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PRIVILEGED & CONFIDENTIAL ATTORNEY-CLIENT COMMUNICATION

August 16, 2021

Matt Underwood, Superintendent
Stephenville Independent School District
2655 West Overhill Drive
Stephenville, TX 76401

Re: School Board Term Limits

Dear Mr. Underwood,

Pursuant to our phone conversation on August 13, 2021, you asked that I research whether the Stephenville Independent School District (“District”) could impose term limits on its school board members. Texas law does not impose term limits on school board trustees, and the attorney general of Texas has concluded the Education Code does not authorize a board to adopt term limits. See Tex. Att’y Gen. Op. No. KP-196 (2018).

The attorney general, when asked whether a school board of trustees may establish term limits for board members as part of a district’s governance policy, determined Tex. Educ. Code § 11.051(a)(1) assigns trustees the duty to “oversee the management of the district.” Further, the law states: (1) “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 (2) “The trustees may adopt rules and bylaws necessary to carry out the powers and duties provided by Subsection (b).” Tex. Educ. Code § 11.051(b), (d).

Additionally, it is well-understood that case law recognizes this broad grant of authority gives a school board final policy-making authority for its district. See *Jett v. Dallas Indep. Sch. Dist.*, 7 F.3d 1241, 1245 (5th Cir. 1993). However, case law also acknowledges independent school districts are created by the Legislature and trustees only possess “the powers expressly conferred on them by law or necessarily implied from the powers so conferred.” *Tex. Roofing Co. v. Whiteside*, 385 S.W.2d 699, 701 (Tex. Civ. App.—Amarillo 1964, writ ref’d n.r.e.). Accordingly, the question becomes whether a school board has the authority to regulate who may run and hold the office of trustee of a district.

While Chapter 11, Subchapter C of the Education Code grants school boards some discretion as to the number of trustees, how trustees are elected, and length of terms of office, no statute delegates authority to school boards to establish additional eligibility requirements for the office of trustee. See Tex. Educ. Code §§ 11.051(c), 11.052(a), 11.054(a), and 11.059(a). Additionally, Subchapter D provides that a school board has a duty to “conduct elections as required by law.” See Tex. Educ. Code § 11.1511(b)(12). Consequently, while a school board’s grant of authority by § 11.051 is broad, the authority to regulate who may run for and hold the office of trustee belongs to the Legislature.

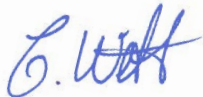
In sum, term limits add an additional eligibility requirement to run for and hold the office of trustee of a district. While a school board has broad authority to oversee the management of its district, the

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authority to determine eligibility requirements of who may run for the school board rests with the Legislature.

Should you have additional questions moving forward, do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read "F. Webb", is written over a light blue rectangular background.

Felicia Webb