

IN THE MATTER OF THE :
 REVOCATION OF THE CERTIFICATES : COMMISSIONER OF EDUCATION
 OF JOSHUA ROSENBAUM BY THE : DECISION
 STATE BOARD OF EXAMINERS. :

Order of Revocation by the State Board of Examiners, July 30, 2020

For the Respondent-Appellant, William P. Hannan, Esq.

For the Petitioner-Respondent State Board of Examiners, Sadia Ahsanuddin,
Deputy Attorney General (Andrew J. Bruck, Acting Attorney General of New
Jersey)

The Commissioner has reviewed the record and the papers filed in connection with appellant Joshua Rosenbaum’s appeal of the State Board of Examiners’ Order of July 30, 2020, revoking his Teacher of Elementary School in Grades K-8 Certificate of Eligibility and his Teacher of Elementary School in Grades K-8 certificate. The Board found that the appellant engaged in unbecoming conduct warranting the revocation of his certificates based on tenure charges filed against him in which it was alleged that the appellant: physically assaulted students in his class on more than one occasion; failed to properly manage classroom behavior; was chronically absent; and had poor performance ratings.

On appeal, the appellant maintains that the Order of Revocation entered by the Board violates his dues process rights because it was made without him receiving adequate notice of the proposed action against his certificates. Specifically, the appellant argues that the facts demonstrate that the Board mailed the Order to Show Cause (OTSC) and subsequent correspondence to an address that he has not resided at nor been associated with in any way for

ten years. The OTSC and all other correspondence from the Board were sent to 82 Richelieu Place, Newark, New Jersey 07106; the appellant contends that he has not lived at that address since 2009, and that his current address is 87 Elm Street, Montclair, New Jersey 07042. Therefore, the appellant did not receive the OTSC that was mailed to the Newark address on November 7, 2019, nor did he receive the subsequent mailings from the Board that were likewise sent to the Newark address.

The appellant maintains that once he discovered that the Order of Revocation was entered against him, he immediately contacted the Board to inform that he had never received notice of the OTSC and as such never had an opportunity to respond before his certificates were revoked.¹ Therefore, the appellant maintains that the Board's decision to revoke his certifications should be reversed and the Commissioner should remand this matter to the Board to afford him the opportunity to respond to the Order to Show Cause.

In reply, the Board argues that it followed the appropriate procedure for service of process in administrative actions. The OTSC and all communications were sent to the appellant's Newark address via certified mail and regular mail. The regular mail copies were not returned as undeliverable and the certified mail copies were all "unclaimed." The Board gave the appellant an opportunity to contest the allegations in the OTSC, which he failed to do. Thus, the allegations were appropriately deemed admitted and summary decision was appropriate. Moreover, the appellant's claim that he had no notice of the proceedings is unavailing because he has not provided proof that he actually moved from Newark to Montclair or that he had no connection to the Newark address. The Board also argues that the appeal is untimely because *N.J.A.C. 6A:4-2.2* requires an appeal to be filed within 30 days of the Board's decision. Here,

¹ On May 13, 2021, the Board voted to deny the appellant's request to vacate the Order of Revocation and the Motion to Stay the Order.


the Order of Revocation was mailed to the appellant on August 12, 2020 and his appeal was not filed until March 5, 2021, well beyond the 30-day limitation period. Therefore, the Commissioner should affirm the Order of Revocation and dismiss the appeal.

In reviewing appeals from decisions of the State Board of Examiners, the Commissioner may not substitute her judgment for that of the Board so long as the appellant received due process and the Board's decision is supported by sufficient credible evidence in the record. Further, the Board's decision should not be disturbed unless the appellant demonstrates that it is arbitrary, capricious, or unreasonable. *N.J.A.C. 6A:4-4.1(a)*. After a comprehensive review of the record and all submissions, the Commissioner finds that the appellant was not afforded the requisite due process before his certificates were revoked.

There is no dispute that all of the correspondence sent from the Board to the appellant in this matter, including the OTSC and the Order of Revocation, were mailed to the Newark address. In reaching the determination that the appellant did not have an adequate notice of the OTSC, the Commissioner emphasizes that the sworn statement of evidence in support of the tenure charges filed against the appellant by the East Orange Board of Education in 2018, upon which the OTSC was based, included exhibits that indicated appellant resided at the Montclair address. More specifically, the East Orange School District, in both 2013 and 2014, mailed correspondence regarding his performance and attendance to the appellant at the Montclair address. In the absence of any indication from the Board as to why the OTSC and other correspondence were mailed to the Newark address instead of the Montclair address, the Commissioner is compelled to find that the appellant did not receive adequate due process prior to having his certificate revoked. The Commissioner is also not persuaded by the Board's assertion that the appeal was untimely filed. If the appellant did not receive notice of the OTSC

nor the Order of revocation that was mailed to the Newark address, it would follow that he was not aware of any action against his certificates that would mandate an appeal within 30 days of the mailing of the Order of Revocation under *N.J.A.C. 6A:4-2.2*.

Accordingly, this matter is remanded to the State Board of Examiners to give the appellant an opportunity to respond to the Order to Show Cause.²


ANGELINA ALLEN McMILLAN, J.D.S.
ACTING COMMISSIONER OF EDUCATION

Date of Decision: September 30, 2021
Date of Mailing: September 30, 2021

² In light of the fact that this matter is being remanded to the Board, it is not necessary to decide the Motion to Supplement the Record that was filed by the appellant.