

OFFICE OF THE SOLANO COUNTY SUPERINTENDENT OF SCHOOLS

Series 4000 – PERSONNEL

Policy 4119.1

Civil and Legal Rights

The Solano County Office of Education (SCOE) believes that the personal life of an employee is not an appropriate concern of SCOE, except as it may directly relate to the employee's performance of his/her duties.

An employee's religious or political activities, or lack thereof, shall not be grounds for any discrimination or disciplinary action by SCOE, provided that these activities do not violate law, SCOE policy, or administrative regulation.

A teacher shall have the right to refuse to submit to any evaluation or survey conducted by SCOE concerning personal values, attitudes, and beliefs; sexual orientation; political affiliations or opinions; critical appraisals of other individuals with whom the teacher has a family relationship; or religious affiliations or beliefs.

Employees do not have a reasonable expectation of privacy with regards to SCOE property under an employee's control including, but not limited to, desks, classrooms, offices, file cabinets, computers, or phones. As necessary to protect the health, welfare, or safety of students and staff, SCOE officials may search such items in order to uncover evidence that the employee is violating the law, SCOE policy, administrative regulation, or other rules of the district or school in which the employee works.

Whistleblower Protection

An employee shall have the right to disclose to an administrator, the County Superintendent of Schools, a member of the County Board of Education, or the State Superintendent of Public Instruction any improper governmental activity by SCOE or a SCOE employee that violates state or federal law, is economically wasteful, or involves gross misconduct, incompetence, or inefficiency. When the employee has reasonable cause to believe that the information discloses a violation of state or federal statute or a violation or noncompliance with a state or federal rule or regulation, s/he has the right to disclose such information to a government or law enforcement agency or to refuse to participate in any such activity.

The County Superintendent or designee shall prominently display in lettering larger than size 14-point type a list of employees' rights and responsibilities under the whistleblower laws, including the telephone number of the whistleblower hotline maintained by the office of the California Attorney General.

No employee shall use or attempt to use his/her official authority or influence to intimidate, threaten, coerce, or command another employee for the purpose of interfering with that employee's right to disclose improper governmental activity.

An employee who has disclosed improper governmental activity and believes that s/he has subsequently been subjected to acts or attempted acts of reprisal shall file a written complaint in accordance with SCOE's complaint procedures. After filing a complaint with SCOE, s/he may also file a copy of the complaint with local law enforcement in accordance with Education Code 44114.

Protection Against Liability

No employee shall be liable for harm caused by his/her act or omission when acting within the scope of employment or SCOE responsibilities. For the protection against liability to apply, the act or omission must be in conformity with federal, state, and local laws and must be in furtherance of an effort to control, discipline, expel, or suspend a student, or to maintain order or control in the classroom or school.

Policy 4119.1 (Continued)

The protection against liability shall not apply when:

1. The employee acted with willful or criminal misconduct, gross negligence, recklessness, or a conscious, flagrant indifference to the harmed person's right to safety.
2. The employee caused harm by operating a motor vehicle or other vehicle requiring license or insurance.
3. The employee was not properly licensed, if required, by state law for such activities.
4. The employee was found by a court to have violated a federal or state civil rights law.
5. The employee was under the influence of alcohol or any drug at the time of the misconduct.
6. The misconduct constituted a crime of violence pursuant to 18 USC 16 or an act of terrorism for which the employee has been convicted in a court.
7. The misconduct involved a sexual offense for which the employee has been convicted in a court.

Legal Reference:

EDUCATION CODE

- 200-262.4 Prohibition of discrimination on the basis of sex
- 7050-7058 Political activities of school officers and employees
- 44040 Discrimination based on employee's appearance before certain boards or committees
- 44110-44114 Reporting by school employees of improper governmental activity
- 49091.24 Teacher rights to refuse evaluation/survey of personal life

CIVIL CODE

- 51 Unruh Civil Rights Act

GOVERNMENT CODE

- 815.3 Intentional torts
- 820-823 Tort Claims Act
- 825.6 Indemnification of public entity
- 3540.1 Public employment definitions
- 3543.5 Interference with employee's rights prohibited
- 12940-12951 Discrimination prohibited; unlawful practices

LABOR CODE

- 1102.5-1106 Whistleblower protections

UNITED STATES CODE, TITLE 18

- 16 Crime of violence defined

UNITED STATES CODE, TITLE 20

- 6731-6738 Teacher liability protection

UNITED STATES CODE, TITLE 42

- 2000d-2000d-7 Title VI, Civil Rights Act
- 2000e-2000e-17 Title VII, Civil Rights Act of 1964 as amended
- 2000h-2000h-6 Title IX, 1972 Education Act Amendments
- 12101-12213 Americans with Disabilities Act

Policy 4119.1 (Continued)

Policy Cross-Reference:

- 1312.1 Complaints Concerning District Employees
- 1312.3 Uniform Complaint Procedures
- 3320 Claims and Actions Against the District
- 3515 Campus Security
- 4030 Nondiscrimination in Employment
- 4040 Employee Use of Technology
- 4118 Dismissal/Suspension/Disciplinary Action
- 4119.21 Professional Standards
- 4119.25 Political Activities of Employees
- 4144 Complaints