



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

STATEMENT OF COMMISSIONER SHANA M. BROUSSARD REGARDING ADVISORY OPINION 2021-13 (MATTHEW HOH)

The Commission’s regulations state that the amount of salary a candidate may receive from his or her campaign committee is limited to “the lesser of: The minimum salary paid to a Federal officeholder holding the Federal office that the candidate seeks; or the earned income that the candidate received during the year prior to becoming a candidate.” 11 C.F.R. § 113.1(g)(1)(i)(I) (the “candidate salary regulation”). At the January 27, 2022 open meeting, the Commission considered an advisory opinion request from Matthew Hoh. Mr. Hoh, a Marine Corps combat veteran who receives non-taxable disability benefits from the U.S. Department of Veterans Affairs (“VA”), asked whether his disability benefits constitute “earned income” for the purposes of the candidate salary regulation. I voted in favor of Revised Draft B, which concludes that VA disability benefits are not “earned income,” and, therefore cannot be used to calculate the amount of salary that Mr. Hoh may draw from his campaign committee. In my view, Revised Draft B correctly concludes that VA disability benefits fall within neither the meaning of “earned income” as that term is used in the Act and Commission regulations nor the common understanding of the term.

However, while Revised Draft B reflects the legally correct conclusion given our regulations as currently drafted, it does not reflect a fair outcome. By tying the upper limit on candidate salary to the earned income that a candidate received in the prior year, the regulation disadvantages candidates who received little or no earned income in the previous year. Potential candidates such as Mr. Hoh, who suffered injuries in service to this country that limit his ability to work, as well as individuals who are full-time caretakers or who have had gaps in employment, may choose not to throw their hat in the ring because they cannot afford to work for little or no salary. Although running for federal office should not be a money-making enterprise, an effective campaign requires significant time and work on the part of the candidate. Perversely, individuals who have higher incomes and who may be in better financial positions to take pay reductions while running for office may pay themselves a higher salary from their campaign committees than those who have less financial flexibility.


The Commission must undertake a rulemaking to revise the candidate salary regulation, as urged by a Petition for Rulemaking received in March 2021 (“Candidate Salary Petition”).¹ Our government should represent the full range of socioeconomic backgrounds and experiences of the citizenry of our nation. Yet, as a commenter on the Candidate Salary Petition noted, data show that working-class jobs make up over 50% of the U.S. economy, yet only 2% of members of Congress have working-class backgrounds.²

¹ 86 Fed. Reg. 23,300 (May 3, 2021).

² Comment from Common Cause (July 2, 2021).

The Candidate Salary Petition presents one option for revising the regulation. Comments submitted to the Commission present other options. I am hopeful that the Commission will move quickly to consider these suggestions and initiate a rulemaking to make running for elected office a viable option for all Americans, regardless of income.

January 27, 2022
Date



Shana M. Broussard
Commissioner