FILED
SUPERIOR COURT
OF GUAM

2026 OCT 20 A 10:04

CLERK OF COURT

BY:

IN THE SUPERIOR COURT OF GUAM

GUAM DEPARTMENT OF EDUCATION, Petitioner, vs. GUAM CIVIL SERVICE COMMISSION, Respondent, and SONIA R. PABLO, Real Party in Interest.	**Special Proceedings Case No. SP0092-24** **DECISION AND ORDER RE GDOE'S PETITION FOR JUDICIAL REVIEW**

Petitioner Guam Department of Education seeks judicial review of the Civil Service Commission's amended Decision and Judgment regarding Real Party in Interest Sonia R. Pablo's grievance. The CSC found Pablo was entitled to be paid under GDOE's Bonuses, Rewards, and Incentives Program (BRIP). Upon review of the record and the parties' arguments, the Court concludes that the CSC decision is lawful, adequately explained, and supported by substantial evidence. The Court therefore DENIES relief to GDOE.

I. PROCEDURAL HISTORY AND BACKGROUND

GDOE appointed Pablo as a probationary psychologist in October 2010 and permanently in April 2011. R., Emp. Docs. E94, E115, Mgmt. Docs. M90 (June 17, 2025). Before the Competitive Wage Act of 2014 (CWA) took effect, Pablo's personnel actions reflected base pay plus a 35% recruitment and retention incentive under BRIP. *Id.* at Emp. Docs. E89–91.

ORIGINAL

BRIP is a GDOE program authorized by Board Policy 377. *Id.* at Emp. Docs. E24–30. It provides incentives, including up to a 35% annual recruitment and retention incentive, for licensed health professionals, subject to funding. *Id.* at Emp. Docs. E30. GDOE's BRIP procedures identify psychologists as eligible for the program. *Id.*

The CWA later transitioned GDOE employees to new pay plans. *Id.* at Emp. Docs. E56–77. Pablo alleged that GDOE folded her BRIP into her CWA base salary rather than adding it on top of her base salary. *Id.* at Emp. Docs. E96. She further alleged that psychologists hired after 2014 received the 35% BRIP in addition to their base pay, while she did not. *Id.* at Emp. Docs. E96.

In June 2022, Pablo wrote to GDOE's Superintendent, asserting a post-CWA pay disparity and asking GDOE to correct her pay. *Id.* at Emp. Docs. E96–97. In 2023, GDOE Human Resources recommended a BRIP adjustment effective April 1, 2023. *Id.* at Emp. Docs. E111. The Step 3 Grievance Committee made the same recommendation, and the Superintendent concurred. *Id.* at Emp. Docs. E152-56.

Pablo pursued a grievance seeking BRIP retroactive to 2014, when the CWA was first implemented. *Id.* at Emp. Docs. E124, Mgmt. Docs. M97. She filed her Step 1 grievance on September 11, 2023, and appealed through the remaining steps after receiving an adverse Step 1 decision and no response at Step 2. *Id.* at Emp. Docs. E141. She filed her Step 4 appeal with the CSC on December 6, 2023. *Id.* at Emp. Docs. E148–51.

Before the CSC, GDOE moved to dismiss the grievance as untimely. *Id.* at Mgmt. Docs. M96. The CSC denied that motion, concluding that the alleged payroll disparity was an ongoing condition rather than a new condition each pay period in which Pablo failed to receive the correct amount. *Id.* Civ. Serv. Comm'n Docs. [Orders After Hr'g (May 23, 2024)]. Following the

ORIGINAL

hearings on March 21 and 22, 2024, the CSC granted Pablo's grievance. *Id.* Civ. Serv. Comm'n Docs. [Dec. & J. (May 23, 2024)].

GDOE thereafter petitioned this Court for judicial review. GDOE's Pet. J. Rev. (June 24, 2024); GDOE's Am. Pet. J. Rev. (Jan. 13, 2025). The parties stipulated to a remand for the CSC to redeliberate and issue express findings and conclusions. Stip. & Order (Oct. 31, 2025). The CSC conducted further deliberations on December 9, 2025, and issued its amended Decision and Judgment on February 3, 2026. Subm. Civ. Serv. Comm'n Dec. & J. (Feb. 4, 2026). In it, the CSC made 35 numbered findings and granted the grievance by a 4-0 vote. *Id.* at 8. The CSC ordered GDOE to calculate Pablo's salary using the applicable CWA base pay, to apply the 35% BRIP in addition to that base, and to award back pay from January 26, 2014, with associated benefits and adjustments required by law. *Id.* at 8.

GDOE now challenges the CSC's jurisdiction, the grievance's timeliness, the adequacy of the amended decision, and the remedy.

II. DISCUSSION OF LAW

On judicial review, the Court sets aside an agency action only when it is "contrary to law, irrational, or unsupported by substantial evidence. 5 GCA §§ 9239–40; *Fagan v. Dell'Isola*, 2006 Guam 11 ¶ 11 (quoting *Alcala v. Dir., Office of Workers Comp. Programs*, 141 F.3d 942, 944 (9th Cir. 1998)); *Guam Waterworks Auth. v. Civ. Serv. Comm'n (Mesngon)*, 2014 Guam 35 ¶ 5. The Court reviews questions of law de novo and factual findings for substantial evidence. *Fagan*, 2006 Guam 11 ¶ 13. The Court does not reweigh the evidence or replace an agency's reasonable factual determinations with its own. *See Mesngon*, 2014 Guam 35 ¶ 9.

Substantial evidence means relevant evidence that a reasonable mind could accept as adequate to support a conclusion. *Fagan*, 2006 Guam 11 ¶ 26; *Bondoc v. Worker's Comp.*

ORIGINAL

Comm'n, 2000 Guam 6 ¶ 6. The question is not whether the record could support a different result; rather, it is whether the agency's result has a rational and evidentiary basis. *See Motor Vehicle Mfr.'s Ass'n of the U.S., Inc. v. State Farm Mut. Ins. Co.*, 463 U.S. 29, 43 (1983) (an agency's action must show a "rational connection between the facts found and the choice made"); *Port Auth. of Guam v. Civ. Serv. Comm'n*, 2018 Guam 1 ¶ 38 (a court may not substitute its judgment for the agency's when the evidence supports more than one rational determination).

The Court applies these standards to each issue below. It reviews the CSC's jurisdiction and the interpretation of the governing grievance rules de novo, evaluates the CSC's factual findings for substantial evidence, and determines whether the amended decision adequately explains the agency's reasoning under 5 GCA § 9232. The Court reviews the remedy under the same framework, that is, whether the CSC acted within its legal authority and whether the factual findings supporting the relief are supported by substantial evidence.

A. Jurisdiction

GDOE argues that Pablo's claim was not a grievance within the meaning of the rules, and that the CSC therefore exceeded its jurisdiction in hearing it. The issue is whether Pablo's grievance, as characterized by its substance, falls within the CSC's authority under the governing statutes and GDOE personnel rules.

The CSC may hear a grievance complaint when the governing personnel rules establish a right of appeal. 4 GCA § 4403(c). GDOE Personnel Rule and Regulation ("PR&R") 909.100 defines a grievance to include a permanent employee's complaint that a personnel statute, rule, regulation, or written policy has been misinterpreted, misapplied, or violated, or that the employee received prejudicial, unfair, arbitrary, or capricious treatment in working conditions or work relationships. The grievance process allows for speedy resolution of complaints but

ORIGINAL

excludes certain actions, including classification determinations. PR&R ch. 9 Statement of Pol'y, 909.301(E).

GDOE characterizes Pablo's claim as a challenge to her classification and compensation and that the CSC therefore lacks the jurisdiction to hear it. The record, however, shows that Pablo does not challenge her classification; she does not seek a new job title, pay grade, or reclassification of the Psychologist position. Pablo remains classified as a Psychologist 3.120 and has been paid according to that classification—at pay grade P from 2011 through 2017, with varying steps, and at pay grade Q since January 1, 2018, including step 10 as of November 4, 2023. R. at Mgmt. Docs. M66–90.

Instead, Pablo alleges that, after the CWA transition, GDOE failed to continue applying the separate BRIP incentive to her compensation. Her claim concerns the application of an existing written incentive policy—not the class, level, or pay structure assigned to her position. The exclusion of classification determinations from the grievance process applies to appeals from such determinations; it does not exclude every grievance simply because the requested remedy could affect an employee's pay. *See* PR&R 909.301(E).

The record supports this distinction. From 2011 through 2014, Pablo's personnel actions listed her pay grades separately from BRIP and identified BRIP as an additional annual incentive—"plus" a specified incentive amount. R. at Mgmt. Docs. M83–89. After implementation of the CWA in 2014, her personnel action stated that the listed salary was set in accordance with her pay grade. R. at Mgmt. Docs. M82. In fact, her pay grade and step on her personnel actions match the General Pay Plan spreadsheet reflecting the CWA, rather than BRIP. R. at Mgmt. Docs. M64–77. This tends to show BRIP was not applied to her salary at all. Pablo further alleges that she had previously received BRIP in addition to her base pay, and that despite

ORIGINAL

being the most senior psychologist, she became the only psychologist who did not receive the incentive in addition to regular pay. She therefore alleges that GDOE incorrectly applied—or failed to apply—the BRIP policy to an employee whose position and classification never changed. Any resulting effect on compensation would come from correcting that alleged policy error, not from changing Pablo's classification.

The cases on which GDOE relies do not require a different result. In *In re 44 Signatories* and *Shannon Taitano*, the CSC considered challenges to classification and compensation stemming from implementation of the CWA—not BRIP. *In re 44 Signatories*, Civ. Serv. Comm'n Case No. 14GRE-04 (J. Dismissal (Feb. 24, 2015)); *In the Matter of Shannon Taitano et al.*, Civ. Serv. Comm'n Case No. 14 GRE-44 (Dec. & J. (May 25, 2017)).[1] In *In re David Highsmith*, the claim likewise concerned whether employees had been properly slotted on a new CWA pay scale. SP0071-17 (Dec. & Order (Jan. 14, 2019)). Those matters questioned the classification or slotting decision itself. Here, the CSC found that BRIP is separate from the CWA base-pay structure. It further found that GDOE applied BRIP to newer psychologists in addition to their base pay, but did not do so for Pablo. Those findings place the case within the grievance rule's misapplication provision, and not the classification provisions.

Additionally, the Court does not rely on the parties' earlier agreement that the CSC had jurisdiction. Real Party in Interest Sonia R. Pablo's Opening Brief at 8 (Sep. 12, 2025); R. at 298. Subject-matter jurisdiction cannot be created by consent. The Court instead holds, independently, that this grievance alleges a policy misapplication and inequitable treatment within the CSC's grievance jurisdiction.

[1] The cases cited in this paragraph were submitted by GDOE in its June 24, 2026 Notice of Filing of Additional Authorities.

ORIGINAL

B. Timeliness

DOE argues that Pablo knew in 2014 that GDOE treated BRIP as included in her salary and therefore contends that Pablo's 2023 grievance challenges a single historic act and is untimely.

PR&R 909.505(B)(1) permits an employee to present a grievance concerning a "continuing practice or condition" at any time; meanwhile, a grievance concerning a particular act or occurrence must be presented within fifteen calendar days of that act or occurrence. *Id.* A "particular act or occurrence" is a discrete event; a "continuing practice or condition," by contrast, describes conduct that persists or recurs. In other words, the Rule applies different limitations periods depending on whether, at the time of the grievance, the practice or condition complained of has completed or remains ongoing.

The continuing-claims doctrine, though not itself the source of Rule 909.505(B)(1)'s text, further elucidates what is meant by a "continuing practice or condition." The doctrine recognizes that recurring violations may give rise to separate claims, each accruing when the violation occurs. *See Boling v. United States*, 220 F.3d 1365, 1373 (Fed. Cir. 2000). It developed principally in cases involving military and civilian periodic payment claims. *Friedman v. U.S.*, 310 F.2d 381, 384–85 (Cl. Ct. 1962). The *Friedman* court articulated the difference between a single action and a continuing claim:

> [T]he cause of action for pay or compensation accrues as soon as the payor fails or refuses to pay what the law (or the contract) requires. …And where the payments are to be made periodically, each successive failure to make proper payment gives rise to a new claim upon which suit can be brought.

Id. at 385.

The Guam Supreme Court has likewise observed that the continuing claims doctrine "appears almost exclusively in cases involving periodic compensation claims." *Bautista v.*

ORIGINAL

Torres, 2020 Guam 28 ¶ 21. In that case, the court declined to extend the doctrine to a series of payments made under a single lease arrangement, applying the three-part test adopted from *Westlands Water Dist. v. United States*, 109 Fed. Cl. 177, 213 (2013). *Bautista*, 2020 Guam 28 ¶ 21. The doctrine applies only where (1) the case turns on pure issues of law, or on specific facts the court may resolve itself; (2) any disputed facts are "sharp and narrow;" and (3) no discretionary agency decision is at issue. *Id.* ¶ 22.

Those considerations support treating Pablo's grievance as a continuing practice or condition rather than as a particular act or occurrence. Whether BRIP continued to apply to Pablo's compensation after the CWA transition turns on a sharp and narrow inquiry into what GDOE's BRIP policy and Pablo's own personnel actions provided. There is also no discretionary agency decision at issue. Applying an existing, non-discretionary incentive to a position whose classification never changed is unlike the discretionary classification or pay-slotting decisions presented in *Highsmith*, *44 Signatories* and *Taitano*. And unlike the claims in *Bautista*, which traced to a single lease transaction with lingering effects, Pablo's claim does not rest on the continuing effect of her one-time 2014 placement on the CWA pay scale. It instead rests on GDOE's obligation, in each pay period thereafter, to apply the BRIP incentive it continued to pay to later-hired psychologists. Each pay period in which GDOE allegedly withheld BRIP from Pablo while paying it to her later-hired, less senior colleagues was an independently actionable failure to apply an existing incentive policy—not merely a lingering consequence of the 2014 CWA transition.

The CSC's findings reflect the same conclusion. The CSC found that Pablo alleged more than the lingering effect of a one-time slotting decision: she alleged that GDOE repeatedly failed to apply BRIP as a separate incentive while continuing to provide that incentive to later-hired

ORIGINAL

psychologists, so that each affected pay period formed part of an ongoing continuing practice or condition under PR&R 909.505(B)(1). The CSC therefore reasonably treated the alleged recurring failure to apply BRIP as an ongoing condition rather than as merely the continuing effect of a single historical act.

Pablo also filed her Step 1 grievance shortly after GDOE's 2023 Human Resources recommendation limited any correction to April 2023. The CSC could reasonably view that recommendation as a contemporaneous application of the alleged practice and as a concrete disagreement about the scope of the requested relief. The CSC therefore did not err in denying GDOE's motion to dismiss.

C. Adequacy of Findings

GDOE contends that the CSC decision lacked adequate findings. An agency decision must be in writing and include findings of fact, a determination of the issues, and the penalty, if any. 5 GCA § 9232. Guam's Administrative Adjudication Law ("AAL") is "substantially similar" to California's Administrative Procedure Act, and California authority interpreting analogous provisions may therefore be persuasive. *See Gutierrez v. Guam Election Comm'n (Calvo)*, 2011 Guam 3 ¶ 14; *Guam Police Dep't v. Guam Civ. Serv. Comm'n (Charfauros)*, 2020 Guam 12 ¶ 38. An agency's decision need not follow a prescribed format, so long as its findings identify the factual and legal basis for the decision. *See generally Kateen v. Dep't of Real Est.*, 215 Cal. Rptr. 295, 298 (Ct. App. 1985). The findings must be sufficient to disclose the path the agency took from the evidence to its decision, thereby allowing meaningful review. *See Topanga Ass'n for a Scenic Cmty. v. Cnty. of Los Angeles*, 522 P.2d 12, 17 (Cal. 1974).

The amended decision satisfies 5 GCA § 9232. It identifies the governing BRIP policy, Pablo's employment and incentive history, the CWA transition, the alleged treatment of later-

ORIGINAL

hired psychologists, the 2023 grievance proceedings, and the basis for its final remedy. The decision then makes its dispositive determinations. It finds that BRIP was separate from the CWA base-pay structure, that GDOE misapplied BRIP to Pablo, that the misapplication created an inequitable disparity, that the grievance was properly brought, and that relief should be retroactive to January 26, 2014. These findings satisfy section 9232 because they identify the factual and legal basis for the CSC's decision and permit meaningful review. They show why the CSC concluded that this was a BRIP-policy grievance rather than a classification appeal, why it treated the alleged injury as continuing, and why it ordered a base-pay calculation plus BRIP.

GDOE argues that the commissioners did not separately vote on each factual finding during redeliberation. The governing law requires the agency's decision to include findings, not a separate roll-call vote on every finding. The CSC's 4-0 final decision adopted the amended Decision and Judgment after the Commission reviewed the administrative record, recordings, testimony, and exhibits. The Court finds no basis to disregard the written decision as a nondecision.[2]

D. Remedy

Finally, GDOE challenges both the evidentiary basis for the CSC's remedy and the CSC's authority to award retroactive relief beginning in 2014. The Court reviews the CSC's legal authority to award the remedy de novo and reviews the factual findings supporting the remedy for substantial evidence. The Court may not substitute its judgment for the CSC's when

[2] The amended decision contains one apparent discrepancy. Paragraph 28 refers to January 16, 2014, while the findings, final vote description, and operative decree consistently state January 26, 2014. Read as a whole, the decision plainly selects January 26, 2014. The isolated reference does not impair review or the enforceability of the operative order.

ORIGINAL

the record supports more than one rational interpretation. *See Port Auth. of Guam*, 2018 Guam 1 ¶ 38.

Substantial evidence supports the CSC's determination that BRIP was separate from Pablo's CWA base pay and that the failure to apply BRIP began in 2014. Pablo's pre-CWA personnel actions listed BRIP separately from her base pay. The CSC also had evidence that psychologists hired after 2014 received the 35% BRIP in addition to base pay, while Pablo—who had greater seniority—did not. GDOE's own Human Resources administrator recommended a correction in 2023 after identifying that disparity. This evidence reasonably supports the CSC's findings that BRIP was treated as separate from base pay, that GDOE applied BRIP to other psychologists but not Pablo, and that Pablo consequently received less total compensation than similarly situated psychologists. Those findings support the CSC's conclusion that GDOE misapplied BRIP and that Pablo was entitled to corrective relief. GDOE's disagreement with the CSC's interpretation of the evidence does not provide a basis for setting aside findings supported by substantial evidence.

GDOE nevertheless argues that the CSC exceeded its authority because the Grievance Review Board recommended relief beginning in April 2023. CSC Grievance Rule 19 provides that, at the appellate hearing, the CSC decides whether to accept or reject the Grievance Review Board's recommendation and findings in whole or in part. Civ. Serv. Comm'n R. of Proc. Grievance Appeals G19. The CSC accepted the Board's central conclusion that Pablo was entitled to BRIP in addition to her base pay, but awarded relief from 2014 rather than 2023. Grievance Rule 19 did not require the CSC to accept the Board's recommendation in its entirety. Because the record supports the CSC's finding that the violation began in 2014, the CSC acted within its authority in awarding relief from that date.

ORIGINAL

Finally, GDOE argues that the CSC's amended decision was untimely. The CSC filed the decision on February 4, 2026—six days after the deadline identified in the remand order, and did not request an enlargement of time before filing. However, the delay does not automatically invalidate the decision. Neither the remand order nor the AAL specifies dismissal, reversal, or termination of the CSC's authority as the consequence of that violation.

The Court's task is to review the lawfulness of the CSC's completed decision, not to impose the most severe sanction for a brief procedural delay absent a showing of prejudice or an express directive requiring dismissal or reversal. Because the CSC completed the remand, filed its decision six days after the stated deadline, and GDOE identifies no resulting prejudice, the Court may accept the filing and proceed to the merits.

III. CONCLUSION AND ORDER

The Court DENIES GDOE's petition to set aside the CSC's determinations and AFFIRMS the CSC's February 3, 2026 amended Decision and Judgment in Grievance Appeal No. 23-GRE15.

SO ORDERED this 20 October 2026.

HON. ELYZE M. IRIARTE
Judge, Superior Court of Guam

Appearing Attorneys:
Matthew E. Wolff, Esq., Legal Counsel, Guam Department of Education
Joshua D. Walsh, Esq., Razzano Walsh & Torres, P.C., for Real Party in Interest Sonia R. Pablo
Fred Nishihira, Esq., Legal Counsel, Guam Civil Service Commission

ORIGINAL