



BEFORE THE  
GUAM CIVIL SERVICE COMMISSION



IN THE MATTER OF:

KIN C. FERNANDEZ,

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

ADVERSE ACTION APPEAL  
CASE NO. 12-AA21S

JUDGMENT OF DISMISSAL

The Civil Service Commission hereby dismisses the above captioned case with prejudice pursuant to Stipulation of Settlement signed by both parties and submitted to the Commission on April 22, 2014, which is attached hereto.

SO ADJUDGED THIS 15<sup>th</sup> DAY OF May 2014.

*Not present*

LUIS R. BAZA  
Chairman

*[Signature]*

MANUEL R. PINAUIN  
Vice-Chairman

*[Signature]*

PRISCILLA T. TUNCAP  
Commissioner

*[Signature]*

JOHN SMITH  
Commissioner

*[Signature]*

LOURDES HONGYEE  
Commissioner

*[Signature]*

DANIEL D. LEON GUERRERO  
Commissioner

*[Signature]*

EDITH C. PANGELINAN  
Commissioner

**ORIGINAL**

MC  
1-23-14  
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Before The Civil Service Commission  
Government Of Guam

IN THE MATTER OF:

)  
) CSC CASE NO. 12-AA21S  
)

KIN C. FERNANDEZ,

)  
)  
) Employee,

)  
)  
) STIPULATION OF SETTLEMENT  
)

vs.

)  
)  
) DEPARTMENT OF EDUCATION,

)  
)  
) Management.  
)  
)  
)

TO: The Civil Service Commission of Guam.

**INTRODUCTION**

This stipulation of settlement and agreement is by and between **KIN C. FERNANDEZ** (hereinafter "Employee") and **GUAM DEPARTMENT OF EDUCATION** (hereinafter "Management") as follows:

**RECITALS**

- A. The Employee commenced an appeal of an adverse action in the Civil Service Commission bearing Adverse Action Appeal Case No. 12-AA21S; and,
- B. The parties desire to enter into this settlement Agreement (hereinafter "Agreement") for the referenced Adverse Action Appeal in order to provide for certain arrangements in full settlement and discharge of the appeal upon the terms and conditions set forth herein; and,
- C. Said Agreement shall become operative upon execution of this Agreement by the signing of a Judgment by the Civil Service Commission approving those terms and conditions.

**NOW THEREFORE**, for and in consideration of the mutual promises set forth herein, the parties agree as follows:

1 **1.0 PURPOSE OF AGREEMENT**

2 Employee and Management acknowledge and agree that this Agreement is a Settlement and  
3 Compromise of the referenced matter. It is the intention of the parties by the execution of this  
4 Agreement to fully, finally and completely resolve all disputes between them regarding these  
5 matters, in the manner more specifically set forth in the terms of this Agreement that follow.

6 **2.0 EMPLOYEE'S OBLIGATION**

7 **2.1** Employee agrees that he hereby withdraws and dismisses the referenced Adverse Action  
8 Appeal with prejudice from the Civil Service Commission and further request that the  
9 Commission enter judgment into the record approving the terms and conditions specifically set  
10 forth in this agreement; and,

11 **2.2** Employee agrees that he shall accept a letter of Reprimand in lieu of the Final Notice of  
12 Adverse Action and that the Reprimand shall remain on file for a period of nine (9) months from  
13 the effective date of this agreement; and,

14 **2.3** Employee agrees that he shall recover fifteen (15) days of back pay for the period of his  
15 former suspension; and,

16 **2.4** Employee agrees that he shall be placed in fifteen (15) days of Approved Leave Without Pay  
17 Status for the remaining period of the former suspension; and,

18 **2.5** Employee agrees that he shall accept \$1,500 in total for all Attorney Fees and expenses  
19 associated with his appeal.

20 **3.0 MANAGEMENT'S OBLIGATION**

21 **3.1** Management agrees that it shall withdraw the Notice of Proposed Adverse Action and Final  
22 Notice of Adverse Action that suspended the Employee for thirty (30) days without pay; and,

23 **3.2** Management agrees that it shall issue a Letter of Reprimand to the Employee that shall  
24 remain on file for a period of nine (9) months from the effective date of this agreement and  
25 thence be removed from Employee's files; and,

**3.3** Management agrees that it shall reimburse the Employee \$1,500 in total for all attorney fees  
and costs associated with his appeal; and,

1 3.4 Management agrees that it shall restore fifteen (15) days of back pay to the Employee for the  
2 for the first half of the former suspension period,

3 3.5 Management agrees that it shall place the Employee in fifteen (15) days of Approved Leave  
4 Without Pay of the remaining fifteen (15) days of the former suspension period; and,

5 3.6 Management agrees that it shall not deny the Employee any increment or promotion based  
6 on the referenced Letter of Reprimand issued pursuant to this agreement or the withdrawn  
7 adverse action.

#### 8 **4.0 PERFORMANCE ACCEPTED**

9 The parties agree and acknowledge: (a) that it accepts performance of its obligations specified in  
10 this Agreement as a full and complete compromise of matters involving all disputed issues; (b)  
11 that the negotiations for this settlement (including all statements, admissions or communications)  
12 by the parties or their attorneys or representatives shall not be considered admissions by any of  
13 said parties; (c) and that no past or present wrong doing on the part of the parties shall be implied  
14 by such negotiations.

#### 15 **5.0 ADDITIONAL DOCUMENTS**

16 All parties agree to cooperate fully and execute any and all supplementary documents and take  
17 all additional actions that may be necessary and appropriate to give full force and effect to the  
18 basic terms and intent of this Agreement.

#### 19 **6.0 INDEPENDENT ADVICE OF COUNSEL**

20 Each party represents and declares that it has received independent advice from its respective  
21 attorneys or representative with respect to the advisability of making the settlement provided for  
22 herein and with respect to the advisability of executing this Agreement. Each party further  
23 represents and declares that it has not relied upon any statement or representation by the other  
24 party or of any of its partners, agents, employees, or attorneys in executing this Agreement  
25 or in making the settlement provided for herein, except as expressly provided for herein.

1 **7.0 VOLUNTARY AGREEMENT**

2 Each party represents and declares that it has carefully read this Agreement, that it knows the  
3 contents of this Agreement, and that it has signed the same freely and voluntarily.

4  
5 **IN WITNESS WHEREOF**, the parties have executed this Agreement as of the  
6 date written by their respective names

7 **FOR EMPLOYEE:**


**FOR MANAGEMENT:**


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11 **KIN C. FERNANDEZ**  
Employee

  
12 **JON J.P. FERNANDEZ**  
Superintendent of Education

13 Date: 4/22/14

Date: 4/22/14

14  
15   
16 **CURTIS C. VANDEVELD, Esq.**  
Attorney for Employee

  
17 **ROBERT E. KOSS**  
Lay Representative for Management

18 Date: 04-22-14

Date: 4/22/14