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OPINION

Ref: UOG 08-0635

TO: President, University of Guam
FROM: Attorney General
Subject: Certification of University as Public Institution

Pursuant to a request received on July 29, 2008 from Mr. David S. Okada, Acting Director of Institutional Effectiveness, Planning and Research, we have been asked to certify the University of Guam (University) as a public institution for purposes of the Federal Office of Financial Aid, U.S. Department of Education.

Black's Law Dictionary 5th edition defines a "public institution" as:

One which is created and exists by law or public authority, for benefit of public in general; *e.g.*, a public hospital, charity, college, university, etc.

We have examined the laws of Guam and are of the opinion that the University was created by Guam law and exists today as a public institution.

The pertinent section of the University's Charter (17 G.C.A. §16100, *et seq.*) provides:

§16101. Establishment. The University of Guam, already established according to existing laws, is hereby confirmed as the public territorial University and constituted a body corporate which shall continue to be known as the "University of Guam". It shall have title to all real and personal property now or hereafter set aside for or conveyed to it. Its property shall be administered and disposed of according to law.

All the rights, immunities, franchises and endowments heretofore granted thereto by Guam are hereby perpetuated unto the said University.

17 G.C.A. §16101.

Section 16101 not only declares the University to have been established by law and exists as Guam's "public territorial University," but states that the University's property shall be administered and disposed of subject to law. Furthermore, the University's non-academic employees are classified employees of the government of Guam, and all employees are members of the Government of Guam Retirement Fund. See 17 G.C.A. §16113 and §16115. Finally, we see that the University's personnel and operating costs are funded by annual legislative appropriations. See 17 G.C.A. §16118 and §16120.

Based upon the foregoing sections of the Charter, we must conclude that the University is a public institution.



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