

June 13, 1997

Dear :

Having reviewed the appeal of disqualification from school employment which resulted from a Department of Education criminal history record check conducted pursuant to *N.J.S.A. 18A:39-19.1, In the Matter of the Disqualification from School Employment of J.W.*, DHP-B 46-97, I determine that your client is not qualified for employment as a school bus driver.

The record indicates that your client was charged on February 28, 1992 with Possession of Narcotic Equipment, for which she was found guilty on March 10, 1992 and sentenced to pay a \$375 fine.

The Commissioner of Education, or his designee\* is obligated to review appeals of disqualification from school employment to determine whether an appellant has affirmatively demonstrated rehabilitation by clear and convincing evidence. The burden of proving rehabilitation is, therefore, on your client as the appellant. In this review, the following factors must be considered:

- (1) The nature and responsibility of the position which the convicted individual would hold;
- (2) The nature and seriousness of the offense;
- (3) The circumstances under which the offense occurred;
- (4) The date of the offense;
- (5) The age of the individual when the offense was committed;
- (6) Whether the offense was an isolated or repeated incident;
- (7) Any social conditions which may have contributed to the offense; and
- (8) Any evidence of rehabilitation, including good conduct in prison or in the community, counseling or psychiatric treatment received, acquisition of additional academic or vocational schooling, successful participation in correctional work-release programs, or the recommendation of persons who have had the individual under their supervision. (*N.J.S.A. 18A:6-7.1*)

The evidence submitted on behalf of your client on appeal has been reviewed against the above-named factors. In so reviewing, I find that the nature and responsibility of the position which she seeks to occupy, that of a school bus driver, is particularly sensitive, since it charges the individual with the physical care and well-being of potentially large groups of children. Further, I note that your client's offense, committed when she was almost 42 years of age and, thus, not attributable to immaturity, is very recent and very serious.

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\* It is noted that *N.J.S.A. 18A:4-34c* authorizes each assistant commissioner to hear and determine controversies and disputes which may arise under school laws, or the rules of the state board, or of the commissioner.

I have duly considered your client's affidavit which contends that her conviction was a result of her "associating with the wrong people," explaining that she was the driving a "former friend" who had just purchased drugs when her car was stopped by the police, and further asserting that she, personally, did not buy any drugs. Your client maintains that, subsequent to this time, she has done all she could "to establish a good standing and reputation at work and in the community." Your client also states that since the time of her conviction, she successfully completed a computer training course (a copy of a completion notice from the Hudson County Area Vocational-Technical Schools, included in her appeal submission, confirms such assertion), and has become an active church member. I have also considered the form you have submitted from New Pathway Counseling Services, Inc. confirming that your client completed 28 substance abuse outpatient sessions between February 27, 1993 and June 29, 1993, and that "[h]er prognosis for recovery appears to be good." Finally, I have considered the letters provided with J.W.'s appeal, one from W.C.B., Freeholder, District 3, Jersey City, one from L.H.S., Councilman at large, City of Jersey City, one from Deacon M.M., Chairman, Board of Trustees, Monumental Baptist Church and one from M.J.P., Esq., Director of Support Services, HCST, all attesting to your client's current good standing in the community.

In balancing all of the above factors, although it appears that your client is progressing toward rehabilitation, I find that too little time has passed for me to be persuaded, as I must be by law, that she has demonstrated rehabilitation by clear and convincing evidence at this time. This determination does not preclude her from applying for reconsideration upon the passage of additional time without further incident.

Accordingly, pursuant to applicable law, the disqualification of J.W. from school employment is affirmed. An appeal of this decision may be made to the State Board of Education pursuant to *N.J.A.C. 6:2-1.1*.

Sincerely,

David C. Hespe, Assistant Commissioner  
Executive Services

c: Carl Carabelli