

339-19A

Agency Dkt. No. 5-6/19A
State Board of Examiners Dkt. No. 1718-188

New Jersey Commissioner of Education
Final Decision

In the Matter of the Revocation of the
Certificates of Michael Ettz, State Board of
Examiners, New Jersey Department of
Education.

Order of Revocation by the State Board of Examiners, May 17, 2019

For the Respondent-Appellant, Edward W. Cillick, Esq.

For the Petitioner-Respondent State Board of Examiners, Jaclyn M. Frey, Deputy
Attorney General (Gurbir S. Grewal, Attorney General of New Jersey)

The Commissioner has reviewed the record and the papers filed in connection with the appellant Michael Ettz's appeal of the Order of the State Board of Examiners, dated May 17, 2019, revoking his Teacher of Mathematics Certificate of Eligibility with Advanced Standing and Teacher of Mathematics and Supervisor Certificates. On appeal, the appellant maintains that the Board's decision to revoke his certificates was based solely on the fact that the Board believed his conviction to be a disqualifying offense. Specifically, the appellant argues that the record contains no evidence that the Board conducted any analysis or considered the underlying circumstances concerning the nature of the conduct at issue here. Rather, the Board based its determination solely on what appellant describes as the "wrongful ruling" that his conviction was a disqualifying offense pursuant to *N.J.S.A.* 18A:6-7.1. The appellant contends that his offense was not a crime of the first or second degree, and therefore his conviction was not of the nature

that mandated permanent disqualification. Accordingly, appellant argues that his conviction was not a disqualifying offense, and therefore the decision to revoke his certificates must be overturned.

In reviewing appeals from decisions of the State Board of Examiners, the Commissioner may not substitute his 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, the Commissioner finds that the record adequately supports the Board's determination that the appellant engaged in unbecoming conduct and that the revocation of the appellant's certificates was the appropriate penalty. It is undisputed that on January 5, 2018, the appellant was driving while intoxicated when he struck a police officer's car, injuring the police officer. As a result of the incident, on September 22, 2017, the appellant pled guilty to Assault by Auto and was sentenced to a four-year prison term. Despite the appellant's assertions on appeal, he was in fact permanently disqualified from public school employment, pursuant to *N.J.S.A.* 18A:6-7.1 *et seq.*, because of his criminal conviction.¹ Moreover, it was not unreasonable for the Board to consider the appellant's disqualification in reaching the appropriate penalty for his unbecoming conduct. There is nothing in the record to suggest that the Board's decision was arbitrary, capricious or unreasonable and, as a result, the Commissioner finds no basis upon which to disturb the decision of the State Board of Examiners.

¹ The appellant maintains that his conviction for 3rd Degree Assault by Auto did not constitute a disqualifying crime under *N.J.S.A.* 18A:6-7.1 *et seq.* However, as of the date of this decision, the March 2, 2018 decision of the Criminal History Review Unit has not been overturned.

Accordingly, the decision of the State Board of Examiners is affirmed for the reasons expressed therein.²

COMMISSIONER OF EDUCATION

Date of Decision: December 17, 2019

Date of Mailing: December 19, 2019

² This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36*.