



I GOBIETNON GUAHAN

CIVIL SERVICE COMMISSION KUMISION I SETBISION SIBIT

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CSC RESOLUTION NO. 2010-01

RELATIVE TO THE ADOPTION OF DEFINITIONS TO GOVERN THE PARAMETER OF ACTIONS BEFORE THE CIVIL SERVICE COMMISSION PURSUANT TO 4 GCA 4401 ET SEQ.

WHEREAS, Public Law 28-68 was drafted without collaboration with the Commission and enacted into law on September 30, 2005, and took effect on January 1, 2006;

WHEREAS, Public Law 28-68 divested the Commission of critical jurisdiction and authority of certain functions key to the protecting and upholding the merit system of employment within the Government of Guam and has caused much confusion because of the statute's inconsistent demarcation of "adjudicatory" versus "non-adjudicatory" functions;

WHEREAS, the Organic Act of Guam, codified in 48 U.S.C. § 1422c(a), states in pertinent part that "[t]he Legislature shall establish a merit system to the extent as far as practicable in the appointment and promotion in the merit system. The Government of Guam may by law establish a Civil Service Commission to administer the merit system...";

WHEREAS, the "merit system" is defined in the case of Haeuser v. Dept. of Law, et al. (9th Circuit Ct. of Appeals, No. 94-16987, D.C. No. CV-94-0007A; Oct. 8, 1996) as a system that encompasses the job protection of employees, including the ability to appeal adverse employment decisions and a system of promoting and appointing civil service personnel on the basis of merit, to be determined by competitive examinations;

WHEREAS, Legislative Bill 92 was introduced on April 6, 2009 by Senators Judith Guthertz, Adolfo Palacios, and Rory Respicio after extensive collaboration with the Commission regarding necessary changes and additions to statutes affecting Civil Service Commission functions and jurisdictions;

WHEREAS, Bill 92 was entitled, "An act to restore certain jurisdictions and clarify certain functions of the Civil Service Commission by repealing and reenacting Title 4 GCA §§ 4403, 4406, 4408, and 5105; subitems (b) and (c) of Title 4 GCA § 4405; and new §§ 4410 and 4411."

WHEREAS, Bill 92 was signed into law as Public Law 30-112 and took effect on March 12, 2010;

WHEREAS, PL 30-112 restored post audit authority of personnel actions to the Commission and the jurisdiction to null and void any Government of Guam personnel action taken in violation of law or rules/regulations, codified in 4 GCA § 4403(d) and (e), as amended by PL 30-112;

WHEREAS, the Guam Code Annotated and the Personnel Rules and Regulations of the departments, agencies, and authorities which granted the Commission the authority to conduct reviews of personnel actions, do not define "personnel action" and "status quo;"

WHEREAS, the Commission defined "personnel action" in CSC Resolution No. 2001-003, dated February 8, 2001, pursuant to the authority granted by 4 GCA §§ 4402 and 4403(d);

WHEREAS, Dept. of Education v. Civil Service Commission, et al, Superior Court of Guam Case No. SP0077-04 (June 11, 2004), held the Commission acted within the scope of its authority in adopting CSC Resolution No. 2001-003 and in defining "personnel action," and as such definition was determined to be reasonable and not overbroad;

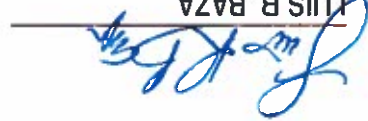
WHEREAS, the Civil Service Commission needs to define what is a "personnel action" and "status quo" to govern actions in the exercise of its jurisdiction and authority to investigate, review, and null and void any personnel action taken in violation of personnel laws and rules;

NOW THEREFORE, BE IT RESOLVED that pursuant to 4 GCA §§ 4402 and 4403(d), as amended by PL 30-112, the Civil Service Commission hereby defines "personnel action" and "status quo" as follows:

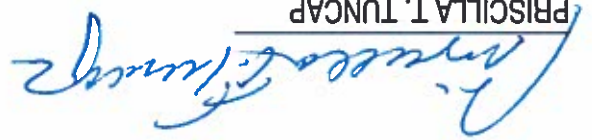
- 1) "Personnel Action" is defined as any action or inaction taken by management that directly changes or fails to change the status quo of an employee pursuant to rule or law. Personnel actions are not limited to actions reflected in notices of personnel action forms.

- 2) "Status quo" is defined as the existing state of things at any given date. (Black's Law Dictionary, 6th Edition)

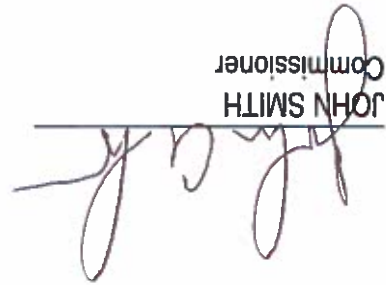
DULY ADOPTED AND RATIFIED THIS 3rd DAY OF AUGUST, 2010.




LUIS R. BAZA
Chairman



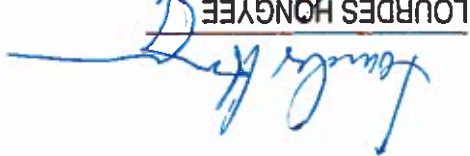
PRISCILLA T. TUNCAP
Commissioner



JOHN SMITH
Commissioner



MANUEL R. PINAJUN
Vice-Chairman



LOURDES HONGYEE
Commissioner



DANIEL LEON GUERRERO
Commissioner