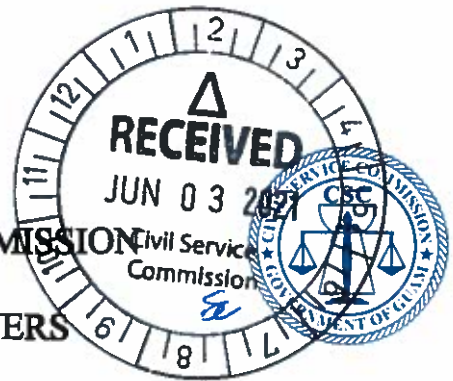




BEFORE THE
GUAM CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



21-387

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.

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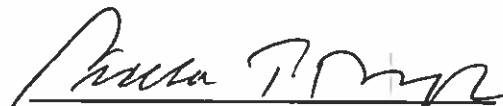
1 Employee argued that DOE's 60-day rule (DOE, PRR 914.301) should
2 apply and, therefore, the Final Notice of Adverse action which was served
3 on the Employee eighty-seven (87) days after Management knew or should
4 have known that Employee committed the act (profanity) which is the cause
5 of the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

8 The Commission voted 6 to 0 to deny Employee's Motion.

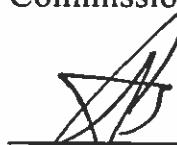
9 **SO ORDERED THIS 3rd day of June, 2021.**

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11 **JUAN K. CALVO**
Chairman

(absent)
12 **JOHN SMITH**
Vice Chairman

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14 **PRISCILLA T. TUNCAP**
Commissioner

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16 **EMILIA F. RICE**
Commissioner

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18 **ANTHONY P. BENAVENTE**
Commissioner

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20 **ROBERT C. TAITANO**
Commissioner

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22 **DECISION AND ORDER**

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

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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
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.

DECISION AND JUDGMENT

Mark J. Taisipic vs. Department of Education
Adverse Action Appeal CSC Case No.: 15-AA04T

1 Employee Taisipic appeals to the Commission his termination from DOE.
2 Employee was a special education teacher. He was arrested for sexual
3 misconduct with two minors and his pre-trial release conditions prevented him
4 from being near children and schools. DOE terminated him because he could
5 not come to school to do his teaching job.

6 JURISDICTION

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

9 JUDGMENT OF THE COMMISSION

10 The Commission heard testimony from witnesses and the Employee. The
11 Chairman opined that Management's burden of proof is that of clear and
12 convincing evidence because the final Notice of Adverse Action was for his
13 inability to come to work as the result of his conditions of release from jail. He
14 was not terminated for conduct which would be a crime. After deliberating,
15 Commissioners Tuncap, Benavente, and Taitano voted in favor of Management.
16 The Chairman and Vice Chairman Smith voted in favor of the Employee. In
17 order to prevail, Management must get a favorable vote from four (4)
18 Commissioners. Here, Management only got three (3) favorable votes and
19 therefore the Employee prevails, and the Adverse Action is dismissed.

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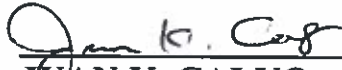
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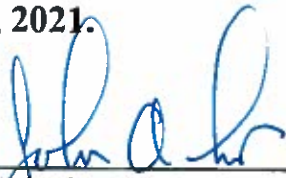
22 **DECISION AND JUDGMENT**

23 *Mark J. Taisipic vs. Department of Education*
24 Adverse Action Appeal CSC Case No.: 15-AA04T

1 The Employee is fully reinstated and is to receive back pay, attorney fees, and
2 the restoration of benefits.

3 **SO ORDERED** this 20th day of May, 2021.

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6 **JUAN K. CALVO**
Chairman

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6 **JOHN SMITH**
Vice Chairman

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9 **PRISCILLA T. TUNCAP**
Commissioner

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9 **EMILIA F. RICE**
Commissioner

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12 **ANTHONY P. BENAVENTE**
Commissioner

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12 **ROBERT C. TAITANO**
Commissioner

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23 **DECISION AND JUDGMENT**

24 *Mark J. Taisipic vs. Department of Education*
Adverse Action Appeal CSC Case No.: 15-AA04T

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