

March 23, 1998

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:6-7.1 et seq.*, *In the Matter of the Disqualification from School Employment of D.B.*, DHP 16-98, I determine that you are not qualified for employment as a substitute teacher.

The record indicates that you were charged on December 30, 1993, with Felony Aggravated Assault w/Weapon, for which you were found guilty and sentenced on March 10, 1995 to three years probation, 200 hours of community service and a \$1,165 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 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

* *N.J.S.A. 18A:4-34(c)* 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 of Education.

** It is noted that the record includes a copy of a letter from Ida B. Graham, Secretary, State Board of Examiners, which states that, upon knowledge of the within crime, that body had determined not to block issuance of R.J.W.'s county substitute license. However, the within matter is a separate proceeding wherein the appellant is required to satisfy the applicable statutory standards.

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)

In reviewing the evidence of rehabilitation which you have presented against the above-named factors, I initially find that the nature and responsibility of the position for which you are applying demands great trust in the honesty and integrity of the individual filling such a position, in that a substitute teacher has direct, ongoing contact with children. Further, I note that your disqualifying offense, albeit a single incident, was committed when you were 23 years old, and is very serious in light of the Commissioner's obligation to ensure that students are provided with a safe educational environment.

I have duly considered your personal statement which addresses the circumstances surrounding your conviction, the 10 letters you submitted in support of your appeal, all attesting to your current good standing in the community, and the Certificate from Essex County Probation Office reporting that you completed your probation on March 13, 1998.

In balancing the above-cited 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. Hesper
Assistant Commissioner

DCH/DNA/MH/DB
c: Carl Carabelli