

February 20, 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 T.J.H.*, Agency Docket Number DHP 20-98, I determine that you are qualified for employment as a coach.

The record indicates that you were charged on February 24, 1970 with Lewdness/Indecency, in violation of *N.J.S.A. 2A:115-1*, for which you were found guilty on December 4, 1970 and sentenced to 364 days suspended confinement, two years probation and ordered to pay a \$200 fine.

The Commissioner of Education, or his designee,¹ 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*)

¹ 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.

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 demands great trust in the honesty and integrity of the individual filling such a position.

Although, despite two directives, you have failed to provide a *detailed* account of the circumstances surrounding the offense, I acknowledge that you were 18 years old at the time of the offense, and this was, apparently, an isolated event. You attest that neighbors living across the street from you complained about what their daughter saw through the bedroom window. You contended that you were lifting weights and working out, but add that the police were “pressing” you for your cooperation. (Letter of T.J.H., not dated) You further indicate that the public defender recommended that you see a counselor, who, apparently, told you that you were fine. (*Id.*) I note that the Superior Court of Bergen County, in its indictment, offered that

[T.H.] on the 24th day of February, 1970 *** unlawfully did commit an act of open lewdness, openly, publicly and notoriously indecent, grossly scandalous and tending to debauch the morals and manner of the people, *** in a public place by exposing his penis and masturbating in the presence of [C.B.] contrary to the provisions of N.J.S. 2A:115-1 ***. (Superior Court of New Jersey, Bergen County, Law Division, Indictment No. S-758-70)

You aver that you saw a probation officer every two or three months for two years, and that said probation officer is now deceased. Since that time, you indicate that you received your B.A.,² you have been employed with General Motors Acceptance Corporation (GMAC) since 1974, and are now, after a number of promotions, the Operations Manager for the East Hanover field support office³, you have been married for 25 years, have two children, and you have been coaching for various organizations since 1973. (Letter of T.J.H., February 10, 1998 at pp. 1, 2)

You have submitted the following evidence of rehabilitation⁴:

A.P.S., Esq., a friend, school law attorney and former teacher and guidance counselor, affirms that he has known you since September 1970. Since that time, Mr. S. attests that you have maintained a friendship, which includes your families and children socializing and participating in each other’s life events. Mr. S. observes that you are married and the father of two children. He affirms:

***I am convinced beyond any doubt that the event which resulted in [T.’s] arrest in 1969, for what appears to be a charge of indecent exposure, while [T.] was in his own home dressed in gym shorts and lifting weights was not only an aberration, but may have been the result of zealous prosecution of an unknowing and unsophisticated, young adult.

² A copy of your transcript from Rutgers University is provided.

³ It is noted that you have provided various certificates of achievement as awarded by GMAC, as well as evidence of participation in professional development activities.

⁴ I note that most letters of reference specifically offer recommendations toward your certification as a coach, a process which is unrelated to the review conducted herein. I further note that it appears that only one individual was made aware of the disqualifying offense which gave rise to the need for character references to demonstrate rehabilitation.

While I am not able to render a judgment as to the actions of the complaining witness or the police officers involved at the time, it is important to understand that [T.] was approximately 18 years of age, [and] recently relocated from New York with his mother. *** Whatever occurred was an aberration and could be described as nothing more than unfortunate. This is further evidenced by his entering a plea at the time, and the court's sentencing of probation and a minimal \$200 fine. (Letter of A.P.S., Esq., January 28, 1998, at p. 2)

Mr. S. continues, adding that over the past 28 years, he has shared your company, and has watched you interact with your children and his own children. He further notes that you became certified as a swim official to share in your children's activities and help participate in their development. Similarly, you became certified as an ice hockey coach and have coached "midget youth," and now, high school ice hockey teams. (*Id.*) He adds:

As a former teacher and a representative of boards of education in educational matters, I am aware that teachers are held to a higher standard than other members of society. I firmly believe that [T.] not only meets, but exceeds that standard. I believe this disqualification for an incident which took place over 28 years ago is not keeping with the spirit or intent of the law. Further, I believe that [T.'s] behavior and conduct over the last 28 years, not only demonstrates his rehabilitation, but the aberration of that one incident. ***

In my frequent and numerous contacts with [T.] over the past 28 years, I have found him to be reasonable and responsible. His decision-making process is logical and he is able to anticipate issues and respond accordingly. His interaction with children and young adults is appropriate, above reproach and designed to assist them in developing to their fullest potential whether academic, athletic or social. [T.'s] contact with parents and other adults is thoughtful and understanding. (*Id.* at p. 3)

The Mayor of the Borough of Ringwood, T.T., affirms that he knows you through his involvement in Township activities. He provides that your

involvement in the Town's Recreation Department is well documented. He has coached in our Baseball Little League Program, Town Basketball Leagues and his involvement in Ringwood Hockey was critical during this sport's explosion in popularity. I have also socialized with [T.], and our families have grown to know each other.

[T.] is a hard working, knowledgeable and enthusiastic coach, who always attempts to maximize the participant's enjoyment of the sport. His communication skills are effective in the young adult's leaning process. *** Our children have benefited by his involvement; and as parents, we appreciate his guidance and direction.

In closing, I can personally recommend [T.H.] as Coach, Educator and Citizen. *** (Letter of T.T., January 31, 1998)

W.J.D., Jr., a Councilman from Ringwood, knows you through your various community activities and participation in recreational programs. He writes that your “character, moral standards and ethical behavior have been demonstrated many times.” (Letter of W.J.D., February 5, 1998) Mr. D. knows you to be respected in the community.

J.S., Athletic Director for the Lakeland Regional High School , attests:

During my brief working relationship with [T.], I have found him to be a responsible coach who has always conducted himself with the highest standards of personal conduct. He has represented the school and hockey program with dignity, respect and professionalism. Our young adults have responded to his guidance and direction and have been properly provided with instruction in a safe environment. (Letter of J.S., January 30, 1998)

J.P.H., Social Studies Instructor and Head Track and Field Coach at Bloomfield High School, attests that he first met you in college 30 years ago. He asserts he can think of no one more qualified for the position of coach than you. He writes,

I would trust my family, my students, my athletes to the care and instruction of [T.H.]. A devoted family man, a business man of the highest standards and a caring, enthusiastic coach, he is a man of the utmost rectitude. (Letter of J.P.H., February 4, 1998)

P.A.G., Area Manager with GMAC, and R.M.C., Operations Manager with GMAC, both affirm that, during their ten-year and 20-year experiences with you, respectively, they have found you to be an

***accountable, reputable and responsible individual who would provide our young adults with excellent direction and guidance. His good character is beyond reproach and he presents himself as a fine role model. (Letters of P.A.G., January 30, 1998 and R.M.C., January 30, 1998)

G.L.P., Esq., affirms that he has had a professional and personal relationship with you since 1977, having been introduced to you in his capacity as an attorney for GMAC, where you are employed. He states,

***Since our introduction I have witnessed his substantial professional advancement which was directly attributable to his work ethic and leadership abilities.

In my long time service as Judge of the Middlesex Borough Municipal Court, I have developed a keen sense of assessing a person’s credibility and qualities. [T.] is a motivator with good family values. More importantly, I perceive him as a good role model for youthful athletes and students who will respect his mannerisms, motivation, morals and objectives. (Letter of G.L.P., Esq., January 29, 1998)

C.A., Administrative Vice-President of the New Jersey Hockey League and President of the Ramapo Saints, affirms that

During the last five years, [T.H.] has coached at various levels in our organization. I have found him, to be a responsible individual who is prepared and knowledgeable in his sport. He has achieved his appropriate certifications for all levels. He enjoys coaching and understands the responsibilities associated with developing our youth. He makes himself available in many areas away from the ice and has actively assisted in school problems, reference letters and college information. His players respond to his enthusiasm and his team is an excellent representative of youth hockey. (Letter of C.A., January 31, 1998)

B.H., member and past president of the Erskine Lake Aquatic Club, attests to your efforts as club president in 1986, and your current involvement as a referee and league delegate. (Letter of B.H., note dated) He indicates that he has known you for 20 years and finds that you handle all situations with proper perspective and maturity. (*Id.*)

H.B., a public school teacher and administrator, asserts that he has known you for 35 years and has the highest respect for your integrity and ability to teach and coach.

***His interpersonal skills and leadership ability make him a positive role model for students and a professional who is a pleasure to work with.

[T.H.] is active in his community through his church, community residence association, swim and hockey teams, and schools. He is a parent who is interested and actively involved in his children's education and participates on school committees. ***

He understands young people, is a mature and positive leader, and exemplifies the professional character and responsibilities of a teacher. (Letter of H.B., January 30, 1998)

C.P.M., Esq., a personal friend, attests that he has known you for 14 years, that you inspire excellence in the people around you, and that you work well with children. (Letter of C.P.M., February 8, 1998)

J.G., a friend of 30 years, affirms

[h]e has always conducted himself with integrity and holds himself to high moral and ethical standards. Our families have socialized on many occasions and I know him to be a caring father, intricately involved with his children's activities. He has been a tireless volunteer, coaching and officiating various athletic programs.*** (Letter of J.G., January 30, 1998)

Accordingly, I find that you have demonstrated rehabilitation within the intentment of the criminal history record check laws.

Sincerely,

David C. Hespe, Assistant Commissioner
Executive Services

c: Carl Carabelli