
OPEN SESSION

HONORABLE SERVICE/ORDINARY DISABILITY

(A motion to adopt Resolution B was made by Trustee Bennett seconded by Trustee Culliton. A subsequent motion to return to Open session was made by Trustee Bennett seconded by Trustee Middlesworth)

Kavanaugh, Sean – Hillside Borough — The Board considered the matter of Sean Kavanaugh. The Board reviewed the administrative charges along with all relevant documentation, and the settlement agreement in accordance with N.J.S.A. 43:1-3 to determine the impact this may have on his Application for Ordinary Disability Retirement. N.J.S.A. 43:1-3 establishes 11 factors for which the Board is to consider and balance in view of the goals of the pension statutes when determining whether forfeiture or partial forfeiture is appropriate, taking account of the goals to be achieved under the pension laws. These factors are:

1. The member's length of service;	13 years, 5 months
2. The basis of retirement;	Ordinary Disability.
3. The extent to which the member's pension has vested;	The member's pension is vested he has more than 10 years of service.
4. The duties of the particular member;	Police Officer
5. The member's public employment history and record covered under the retirement system;	13 years, 5 months
6. Any other public employment;	None Noted

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Kavanaugh, Sean – (continued)

<p>7. The nature of the misconduct or crime, including the gravity or substantiality of the offense, whether it was a single or multiple offense and whether it was continuing or isolated;</p>	<p>The following Internal Affairs Complaints were made between April 5, 2013 and May 28, 2013:</p> <p>Violations of Hillsdale Police Department Rules and Regulations.</p> <ol style="list-style-type: none">1. Member and employees shall promptly pay all just debts and legal liabilities incurred by them. Failure to recognize and satisfy any just debts which negatively affect the Department. Specifically, between February 1, 2012 and June 1, 2012 Mr. Kavanaugh failed to pay rent for an apartment in his name.2. On July 2006 while assigned to the Patrol Desk, he permitted 3 civilians to enter the dispatch area. During this time he left the dispatch area with a female for several minutes where he engaged in intimate contact with her. During this time the other 2 civilians were left alone at the dispatch area.3. On or about January 2006 through June 2006 he used his official position to influence the action of another person; specifically by cultivating an intimate relationship with a 17 year old female student at Pascack High School while working in the role of School Resource Officer. In June 2006, while said female was 18 years of age and intoxicated, Mr. Kavanaugh had sexual intercourse with her, until she became scared and told him to stop. On November 29, 2012 while being interviewed regarding the relationship, Mr. Kavanaugh lied by stating that he had never had an intimate/sexual relationship with her.4. On or about April 26, 2013 during a Fitness for Duty re-exam. He lied to the doctor stating he did not have a Match.com account.5. On October 15, 2012 Mr. Kavanaugh lied to a Detective and the Chief by advising them that he had CML Leukemia when he did not.6. On or about December 7 thru December 9, 2012 he was charged with Harassment through numerous emails and texts to Susan Pausz, which resulted in a Temporary Restraining Order being issued against him.7. Neglect of Duty – Specifically, during the summer of 2006, Mr. Kavanaugh had knowledge of persons under the legal age to drink alcohol and then calling him for rides while they were intoxicated. Also, he permitted under age person(s) to consume alcohol while in Police Headquarters.
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Kavanaugh, Sean – (continued)

8. The relationship between the misconduct and the member's public duties;	Direct
9. The quality of moral turpitude or the degree of guilt or culpability, including the member's motives and reasons, personal gain and similar considerations;	His misconduct shows a high degree of moral turpitude.
10. The availability and adequacy of other penal sanctions; and	Prior to the completion of the investigation of all facts underlying the Borough's charges, Mr. Kavanaugh filed for Ordinary Disability Retirement. Due to a settlement agreement, Mr. Kavanaugh was permitted to irrevocably resign his position as a Police Officer for the Borough effective October 1, 2013.
11. Other personal circumstances relating to the member which bear upon the justness of forfeiture.	The member filed for Ordinary Disability retirement benefits; By agreement, he has remained on unpaid leave of absence pending disposition of his OD retirement application.

A review of the relevant documents indicates that although this was an administrative matter, the Board noted the seven Internal Affairs complaints that were pending at the time of his resignation. The Board also noted the Settlement Agreement, ratified December 13, 2013. The Board determined that Mr. Kavanaugh's misconduct demonstrated a high degree of moral turpitude and there was a direct relationship between his duties as a Police Officer with the Borough of Hillsdale. The record indicates that Mr. Kavanaugh was under investigation for violations on seven occasions of alleged misconduct, including violations of Hillsdale Police Department Rules and Regulations, Article XII A. 7-10 for using or attempting to use his authority or official influence to control or modify the actions of any person (IA Complaint #12-10); Article XII A. 6-g, Disorderly or Immoral Conduct (3 counts) IA Complaint #13-02); Article XII A. 6-a – Neglect of Duty; Article VI, D 25-d, requiring members and employees to promptly pay all just debts and legal liabilities incurred by them (IA Complaint dated 4/5/13); Article XII, B (rule 39) – Failure to recognize and satisfy any just debts with negatively affect the Department (IA Complaint dated 4/5/13), and others; Mr. Manetta contends that Mr. Kavanaugh served the public honorably and well in his capacity as Police Officer, but the present matter concerns his personal life and should be kept apart from the his professional life and issues of honorable service. However, the Board noted that Mr. Kavanaugh cultivated an inappropriate relationship with a student, "LF" while she was underage and while serving as a School Resource Officer. He later engaged in sexual activity with LF in a police cruiser assigned to him, and in the police station itself on at least one occasion. This shows clearly the overlap between Mr. Kavanaugh's personal and professional behavior. Mr. Manetta also offered that Mr. Kavanaugh's only formal charge was related to the non-payment of debts he owed; the other complaints were undocumented and not formal charges. He also offered that Mr. Kavanaugh was not charged with a crime, and therefore his service should not be considered dishonorable. The Board noted that charges and complaints were put in abeyance under the terms of the Settlement Agreement between the member and Hillsdale. However, should Mr. Kavanaugh abrogate the agreement, the complaints and charges could and would be reinstated by the Borough. The fact that he was not charged criminally is not dispositive because the pattern of his actions over numerous years shows a high degree of moral turpitude that bears directly on his employment as a police officer. The receipt of a public pension is expressly conditioned upon the rendering of

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Kavanaugh, Sean – (continued)

honorable service by a public officer. Based on the above, the Board voted for total forfeiture of Mr. Kavanaugh's PFRS service due to the pattern of his egregious misconduct over numerous years. (Motion by Trustee Middlesworth seconded by Trustee Culliton; Trustee Loccke recused)

In a separate action, the Board determined that Mr. Kavanaugh is ineligible to file an Application for Ordinary Disability benefits because he left due to termination and did not leave his job due to a disability. The Board noted that the Settlement stipulates that he may never return to employment with Hillsdale under any circumstance. Therefore, his separation from employment was the result of a disciplinary termination and not the result of an alleged disability. Further, the forfeiture of all salary and service credit due to dishonorable service leaves him with insufficient service credit to qualify for Ordinary Disability retirement benefits. On both counts, the Board determined that Mr. Kavanaugh is ineligible to file for Ordinary Disability retirement benefits. (Motion by Trustee Middlesworth seconded by Trustee Culliton; Trustee Loccke recused)