

IN THE MATTER OF : NEW JERSEY DEPARTMENT OF EDUCATION
THE CERTIFICATES OF : STATE BOARD OF EXAMINERS
ANDREW J. LOTA : ORDER OF REVOCATION
_____ : DOCKET NO: 2021-185

At its meeting of July 30, 2021, the State Board of Examiners (Board) reviewed a tenure decision regarding Andrew J. Lota, a tenured teacher in the Dover School District. The Dover Board of Education (Dover) certified tenure charges of unbecoming conduct and other just cause against Lota, alleging that he engaged in a pattern of inappropriate electronic communications with a student which included hundreds of emails after the conclusion of the school day and/or on weekends.

Pursuant to *N.J.S.A.* 18A:6-16, the Arbitrator assigned by the Department of Education to hear the case, referred to the State Board of Examiners (Board) the tenure matter captioned *In the Matter of the Tenure Hearing between School District of Dover and Andrew J. Lota*, Dkt. No. 216-10/20 (Arbitrator's Decision, May 28, 2021).

In the tenure charges, which are incorporated herein by reference, Dover alleged that during virtual learning and in violation of District policy, procedure and law, Lota engaged in a pattern of inappropriate electronic communications with a female 8th grade math student, A.N. *See* Tenure Charge 1. Lota exchanged hundreds of emails with A.N., significantly more than with any other student by comparison. *Id.* at ¶¶ and i. The communications frequently occurred after the conclusion of the school day or on weekends. *Id.* at ¶j. Several of the emails invited A.N. to individual Google electronic classrooms and/or invited A.N. to FaceTime. *Id.* at ¶ k and l.

The tenure charges further alleged that Lota's communications included emails wherein he told the student she was sweet, called her "love", said that he missed her, called her beautiful, etc. *Id.* at ¶ m. Dover also alleged that Lota attempted to build trust with A.N. to gain access to and time alone with her; he showed favoritism towards her, granted her special privileges, and catered to her interests. *Id.* at Charge 2. Essentially, Lota "groomed" A.N.

In her Decision (which is incorporated herein by reference), the Arbitrator found that it was clear that Lota's conduct was an egregious violation of District Policy on electronic communication with staff and students. *See* Arbitrator Decision at p. 28-29. She found that Lota's conduct has broken the trust the District must have to rely upon a teacher to perform his duties. The Arbitrator found that Dover established the truth of Charges 1, 2, and 4. She further found that there is insufficient evidence to support discipline less than dismissal. *Id.* Specifically, the Arbitrator found that Dover established by a preponderance of the credible evidence that Lota engaged in the conduct outlined in Charge 1. Lota established a personal relationship with A.N. beyond his professional responsibilities and made inappropriate comments. *See* Decision at p. 24. Lota expanded his discussion with A.N. from schoolwork to fantasy books, his opinion of her maturity, expressed endearment and engaged in extensive Google Meet sessions with her. The Arbitrator found that Lota initiated many emails with A.N. and initiated every single Google Meet invite. Further, the Arbitrator found that although Charge 2 relating to the allegations of grooming behavior was unsupported, the "record unquestionably supports finding Lota established a special personal relationship with A.N. far beyond a teaching staff member's professional responsibility in violation of District Policies." *Id.* at p. 25-26. Lota was dismissed from his tenured employment with Dover because of the charges proven in the tenure proceeding.

Lota currently holds a Teacher of Elementary Grades K-8 Certificate of Eligibility, Teacher of Elementary Grades K-8 standard certificate, and Teacher of Elementary School with Subject Matter Specialization: Mathematics Grades 5-8 standard certificate. After reviewing the above information, at its September 17, 2021 meeting, the Board voted to issue an Order to Show Cause to Lota as to why his certificates should not be revoked.

The Board sent Lota the Order to Show Cause by regular and certified mail on September 22, 2021. The Order provided that Lota had 30 days to respond. The certified mail receipt indicates delivery/receipt, and the regular mail copy was not returned. Lota did not respond. On November 10, 2021, the Board sent Lota another notice by certified and regular mail providing him an additional 15 days to respond to the

Order to Show Cause. The certified mail copy was returned as “Unclaimed”, and the regular mail copy was not returned. Lota did not file a response.

Thereafter, pursuant to *N.J.A.C. 6A:9B-4.6(e)*, on December 2, 2021, the Board sent Lota a hearing notice by regular and certified mail. The notice explained that the allegations in the Order to Show Cause were deemed to be admitted because of his failure to file an Answer. Thus, Lota was offered an opportunity to submit written arguments on the issue of whether the conduct addressed in the Order to Show Cause constituted conduct unbecoming a certificate holder, as well as arguments with regard to the appropriate sanction in the event that the Board found just cause to take action against his certificates. It also explained that, upon review of the charges against him and the legal arguments tendered in his defense, the Board would determine if Lota’s offense warranted action against his certificates. Thereupon, the Board would also determine the appropriate sanction, if any. Lota was also offered the opportunity to appear before the Board to provide testimony on the sanction issue. The certified mail receipt was “unclaimed”, and the regular mail copy was not returned. Once again, Lota did not file a response.

The threshold issue before the Board in this matter is whether Lota’s conduct constitutes conduct unbecoming a certificate holder or other just cause. Since Lota failed to respond to the Order to Show Cause, the allegations therein are deemed admitted. *N.J.A.C. 6A:9B-4.6(c)*. Consequently, at its meeting of January 21, 2022, the Board considered only the allegations in the Order to Show Cause. The Board concluded that no material facts related to Lota’s offense were in dispute since he never denied that he had engaged in the conduct alleged. Thus, the Board determined that summary decision was appropriate in this matter. *N.J.A.C. 6A:9B-4.6(h)*. After reviewing the allegations, the Board found that Lota had engaged in unbecoming conduct.

The Board must now determine whether Lota’s conduct, as set forth in the Order to Show Cause, provides just cause to act against his certificates pursuant to *N.J.A.C. 6A:9B-4.4*. The Board finds that it does.

The Board may revoke or suspend the certification of any certificate holder on the basis of demonstrated inefficiency, incapacity, conduct unbecoming a teacher or other just cause. *N.J.A.C. 6A:9B-*

4.4. “Teachers... are professional employees to whom the people have entrusted the care and custody of ... school children. This heavy duty requires a degree of self-restraint and controlled behavior rarely requisite to other types of employment.” *Tenure of Sammons*, 1972 *S.L.D.* 302, 321. Moreover, unfitness to hold a position in a school system may be shown by one incident, if sufficiently flagrant. *Redcay v. State Bd. of Educ.*, 130 *N.J.L.* 369, 371 (1943), *aff’d*, 131 *N.J.L.* 326 (E & A 1944). Lota’s actions, which led to the loss of his tenure in Dover, clearly demonstrate conduct that is unacceptable for any adult, especially one who is ostensibly a role model. The Board therefore concludes that the only appropriate response to his breach is a revocation of his certificates.

Accordingly, on January 21, 2022, the Board voted to revoke Andrew J. Lota’s Teacher of Elementary Grades K-8 Certificate of Eligibility, Teacher of Elementary Grades K-8 standard certificate, and Teacher of Elementary School with Subject Matter Specialization: Mathematics Grades 5-8 standard certificate. On this 4th day of March 2022, the Board voted to adopt its formal written decision and it is therefore ORDERED that Lota’s certificates are hereby revoked, effective immediately. It is further ORDERED that Lota return his certificates to the Secretary of the State Board of Examiners, Office of Certification and Induction, P.O. Box 500, Trenton, NJ 08625-0500 within 30 days of the mailing date of this decision.

Rani Singh, Secretary
State Board of Examiners

**Date of Mailing:
via certified and regular mail**

Appeals may be made to the Commissioner of Education pursuant to *N.J.S.A.* 18A:6-38.4.