

October 3, 1997

Dear :

Having reviewed the appeal of disqualification from school employment filed on behalf of your client, E.E.T., which resulted from a Department of Education criminal history record check conducted pursuant to *N.J.S.A. 18A:6-7.1 et seq.*, *In the Matter of the Disqualification from School Employment of E.E.T.*, Agency Docket Number DHP 85-97, I determine that Mr. T. is not qualified for employment as a substitute teacher (coach).

The record reveals that Mr. T. was charged on July 2, 1995 with Possession of Marijuana in New York, for which he was found guilty on July 20, 1995 and sentenced to pay a \$100 fine, plus costs.

The Commissioner of Education, or his designee,<sup>1</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 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*)

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<sup>1</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.

The evidence 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 Mr. T. is applying demands great trust in the honesty and integrity of the individual filling such a position. The sole conviction on his criminal record is the above-identified offense, for which he provides the following explanation of the surrounding circumstances:

On July 2, 1995, two friends and I were stopped in traffic in the town of East Hampton, New York. I was driving to a movie and we were smoking a marijuana cigarette. A policeman pulled us over and explained to us that he smelled marijuana and asked us to step out of the car. After searching my car, he arrested us. We were originally charged with a misdemeanor and were released on \$100 bail. A court appearance was set for July 20, 1995. (Personal Statement of E.E.T., September 18, 1997 at p. 1)

Mr. T. further explains that he pled guilty to Unlawful Possession of Marijuana, was fined \$100 and released. He was 21 years old at the time of the offense.

I have duly considered the letters sent on Mr. T.'s behalf from his current employer, as well as the Head Lacrosse Coach at Ridgewood High School and the Public Information Coordinator for the Ridgewood Public Schools attesting to Mr. T.'s current good standing in the community. However, mindful of the Commissioner's duty to ensure that students are provided with environments which are free of the influence of drugs and taking into account the recency of the disqualifying offense, I cannot be persuaded, as I must by law, that Mr. T. has demonstrated rehabilitation by clear and convincing evidence.

Accordingly, pursuant to applicable law, Mr. T.'s disqualification from school employment is affirmed. This determination does not preclude Mr. T. from requesting a rehabilitation determination when sufficient time has transpired to meet the standards set forth in *N.J.S.A. 18A:6-7.1*. 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