

March 25, 1998

Mr. Thomas Harvey
8 Alder Street
Jersey City NJ 0730

RE: IN THE MATTER OF THE LICENSURE
OF THOMAS HARVEY
DKT. NO. 275-02/95

Dear Mr. Harvey:

On October 31, 1994 you applied through the Warren County Office of Education for a County Substitute license. On that application you indicated that you had never been convicted of a crime. Your county substitute license was issued through the Warren County Office on November 1, 1994 and was effective for three years thereafter.

At its meeting of February 23, 1995, the State Board of Examiners voted to issue an Order to Show Cause as to why your county substitute license should not be revoked or suspended pursuant to N.J.A.C. 6:11-3.6. The order was based upon information received from the Office of Criminal History Review indicating that you were convicted in 1984 on charges of possession of marijuana and possession of narcotic equipment. You were fined \$100 for that offense. You did not appeal, at that time, your disqualification from public school employment. Further, the Order to Show Cause addressed the issue of your having stated on your county substitute application that you had not been convicted of a crime.

The Order to Show Cause was mailed to you by regular and certified mail on March 9, 1995. On March 31, 1995 and again on April 25, 1995, you submitted responses to the Order.

Thereafter, on June 26, 1997 a hearing notice was mailed to you by regular and certified mail. On July 18, 1997 a response to the hearing notice was received from you indicating, *inter alia*, that you were going to appeal your disqualification pursuant to N.J.S.A. 18A:6-7.1 et seq. By letter dated July 23, 1997 the Secretary of the State Board of Examiners notified you that your revocation/suspension hearing would be held in abeyance pending the appeal of your disqualification.

On January 9, 1998, Assistant Commissioner David C. Hesper affirmed your disqualification from public school employment. On January 14, 1998 the Office of Criminal History Review notified Secretary Ida Graham that you remained disqualified from public school employment by their office.

On January 2, 1998 your county substitute license issued in 1994 by the Warren County Office expired. As a result of its expiration, the State Board of Examiners voted at its meeting of February 26, 1998 to vacate the Order to Show Cause pertaining to your county substitute license.

However, in April 1996, you submitted an application to the Office of Licensing and Credentials for Teacher of the Handicapped and Teacher of the Blind or Partially Sighted licensure. On that application you indicated that you had been convicted of a crime and submitted a letter and documentation concerning that offense. You were forwarded the self-reporting criminal conviction form to complete, but never returned it. In response to your telephone inquiry of July 17, 1997, evaluation of your transcripts was completed and you were advised, through the Hudson County Office of Education, that you had met the study requirement for both Teacher of the Handicapped and Teacher of the Blind or Partially Sighted licensure, but that the matter of your criminal conviction would need to be resolved by the State Board of Examiners before the licenses could be issued.

At its meeting of February 26, 1998 the State Board of Examiners also considered the record of your application for licensure for Teacher of the Handicapped and Teacher of the Blind or Partially Sighted. Your record included your appeal of your disqualification before the

Commissioner of Education. At that meeting, the State Board of Examiners voted to block issuance to you of a Teacher of the Handicapped and Teacher of the Blind or Partially Sighted license. It so acted due to your disqualification from employment with any institution under the supervision of the Department of Education pursuant to N.J.S.A. 18A:6-7.1 *et seq.*, as well as your extensive criminal history as set forth in the Commissioner's decision of your disqualification appeal.

In his letter decision dated January 9, 1998 the Commissioner's designee recited your criminal history. Therein it is stated:

The record indicates that you were charged on September 11, 1968 with Assault With Intent to [Commit] Robbery; you assert you pled guilty to the charge of assault. (Personal Statement of T.J.H., November 18, 1997, at p. 1) On March 24, 1984, you were charged with Possession of Marijuana, for which you were found guilty three days later, and sentenced to pay a \$75. Fine. On September 1, 1993, you were charged with Possession of Marijuana/Reckless Endangering [of] Another Person, for which you were found guilty on both counts and sentenced on October 13, 1994 to pay a \$100 fine and costs for the possession of marijuana conviction, and \$100 fine and costs for the reckless endangering conviction. On April 27, 1994, you were charged with Possession of Marijuana, for which you were found guilty on February 20, 1997 and sentenced to 180 days in jail, with 150 days suspended, two years probation and received a \$1,000 suspended fine, plus costs. Additionally the following nondisqualifying conviction appeared on your record: Disorderly Conduct (1972), Possession of Drug paraphernalia (1984) and Possession of Paraphernalia/Resisting Arrest (1994).

(Letter decision, January 9, 1998 at 1)

It was also observed that you were offered the opportunity to show rehabilitation at the time of your disqualification. N.J.S.A. 18A:6-7.1 has a provision for proving to the Commissioner of Education by clear and convincing evidence that an individual who is barred from employment in the public schools as a result of a disqualifying offense is rehabilitated and thus is a suitable candidate for employment. Plainly, you failed to avail yourself of that opportunity at the appropriate time. Moreover, despite this proceeding being held in abeyance while you appealed your disqualification, ultimately, the disqualification from public school employment was affirmed by the Commissioner on January 9, 1998. That appeal was predicated on a criminal history, largely involving drugs, that is far more extensive than you admitted in either of your applications for licensure.

In enacting N.J.S.A. 18A:6-7.1 et seq., the Legislature sought to protect public school pupils from contact with individuals whom it deemed to be a danger to them. It therefore barred from employment in schools those individuals convicted of a drug offense. This strong policy statement, that unrehabilitated drug offenders are precluded from any position that brings them in contact with public school pupils, is in accord with the Commissioner's policies regarding those who use illegal substances. In In the Matter of the Tenure Hearing of David Earl Humphreys, 1978 S.L.D. 689, he emphasized that the use of drugs and the possession of drugs are inconsistent with the State's policy to eliminate drug abuse in the schools.

In this regard, school law cases have traditionally recognized the right of the State Board of Examiners to revoke licenses where the teacher was involved in criminal activities, even if said activities were not related to the classroom, see Cox v. State Board of Examiners (App. Div. Docket No. A-3527-81T3) (November 18, 1983); State Board of Examiners v. Krupp, 3 N.J.A.R. 285 (1981). Misuse of dangerous drugs by students themselves, or by the role models to whom students look for guidance, will not be tolerated under any circumstances. In the Matter of the Certificate of Barbara Corwick, OAL Docket No. EDE 3562-87, State Board of Examiners decision (March 24, 1988).

Accordingly, in light of this State's strong policy opposing the use of illegal drugs, the State Board of Examiners finds your multiple drug convictions, and your failure to be forthcoming about them, conduct inappropriate for one seeking licensure as a teacher. Accordingly, the State Board of Examiners must block your application for a Teacher of the Handicapped and a Teacher of the Blind and Partially Sighted license.

It is, therefore ORDERED that Thomas Harvey's application for Teacher of the Handicapped and Teacher of the Blind and Partially Sighted licenses is hereby blocked on this 26th day of February, 1998.

It is further ORDERED that the Order To Show Cause issued against Thomas Harvey in the above-captioned matter hereby is vacated on this 26thday of February, 1998.

Secretary
State Board of Examiners

Date of Mailing: March 25, 1998
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