



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 25, 2020

VIA E-MAIL

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Dear Mr. Ryan:

We are in receipt of the attached letter, dated November 20, 2020, from Director of Elections Keith Ingram with the Texas Secretary of State's Office, which identified multiple deficiencies concerning the appointment of Isabel Longoria as Harris County Election Administrator. *See* Exhibit A. After investigating the matter, we concur that Harris County officials failed to follow proper procedures under Sections 31.031(d) and 31.032(c) of the Texas Election Code, thereby exceeding their statutory authority. The purported creation of the Office of Election Administrator and subsequent appointment of Ms. Longoria to the position therefore constitute *ultra vires* actions and are both unlawful and null and void.

This letter is to inform you that Harris County must take corrective action to cure the deficiencies identified by the Secretary of State. Should Harris County fail to comply within fourteen days of receiving this letter, the State will pursue appropriate legal remedies.

The Election Code lays out in clear and precise terms the procedure that a Texas county must adhere to should it decide to create the office of county election administrator and appoint someone to the position. As part of that procedure, the Election Code requires the county to timely notify the Secretary of State when it completes certain milestones. Specifically, the Election Code states, "Not later than the third day after the date the order [establishing the office of county elections administrator] is adopted, the county clerk shall deliver a certified copy of the order to: (1) the secretary of state; and (2) each member of the county election commission." TEX. ELEC. CODE § 31.031(d). The Election Code continues, "Not later than the third day after the date an administrator is appointed, the officer who presided at the meeting shall file a signed copy of the resolution or order with the county clerk. Not later than the third day after the date the copy is filed, the county clerk shall deliver a certified copy of the resolution or order to the secretary of state." *Id.* § 31.032(c).

It is apparent from the information raised by the Secretary of State that Harris County violated these two provisions.

As per Director Ingram's letter, the Secretary of State received documentation from the Harris County Clerk's office on July 28, 2020. The documentation included an order, ratified by the Harris County

Commissioners Court on July 14, 2020, purportedly “establishing the Office of Election Administrator.” Exhibit B. According to the order, the “effective date for the office to begin operations shall be November 18, 2020.” The order specified, however, that the process for instituting and appointing an election administrator would not proceed until the Commissioners Court voted on and approved of a study—prepared by several elected officials—which detailed the budget, facilities, equipment, and personnel needed to maintain the office. The Secretary of State has since learned from news reports that the Commissioners Court received the study and approved it at a meeting on August 11, 2020.<sup>1</sup>

Because the Commissioners Court conditioned the July 14, 2020 order on a subsequent vote, the County Clerk’s office had an obligation under Section 31.031(d) to inform the Secretary of State of the study’s receipt and adoption within three days of the August 11, 2020 meeting. It failed to do so. In addition, even if Section 31.031(d) only applied to the July 14, 2020 order, the Secretary of State did not receive any communication from County Clerk’s office concerning the creation of an election administrator until fourteen days after its ratification. Thus, under either interpretation, Harris County is in violation of its obligations under the Election Code.

Shortly after the Commissioners Court approved of the requisite study, the Harris County Election Commission moved to appoint Ms. Longoria to the position of Harris County Elections Administrator. According to the resolution, as well as multiple outside sources,<sup>2</sup> the vote took place on October 30, 2020. See Exhibit C. The Election Commission, however, did not file the resolution pertaining to Ms. Longoria’s appointment with the County Clerk’s office until November 20, 2020, based on the receipt stamp. This is a violation of Section 31.032(c), which requires the presiding officer to file a signed copy of the resolution within three days of its passage. As a result of the delay, the Secretary of State was not timely informed of the Election Commission’s actions. The Secretary of State instead received notice of Ms. Longoria’s purported appointment on November 20, 2020, when County Clerk’s office emailed the attached resolution. *Id.*

In neglecting its obligations under Sections 31.031(d) and 31.032(c), Harris County failed to meet the requisites stipulated in the Election Code. As a result, neither the Commissioners Court’s July 14, 2020 order nor the Election Commission’s October 30, 2020 appointment of Ms. Longoria to the position holds any legal weight. In short, the Harris County Office of Election Administrator does not exist. And the duties that would typically be delegated to it pursuant to Sections 31.043, 31.044, and 31.045 remain with the County Clerk and County Tax Assessor-Collector.

It has come to the State’s attention that as of November 18, 2020, Ms. Longoria assumed the role and responsibilities of Election Administrator in violation of the Texas Election Code. As a result, her appointment is a nullity and should be rescinded. Please take corrective action to remedy this matter within fourteen days of receipt of this letter. Otherwise, the State will proceed with appropriate legal action to address her unlawful appointment.

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<sup>1</sup> See, e.g., Hannah Zedaker, *Harris County Moves Forward With Creation of Elections Administrator Office*, Community Impact (Aug. 12, 2020), <https://communityimpact.com/houston/spring-klein/vote/2020/08/12/harris-county-moves-forward-with-creation-of-elections-administrator-office/>.

<sup>2</sup> See, e.g., Zach Despart, *Harris County Appoints Isabel Longoria as First Elections Administrator as Hollins Prepares to Step Down*, Houston Chronicle (Oct. 30, 2020), <https://www.houstonchronicle.com/politics/houston/article/Harris-County-appoints-Isabel-Longoria-as-first-15689377.php>.

Respectfully,

/s/ Kathleen Hunker

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