

**BEFORE THE STATE ELECTION BOARD
STATE OF OKLAHOMA**

In the Matter of the Contest of the Candidacy
of ADAM PUGH for the Office of
Superintendent of Public Instruction

TONI HASENBECK,

Petitioner,

v.

ADAM PUGH,

Contestee.

Cause No. 2026-03

PETITION TO CONTEST CANDIDACY OF ADAM PUGH

Petitioner Toni Hasenbeck contests the candidacy of Adam Pugh. She petitions the Oklahoma State Election Board to find Candidate Adam Pugh ineligible for the Office of Superintendent of Public Instruction, sustain the Petition, and order that his candidacy be stricken and his name not placed on the ballot. 26 O.S. §§ 5-118, 5-127. In support, she states:

1. The Office of Superintendent of Public Instruction (hereinafter “Office”) is subject to election in the 2026 election. **Exhibit 1**, *State of Oklahoma Terms of Office*, OKLA. STATE ELECTION. BD.¹; Okla. Const. Art. 6, § 4.
2. The term of the Office begins January 11, 2027. Okla. Const. Art. 6, § 4 (stating the term of office begins from the second Monday of January after the election).
3. The return of election for the Office will be on January 5, 2027. Okla. Const. Art. 5, § 26, Art. 6, § 5 (together stating the return of election will be on the First Tuesday after the First Monday in January of each odd-numbered year).

¹ Available at <https://oklahoma.gov/content/dam/ok/en/elections/terms-of-office/2025-terms-of-office.pdf>

4. Petitioner Toni Hasenbeck is a candidate for the Office. 26 O.S. § 5-101; **Exhibit 2**, *Hasenbeck Declaration of Candidacy*²; see also **Exhibit 4**, *Candidate List Book*.³

5. Contestee Adam Pugh is a candidate for the Office. 26 O.S. § 5-101; **Exhibit 3**, *Pugh Declaration of Candidacy*²; see also **Exhibit 4**, *Candidate List Book*.³

6. Adam Pugh is a mid-term member of the Legislature, specifically Senator of District 41. 14 O.S. § 80.35.14(A), **Exhibit 5**, *Okla. Senate Profile*.⁴

7. Adam Pugh's current legislative term started November 20, 2024 and ends November 22, 2028.⁵ 14 O.S. § 80.35.14(A); **Exhibit 1**, *State of Oklahoma Terms of Office*, OKLA. STATE ELECTION. BD.¹

8. Oklahoma's Constitution provides,

No member of the Legislature shall, during the term for which he was elected, be ... elected to any office ... in the State, ... the emoluments of which shall have been increased, during his term of office....

Okla. Const. Art. 5, § 23. By its terms, this provision makes a legislator ineligible for an elected office whose election overlaps with the legislator's term whenever the emoluments were increased during the term, even if the legislator did not personally vote on the increase.

9. An emolument is any "advantage, profit, or gain received as a result of one's employment or one's holding of office." *Black's Law Dictionary (12th ed. 2024)*; *Bond v. Phelps*, 1948 OK 76, ¶ 39, 200 Okla. 70, 88, 191 P.2d 938, 966 ("They say in unison that emoluments mean: 'Profit, remuneration or income'.").

² Available at <https://filings.okelections.gov/ViewCandidates/2026040120260403/99/all>

³ Available at <https://oklahoma.gov/content/dam/ok/en/elections/candidate-filing-archives/2026-candidate-filing-archives/2026-candidate-list-book.pdf>

⁴ available at <https://oksenate.gov/senators/adam-pugh>

⁵ By Contrast, as a member of the House, Representative Hasenbeck's term of office ends November 18, 2026, so her term does not overlap with the Office's term and election.

10. The emoluments of the Office were increased during Adam Pugh's term of office.
11. Specifically, the salary for the Office was increased on November 18, 2025, to be effective for the next term. **Exhibit 6**, *OSOCC Order*⁶; 74 O.S. §§ 250.4, 291.4.
12. Additionally, the employee benefits allowance for health insurance benefits was also increased in 2025 and 2026. **Exhibit 7**, *OMES Employee Benefits Enrollment Guides, 2024, 2025, 2026*⁷; *Question by O.B. Jackson*, 2002 OK AG 18 (stating that the employee benefit allowance is an emolument).
13. Adam Pugh is not qualified by law to become a candidate for the office for which he filed a Declaration of Candidacy. 26 O.S. § 5-120.
14. Adam Pugh is ineligible for the Office, because his legislative term overlaps with the Office's term and election, and the emoluments for the Office increased during his term. Okla. Const. Art. 5, §§ 23, 26; *Gragg v. Dudley*, 1930 OK 280, ¶ 0, 143 Okla. 281, 289 P. 254, 255; Okla. Const. Art. 6, §§ 4, 5; 14 O.S. § 80.35.14(A); *Fair v. State Election Bd. of Oklahoma*, 1994 OK 101, ¶ 4, 879 P.2d 1223, 1224; *Jordan v. Oklahoma State Election Bd.*, 2014 OK 74, 334 P.3d 940.

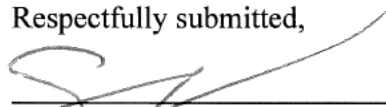
⁶ Available at <https://oklahoma.gov/content/dam/ok/en/omes/documents/socc-2025-compensation-order.pdf>

⁷ Available at <https://oklahoma.gov/content/dam/ok/en/omes/documents/2024-BEG.pdf>, <https://oklahoma.gov/content/dam/ok/en/omes/documents/2025-BEG.pdf>, and <https://oklahoma.gov/content/dam/ok/en/omes/documents/2026-beg-UA.pdf>


WHEREFORE, Petitioner Toni Hasenbeck prays that the Oklahoma State Election Board find Adam Pugh ineligible for the Office of State Superintendent, sustain the Petition, and order that his candidacy be stricken and his name not placed on the ballot.

Dated April 7, 2026.

Respectfully submitted,



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CERTIFICATE OF PAYMENT OF FILING FEE

I certify that I enclosed a cashier's check in the amount of \$250 dated April 7, 2026 with this Petition.

s/Spencer Habluetzel

**BEFORE THE STATE ELECTION BOARD
STATE OF OKLAHOMA**

IN THE MATTER OF THE)	
CONTEST OF CANDIDACY)	
OF ADAM PUGH, FOR)	Cause No. 2026-03
SUPERINTENDENT OF PUBLIC)	
INSTRUCTION)	

RESPONSE IN OPPOSITION TO PETITIONER’S CONTEST OF CANDIDACY

On April 7, 2026, Petitioner, Toni Hasenbeck, a candidate for the Office of Oklahoma Superintendent of Public Instruction ("State Superintendent"), filed a Petition for Contest of Candidacy ("Petition") before the Oklahoma State Election Board ("Board"), contesting the candidacy of Adam Pugh ("Respondent" or "Contestee") for that same office. Therein, Petitioner alleges that Pugh is not qualified as a candidate for State Superintendent because she claims (1) the salary for the State Superintendent was increased during Respondent's term in office, and (2) the employee benefit allowance for health insurance increased in 2025 and 2026. *See* Petition at p. 3, ¶¶ 11-12. Petitioner thus concludes that Article V, Section 23 of the Oklahoma Constitution bars him from being a candidate "because his legislative term overlaps with the Office's term and election, and the emoluments for office increased during his term." *See* Petition at p. 3, ¶ 14.

But the Petition is wrong for three reasons. First, the salary increase for the office of State Superintendent was a product of a wholly separate independent commission—not an act of the Legislature. Second, the independent commission made the salary increase inapplicable to "any current member of the legislature", *citing specifically* to Article V, Section 23 of the Oklahoma Constitution. And third, the increase to the employee benefit allowance is an automatic increase that is administered by an executive branch agency (not the Legislature) and was codified into statute during a previous term of the Legislature. As such, this Petition represents nothing more

than a campaign stunt. Respondent is a qualified candidate for office, and this challenge should be dismissed as a matter of law.

Burden of Proof

Under 26 O.S. § 5-130, "[t]he burden of proof shall be upon the petitioner to sustain the allegations in his petition." In order to sustain his or her burden of proof, the petition must prove the allegations set forth in the Petition by the greater weight of evidence. *See, e.g., In the Matter of the Contest of Candidacy of Larry Edwards*, Oklahoma State Election Board, Findings of Fact, Conclusions of Law, and Final Order (Cause No. 2022-01), at ¶ 4. Notably, any argument not made on the face of the Petition is deemed waived. *See* 26 O.S. § 5-120 (reasons not appearing on face of petition contesting qualifications to become candidate are waived). The Board may only remove names from the ballot of individuals who are not qualified for the office sought. *Gray v. State ex rel. State Election Bd.*, 1998 OK 85, ¶ 5, 962 P.2d 1, 2, as corrected (Sept. 25, 1998)

Arguments and Authorities

- I. Respondent is a qualified candidate for State Superintendent because (1) the salary increase was approved by the Statewide Official Compensation Commission, not the Legislature, and (2) no current member of the state legislature is eligible to receive the increase to the emoluments of office authorized by the Statewide Official Compensation Commission.**

Respondent is an eligible candidate for State Superintendent under both the text and the purpose of Article V, Section 23 of the Oklahoma Constitution. Petitioner's threadbare challenge attempts to presume ineligibility because the "emoluments of Office were increased during Adam Pugh's term in office", but it ignores that (1) the emoluments were not increased by an act of the Legislature, and (2) that Respondent is categorically excluded from being able to receive the authorized increase in salary for that office.

A. Background on the Statewide Official Compensation Commission

The Statewide Official Compensation Commission ("SOCC") is an entity that was created in 2025 with the passage of House Bill 2674 ("H.B. 2674"), 60th Leg., 1st Reg. Sess. (Okla. 2025). The purpose of the SOCC is to set the salaries of Oklahoma's nine statewide elected officials, including the Governor, Lieutenant Governor, Attorney General, State Treasurer, State Auditor and Inspector, Superintendent of Public Instruction, State Insurance Commissioner, Commissioner of Labor, and the members of the Oklahoma Corporation Commission. 74 O.S. § 291.4(D). Prior to November 1, 2025, all increases in these salaries were set by the Legislature, with the relevant amounts codified at 74 O.S. § 250.4.

The SOCC is comprised of the same nine (9) members as the Board on Legislative Compensation, as provided by Article V, Section 21 of the Oklahoma Constitution. 74 O.S. § 291.4(B). The nine-member boards are comprised of "five members appointed by the Governor, two members appointed by the President Pro Tempore of the Senate, and two members appointed by the Speaker of the House of Representatives." OKLA. CONST. art. V, § 21.

The Board on Legislative Compensation is required to meet every two years to review the compensation paid to members of the legislature, and any changes authorized by the board to compensation levels shall "become effective on the fifteenth day following the succeeding general election." *Id.* The SOCC may meet "only on the same day as the Board on Legislative Compensation" and any changes to salary levels become effective "on or after the date as of which the Commission sets the salary amount." 74 O.S. § 291.4(C), (F).

If the SOCC modifies a statewide official's salary amount from the amounts currently authorized in statute (*see* 74 O.S. § 250.4), as it did at its meeting on May 18, 2025,¹ "the order of

¹ The Board initially met on November 12, 2025, but later voted to rescind the Order and all of the Commission votes taken at that meeting. *See* Ex. A, Agenda of the Biennial Special Meeting of the Statewide Official

the Commission shall supersede the provisions of this section with respect to the applicable statewide official." 74 O.S. § 250.4(B). The SOCC is afforded discretion in making these determinations but cannot set the salary "at any amount less than the salary in effect for such officials as of January 1, 2025." 74 O.S. § 291.4(E). In terms of timing, the SOCC is similarly afforded some discretion as it is able to set the salary for each identified statewide official "for any term of office for such officials beginning *on* or *after* the date as of which the Commission sets the salary amount." *Id.* at § 291.4(D) (emphasis added).

B. The salary increase was authorized by the Statewide Official Compensation Commission—not the Legislature—and thus the restrictions of Article V, Section 23 do not apply.

The purpose of Article V, Section 23 is to prohibit the current legislators from *enacting* or *voting on* legislation to increase the pay for an office that they could then assume, by appointment or election, during their term in office. Put differently, the provision exists to prevent a sitting legislator from using his or her legislative authority to increase the compensation of an office and then personally benefit by assuming that office during their term.

That purpose is clear and consistent across Oklahoma jurisprudence. *See Fair v. State Election Bd. of Oklahoma*, 1994 OK 101, ¶ 3, 879 P.2d 1223, 1226 (Opala, J., dissenting) (explaining that the purpose of Art. V, § 23 was to "eliminate improper bias from a legislator's *pattern of voting* and to secure to the electorate a representation that is free from the quest of personal gain.") (emphasis added.); *see also Baskin v. State*, 1925 OK 1, ¶ 10, 107 Okla. 272, 232 P. 388, 390 (reasoning that Art. V, Section 23 "was enacted . . . to prohibit members of the Legislature from deriving directly or indirectly any pecuniary benefit of legislative enactments or appropriations *made by them*.") (emphasis added). Indeed, in the most recent Supreme Court order

Compensation Commission (Nov. 18, 2025); *see also* Ex. B, Transcript of the Biennial Special Meeting of the Statewide Official Compensation Commission (Nov. 18, 2025), at 18:25, 19:1-25, 20:1-22.

addressing Article V, Section 23, cited by Petitioners, the Court again emphasized that the purpose of the constitutional restriction is to prevent a legislator from assuming an office where the Legislature itself *acted* to increase the emoluments of that office. *Jordan v. Oklahoma State Election Bd.*, 2014 OK 74, 334 P.3d 940 ("The Oklahoma Constitution, art. 5, § 23, prohibits a legislator from taking public office during the term of a Legislature which has *voted* to increase the emoluments for that office.")

But the Legislature did not vote to increase the salary of the State Superintendent. That decision was made by the SOCC, an independent body vested with authority to set compensation levels for statewide officials. For that reason, the purposes of Article V, Section 23's restriction are not violated here, where Respondent played *no role* in the salary increases given to statewide officers. The SOCC is an independent board, with independent authority to make decisions on statewide official pay, without any need for continuing legislative ratification of its decisions.² *See* 74 O.S. § 291.4.

This distinction is dispositive. The constitutional prohibition presumes the increase will be by virtue of legislative action, and each case cited by Petitioner in support of its argument concerns *legislative action* taken to raise the emolument of an office. For that reason, Oklahoma Supreme Court precedent in *Fair v. State Election Bd. of Oklahoma*, 1994 OK 101, 879 P.2d 1223, and the other cases cited by Petitioner, are entirely inapplicable to the case at hand, as the Legislature did not *vote* to authorize the increase in salary, as it did in these cases. Put differently, Petitioner has cited to no case where Article V, Section 23 has been held to bar a candidate from the ballot when the emolument was increased by a separate, independent body (and when he himself is ineligible to receive that increase). This cause should be dismissed as a matter of law.

² In fact, the SOCC cannot even be said to be "controlled" by legislative influence as five (5) out of its nine (9) members are appointed by the Governor—not legislative leaders. 74 O.S. § 291.4(B); Okla. Const. art. V, § 21.

C. Respondent is ineligible to receive the salary increase and thus the restrictions of Article V, Section 23 do not apply.

In addition to the Legislature playing no role in the salary increase, Petitioner's challenge is defective as a matter of law because Respondent himself is *ineligible* to receive the increase in compensation authorized by the SOCC for the office of State Superintendent. Well aware that Article V, Section 23 could be used in an attempt to disqualify qualified candidates for office, the SOCC was particularly careful in how it voted to increase statewide official's salaries at its November 18, 2025, meeting. Specifically, the SOCC motion on the topic of the salary level for the State Superintendent clearly stated its intentions in no uncertain terms:

Mr. Chair, pursuant to Section 23, Article V of the Oklahoma Constitution, no attempted adjustment adopted herein, shall operate to increase the emolument of any office for which a current member of the legislator is elected or appointed. Any such office shall retain the emolument in effect prior to attempted adjustment adopted herein.

See Ex. B, Tr. 27:4-11. Respondent, current State Senator for Senate District 41 (with a term ending in 2028), is thus *categorically ineligible* to receive the increase in compensation and thus "shall retain the emolument in effect prior to attempted adjustment or adoption"—*e.g.* the amount set forth in statute of \$124,373.00. 74 O.S. § 250.4(A)(8).

Again, this distinction is dispositive. The SOCC was particularly careful to carve out application of the salary increases to any current Legislator. This fact is clear by the wording of the Motion, as evidenced by the transcript, and even the reporting surrounding the hearings.³

³ *See Ex. B; see also Tres Savage, In 'do over' meetings, boards hike legislator pay, revise statewide official bumps, NONDOC (Nov. 18, 2025), <https://nondoc.com/2025/11/18/in-do-over-meetings-boards-hike-oklahoma-legislator-pay-revise-statewide-official-bumps/> (noting that "In an effort to avoid inadvertently making a sitting legislator ineligible for statewide office, commissioners prefaced each of their motions by saying that any legislator deemed to be mid-term during their election to statewide office would receive the prior salary and not Tuesday's increased amounts.")*

At base, Petitioner has not borne her burden to show that Art. V, Section 23 has been triggered by the salary increase. Petitioner's argument ignores two fundamental distinctions—(1) the Legislature did not vote to increase the salary, as it did in *Fair*, and (2) Respondent is wholly ineligible to receive the increase and would instead assume office under the previously-set salary. The restrictions of Article V, Section 23 are thus wholly inapplicable to the increased salary for that office authorized by the SOCC, and *Fair v. State Election Bd. of Oklahoma*, 1994 OK 101, 879 P.2d 1223, is entirely inapplicable to the case at hand. This cause should be dismissed as a matter of law.

II. Respondent is a qualified candidate for State Superintendent because the alleged changes in employee benefits occur by operation of pre-existing law that was not authorized during Respondent's current legislative term; Article V, Section 23 is thus not triggered.

Petitioner's argument that Respondent is an ineligible candidate because of the employee benefit increase is equally constitutionally unfirm. Article V, Section 23 provides that a legislator is ineligible for an office “the emoluments of which shall have been increased” during the legislator’s term, “unless [the change occurs] by operation of law enacted prior to such election or appointment.” The “unless” proviso is dispositive in this instance. The constitutional text does not prohibit all increases occurring during a term. Instead, it prohibits only those that are not the product of pre-existing law operating as codified. Thus, the inquiry is not merely whether the dollar value of benefits changed, but whether any such change is attributable to a new legislative enactment during the term or instead to the mechanical operation of a statute enacted by a previous Legislature.

Petitioner bears the burden of establishing a constitutionally disqualifying increase in emoluments, including identifying a qualifying change not attributable to prior law. She simply has not done so.

A. The flexible benefit allowance is defined by a pre-existing statutory formula.

The employee benefit at issue—the employer-funded flexible benefit allowance—is governed by the Oklahoma State Employees Benefits Act, 74 O.S. § 1361 et seq. Section 1370 of the Act does not set a static dollar amount. Instead, it establishes a comprehensive, formula-driven mechanism for determining the allowance. As amended by Senate Bill 650 ("S.B. 650") in 2021, the statute expressly incorporates automatic annual increases (including 2% adjustments for specified plan years), as well as premium-based recalculations. *See* Ex. C, S.B. 650, 58th Legislature, 1st Reg. Sess. (Okla. 2021). These features demonstrate that a previous Legislature fixed in advance the method by which the allowance would change over time, including both formula-based adjustments tied to plan premiums and automatic percentage increases. Accordingly, the amount of the benefit allowance in any given year is not the result of a new legislative act—instead, it is the output of a statutory formula. Therefore, any changes in benefit levels are the mechanical operation of § 1370, not new legislative enactments.

Petitioner relies exclusively on OMES Employee Benefits Enrollment Guides (*see* Petitioner's Ex. 7) to assert that benefits “increased” during the relevant period. Those materials show only year-to-year changes in benefit amounts, but they make no mention of or provide any identification of any legislative enactment that altered compensation. Instead, the changes reflect the routine application of § 1370’s statutory formula in successive plan years—but do not support the argument that the emoluments have increased during Respondent's legislative term.

In short, Petitioner identifies no statute enacted during the relevant term that altered the benefit allowance because none exists.

B. The constitutional exception applies because the governing law was enacted prior to the relevant term.

S.B. 650, which amended § 1370 to include automatic increases, became effective in 2021—well before the commencement of Senator Pugh’s current term that began in January 2025. The relevant constitutional inquiry is whether the increase is attributable to a law enacted during a legislator’s current term, not whether the dollar amount changes during the term pursuant to that law. Because the statutory framework governing the benefit allowance was enacted prior to the term at issue, any subsequent changes in benefit levels occur “by operation of law enacted prior to such election or appointment.” OKLA. CONST. art. V, § 23. This is precisely the circumstance the Constitution permits.

C. Treating automatic, formula-driven adjustments as disqualifying "increases" would nullify the constitutional exception.

Petitioner’s position is incompatible with the constitutional text because it collapses the distinction between new enactments and the operation of pre-existing law. If every change in dollar value—regardless of its source—were treated as a disqualifying “increase,” then any compensation system incorporating indexing, premium-based formulas, or automatic adjustments would perpetually disqualify State Senators from running for other offices, even where no new law was enacted during their term.

The Constitution compels no such result. By expressly permitting changes that occur “by operation of law enacted prior,” it recognizes and preserves the validity of pre-enacted, self-executing compensation structures such as § 1370. *See* OKLA. Const. art. V, § 23.

D. Petitioner has failed to identify any qualifying increase in emoluments.

To prevail, Petitioner must show that the emoluments of the office were increased during the relevant term in a manner not authorized by prior law. She has not done so as her petition identifies no qualifying enactment and relies solely on administrative materials that do not carry

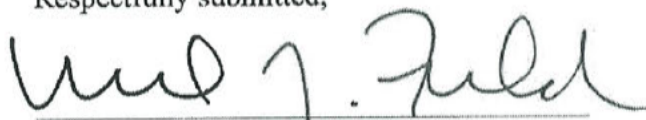
constitutional significance. She identifies no statute enacted during the relevant term that altered those benefits. Because any changes in the flexible benefit allowance arise from the administrative operation of § 1370—a statute enacted prior to the Legislative term at issue—Petitioner has failed to establish a constitutionally relevant increase in emoluments that would be subject to Article V, Section 23's restrictions.

In sum, even assuming *arguendo*, that employee benefits constitute “emoluments,” any changes in those benefits fall squarely within the constitutional exception. They are not the product of new legislative action during Senator Pugh’s term, but the mechanical operation of a pre-existing statutory formula. Accordingly, the alleged benefit increases do not trigger Article V, Section 23, and cannot serve as a basis to disqualify Contestee from candidacy.

Conclusion

For the reasons stated above, Respondent respectfully requests that the Oklahoma State Election Board (1) dismiss the Petition as a matter of law, and (2) find that Respondent is a qualified candidate for Superintendent of Public Instruction.

Respectfully submitted,



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ADAM PUGH**