



TEXAS EDUCATION AGENCY

1701 North Congress Ave. ★ Austin, Texas 78701-1494 ★ 512/463-9734 ★ FAX: 512/463-9838 ★ http://www.tea.state.tx.us

Jim Nelson
Commissioner of Education
February 19, 2002

RQ-0516-JC

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OPINION COMMITTEE

OFFICE OF THE ATTORNEY GENERAL
EXECUTIVE ADMINISTRATION

The Honorable John Cornyn
Attorney General of Texas
Price Daniel Building
P.O. Box 12548
Austin, Texas 78711

FILE # ML-42462-02

I.D. # 42462

2682

ATTENTION: Opinion Committee

Re: Request for Attorney General Opinion regarding political party membership

Dear General Cornyn:

At the request of Granbury I.S.D., I am seeking your opinion regarding the application of Section 161.005 of the Election Code to a member of the board of trustees of a school district. The questions presented are:

1. May a member of a school district board of trustees be a candidate for or serve as county chair for a political party?
2. May a member of a school district board of trustees serve as a precinct chair of a political party?

Section 161.005 of the Election Code provides that a person who is a candidate for or serving as a county or precinct chair of a political party may not be "the holder of, an elective office of the federal, state, or county government."

In Op. Tex. Att'y Gen. No. H-876 (1976), a conclusion was reached that a predecessor statute to Section 161.005 prohibited a school trustee from serving as a county or precinct chair. However, the statute in effect at that time applied more broadly to a person holding "any office of profit or trust." The current statute applies only to an "elective office of the federal, state, or county government," which we believe to be offices included in the general election of state and county officers. As school board trustees are not elected in the general election of state and county officers, it appears that a current trustee is not statutorily prohibited from serving as a county or precinct chair. In light of the statutory changes that have occurred since the above-referenced opinion was issued, we request your consideration at this time of questions 1 and 2 presented above.

A copy of the letter we received from the school district describing conflicting opinions received by the district regarding the questions presented is enclosed. If you have any questions, please contact David Anderson, General Counsel, at 463-9720.

Sincerely yours,

Jim Nelson
Commissioner of Education

enclosure



GRANBURY

INDEPENDENT SCHOOL DISTRICT

William Harris
Superintendent

Brad Johnson, Board President
Micky Shearon, Board Vice President
Jerry Campbell, Board Secretary
John Lowe, Board Member
Mark Graves, Board Member
Patrick Steenberge, Board Member
Charlie Cloud, Board Member

November 21, 2001

Texas Education Agency
Commissioner of Education Jim Nelson
1701 N Congress Ave.
Austin, TX 78701

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OFFICE OF THE COMMISSIONER

RE: Attorney General Opinion

Dear Commissioner Nelson,

On Monday November 12, 2001 the Granbury School Board passed a motion to have me request your assistance in getting an Attorney General Opinion on two issues that may effect the Granbury Independent School District. The two issues are:

1. Can a current Independent School Board trustee be a candidate or serve as a County Chair for a political party?
2. Can a current Independent School Board trustee serve as a precinct chair of a political party at the same time as being on the school board?

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OFFICE OF THE COMMISSIONER

The first question has been presented via phone to attorneys at the Secretary of State and the Republican Party of Texas. Both of these entities found nothing prohibiting the running or serving. The attorneys for the School District, Walsh, Anderson, Brown, Schulze & Aldridge, cited a 1976 opinion H-876 by the Texas Attorney General on Texas Election Code 161.005, article 3.04, subdivision 3, that a school district trustee is barred from acting as county chair of a political party. They further referenced Op. Texas Att'y Gen. No. O-2056 (1940), where the Attorney General determined that school trustees and drainage commissioners are "public officers of this state" and thus prohibiting from serving as chair of a county political party when the statute referred to officers "under the United States or this state, or any town or city in this state."



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The second question has not been presented to the school attorneys but received similar no conflict answers from the Secretary of State and Republican Party of Texas attorneys.

Thanks in advance for your assistance on this matter.

Sincerely,

Jerry Campbell
Secretary