

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 R.J.B.*, DHP-B 52-97, I determine that you are not qualified for employment as a school bus driver.

The record indicates that you were charged on May 31, 1996, with Possession of CDS, which was amended on February 4, 1997 to possession of narcotic paraphernalia, for which you were sentenced to one year probation, 50 hours community service, \$50 VCCB, \$500 DEDR, \$50 lab, and 6 months suspension of your driver's license.

The Commissioner of Education, or his designee<sup>\*</sup> 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 you 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*)

I have reviewed the evidence of rehabilitation which you have presented against the above-named factors. In so reviewing, I find that the nature and responsibility of the position for which you are applying, school bus driver, is particularly sensitive, since it charges the individual with the

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<sup>\*</sup> 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.

physical care and well-being of potentially large groups of children. Further, I note that your offense, committed when you were almost 36 years of age and, thus, not attributable to immaturity, is very recent and very serious.

I have duly considered your personal statement which asserts that subsequent to your arrest you completed a 3-month drug therapy program and attended weekly meetings. It is noted that this is confirmed in a form which you enclosed from Psychotherapy Associates, Inc. reporting that you attended substance abuse therapy at that institution from June 5, 1996 until March 10, 1997. I have further considered the letter from your probation officer stating that you are currently in compliance with all conditions of your probation, along with letters from prior employers, friends, your father and your wife attesting to your strong work habits and your current good standing in the community.

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

Accordingly, pursuant to applicable law, your disqualification 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. Hesse, Assistant Commissioner  
Executive Services

c: Carl Carabelli