

August 8, 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 C.M.P.*, Agency Docket Number DHP-B 68-97, I determine that you are not qualified for employment as a school bus driver.

Your criminal record indicates the following:

- On September 2, 1987, you were charged with Cocaine with Intent to Distribute, for which you were found guilty on November 18, 1988 and sentenced to serve four years probation, with conditions. Due to a violation of probation, your sentence was modified on April 12, 1991 to four years within the custody of the Department of Corrections, to run concurrently with any sentence imposed in Monmouth County;
- On March 14, 1988, you were charged with Possession of Controlled Dangerous Substances with Intent to Distribute, for which you were found guilty on December 16, 1988 and sentenced to four years probation, with special conditions¹ and six months suspension of your driver's license, and were also ordered to pay a \$1,000 fine;
- On November 4, 1989 you were charged with Possession of Cocaine, for which you were found guilty on April 5, 1991 and sentenced to four years probation²; and
- On November 19, 1993, you were charged with possession of Controlled Dangerous Substances on School Property, for which you were found guilty on July 8, 1994, and sentenced to serve three years in jail, with six months suspension of your driver's license, and ordered to pay a \$1,100 fine.

The Commissioner of Education, or his designee³, 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;

¹ Special conditions included (1) remaining in a drug program and seeking aftercare; and (2) submitting to urine testing as directed. (Judgment of Conviction, New Jersey Superior Court, Monmouth County, December 23, 1988)

² It is also noted that, at this time, you were charged and convicted for Escape, a nondisqualifying offense.

³ 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.

- (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 you have submitted on appeal has been reviewed 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 physical care and well-being of potentially large groups of children. I further note that you were 24 years old at the time of your last disqualifying conviction, and I have considered your attestation that your offenses took place during “a dark period” of your life when you were living in the “drug-infested neighborhood” where you grew up. (C.M.P. Statement of Appeal, July 21, 1997) Essentially, you do not dispute that you committed these crimes; you do, however, assert that you were not on school property when you committed the offense in 1993.⁴ You further attest that you have changed you life, you do not associate with the wrong group of “friends,” and you enjoy your job as a school bus driver. (*Id.*)

Please know that I have duly considered the letters of support which have been submitted on your behalf. It is clear from these documents that you are making significant progress toward rehabilitation. However, the length and severity of your criminal record prevent me from finding that you have demonstrated rehabilitation clearly and convincingly, particularly in view of the sensitive position which you seek to hold. In rendering this determination, I am especially mindful of the Commissioner’s duty to ensure that schools are free of the influence of drugs.

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. Hespe, Assistant Commissioner
Executive Services

c: Carl Carabelli

⁴ In this regard, the appellant is reminded that the role of the Commissioner is to determine rehabilitation, not to re-adjudicate criminal charges.