

New Jersey Commissioner of Education

Decision

In the Matter of the Revocation of
the Certificates of John P. McCabe
by the State Board of Examiners.

Order of Revocation by the State Board of Examiners, December 21, 2018

For the Respondent-Appellant, Kevin Sisco, Esq.

For the Petitioner-Respondent, State Board of Examiners, Jennifer Hoff,
Deputy Attorney General (Gubrir S Grewal, Attorney General of New Jersey)

Appellant filed an appeal with the Commissioner of Education on January 24, 2019, challenging the determination of the New Jersey State Board of Examiners (Board) that his actions warranted the revocation of his Teacher of Health and Physical Education Certificate of Eligibility with Advanced Standing and his Teacher of Health and Physical Education and Teacher of Driver Education certificates.

On February 13, 2019, the Office of Controversies and Disputes (Office) directed the appellant to file a brief in support of his appeal by March 5, 2019. The Office also set forth a briefing schedule for the Board's answer brief and appellant's reply brief, and instructed the Board to certify the record and submit it to the Commissioner, along with the statement of items comprising the record on appeal (SICRA).

Thereafter, by letter dated February 28, 2019, the Board requested a 10-day extension of time by which to certify the record and to file the SICRA, and also requested that the deadline for both parties' briefs be extended by ten days. The Office granted the extension,

thereby extending the deadline for appellant's brief to March 15, 2019. The Board subsequently filed the certification of the record and SICRA, but no brief in support of the appeal was filed by, or on behalf of, the appellant.

On April 11, 2019, the Office directed appellant – via certified mail, regular mail, and facsimile – to file a brief in support of the Notice of Appeal by April 22, 2019. The letter advised appellant that if his brief was not received by that date, the appeal would be dismissed for failure to perfect the appeal, pursuant to *N.J.A.C. 6A:4-2.7(c)*. On April 22, 2019, counsel for appellant requested a 30-day extension of time to file his brief because he needed appellant to confirm whether he desired to proceed with the appeal. The Office granted the extension of time to May 22, 2019. To date, the appellant has not filed a brief in support of his appeal.

Pursuant to *N.J.A.C. 6A:4-2.7(c)*, “[f]ailure to meet the filing deadline for an appeal brief or brief in support of a cross appeal may be viewed as a failure to perfect the appeal or cross appeal and may result in dismissal of the appeal or cross appeal.” Appellant failed to file his appeal brief, which was originally due on March 5, 2019, despite receiving two extensions. As such, the Commissioner finds that appellant has failed to perfect the appeal.

Accordingly, the appeal is dismissed, and the decision of the State Board of Examiners revoking appellant's certificates is affirmed.

IT IS SO ORDERED.¹

COMMISSIONER OF EDUCATION

Date of Decision: June 18, 2019
Date of Mailing: June 19, 2019

¹ This decision may be appealed to the Appellate Division of the Superior Court pursuant to *P.L. 2008, c. 36 (N.J.S.A 18A:6-9.1)*.