



BEFORE THE
GUAM CIVIL SERVICE COMMISSION



32-13-1001
Office of the Speaker
Judith T. Won Pat, G.S.C.

Date: 11-25-13
Time: 10:31 am
Received by: [Signature]

IN THE MATTER OF:

EUNICE AFLAGUE,

Employee,

Vs.

DEPARTMENT OF EDUCATION,

Management.

ADVERSE ACTION APPEAL
CASE NO. 12-AA10D

DECISION AND JUDGMENT

2013 NOV 25 AM 10:50
[Signature]

I.
INTRODUCTION

THIS MATTER CAME BEFORE THE CIVIL SERVICE COMMISSION (hereafter Commission) for the Hearing on Merits on January 29, 31 and September 12, 2013. Employee Eunice Aflague ("Aflague") was represented by David Babauta, GFT Union Lay Representative and present for Department of Education management ("Management") were Lay Representative Robert E. Koss, Employee/Management Relations Officer and Taling M. Taitano, Deputy Superintendent of Finance and Administration.

II.
JURISDICTION

The jurisdiction of the Civil Service Commission is based upon the Organic Act of Guam, 4 G.C.A. §4401 *et seq.*, and the Department of Education Personnel Rules and Regulations.

Office of the Legislative Secretary
Senator Tina Torres Mufson Barnes
Date: 11-25-13
Time: 10:20
Received by: [Signature]

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III. ISSUE

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Did Management prove by clear and convincing evidence the bases for demoting Aflague?

IV. FINDINGS OF FACT

The following facts were established by clear and convincing evidence:

1. On March 23, 2007 DOE entered into seven separate contracts for *Communication Services* commencing July 1, 2007 and ending June 30, 2010. These three year contracts did not provide for an extension or renewal.
2. Between July 1, 2010- June 30, 2011 No contracts for *Communication Services* were in effect for the DOE. Services were provided on a month-to-month basis. Absent valid contracts, DOE was not eligible to receive E-Rate benefits for up to 90% reimbursement for the costs of Communications Services Contracts during this period.
3. On February 18, 2010 Eunice Aflague acting on behalf of the Guam Department of Education filed form 471 E-Rate Grant Application seeking \$713,597.08 of federal reimbursement for the period of July 1, 2010 to June 30, 2011 and fraudulently certified under oath that DOE had valid contracts for Communication Services in effect for the covered funding period.
4. On February 14, 2012 David Nelson Associate Manager, Program Integrity Assurance (for the E-Rate Program) contacted the Interim Superintendent of Education challenging DOE's grant application and demanding to see the original contracts within fifteen days, confirming the effective dates referenced in the E-Rate grant application.
5. On February 28, 2012 Taling M. Taitano Interim Superintendent of Education was informed by DOE Business Office that all referenced E-Rate communication contracts had expired on June 30, 2010 and that no letter of extension was executed, no purchase orders were issued and that the DOE was paying for services rendered on a month-to-month basis.

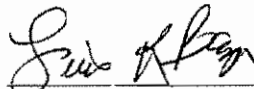
Taling M. Taitano, Interim Superintendent of Education prepared a letter to Universal Service Administration Company informing it that the Guam Department of Education is canceling its form 471 application in its entirety for E-Rate Assistance in the amount of \$713,597.08.
6. On April 27, 2012 Interim Superintendent of Education served the Employee Final Notice of Adverse Action for her misconduct to falsify a

federal grant application and attempt to conceal defective work. Ms. Eunice Aflague was demoted form a Program Coordinator IV, Pay Grade N-9, \$45,043 per annum to Program Coordinator III, M-10, \$43,018 per annum.

**V.
HOLDINGS**

The Civil Service Commission, by a vote of 5-1, finds that based on the evidence presented at the hearing, including the testimony of witnesses, Management has met its burden of proof and the action to *demote* Eunice Aflague from a Program Coordinator IV, Pay Grade N-9, \$45,043 per annum to Program Coordinator III, M-10, \$43,018 per annum was proper.

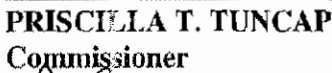
So adjudged this 19th day of November, 2013 as determined by a vote of 5-1 on September 12, 2013.



LUIS R. BAZA
Chairman



MANUEL R. PINAUIN
Vice-Chairman



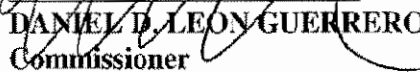
PRISCILLA T. TUNCAP
Commissioner



JOHN SMITH
Commissioner



LOURDES HONGYEE
Commissioner



DANIEL D. LEON GUERRERO
Commissioner



EDITH C. PANGELINAN
Commissioner