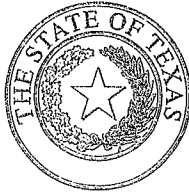


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OPINION COMMITTEE



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FILE # ML-48317-18

ID. # 48317

RQ-0213-KP

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Office of the District Attorney
293rd Judicial District
Dimmit, Maverick, and Zavala Counties

February 7, 2018

Honorable Ken Paxton
Attorney General of Texas
Capital Station
Post Office Box 12548
Austin, Texas 78711-2548

Via Certified Mail & Return Receipt Request
No. 7015 3010 0001 3406 5394

Re: Request for opinion.

Dear General Paxton:

The City of Eagle Pass (hereinafter referred to as "the City"), is a home rule municipality located in Maverick County, I am respectfully requesting your opinion as to whether certain city council members who are employed by the Eagle Pass Independent School District (hereinafter referred to as "the School District") are eligible, under the Texas Constitution, to also receive compensation for their service on the city council.

Article XVI, Section 40 of the Texas Constitution provides as follows:

(b) State employees or other individuals who receive all or part of their compensation either directly or indirectly from funds of the State of Texas and who are not State officers, shall not be barred from serving as members of the governing bodies of school districts, cities, towns, or other local governmental districts. Such State employees or other individuals may not receive a salary for serving as members of such governing bodies, except that:

(1) a schoolteacher, retired schoolteacher, or retired school administrator may receive compensation for serving as a member of a governing body of a school district, city, town, or local governmental district, including a water district created under Section 59, Article XVI, or Section 52, Article III

The Eagle Pass City Council (hereinafter referred to as "the City Council") is proposing an amendment to the City Charter to establish an annual salary for the mayor and city council members. Council members currently receive compensation of \$10.00 per month, as per the City Charter. Three of the current elected members of the City Council are also current employees of the Eagle Pass Independent School District. Councilman Luis Sifuentes is currently a Head Counselor at Eagle Pass High School. Councilwoman Yolanda Ramon is currently an Assistant Principal at Eagle Pass Junior High. Councilman Rodolfo Villalpando is currently a Special Education Coordinator, an administrative-level position, at C.C. Winn High School.

Your office has previously defined the term "schoolteacher" for purposes of Article XVI, Section 40 of the Texas Constitution. Accordingly, whether a member of a governing body is also a "schoolteacher" depends "upon whether the individual is employed to instruct students in a school setting, which may include an athletic facility, as a result of which participant may receive credit toward fulfilling their curriculum requirements." Tex. Atty. Gen. Op. GA-0530(2007). Attached to this request are job descriptions for each of the council members' positions at the School District.

The questions raised are as follows:

Can Councilman Sifuentes receive a salary for serving on the City Council even though he is a State employee who receives all or part of his compensation from funds of the State of Texas?

Can Councilwoman Ramon receive a salary for serving on the City Council even though she is a State employee who receives all or part of her compensation from funds of the State of Texas?

Can councilman Villalpando receive a salary for serving on the City Council even though he is a State employee who receives all or part of his compensation from funds of the State of Texas?

Do these three council members have to renounce the current compensation of \$10.00 a month from the City of Eagle Pass because they are State employees who receive all or part of their compensation from funds of the State of Texas?

Thank you for your time and attention to this matter. Please let me know if you require additional briefing.

Best Regards,



Roberto Serna
Maverick County District Attorney, 293rd Judicial District