



**BEFORE THE  
GUAM CIVIL SERVICE COMMISSION  
BOARD OF COMMISSIONERS**



**IN THE MATTER OF:**

**ROBERT E. KOSS,**

**Employee,**

**vs.**

**DEPARTMENT OF EDUCATION,**

**Management.**

**PUBLIC EMPLOYEE  
PROTECTION ACT COMPLAINT  
CASE NO. 16-WB01**

**ORDER AFTER HEARING**

This matter came first before the Board of Commissioners on October 13, 2016, for the presentation of an initial Staff Assessment Report. Employee Robert E. Koss, former Employee-Management Relations Officer for the Guam Department of Education ("GDOE"), filed a Whistleblower Complaint on August 24, 2016, alleging Abuse of Government Authority, Mismanagement of the Department, and Waste of Government Funds. Present at the Assessment Hearing were Employee and his counsel, Daniel Somerfleck, Esq., of Somerfleck & Associates, PLLC, and Legal Counsel Jesse N. Nasis, Esq., for GDOE.

At the Assessment Hearing, CSC's Vickilynn Sablan, presented the view of the Staff that sufficient grounds appeared to warrant the Commission's approval for an official investigation to be conducted. Yet, an issue existed as to the timeliness of the

1 filing of the Whistleblower Complaint itself. Therefore, the Commission invited briefing  
2 on the issue of the timeliness of the complaint to be filed by a vote of 5-0.

3 On November 3, 2016, another hearing was held. The parties had both submitted  
4 briefs regarding the timeliness of the filing of the complaint which had been reviewed by  
5 the Commissioners prior to the hearing. Attending for the parties were those present at  
6 the October 13, 2016, hearing, as well as Taling M. Taitano, Deputy Superintendent,  
7 Finance & Administrative Services, for GDOE. After hearing oral arguments, the  
8 Commission voted 6-0 to accept the complaint; however, another issue arose.

9 Inquiries were raised regarding the propriety of staying the Whistleblower  
10 proceedings. In addition to filing a Whistleblower Complaint, Employee had also filed  
11 an adverse action appeal with the hearing on the merits set to commence on November  
12 29, 2016. The subject of the interplay between the adverse action appeal and the  
13 Whistleblower investigation was questioned. There was also a prospect that the parties  
14 might agree on how to proceed forward through waivers and stipulations. The parties  
15 were invited to discuss it further and submit briefs.

16 On November 10, 2016, another hearing was held. The parties had submitted  
17 briefs on their respective positions which were reviewed by the Commissioners prior to  
18 the hearing. Those present for the parties were the same as those who attended the  
19 November 3<sup>rd</sup> hearing, except Superintendent Joseph Sanchez was present instead of Ms.  
20 Taitano. The Commissioners heard oral arguments from the parties.

## 21 CONCLUSION

22  
23 By a vote of 5-0, the Commission orders as follows:

- 24 1) Pursuant to 4 GCA § 4504(a) and Rules for Public Employee Protection Act (aka  
25 “Whistleblower”) Complaints Rule 7, the staff of the Commission is hereby

1 authorized to undertake further investigation into the matters raised by  
2 Employee's Whistleblower Complaint;

3 2) The staff of the Commission shall begin their investigation immediately as no  
4 "stay" is in place;

5 3) GDOE shall immediately and fully cooperate with all requests by the staff related  
6 to the investigation into Employee's Whistleblower Complaint;

7 4) Pursuant to the Rules for Whistleblower Complaints Rule 7.1, unreasonable delay  
8 or refusal to cooperate with Commission staff in this investigation will be cause to  
9 determine that a violation did take place; and,

10 5) The previously set dates for hearing on the merits of *Koss v. Dept. of Education*,  
11 16-AA25T, are hereby vacated until the investigation is completed.

12  
13 IT IS SO ORDERED THIS 22nd DAY OF November 2016.

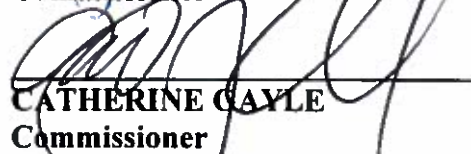
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16 \_\_\_\_\_  
17 **EDITH PANGELINAN**  
18 **Chairperson**

19   
20 \_\_\_\_\_  
21 **PRISCILLA T. TUNCAP**  
22 **Commissioner**

23   
24 \_\_\_\_\_  
25 **LOURDES HONGYEE**  
**Commissioner**

26 Not Present  
27 \_\_\_\_\_  
28 **DANIEL D. LEON GUERRERO**  
29 **Vice-Chairperson**


30   
31 \_\_\_\_\_  
32 **JOHN SMITH**  
33 **Commissioner**

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36 **CATHERINE CAYLE**  
37 **Commissioner**


# Transmission Report

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