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## OFFICE OF THE ATTORNEY GENERAL

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February 4, 2010

**LEGAL MEMORANDUM**

**Ref: DOE 10-0087**

TO: Guam Education Policy Board  
FROM: Attorney General *all*  
SUBJECT: **Chairperson's Term Limits**

On January 28, 2010, legal counsel for the Guam Education Policy Board asked the Office of the Attorney General about the term limits imposed on the Board Chairperson by 17 G.C.A. § 3119. As your counsel explained the facts, the Board first elected the present Chairperson for 2008 and re-elected him for 2009. On January 27, 2010, the Board elected him again, raising the question of whether his serving a third consecutive one year term would violate Section 3119.

Title 17 G.C.A. § 3111 creates the Guam Education Policy Board, consisting of nine elected members, one non-voting student member, one non-voting member from the Guam Federation of Teachers and such additional non-voting ex-officio members as the Board determines to be necessary. The nine elected Board members originally served two (2) year terms according to the original 17 G.C.A. § 3111(a), which was first enacted in 2001. Pursuant to 17 G.C.A. § 3119, the Board elects a Chairperson and Vice-Chairperson:

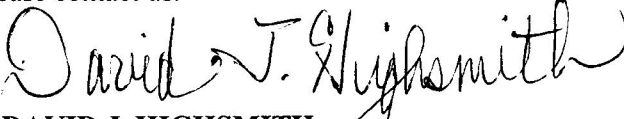
**3119. Same: Officers of the Board.** Officers of the Board shall include the Chairperson and Vice-Chairperson...Such Board officers upon election shall serve for a term of one (1) year. Board officers shall be elected by a majority vote of the members of the Board during one (1) of the Board's meetings held in January of each year. Members may serve as Chairperson for multiple terms, except that no person may serve as Chairperson for two (2) consecutive terms by succeeding himself.

This statute plainly prohibits any Board member from serving two consecutive terms as Chairperson. However, counsel for the Board has raised the question of how to interpret Section 3119 in

light of the enactment of 17 G.C.A. § 3111.1 by P.L. 29-41:6 on October 26, 2007, and its amendment by P.L. 29-113 on September 30, 2008. The new Section 3111.1 provides for staggered four year terms for Board members beginning in January 2009 after the November 2008 election. However, Section 3111.1 does not affect the intention of Section 3119. Section 3119 was modified when Section 3111.1 was enacted, but the prohibition we are speaking of has been in effect since it was first enacted in 2001.

Section 3111.1(a) now specifies four year terms for the nine elected voting Board members. However, Section 3119 specifies one year terms for the Board Chairperson and Vice-Chairperson. They create two different terms: one for Board members and one for Board officers. A Board member may serve a four year term, but he can serve only one year as Chairperson or Vice-Chairperson. If he so serves, he must wait another year before again assuming the same office. Presumably, a Board member who has served as Vice-Chairperson can become Chairperson without this one year interval. Section 3119 clearly requires that the Board elect new officers in January of each year, thus indicating one year terms for officers was intended by the Legislature.

Thus, the election of the present Chairperson for another term on January 27, 2010 violated 17 G.C.A. § 3119. If you have further questions, please contact us.

  
**DAVID J. HIGHSMITH**  
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