



BEFORE THE
 GUAM CIVIL SERVICE COMMISSION
 BOARD OF COMMISSIONERS



IN THE MATTER OF:
MARK J. TAISIPIC,
 Employee,
 vs.
DEPARTMENT OF EDUCATION,
 Management.

**ADVERSE ACTION APPEAL
 CASE NO.: 15-AA04T**

DECISION AND ORDER

INTRODUCTION

The above-captioned matter came before the Guam Civil Service Commission (“CSC”) on November 19, 2019, wherein the CSC heard a Motion to Void Adverse Action by Employee Mark Taisipic regarding his termination from the Guam Department of Education (“GDOE”) in 2015. After oral argument followed by due deliberation, the CSC voted unanimously to deny the motion after determining that the timeline under the so-called 60-day rule stated in Title 4 Guam Code Annotated (“GCA”) §4406 started on December 15, 2014, and that GDOE issued its final notice of adverse action to Employee within 60 days in compliance with 4 GCA, §4406.

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II.

JURISDICTION

The jurisdiction of the Guam Civil Service Commission is based upon the Organic Act of Guam, 4 GCA, §§4401, *et seq.*, and relevant GDOE Personnel Rules and Regulations.

III.

RELEVANT FACTS

Employee was arrested for second degree criminal sexual conduct involving a minor under the age of fourteen (14) years old on December 3, 2014.

On December 15, 2014, Employee provided GDOE with an Order of Conditional Release, which instructed him to stay away from all public schools and events where minors were present. GDOE became aware of the court order for the first time on this date. The court order prevented Employee from fulfilling the duties required by his position as a Teacher IV.

On February 11, 2015, Employee received the final notice of adverse action resulting in his termination. The final notice clearly stated that his termination was based on his inability to fulfil his employment responsibilities as a Teacher IV, because the Order of Conditional Release instructed him to essentially stay away from his place of employment.

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1 IV.

2 ANALYSIS

3 The issue before the CSC is whether the adverse action issued to Employee on
4 February 11, 2015 violated the 60-day rule stated in 4 GCA, §4406.

5 The CSC has previously determined that the timeline under the 60-day rule is not
6 triggered by knowledge of facts which would cause Management to start an investigation,
7 but requires Management to know the facts that constitute the basis of the adverse action.
8 *See In the Matter of: Carl J. Lizama, et al. vs. Guam Police Department*, Guam Civil
9 Service Commission Consolidated Adverse Action Nos. 0111-AA20 et al., pp. 5-6. In
10 determining whether Management is in compliance with the 60-day rule, the court must
11 determine when Management “knew or should have known the facts or events which form
12 the alleged basis for such action.”

13 Here, GDOE became aware of the facts forming the basis of Employee’s adverse
14 action --- such facts indicated in the court order requiring Employee to stay away from
15 public schools and events where minors are present --- on December 15, 2014. The final
16 notice of adverse action clearly stated that the basis of the adverse action was the Order of
17 Conditional Release preventing Employee from fulfilling his duties as a Teacher IV. The
18 final notice stated: “[Y]our duties are instructional and involve direct contact with minors. .
19 . . I am now informed that you are a person who is prohibited from teaching and it is my
20 duty to ensure that you are not appointed or assigned to perform work as a teacher in
21 contact with minors.” As clearly stated by the final notice, the inability of Employee to
22 work as a teacher formed the basis of the adverse action. Thus, December 15, 2014 is the
23 date on which GDOE knew the facts forming the basis of the adverse action.

1 In opposition, Employee argues that GDOE should have known of the facts forming
2 the basis of the adverse action on December 4, 2014, claiming that a certain December 4,
3 2014 memorandum provided knowledge of such facts. However, this memorandum did
4 not provide GDOE with knowledge of the facts forming the basis of the adverse action
5 because GDOE learned of Employee being banned from entry to all public schools and
6 events where minors were present for the first time on December 15, 2014.

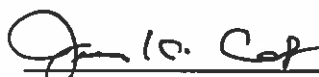
7 Therefore, GDOE properly issued Employee's Final Notice of Adverse Action
8 within 60 days after it became aware of the facts forming the basis of the adverse action in
9 compliance with 4 GCA, §4406.

10 v.

11 **CONCLUSION**

12 Accordingly, for the reasons stated above, the CSC after due deliberation
13 determines by unanimous vote of 5 to 0 that Employee's Motion to Void Adverse Action
14 shall be DENIED.

15 SO ORDERED THIS 14 DAY OF Tuesday, 2020.

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17 **JUAN K. CALVO**
Chairman

(absent)
18 
19 **JOHN SMITH**
Vice-Chairman

20 
21 **PRISCILLA T. TUNCAP**
Commissioner

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23 **EMILIA F. RICE**
Commissioner

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ANTHONY P. BENAVENTE
Commissioner