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CLERK OF COURT

BY: 

CIVIL SERVICE COMMISSION

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IN THE SUPERIOR COURT OF GUAM

TOMMY ARCEO,	)	SPECIAL PROCEEDING
	)	CASE NO.: <u>SP0145-24</u>
Employee-Petitioner,	)	
	)	
vs.	)	
	)	
THE GUAM CIVIL SERVICE COMMISSION,	)	FINDINGS OF THE
	)	CIVIL SERVICE
Respondent,	)	COMMISSION
	)	
vs.	)	
	)	
DEPARTMENT OF PUBLIC WORKS,	)	
	)	
<u>Management-Real Party in Interest.</u>	)	

Pursuant to the Court's Order dated June 18, 2025, the Civil Service Commission hereby files its Decision and Judgment dated August 14, 2025, marked as Exhibit 1, attached.

Respectfully submitted,

By: 

FRED NISHIHIRA
Attorney for Respondent
Civil Service Commission

FINDINGS OF THE CIVIL SERVICE COMMISSION

Tommy Arceo v. Guam Civil Service Commission
and Department of Public Works
SP0145-24

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EXHIBIT 1



BEFORE THE
CIVIL SERVICE COMMISSION
BOARD OF COMMISSIONERS



IN THE MATTER OF:

TOMMY ARCEO,

Employee,

vs.

DEPARTMENT OF PUBLIC
WORKS,

Management.

GRIEVANCE APPEAL
CASE NO.: 23-GRE06 SP

DECISION AND JUDGMENT

I. Introduction / Procedural Background

On June 18, 2025, in Superior Court Case No. SPO145-24 (*Tommy Arceo v. Guam Civil Service Commission; Department of Public Works, Real Party in Interest*), the Honorable Arthur Barcinas vacated the Civil Service Commission ("Commission") Decision and Judgment dated September 26, 2024, and remanded the

DECISION AND JUDGMENT

Tommy Arceo vs. Department of Public Works
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1 matter to the Commission for further proceedings consistent with the court's Decision
2 and Order.

3 On August 5, 2025, the case was heard before the Commission. The following
4 Commissioners were present: Chairman Juan K. Calvo, Vice Chairman Anthony P.
5 Benavente, Commissioner Cathy O. Catling, and Commissioner Rose Marie A.
6 Morales.

7 Employee Tommy Arceo was represented by his attorney, Joshua Walsh. The
8 Chief Deputy Attorney General, Joseph Guthrie, appeared on behalf of Management,
9 along with Ernest Candoleta, Jr. representing the Department of Public Works (DPW).

10 At the outset of the hearing, both Employee and Management argued that no
11 additional testimony was necessary for the Commission to comply with Judge
12 Barcinas' remand order. After discussion, the Commissioners confirmed that they
13 had reviewed the record, taken notes, and viewed the prior hearing proceedings held
14 on August 22 and 24, 2024.

15 By unanimous vote (4-0), the Commission granted the parties' request to
16 proceed without taking new testimony.

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19 //

20 **DECISION AND JUDGMENT**
Tommy Arceo vs. Department of Public Works
Grievance Appeal Case No.: 23-GRE06 SP

II. Jurisdiction

The Commission has jurisdiction over this matter pursuant to the Organic Act of Guam, 4 G.C.A. §§ 4401, 4403 et seq., and the applicable Personnel Rules and Regulations.

III. Findings of Fact and Deliberations

As a preliminary matter, the Commission elected to address each issue as set forth in the Superior Court's June 18, 2025 Decision and Order as follows:

1. Whether the DPW facility was "closed to the public" under Rule 8.406.
2. Whether other DPW employees were on excused leave or its equivalent during the period in question.
3. Whether Employee is entitled to double pay or compensatory leave credits under Rule 8.406(c)(2).

1. DPW Facility Closure

The Commission finds that DPW was NOT closed to the public. Although certain parts of DPW may have been closed to the public, the department continued to operate in a limited capacity. Specifically:

- The One-Stop Permitting Division remained open to the public to process construction permits.
- The Highways Maintenance Division continued its work.

1 • The **Maintenance Division** was actively involved in government-wide tasks,
2 including installing plexiglass barriers at various government agencies.

3 • **Bus operations** continued, albeit for quarantine transport, rather than for
4 student transportation.

5 • Testimony from the August 2024 hearings indicated that while the Governor
6 issued Executive Orders closing the Government of Guam, these Orders allowed
7 agency directors to determine essential personnel and services. The DPW Director
8 testified that:

9 • **Portions of the facility, such as the Permitting Division, remained open, as**
10 construction activities were allowed to continue.

11 • **Bus operations**, although suspended for student transportation, remained active
12 for quarantine-related transport.

13 • **Mechanics** were deemed essential for maintaining operational readiness for
14 critical transportation needs (e.g., airline passengers, medical personnel).

15 • Maintenance employees were sent to other agencies for essential tasks like
16 installing plexiglass barriers.

17 Based on the testimony and documents submitted, the Commission finds, by a
18 unanimous vote (4–0), that **DPW was not closed** within the meaning of Rule 8.406.

2. Excused Leave Status of Other Employees

The Commission finds that **other DPW employees were on excused leave or its equivalent**. Testimony showed that while some divisions, such as Administration, operated remotely, other employees were on **standby duty** and were required to report to work with two hours' notice per the Executive Order. The Commission concluded that: The **appointing authority** (DPW Director) has the discretion to determine which employees were essential and should report to work.

- Several employees, including those in **Bus Operations**, continued to work in-person, as their duties were deemed essential.
- Other employees, such as those in the **Administrative Division**, worked remotely or on standby duty.

The DPW Director testified that:

- **Bus operations** continued to transport airline passengers and medical personnel.
- **Bus drivers** worked overtime if they exceeded 40 hours per week.
- The **Bus Superintendent** set the schedules for bus drivers.
- **Administrative Division employees** processed payroll and other critical tasks remotely or in person.
- The **Permitting Division** remained open to the public for construction projects.

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- **Highway Division and Maintenance Division** employees continued to work on roadways and essential vehicle servicing.
- Employees not reporting to work were still paid regular wages for their standby status.

By a unanimous vote (4-0), the Commission finds that **other DPW employees were on excused leave or its equivalent**, either working remotely or on standby duty.

3. Entitlement to Double Pay or Compensatory Leave Credits

The Commission finds, by a unanimous vote (4-0), that **Employee is not entitled to double pay or compensatory leave credits** under Rule 8.406(c)(2).

Key points considered in this deliberation:

- **DPW was not fully closed**, and certain critical employees, such as bus drivers, were deemed essential and were called to work. As such, the conditions needed to trigger Rule 8.406 were not met.

- **Rule 8.406(c)(2)** specifies that double pay or compensatory leave credits apply only when the conditions outlined in the rule are satisfied. Since DPW remained open and operational in essential areas, the conditions for double pay were not met.

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1 • Compensation entitlements are governed by statute. Under the Organic Act of
2 Guam, 48 U.S.C. § 1421d, the government must pay salaries and allowances
3 according to the laws of Guam. Double pay is authorized only for specific groups,
4 such as **firefighters** (4 G.C.A. § 6219(b)) and **nurses** (4 G.C.A. § 6229(d)).

5 • **Rule 8.406** cannot override the statutory provisions of the Organic Act or the
6 laws of Guam. Only the **Guam Legislature** has the authority to establish statutes
7 authorizing double pay for other roles, such as bus drivers.

8 The Commission further notes that while Rule 8.406 does not support the
9 Employee's claim for double pay, the **Guam Legislature** may wish to review which
10 positions within the government should be deemed essential and whether those
11 positions should be eligible for additional compensation such as double pay.

12 Therefore, the Commission finds that **the Employee does not meet the criteria**
13 **under Rule 8.406, and double pay or compensatory leave credits are not warranted in**
14 **this case.**

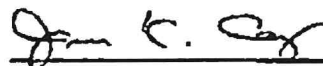
15 **IV. Conclusion**

16 After careful deliberation and thorough review of the record, testimony, and legal
17 arguments, the Commission concludes by unanimous vote (4-0) that the **Employee**
18 **has not proven entitlement to double pay or compensatory leave credits under**
19 **Rule 8.406.**

V. Order

IT IS HEREBY ORDERED that the Employee's request for double pay in grievance appeal Case No. 23-GRE06 SP is **DENIED**.

SO ORDERED this 14th day of August, 2025, by the Guam Civil Service Commission.



JUAN K. CALVO
Chairman



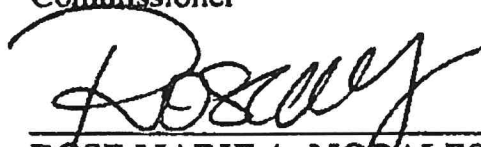
ANTHONY P. BENAVENTE
Vice Chairman



FRANCISCO T. GUERRERO
Commissioner



CATHY O. CATLING
Commissioner



ROSE MARIE A. MORALES
Commissioner

DECISION AND JUDGMENT

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Grievance Appeal Case No.: 23-GRE06 SP