznvkPLXR8zChgAUKC1Kbz6TbxjcnrOsm-rXqKjVVKYKI7O2WwJvR4WvTICGTYS_z4si6936773pff.119-gsmtp)

550 5.1.1 <Ghuff@gmail.com>... User unknown

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**From:** Joseph DiSalvo  
**To:**  
**Cc:** Joseph Di Salvo  
**Subject:** Request for Campaign Contribution  
**Date:** Monday, July 20, 2020 12:19:44 PM

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Margaret,

Good day.

For some reason I have your email, but I do not have Chris'. Thank you for listening to my request and passing it on to Chris.

My work for 40+ years has been the improvement of public education. As teacher, principal and now as trustee on the County Board I have worked thoughtfully and stridently to increase the high school graduation and college entrance rates especially for children of color and limited voice. I believe I have furthered that cause in my three terms on the Board of Trustees.

Last month I began my campaign fundraising for county school board 2020. Since the beginning of June I have raised from supporters, family and friends approximately \$15,000 toward a goal of \$40,000-\$50,000 from now until the election this November 3, 2020. My trustee area 4 is vast; has approximately 135,000 registered voters.

Please go to [trusteedisalvo.com](http://trusteedisalvo.com) and check out my website along with testimonials from my endorsers. If you believe in me and my work I ask for you to contribute what you can afford to the effort to continue my voice on the County Board of Education.

Thank you for your friendship these several decades and for your consideration of your support.

In Peace, Health and Hope,

Joseph Di Salvo

**From:** Joseph DiSalvo  
**To:**  
**Cc:** Joseph Di Salvo  
**Subject:** Request for Campaign Contribution  
**Date:** Monday, July 20, 2020 12:22:10 PM

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Marge and George,

Good day.

Thank you for listening to my request and passing it on to George.

My work for 40+ years has been the improvement of public education. As teacher, principal and now as trustee on the County Board I have worked thoughtfully and stridently to increase the high school graduation and college entrance rates especially for children of color and limited voice. I believe I have furthered that cause in my three terms on the Board of Trustees.

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In Peace, Health and Hope,

Joseph Di Salvo

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**From:** Joseph Di Salvo <josephsds1@aol.com>  
**Sent:** Monday, October 5, 2020 3:43 PM  
**To:** Emma Courtright  
**Cc:** Jamie Patton; Amy Parada; Mary Ann Dewan  
**Subject:** Re: Notice

Emma,

Please remove the SCCOE address from my contact info on my campaign website. I am not certain if that was an original placeholder under website construction or how the address was incorrectly listed.

As you know my campaign headquarters is at:  
782 North First St.  
San Jose, CA. 95112

In addition, I know the law and policy well and have never used my Sccoe email for soliciting campaign contributions with intentionality. I have always intentionally used, as you use in all my digital correspondence from [trusteedisalvo@gmail.com](mailto:trusteedisalvo@gmail.com).

Thank you.

Sent from my iPhone

On Oct 1, 2020, at 6:46 PM, Mary Ann Dewan <[MDewan@sccoe.org](mailto:MDewan@sccoe.org)> wrote:

Dear Trustee Di Salvo,

Please find attached correspondence related to complaints/concerns received regarding the use of public resources for political activity.

I respectfully request your cooperation and that you will refrain from using public resources as noted in the attached letter.

With much respect,

<image001.png>

<image002.png>

<image003.png>

**Mary Ann Dewan, Ph.D.**  
County Superintendent of Schools  
Santa Clara County Office of Education  
1290 Ridder Park Drive MC 201  
San Jose, CA 95131-2304  
(408) 453-6511  
[mdewan@sccoe.org](mailto:mdewan@sccoe.org)  
Relator - Achiever - Learner - Responsibility – Arranger

<image004.png>

Pronouns: she/her/hers

<image005.png>

<image006.png>

<image007.png>

<Ltr to Di Salvo re cease and desist 10.1.20.pdf>

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**CAUTION:** This email originated from outside of the organization. Do not click links, open attachments or reply unless you recognize the sender and know the content is safe. Contact the Help Desk at 4357 if you need assistance.