IN THE MATTER OF:

TALING TAITANO,

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

MINI-HATCH ACT
COMPLAINT
CASE NO.: 12-MH-01

DECISION AND JUDGMENT

INTRODUCTION

The above-captioned matter came before the Guam Civil Service Commission (the “CSC”) during the April 2, 2019, 2nd Reading of Staff Assessment Report dated May 17, 2012, regarding a Mini-Hatch Complaint against Employee Taling Taitano. After due deliberation without oral argument, the CSC found that it did not have jurisdiction over the Mini-Hatch Act Complaint, and voted unanimously in favor of Employee; thereby dismissing the Mini-Hatch Act Complaint against Employee.

DECISION AND JUDGMENT

Taling Taitano vs. Department of Education
Mini-Hatch Act Complaint, CSC Case No.: 12-MH-01
II.

JURISDICTION

The jurisdiction of the Guam Civil Service Commission is based upon the Organic Act of Guam, Title 4 Guam Code Annotated ("GCA") §§ 4401, et seq., and relevant GDOE Personnel Rules and Regulations.

III.

RELEVANT FACTS

On May 24, 2012, the CSC held a session to hear its Staff Assessment Report dated May 17, 2012, on a Mini-Hatch Act Complaint "Notice of Prohibited Political Activity" filed against Employee Taling Taitano, who was Acting Superintendent of Education at that time.

The May 17, 2012, Staff Assessment Report addressed a certain request; specifically:

"The staff recently received two inquiries regarding Ms. Taling Taitano, Acting Superintendent of Education and who was also elected as a Democratic Party of Guam official."

In addition, the May 17, 2012, Staff Assessment Report reviewed certain authority, (specifically, 4 GCA §§ 5101 and 5105), and other related laws (specifically, 4 GCA §§ 4102 and 4403).

Moreover, the May 17, 2012 Staff Assessment Report stated the issues as the following:

1. Does the Civil Service Commission have jurisdiction to conduct Investigations on Prohibited Political Activity also known as the Mini-Hatch Act?

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DECISION AND JUDGMENT

Taling Taitano vs. Department of Education
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2. Is Ms. Taling Taitano subject to the provisions of Title 4 G.C.A. § 5103 of the Mini Hatch Act?

Furthermore, the May 17, 2012 Staff Assessment Report stated its conclusion as the following:

1. **In regard to Issue #1:** There may be a jurisdiction concern pursuant to 4 G.C.A. §4403 (h) “The jurisdiction of the commission shall not extend to ... any position or person, appeal or proceeding of whatever kind or description if the position is denominated “unclassified” in this title ... [cited in part]”, amended by PL 26-121, (Aug 2002). Please note 4.G.C.A. §5101 was effectuated in 1974. Ms. Taling Taitano is an unclassified employee.

2. **In regard to Issue #2:** The staff does not have sufficient information to make this determination and recommends an investigation to be authorized to review this matter more thoroughly.

The CSC issued an Order After Hearing dated March 21, 2019, stating that a hearing on this matter had been conducted on May 24, 2012, and that the Commissioners voted 6-0 to request an Attorney General’s opinion on the jurisdiction question presented, and to hold off on further investigation of the matter until the Commission receives a reply from the Attorney General’s Office.


No response was provided.

The CSC conducted a second reading of the May 17, 2012, Staff Assessment Report recently on April 4, 2019.

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DECISION AND JUDGMENT

Taling Taitano vs. Department of Education

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IV.

ANALYSIS

Title 4 GCA § 4403(h) states:

The jurisdiction of the Commission shall not extend to academic personnel
of the Guam Community College and the University of Guam, except upon
mutual consent by the governing board of the respective institution and the
Commission; *nor to any position or person, appeal or proceeding of
whatever kind or description if the position is denominated “unclassified”
in this Title*, except to the extent explicitly permitted in this Section.

At the time that the CSC received the Mini-Hatch Act Complaint in this case, Employee
Taling Taitano was an unclassified employee.

After due deliberation without oral argument, the CSC determined that it did not have
jurisdiction over Employee because she was an unclassified employee at the time that the
Mini-Hatch Act Complaint was received, and the CSC voted unanimously in favor of
Employee; thereby dismissing the Mini-Hatch Act Complaint against Employee.
V.

CONCLUSION

Accordingly, the CSC after due deliberation determined, by unanimous vote of 4 to 0, that it did not have jurisdiction over Employee regarding the Mini-Hatch Act Complaint. The Commission therefore finds for Employee Taling Taitano, and the Mini-Hatch Act Complaint against Employee is hereby dismissed.

IT IS SO ADJUDGED on this 25th day of April, 2019.

Luis R. Baza
Chairperson

Lourdes Hongyee
Vice-Chairperson

Priscilla Tuncap
Commissioner

John Smith
Commissioner

(Absent)
Catherine Gayle
Commissioner

DECISION AND JUDGMENT

Taling Taitano vs. Department of Education
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Hafa Adai Senator Shelton: Please find attached the judgments executed by the Civil Service Commission in its meeting of April 25, 2019. This is mandated under 4 GCA, Section 4403. Thank you.

Si Yu’os Ma’åsé
Susan Corbin
Legal Secretary
Civil Service Commission
Tel: 647-1855

3 attachments

- Daniel Santos vs. GIAA.Order After Hearing,CSC18-NOPA01 and 18-PA05.April-25-2019.pdf 46K
- Josette Javelosa vs. Port Authority of Guam; CSC13-AA01T SP.April-25-2019.pdf 34K
- Taling Taitano vs. DOE; CSC12-MH-01.Decision and Judgment.April-25-2019.pdf 112K
BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS

IN THE MATTER OF:
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Abbreviations:
HS: Host send
HR: Host receive
WS: Waiting send
PL: Polled local
PR: Polled remote
MS: Mailbox save
MP: Mailbox print
RP: Report
FF: Fax Forward
CP: Completed
FA: Fail
TU: Terminated by user
TS: Terminated by system
G3: Group 3
EC: Error Correct