

**RESOLUTION OF THE SANTA CLARA COUNTY BOARD OF EDUCATION
REGARDING CENSURE OF BOARD MEMBER JOSEPH DI SALVO**

Resolution No. 2266-1

WHEREAS, The Fourteenth Amendment of the United States Constitution guarantees an individual's right to equal protection, which in the employment context means that state and federal governments may not discriminate in their employment practices by treating employees, former employees, or job applicants unequally because they possess characteristics associated with race, sex, religion, color or national or ethnic origin.

WHEREAS, the federal Equal Employment Opportunity Commission prohibits gender-based employment discrimination and harassment pursuant to equal employment opportunity laws; and

WHEREAS, Article I Section 8 of the California Constitution prohibits employment discrimination on the basis of sex, race, creed, color, or national or ethnic origin. Employment discrimination includes gender based harassment.

WHEREAS, Gender-based harassment is unwelcome conduct based on an individual's actual or perceived sex. Gender based harassment includes slurs, taunts, stereotypes, or name-calling as well as gender-motivated physical threats, intimidation, attacks, or other hateful conduct; and

WHEREAS, Title VII of the Civil Rights Act of 1964 makes it illegal to discriminate against someone not only based on sex, but also based on gender, gender identity, gender expression, or sexual orientation, among other things; and

WHEREAS, under federal and state law, the Santa Clara County Superintendent of Schools ("County Superintendent") is required to ensure that any claims of harassment are promptly investigated.

WHEREAS, A similar requirement is imposed by Santa Clara County Office of Education ("SCCOE") Superintendent Policy 4030; and

WHEREAS, SCCOE Superintendent Policies 4030, 4144 and 4144.1 collectively prohibit discrimination and harassment against SCCOE employees based on any protected characteristic, including gender and race; and

WHEREAS, pursuant to Board 9006, the Santa Clara County Board of Education ("SCCBOE") and its members are committed to conduct themselves lawfully with integrity and high ethical standards that uphold the duty of elected office, build trust, public confidence, and credibility, as well as model the behaviors expected of staff and students; and

WHEREAS, Board Bylaw 9005 further states that, "The Board expects its members to work with each other and the Superintendent to ensure that a high-quality education is provided to each student;"

WHEREAS, Board Bylaw 9005 further states that, “Each individual Board member shall... ‘Recognize and respect differences of perspective and style on the Board and among staff, students, parents and the community;’” and “Act with dignity and understand the implications of demeanor and behavior”; and

WHEREAS, Board Bylaw 9005 further states that, “Board members shall assume collective responsibility for building unity and creating a positive organizational culture” and “Govern in a dignified and professional manner, treating everyone with civility and respect;”

WHEREAS, the Board of Education of the Santa Clara County Office of Education makes the following factual findings:

1. In January 2020, two SCCOE employees and two SCCBOE Board Members made verbal complaints of harassment by Board Member Joseph Di Salvo to the County Superintendent. Specifically, they alleged that Board Member Di Salvo engaged in gender and racial harassment.
2. In accordance with her duty under federal and state law, and Superintendent Policy 4030, to ensure that any claims of harassment are promptly investigated, the County Superintendent ensured that an outside investigator was retained to investigate the harassment claims against Board Member Di Salvo.
3. The investigator determined that the preponderance of the evidence supports a finding that Board Member Di Salvo was motivated, in part, by gender when he engaged in demeaning communications and heated disagreements with his colleagues and SCCOE employees during board meetings. The investigator found that Board Member Di Salvo’s individual behavior at board meetings consisted of making negative, critical, disrespectful, dismissive, demeaning and heated comments and behavior when challenging women whom he perceived were not doing what he wanted. The investigator found that credible evidence supported a finding that Board Member Di Salvo did not engage in similar behavior towards men, but that instead, Board Member Di Salvo’s communication style became more “heated” and “unprofessional” when the person who disagreed with him was a woman. The Investigator found this is stereotypical behavior indicative of gender bias, and further determined that Board Member Di Salvo’s conduct “appeared to have been undertaken for other reasons, including to undermine or to intimidate a woman into changing her opinion.”
4. Despite Board Member Di Salvo’s articulated reasons for his behavior (i.e. his passion for his role as trustee and advocating for his constituents) the Investigator determined that the manner in which Board Member Di Salvo chose to communicate with his colleagues and SCCOE employees about these issues goes beyond professional discourse, and instead represents a subtle bias against women who disagree with or challenge him.

5. The Investigator found that Board Member Di Salvo's behavior goes above and beyond what is necessary to communicate one's point of view, and thus cannot reasonably be related to Board Member Di Salvo's role as a board member.
6. The Investigator noted that gender bias can be subtle and often difficult to articulate, but considered Di Salvo's conduct as a whole to conclude that the preponderance of the evidence demonstrated that Board Member Di Salvo's behavior was motivated in part by gender.
7. The investigator did not find race to be a motivating factor in Di Salvo's conduct.

WHEREAS, the Board of Education determines that Board Member Di Salvo's conduct is unacceptable, unprofessional, and a violation of the Board Bylaws cited above.

WHEREAS, the Board of Education determines that Board Member Di Salvo's conduct reflects gender based harassment which the Board considers to be unlawful and unethical.

NOW, THEREFORE, BE IT RESOLVED AND ORDERED that the Santa Clara County Board of Education hereby finds that the foregoing recitals are true and correct.

BE IT FURTHER RESOLVED AND ORDERED that based on these recitals, the Santa Clara County Board of Education hereby censures Board Member Joseph Di Salvo and proclaims publicly that this Board disapproves of the aforementioned conduct and finds it to be a violation of the Board Bylaws and unacceptable behavior that shall not be tolerated.

BE IT FURTHER RESOLVED AND ORDERED that Board Member Joseph Di Salvo shall treat fellow Santa Clara County Office of Education employees, Board members and other members of the SCCOE community with dignity and respect at all times, regardless of gender.

BE IT FURTHER RESOLVED AND ORDERED that Board Member Joseph Di Salvo shall participate in training that addresses prevention of gender bias.

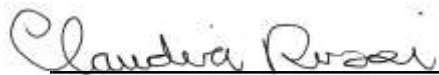
PASSED AND ADOPTED by the following vote of the members of the Santa Clara County Board of Education, State of California, this 15th day of July 2020.

AYES: President Rossi, Vice President King, Trustees Kamei and Ortiz

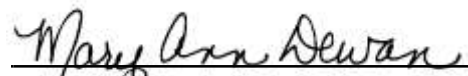
NOES: Trustees Mah, Song and Di Salvo

ABSTAIN: none

ABSENT: none



Claudia Rossi, President
Santa Clara County Board of Education



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