

May 12, 2019

VIA EMAIL AND CERTIFIED MAIL RETURN RECEIPT REQUESTED

Prosecutor Andrew C. Carey
25 Kirkpatrick St.
New Brunswick, NJ 08901

Dear Prosecutor Carey:

I am the Middlesex County Republican Chair and in performing the responsibilities of my office I visited the Middlesex County Board of Election offices on election day, November 6, 2018 to observe the processing and tabulation of Vote by Mail (VBM) ballots.

While I found many aspects disturbing of how the processing of VBM ballots was performed, there were certain actions performed by the Commissioner of Registration, Daniel Frankel, that I believe constituted malfeasance in office. Consequently, I am hereby requesting your office conduct an investigation to ascertain if charges should be brought in this matter.

To process VBM ballots on Election Day, it is necessary for the Board of Elections to employ many additional temporary or "Seasonal" workers. To assure fairness in the process, the Board seeks to hire equal numbers of Republicans and Democrats to have equal numbers of Republicans and Democrats at each table. As the first step in the process, these temporary employees review the ballots to assure they meet all requirements for validity. Any ballot appearing to be deficient is subsequently referred to the Board members to make a determination by majority vote whether the ballot should be counted or not.

The County has established the pay rate for these workers at \$15/hour.

To acquire Election Day workers on November 6, 2018, Commissioner Frankel requested the two Republican members of the Board of Elections to locate approximately 40 Republicans willing to do this VBM for \$15/hour. They did provide a list of such volunteers who would subsequently be referred to as "Seasonal" (temporary) employees.

Mr. Frankel did not make a similar request of the Democrat members of the Board to find Democrats to work for \$15/hourly. Instead, Mr. Frankel requested someone (perhaps Gerry Mackenzie, Co-Department Head/Community Services) in the Middlesex County Government to reach out for county employees to work on Election Day for the Board of Elections. In order to possibly have equal numbers of Democrats working, this assured all Democrats working would be county employees since no effort was made to find Democrat "Seasonal employees" to work for \$15/hour.

This action, I maintain, constituted the first count of malfeasance in office and discrimination regarding Democrats and Republicans. A second will follow.

It was malfeasance because:

(1): It is the Middlesex County policy that all non-full time workers employed by the Board on election day shall be paid \$15/hour.

(2): Mr. Frankel made no attempt to have the Democrat Board members or anyone else find Democrats willing to work for the county specified rate of \$15/hour.

(3): County workers that work on a holiday (which Election Day is) must be paid one-half times their regular pay as well as receiving an additional paid holiday for having worked the holiday.

As Mr. Frankel has used this process in the past, he had to know all county employees would be paid for in excess of \$15/hour. The lowest paid county employee received \$27.88/hour while all other county employees received up to \$86.90/hour.

It should be noted all Democrat workers being county employees were paid between the cited \$27.88 and \$86.90/hour far in excess of the county established rate of \$15/hour while all Republicans received \$15/hour.

A second act of malfeasance occurred when county employees were advised to report an hour earlier than the Republican workers.

1. It assured county employees which included 100% of the Democrat workers and a few Republicans would receive at least one hour of pay more than the Republican submitted workers.
2. As the rule is there must be a Republican and a Democrat working together in each step of the process, one can only assume during this first hour, the early reporters, were either idle or doing processing without Republicans present and participating.

As noted previously, no Democrats were hired as "Seasonals" (\$15/hour) while 30 of 39 Republicans were, assuring all Democrats would receive substantially higher pay as well as a paid day off later for working on a holiday.

The average pay for county employees was \$481 compared with an average pay of \$128 for "Seasonal" employees.

One county employee was paid \$847 for working 9.75 hours and a second received \$836 pay for working 9.5 hours. The lowest paid county employee was paid \$276 for 9.5 hours of work.

By comparison, the highest paid "Seasonal" employee was paid only \$266 for working 17.75 hours or \$10 less than lowest paid county employee for working almost twice as many hours as that county employee. With the exception of this "Seasonal" employee, and one other who received \$232 for 13.5 hours work, all other "Seasonals" were allowed to work 7-8.25 hours and were paid \$105-\$124 for their services.

While only 2 “Seasonals” were allowed to work more than 8.25 hours, all county employees were paid for working 9.5 or more hours.

It should be noted all temporary employees were given the same assignments i.e., none of the employees receiving the higher pay were given supervisory or more critical tasks to perform. All temporary workers were doing comparable work and had the same responsibilities.

The malfeasance detailed here is based upon observations and information received in response to my OPRA request submitted to the Board of Elections related to VBM ballot processing on November 6, 2018.

However, I have been advised by the Republican Board members that the practice of hiring county workers to process VBM ballots has been the mechanism utilized by Frankel for years resulting in excessive payments each year and the use of primarily, if not exclusively, Democrat county workers.

The Republican Board members only learned of this last year which resulted in their being requested to seek Republican workers for the first time.

Hence, this malfeasance has been on-going for years.

Thus, this malfeasance will be continued in the forthcoming primary. It should be noted in an email dated May 3, 2019, from Linda Pino, I was advised: “Gerry MacKenzie, Department Head/Community Services, and her staff have been asked to reach out to county employees to work on Election Day.” “Gerry Mackenzie’s office has been asked to recruit 40 Democrats and the Middlesex County Republican Commissioners have been asked to recruit 40 Republicans.” Mackenzie works in the County Administrators’ Office.

All Democrat workers being county employees will be paid their regular wages all of which exceed \$15/hourly. Again, taxpayer money will be again expended unnecessarily to pay Democrat workers while Republicans will be limited to the \$15/hourly mandated by the county.

Attached is the response to my OPRA request regarding payroll information and Party affiliation for workers, and the response from Board of Election for procedure for the upcoming election.

Your prompt attention to this matter will be appreciated. Please advise me if your office will be responding to the request.

Sincerely,

Lucille Panos
Chairwoman
Middlesex County Republican Organization