IN THE MATTER OF:

LISA MOSHER,

Employee,

vs.

DEPARTMENT OF EDUCATION,

Management.

ADVERSE ACTION APPEAL
CASE NO.: 21-AA02T

DECISION AND ORDER

This matter came before the Civil Service Commission on May 20, 2021, on Employee’s Motion to vacate the adverse action. Present for the hearing were the Employee appearing with Lay Representative, Robert Koss. Also present was Yolanda Gabriel, Department of Education (DOE) Administrator appearing with her representative, Phyllis Blas. Commissioners present were Chairman Juan K. Calvo, Vice Chairman John Smith, Commissioner Priscilla T. Tuncap, Commissioner Emilia F. Rice, Commissioner Anthony P. Benavente, and Commissioner Robert C. Taitano.

DECISION AND ORDER

Lisa Mosher vs. Department of Education
Adverse Action Appeal Case No.: 21-AA02T

Page 1 of 2
Employee argued that DOE’s 60-day rule (DOE, PRR 914.301) should apply and, therefore, the Final Notice of Adverse action which was served on the Employee eighty-seven (87) days after Management knew or should have known that Employee committed the act (profanity) which is the cause of the adverse action. Management argued that 4 GCA, Section 4406 which extended the 60-day rule to the 90-day rule should apply because statutes prevail over rules.

The Commission voted 6 to 0 to deny Employee’s Motion.

SO ORDERED THIS 3rd day of June, 2021.

Juan K. Calvo (absent)
Chairman

John Smith
Vice Chairman

Priscilla T. Tuncap
Commissioner

Emilia F. Rice
Commissioner

Anthony P. Benavente
Commissioner

Robert C. Taitano
Commissioner

DECISION AND ORDER
Lisa Mosher vs. Department of Education
Adverse Action Appeal Case No.: 21-AA02T
IN THE MATTER OF:
MARK J. TAI SIPIC,

Employee,

vs.

DEPARTMENT OF EDUCATION,
Management.

ADVERSE ACTION APPEAL
CASE NO.: 15-AA04T

DECISION AND JUDGMENT

INTRODUCTION

This matter came on to be heard the 4th day of May, 2021 for Hearing on the Merits. Present for Department of Education (DOE) was Deputy Superintendent Zenaida Asuncion with her counsel, Jesse Nasis. Also present were Employee, Mark Taisipic with his counsel Jacqueline Taitano Terlaje. Commissioners present were Juan K. Calvo, Chairman; John Smith, Vice Chairman; Commissioner Priscilla T. Tuncap; Commissioner Anthony P. Benavente, and Commissioner Robert C. Taitano.
Employee Taisipic appeals to the Commission his termination from DOE. Employee was a special education teacher. He was arrested for sexual misconduct with two minors and his pre-trial release conditions prevented him from being near children and schools. DOE terminated him because he could not come to school to do his teaching job.

**JURISDICTION**

The jurisdiction of the commission is based upon the Organic Act of Guam, 4 GCA, §4401 et seq.

**JUDGMENT OF THE COMMISSION**

The Commission heard testimony from witnesses and the Employee. The Chairman opined that Management’s burden of proof is that of clear and convincing evidence because the final Notice of Adverse Action was for his inability to come to work as the result of his conditions of release from jail. He was not terminated for conduct which would be a crime. After deliberating, Commissioners Tuncap, Benavente, and Taitano voted in favor of Management. The Chairman and Vice Chairman Smith voted in favor of the Employee. In order to prevail, Management must get a favorable vote from four (4) Commissioners. Here, Management only got three (3) favorable votes and therefore the Employee prevails, and the Adverse Action is dismissed.
The Employee is fully reinstated and is to receive back pay, attorney fees, and the restoration of benefits.

SO ORDERED this 20th day of May, 2021.

JUAN K. CALVO
Chairman

JOHN SMITH
Vice Chairman

PRISCILLA T. TUNCAP
Commissioner

EMILIA F. RICE
Commissioner

ANTHONY P. BENAVENTE
Commissioner

ROBERT C. TAITANO
Commissioner