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July 22, 1988

Elizabeth A. Truly, Esq.
Associate Senior Counsel
New York State United Teachers
260 Park Avenue South
New York, NY 10010-7283

Re: James Graf advs. State of
New York, OMRDD
Your File No. 54063-A102

Dear Ms. Truly:

I am writing this in partial response to your letter dated July 20, 1988, which I received today.

You are either very seriously misunderstanding or deliberately misrepresenting my position. I have stated time and again that I am not refusing to perform my duties. Why do you continue to accuse me of doing so? That's Mr. Reed's job. I don't think he needs any help from you.

As I reminded Mr. Mark Berberian in my letter of December 18, 1986, Article 33.3d of the Contract states: "In all disciplinary proceedings under Section 33.5, the burden of proof that discipline is for just cause shall rest with the employer." The Contract does not say "probable cause" or "demonstrable cause" or "sufficient cause": it specifies "just cause," thus opening disciplinary matters to considerations of justice, fairness, legality, and constitutionality. This demands thorough review of the circumstances in which infractions are alleged to have occurred. It even invites examination of the employer's motivation in imposing discipline.

"Just cause" must align itself in reasonable congruence with the commonly accepted ethical and legal principles fundamental to our society. One of these principles, affirmed time and again in law and jurisprudence, is that one is not rightly punished for something that is not one's fault and over which one has no control.

I direct your attention to the "Remarks" section of the instant Disciplinary Grievance, dated August 27, 1987:

The charges are false. The Employer has created and perpetuated a work climate characterized by intimidation, harassment, restraint, coercion, and retaliation. Under illegal, discriminatory terms and conditions of employ-

