October 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:39-19.1, ¹ *In the Matter of the Disqualification from School Employment of J.A.L.*, Agency Docket Number DHP-B 92-98, I determine that you are not qualified for employment as a school bus driver.

The record indicates that you were charged on March 19, 1993 with Possession of Marijuana/Distribution of Controlled Dangerous Substances, for which you were found guilty on May 12, 1993, sentenced to two years probation, and ordered to pay a \$1,170 fine.² Additionally, the record shows that you were convicted on the same date for Possession of Drug Paraphernalia and, later, in 1994 for Liability for Another Burglary, both nondisqualifying crimes.

The Commissioner of Education, or his designee,³ 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

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 physical care and well-being of potentially large groups of children. In your personal statement, you admit to both using and selling marijuana, but affirm that you have undergone counseling and have even assisted the police department in "bring[ing] down a local dealer." (Personal Statement of J.A.L., not dated, at pp. 1, 2) The record indicates that you were 19 years old at the time of your disqualifying offense. A statement from the Probation Department of Gloucester County verifies that you were sentenced to probation from April 19, 1994 until April 19, 1996, that you successfully completed a drug evaluation and treatment, and satisfactorily completed your probation. (Letter of L.L.S., September 23, 1998)

While I have duly considered your personal statement, as well as the letters submitted on your behalf from your mother, fiancée, fiancée's mother and a friend, I cannot be persuaded on the basis of the record before me that you are clearly and convincingly rehabilitated, particularly where the position you seek to hold is such a sensitive one.

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,

Douglas Groff, Assistant Commissioner Executive Services

c: Carl Carabelli