



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 10, 2020

The Honorable R. David Holmes  
Hill County Attorney  
Post Office Box 253  
Hillsboro, Texas 76645

**Opinion No. KP-0326**

Re: Whether subsection 2054.5191(a-1) of the Government Code requires a member of the board of directors of an appraisal district to complete certified cybersecurity training (RQ-0332-KP)

Dear Mr. Holmes:

You ask whether Government Code subsection 2054.5191(a-1) requires “a member of the board of directors of an appraisal district to complete a certified cybersecurity training program at least once” a year.<sup>1</sup> Contained within the Information Resources Management Act (“Act”), Government Code subsection 2054.5191(a-1) provides that

[a]t least once each year, a local government shall identify local government employees who have access to a local government computer system or database and require those employees and elected officials of the local government to complete a cybersecurity training program certified under Section 2054.519 or offered under Section 2054.519(f).

TEX. GOV'T CODE § 2054.5191(a-1); *see also id.* § 2054.002 (entitling chapter as the “Information Resources Management Act”). The Act defines a “local government” to mean a “county, municipality, special district, school district, junior college district, or other political subdivision of the state.” *Id.* § 2054.003(9). It thus applies to an appraisal district, which is “a political subdivision of the state.” TEX. TAX CODE § 6.01(c); *see also id.* § 6.01(a) (establishing an appraisal district in each county).

An appraisal district is governed by a board of directors comprising at least five members. *Id.* § 6.03(a); *see also id.* § 6.031(a), (b) (providing methods for the board or the participating taxing units to increase number of board members). “Members of the board of directors . . . are

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<sup>1</sup>Letter from Honorable R. David Holmes, Hill Cty. Att’y, to Honorable Ken Paxton, Tex. Att’y Gen. at 2 (Feb. 10, 2020), <https://www2.texasattorneygeneral.gov/opinions/opinions/51paxton/rq/2020/pdf/RQ0332KP.pdf> (“Request Letter”).

appointed by vote of the governing bodies of the incorporated cities and towns, the school districts, the junior college districts, and, if entitled to vote, the conservation and reclamation districts that participate in the district and of the county.” *Id.* § 6.03(c). Each governing body has a set number of votes determined by a voting entitlement formula established by statute, and it may cast all its votes for one candidate or distribute its votes among candidates for any number of director positions. *See id.* § 6.03(c), (d). Thus, as you point out, directors of an appraisal district board are appointed, but their appointments include an element of an election. *See* Request Letter at 2.

The Act does not define “elected officials.” TEX. GOV’T CODE § 2054.003 (“Definitions”). The primary “objective in statutory construction is to give effect to the Legislature’s intent, which [a court ascertains] from the plain meaning of the words used in the statute because the best indicator of what the Legislature intended is what it enacted.” *Brazos Elec. Power Coop., Inc. v. Tex. Comm’n on Env’tl. Quality*, 576 S.W.3d 374, 383–84 (Tex. 2019) (quotation marks omitted). When a statute does not define a term, courts apply the “common, ordinary meaning unless a contrary meaning is apparent from the statute’s language.” *Tex. State Bd. of Exam’rs of Marriage & Family Therapists v. Tex. Med. Ass’n*, 511 S.W.3d 28, 34 (Tex. 2017). To determine a statutory term’s common meaning, courts typically look first to the dictionary definitions and then “consider the term’s usage in other statutes, court decisions, and similar authorities.” *Id.* at 35.

We find no dictionary or judicial opinion that defines the term “elected official.” The term “elect” is commonly defined to mean to “choose (someone) to hold public office or some other position by voting.” NEW OXFORD AMERICAN DICTIONARY 559 (3rd ed. 2010); *see also* *Wooley v. Sterrett*, 387 S.W.2d 734, 740 (Tex. App.—Dallas 1965, no writ) (using dictionary to define “elect” to mean “to determine by choice; to decide upon; to choose”). Yet, definitions of other relevant terms are also informative. Black’s Law Dictionary defines “appointment” to mean “the choice or designation of a person, such as a nonelected public office, for a job or duty; esp. the naming of someone to a nonelected public office.” BLACK’S LAW DICTIONARY 121 (10th ed. 2014). It defines “elective office” as an “office that is filled by popular election rather than by appointment.” *Id.* at 632. These definitions distinguish between an appointed and elected office, and that distinction is based, in part, on a popular election.

This office previously determined that the selection process for appraisal review board directors is not such an election governed by the Election Code. *See* Tex. Att’y Gen. Op. No. JM-166 (1984) at 3. Opinion JM-166 relied on the language in Tax Code section 6.03 providing that members of the board are appointed. *Id.* The opinion contrasted the plain language calling for an appointment of appraisal district directors against the applicability of the Election Code to elections and primaries in the State. *Id.* (recognizing that on the other hand the Election Code applies to the elections and primaries held in the State); *see* TEX. ELEC. CODE § 1.002(a) (applying the Election Code to the general, special and primary elections in Texas). The opinion also noted that a Texas court recognized an appraisal district board of directors “as a board consisting of appointees.” Tex. Att’y Gen. Op. No. JM-166 (1984) at 3 (citing *Colony Mun. Util. Dist. No. 1 of Denton Cty. v. Appraisal Dist. of Denton Cty.*, 626 S.W.2d 930, 932 (Tex. App.—Fort Worth 1982, writ ref’d n.r.e.)). The state of the law has not substantively changed since Opinion JM-166. Moreover, while the selection of the appraisal district board members is determined through the votes of the specified member taxing units, the selection process involves only a select set of taxing units as voters and is not an election involving the general populace. TEX. TAX CODE § 6.03(a);

*see also id.* § 6.03(c)–(k) (enumerating the specific taxing entities that can vote and generally providing for the administration of the selection process by the chief appraiser).

Accordingly, a court would likely conclude that members of the board of an appraisal district are not elected officials within the scope of subsection 2054.5191(a-1) of the Government Code, and thus they are not required to complete the certified cybersecurity training program it mandates.<sup>2</sup>

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<sup>2</sup>When compared with Government Code subsection 2054.5191(a)—a similar provision requiring the same training of a state agency’s “elected and appointed” officials—we recognize that the omission of “appointed officials” in subsection 2054.5191(a-1) could have been an oversight by the Legislature, especially given the policy concerns behind the requirement of cybersecurity training. *See Brown v. De La Cruz*, 156 S.W.3d 560, 566 (Tex. 2004) (“It is at least theoretically possible that legislators—like judges or anyone else—may make a mistake.”). Yet it is also possible the Legislature intended to exclude appointed officials of local governments from this training. *See Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 437 (Tex. 2009) (“Where text is clear, text is determinative of [legislative] intent.”). Policy preferences like this are best left to the Legislature. *City of Houston v. Jackson*, 192 S.W.3d 764, 773–74 (Tex. 2006) (refusing to add to a statute language the Legislature chose not to include). Absent an absurd result, we, like the courts, cannot disregard the clear statutory language that the Legislature enacted. *Summers*, 282 S.W.3d at 437.

**S U M M A R Y**

Government Code subsection 2054.5191(a-1) requires certain employees and elected officials of a local government to complete a cybersecurity training program. Under Tax Code section 6.03, board members of an appraisal district are “appointed.” A court would likely conclude that the members of the board of an appraisal district are not elected officials within the scope of subsection 2054.5191(a-1), and thus they are not required to complete the certified cybersecurity training program it mandates.

Very truly yours,

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

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