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OPINION COMMITTEE

November 09, 2017



COMMITTEE ON ELECTIONS
Texas House of Representatives

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FILE # ML-48241-17
I.O. # 48241

RQ-0191-KP

The Honorable Ken Paxton
Attorney General of Texas
209 W. 14th Street
Austin, Texas 78701

Dear General Paxton,

As Chair of the House Committee on Elections, I respectfully request a formal opinion regarding the authority given by the legislature to local school boards in Texas to create and use term limits as part of their specific district governance policies.

The number of times the issue of school board term limits has come up in the legislature in recent years indicates that there is growing interest. Bills addressing the topic were proposed in 2009 (HB 467 Paxton); 2013 (HB 564 Capriglione); 2015 (HB 1493 Rinaldi/SB 1677 Huffines); and most recently in 2017 (HB 154 Simmons, HB 930 Fallon, SB 110 Huffines, and SB 1884 Bettencourt).

In reviewing the Texas Education Code, Chapter 11, School Districts, it seems reasonable and acceptable for a local school board to enact term limits. Section 11.151(b) defines the "powers and duties" of trustees as follows:

"The trustees as a body corporate have the exclusive power and duty to govern and oversee the management of the public schools of the district. All powers and duties not specifically delegated by statute to the agency or to the State Board of Education are reserved for the trustees, and the agency may not substitute its judgment for the lawful exercise of those powers and duties by the trustees."

Further definition is given in section 11.151(d):

"The trustees may adopt rules and bylaws necessary to carry out the powers and duties provided by Subsection (b)."

Within the trustee form of leadership for school boards, trustees, acting as a body corporate, are given exclusive power and authority to manage their district. This includes all matters that are not assigned to the Texas Education Agency or the State Board of Education. As defined in section 11.011, this power

comes with the clear provision that each local board can make their own rules and bylaws:

"The board of trustees of an independent school district, the superintendent of the district, the campus administrators, and the district and campus-level committees established under Section 11.251 shall contribute to the operation of the district in the manner provided by this code and by the board of trustees of the district in a manner not inconsistent with this code."

The governance function of trustees, and the leadership work done by those who assist them, is to be done within the framework of the Education Code and trustee adopted policies, and not in a way that is inconsistent with the code or policies.

Based on the above, it is my understanding that a local school board could choose to enact a policy that would, for their district only, apply term limits to the number of consecutive terms a trustee could serve. Such a policy would have no bearing or weight beyond the boundaries of the district, but would be enforceable within the district as are all school board adopted policies.

I appreciate your assistance in this matter. Please contact me if I can answer any questions.

Sincerely,

A handwritten signature in black ink that reads "Jodie Laubenberg". The signature is written in a cursive, flowing style.

Jodie Laubenberg
State Representative, District 89