



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO Box 803
TRENTON, NJ 08625-0803

PHILIP D. MURPHY
Governor

LT. GOVERNOR SHEILA Y. OLIVER
Commissioner

October 12, 2022

PERSONAL AND CONFIDENTIAL
Mr. Brian Kubiel



Re: Local Government Ethics Law
Complaint #LFB 19-031
Notice of Investigation

Dear Mr. Kubiel:

The Local Government Ethics Law, N.J.S.A. 40A:9-22.1 et seq., empowers the Local Finance Board (Board) to initiate, receive, hear and review complaints, and hold hearings with regard to possible violations of the Local Government Ethics Law. Pursuant to N.J.S.A. 40A:9-22.9, you are hereby notified that a complaint has been filed against you.

The nature of the complaint alleges possible violations of the following provisions of the Local Government Ethics Law:

N.J.S.A. 40A:9-22.5(c) No local government officer or employee shall use or attempt to use his official position to secure unwarranted privileges or advantages for himself or others;

N.J.S.A. 40A:9-22.5(d) No local government officer or employee shall act in his official capacity in any matter where he, a member of his immediate family, or a business organization in which he has an interest, has a direct or indirect financial or personal involvement that might reasonably be expected to impair his objectivity or independence of judgment;

N.J.S.A. 40A:9-22.5(g) No local government officer or employee shall use, or allow to be used, his public office or employment, or any information, not generally available to the members of the public, which he receives or acquires in the course of and by reason of his office or employment, for the purpose of securing financial gain for himself, any member of his immediate family, or any business organization with which he is associated.

The allegations in the complaint are summarized as follows:

As a Councilman of the Township of Toms River, you voted on an ordinance and resolution that changed certain sections of the Township Code regarding the hiring process for applicants seeking employment with the Police Department, while your son, Kevan Kubiel, had an active application for an entry level position with the Township's Police Department. It was further alleged that following Kevan Kubiel's receipt of his score on the written exam, you contacted the Police Chief directly to ask that your son's score on the written exam be reviewed to determine whether he should be credited with additional points as provided by that ordinance, in violation of the Local Government Ethics Law.

In the course of a preliminary investigation of the allegation, the Board determined that you served as a member of the Township Council in 2018. As a member of Council, you voted on August 14, 2018 to introduce Ordinance 4599-18, and on August 28, 2018 to adopt Ordinance 4599-18 as well as a companion resolution, while your son, Kevan Kubiel, had an application pending for an entry level police officer position with the Toms River Police Department. Ordinance 4599-18 amended the Township Code to supplement the application process and requirements for applicants for entry level officer positions with the Police Department. The companion resolution expedited the effective date of Ordinance 4599-18 by declaring an emergency that necessitated immediate hiring. The Township of Toms River is not a Civil Service jurisdiction.

Kevan Kubiel submitted an application for an entry level position with the Toms River Police Department prior to the application deadline of July 31, 2018. On September 13, 2018, Kevan Kubiel was notified that his score on the written exam was below the minimum score required for continued consideration in the application process for employment with the Police Department. Later that same day, you emailed the Police Chief to ask him to review your son's score and to consider whether there were any additional points to which he might have been entitled pursuant to the recently amended Chapter 50, section 10 of the Township Code. Kevan Kubiel was ultimately not hired for the position to which he applied.

Based upon the information obtained in the course of a preliminary investigation, the Board voted to authorize an investigation into this matter for possible violations of subsections (c), (d) and (g) of N.J.S.A. 40A:9-22.5.

In accordance with N.J.S.A. 40A:9-22.9, you may respond with any statement or provide any information concerning the allegations that you wish. Should you decide to make such a submission, the Board requests receipt of such written response **within thirty (30) days of your receipt of this letter**.

Please be advised that the Board's decision to undertake a formal inquiry does not imply nor constitute an opinion as to whether a violation has occurred. If additional information is not received from you within the time frame mentioned above, the Board will base its decision on the information secured through, and findings of, its investigation.

Upon completion of the investigation, the Board, at a regularly scheduled meeting, will make a determination as to whether the allegations constitute a violation of the Local Government Ethics Law.

You will be advised of the result of the Board's determination in writing after the meeting. If the Board concludes that a violation of the Law has occurred, you will be given an opportunity to request an administrative hearing to contest the Board's finding. That request must be received, in writing, within 30 days receipt of the Board's finding. If an administrative hearing is requested, the Board will not issue a final decision until the completion of the administrative hearing process.

Please send your response to the Local Finance Board, Department of Community Affairs, P.O. Box 803, 101 S. Broad Street, Trenton, New Jersey 08625.

Should you have any questions regarding this matter, please contact Margaret Roberts at (609) 815-3904.

Sincerely,

A handwritten signature in dark ink, appearing to read "M. Bennett", is written over the typed name.

Nicholas Bennett
Executive Secretary
Local Finance Board

NB:mr
C19-031 NOI

