

SOCIAL IMPACTS

Immigration

As an unincorporated territory, Guam does not control its immigration. This authority rests with the United States federal government. The fifty states and the territories do not control their immigration (unless specifically allowed by the US Congress for the territories, as is the case with American Samoa).¹⁶⁸ The federal government was also given exclusive power over the naturalization of immigrants via the U.S. Constitution Article I, Section VIII, Clause IV which states, “Congress shall have power... to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States.”¹⁶⁹ This power is exclusive to Congress, wherein “no state has the independent power to constitute a foreign subject a citizen of the United States.”¹⁷⁰

Immigration

As stated above, immigration into Guam falls under the authority of the United States and the island’s immigration policies adhere to those set by the federal government. International visitors must come to Guam with a valid passport from their country of citizenship and a US visa.¹⁷¹ Visas are not required if nonimmigrant visitors are coming in from one of the following twelve places: Australia, Brunei, Hong Kong, Japan, Malaysia, Nauru, New Zealand, Papua New Guinea, South Korea, Singapore, Taiwan, and the United Kingdom, who participate in the Guam-Commonwealth of the Northern Marianas Islands Visa Waiver Program (Guam-CNMI VWP).¹⁷² When visiting Guam, citizens of these countries need to fill out a Form I-736 and Form I-94, which allows them to stay for up to 45 days, be classifiable as a visitor for business or pleasure, be solely entering and staying on Guam or the CNMI, and be in possession of a round-trip ticket that is nonrefundable and nontransferable, among other requirements. The United

168 Susan Price, “State versus Federal Power to Regulate Immigration,” Office of Legislative Research, accessed at [https://www.cga.ct.gov/2007/rpt/2007-R-0621.htm#:~:text=The%20Supremacy%20Clause%20of%20the,Supreme%20Court%20has%20held%20that%3A&text=Davidowitz%2C%20312%20US%2052%20\(1941\)](https://www.cga.ct.gov/2007/rpt/2007-R-0621.htm#:~:text=The%20Supremacy%20Clause%20of%20the,Supreme%20Court%20has%20held%20that%3A&text=Davidowitz%2C%20312%20US%2052%20(1941)).

169 US Congress, “Constitution of the United States,” accessed at <https://constitution.congress.gov/constitution/>.

170 Cornell Law School, “Naturalization and Citizenship,” accessed at <https://www.law.cornell.edu/constitution-conan/article-1/section-8/clause-4>.

171 Cornell Law School, “Naturalization and Citizenship.”

172 ESTA Online Application Center United States Travel Authorization Application, “Is a Visa Needed to Travel to Guam?,” accessed at https://esta-center.com/en/guam/index.html#Using_ESTA.

States also has a national visa waiver program that applies in Guam as well. Under this program, there are 36 countries/geographic areas whose citizens can enter the US without a visa for up to 90 days, which requires a completed and signed form I-94 W.¹⁷³

Aside from increasing tourism, countries may also actively pursue immigration when there is a lack of locally skilled workers to fill many positions, from chief executive officers to hospitality, construction, and general labor. Guam in 2018 reported that approximately twenty percent of its labor force were “immigrant aliens.”¹⁷⁴ The Guam Department of Labor (DOL) tracks labor trends every March, June, and September of the year, including immigrant aliens.¹⁷⁵ From 2013-2018, immigrant workers comprised nearly twenty-five percent of Guam’s workforce.¹⁷⁶

Many immigrant workers come into Guam as H-2B Temporary Non-Agricultural Workers. Employers seeking to bring in foreign nationals for their labor force must file a Temporary Labor Certification with the governor of Guam through the Guam Department of Labor’s Alien Labor Processing & Certification Division (ALPCD). Employers are also required to advertise the job opportunity so that the arrival of foreign workers does not adversely affect the Guam or US job market by excluding US citizens and permanent residents.¹⁷⁷ Once all requirements are met and the ALPCD certifies that workers were appropriately recruited, employers must petition for H-2B workers to enter Guam with the US Citizenship & Immigration Services (USCIS).¹⁷⁸

The United States sets limits on the total number of foreign workers and has a method for recruiting workers from other countries. These protocols are in place to protect the local job market. For example, for H-2B visas, the US Department of Labor requires that employers must show that, “(1) there are not sufficient US workers who are qualified and who will be available to perform the temporary services or labor for which an employer desires to hire foreign workers; and (2) the employment of H-2B workers will not adversely affect the wages and working conditions of similarly employed US workers.”¹⁷⁹ When these criteria are met, then employers can start recruiting and employing foreign workers. Recently, some employers in Guam have experienced hardship and frustration with national immigration policies. For example, in October 2016, the Guam Contractors Association and several businesses sued the federal government because of the denial of petitions for H-2B visas. In addition to the lawsuit, during fiscal year 2017, Guam experienced more red tape because US Homeland Security decided to remove the Philippines from the list of eligible countries for the H-2A and H-2B visas for a year. This ban was set to last until January 2020. The Department of Homeland Security then updated the eligible countries

173 US Department of Homeland Security, “Visa Waiver Program Requirements,” accessed at <https://www.dhs.gov/visa-waiver-program-requirements>.

174 Bureau of Statistics and Plans, “2018 Guam Statistical Yearbook,” accessed at <https://bsp.guam.gov/guam-statistical-yearbook-2/>, 255.

175 Bureau of Statistics and Plans, “2018 Guam Statistical Yearbook,” 256.

176 Bureau of Statistics and Plans, “2018 Guam Statistical Yearbook,” 256-258.

177 Guam Department of Labor, “The H-2B Process for Guam: The 26 Points from Beginning to End”, accessed at <https://dol.guam.gov/wp-content/uploads/H-2B-Process-26-Points.pdf>, 3.

178 Guam Department of Labor, “The H-2B Process,” 5.

179 US Department of Labor [DOL], “H-2B Temporary Non-agricultural Program,” accessed at <https://www.dol.gov/agencies/eta/foreign-labor/programs/h-2b>.

list meaning that as of January 13, 2021, the Philippines was restored to the list.¹⁸⁰ Furthermore, there are current struggles with the US Citizenship and Immigration Services regarding the language of the National Defense Authorization Act and guidance provided by USCIS. As explained by Guam Delegate Michael San Nicolas, “Congressional intent with our H2-B amendment in the 2021 NDAA was clear; our language was sufficient, and we will do the work necessary to bring UCSIC onto the same page in authorizing temporary labor for civilian projects adversely impacted by the military buildup demand on available labor. USCIS as attempting to interpret (the provisions) in a way that...is inconsistent with the statute.”¹⁸¹

Students who wish to study in Guam can apply for a student visa (either the F or M category) for themselves and eligible family members. To be eligible for the visa, a student must first be accepted by a Student and Exchange Visitor Program (SEVP) certified school. In Guam, the SEVP schools include some of the island’s K-12 private schools and its higher education and vocational institutions.¹⁸² Students are allowed to stay as long as they are enrolled full-time in their program. Once their program is completed, students and their dependents on an F category visa must leave within sixty days of the program end date. Students and their dependents on an M category visa must leave within thirty days of the program end date.¹⁸³

Guam is currently a naturalization hub for those from the Asia-Pacific region. Therefore, the island experiences larger numbers of immigrants who move to the island in hopes of seeking US citizenship. Permanent residents who have an Alien Registration card must live in the US for three-to-five years. The three-year residency requirement applies if they are married to a US citizen or their spouse is a US citizen. They must meet the five-year requirement if they do not meet the marriage exemptions.¹⁸⁴ Citizens from our neighboring Pacific Island and Asian countries may decide to live in Guam to meet the above-mentioned residency requirements for naturalization. In a span of five years, from FY2014 to FY2018, the US Department of Homeland Security reported that 3,823 Guam residents became naturalized US citizens, averaging about 765 people a year.¹⁸⁵ A large majority of those naturalized are from nearby Asian countries. Most notably, residents born in the Philippines make up a significant portion of naturalized citizens, at 79.3%.¹⁸⁶ The second largest group comes from South Korea, at 5.6%. Naturalization ceremonies are held at the US District Court of Guam twice a month and residents are assisted by the US Citizen and Immigration Services when they apply for citizenship.

180 USCIS, “DHS Announces Countries Eligible for H-2A and H-2B Visa Programs,” January 12, 2021, accessed at <https://www.uscis.gov/news/alerts/dhs-announces-countries-eligible-for-h-2a-and-h-2b-visa-programs>.

181 Oyaol Ngirairikl, “USCIS narrows H2-B options,” *The Guam Daily Post*, May 16, 2021, accessed at https://www.postguam.com/news/local/uscis-narrows-h-2b-options/article_ffff9610-b552-11eb-a48a-0b80200ea6f0.html.

182 US Department of Homeland Security, “Study in the States: School Search: Guam,” accessed at https://studyinthestates.dhs.gov/school-search?field_school_name_value=&field_location_city_value=&field_location_state_value=25&zip=&field_education_level_value=Al.

183 US Immigration and Customs Enforcement, “Departure,” accessed at <https://www.ice.gov/sevis/students>.

184 USCIS, Naturalization Eligibility Worksheet Instructions, accessed at <https://www.uscis.gov/sites/default/files/document/guides/M-480.pdf>.

185 US Department of Homeland Security, “Profiles on Naturalized Citizens: Guam (2014, 2015, 2016, 2017, 2018),” accessed at <https://www.dhs.gov/profiles-naturalized-citizens>.

186 US Department of Homeland Security, Profiles on Naturalized Citizens.”

Persons Naturalized in Guam¹⁸⁷

187 US Department of Homeland Security, "Profiles on Naturalized Citizens: Guam (2014, 2015, 2016, 2017, 2018)," accessed at <https://www.dhs.gov/profiles-naturalized-citizens>

LEGAL SYSTEM MODEL	DESCRIPTION
FY 2014	702
FY 2015	712
FY 2016	711
FY 2017	842
FY 2018	849
TOTAL	3,823

Persons Naturalized in Guam by Country of Birth (Countries in Asia and Micronesia)¹⁸⁸

188 Ibid.

COUNTRIES OF BIRTH	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018	TOTAL
People's Republic of China	33	29	26	47	33	168
Japan	15	11	13	11	15	65
South Korea	42	56	33	45	39	215
Palau	4	D	5	0	5	14
Philippines	558	542	578	665	690	3,033
Taiwan	7	10	0	7	8	32
Thailand	5	14	3	6	5	33
Vietnam	4	5	5	5	4	23
Federated States of Micronesia	0	0	5	0	D	5

D = Department of Homeland Security withheld the number to avoid disclosing identities.

In addition to being a location to seek US citizenship for people from Asia, Guam experiences a large influx of migrants from the freely associated states of Micronesia (FAS). The Compacts of Free Association (COFA) allow FAS citizens to enter the United States and its territories as nonimmigrants. Section 141 (a) of the Amended COFA with the Federated States of Micronesia states, “In furtherance of the special and unique relationship that exists between the United States and the Federated States of Micronesia, under the Compact, as amended, any person in the following categories may be admitted to, lawfully engage in occupations, and establish residence as a nonimmigrant in the United States and its territories and possessions...”¹⁸⁹ Typically, nonimmigrants are considered “people who enter the US on a temporary basis – whether for tourism, business, temporary work, or study.”¹⁹⁰ However, because of the COFA agreement, FAS citizens are able to reside in the United States without a specific timeline.¹⁹¹ In 2018, the US Census Bureau estimated that 18,874 COFA migrants resided in Guam.¹⁹²

Guam also experiences large number of foreign workers coming into the island due to military activities, especially the recent military build-up. Currently, the island is undergoing substantial changes due to heavy U.S military growth and expansion. In 2004, the US and Japan began establishing a framework for the future reduction of US troops in Okinawa while maintaining a force presence in the Pacific theater by relocating units to Guam. As part of this effort, the original proposal was for 8,600 Marines and 9,000 dependents to move from Okinawa, Japan, to Guam at the earliest possible date. The military was hoping to complete the move by 2014.¹⁹³ With significant delays to the build-up, the number of Marines moving to Guam was amended to include 5,000 Marines and about 1,300 dependents.¹⁹⁴

Along with the Marines and their dependents, the build-up is likely to bring in thousands of temporary foreign workers. In February 2018, the commander of NAVFAC Marianas Navy Captain Stephanie Jones presented to the Guam Rotary Club that “as many as 6,600 foreign workers could be needed that year to supplement Guam’s local construction workforce, which typically hovers around 3,600.”¹⁹⁵ She continued by saying that “spending and construction activity for the pending military buildup are expected to peak during fiscal 2022, with more than 10,000 construction workers required for nearly \$1.4 billion in projects that year.”¹⁹⁶ Overall, the island may see a significant population increase at the peak of military-buildup related activities, even if delayed from original projected years.

189 Section 141 of the Amended Compact of Free Association with the Federated States of Micronesia.

190 University of California Berkeley International Office, “Nonimmigrant vs. Immigrant Status,” accessed at <https://internationaloffice.berkeley.edu/immigration/nonimmigrantvsimmigrant-status#:~:text=or%20nonimmigrant%20status-,Nonimmigrant%20status,%2C%20temporary%20work%2C%20or%20study.&text=Some%20people%20may%20have%20more,nonimmigrant%20status%20at%20a%20time>.

191 USCIS, “Information for SAVE Users: How to Verify Citizens of Palau, the Federated States of Micronesia and the Republic of the Marshall Islands,” accessed at <https://www.uscis.gov/sites/default/files/document/fact-sheets/FactSheetVerifyFASCitizens.pdf>.

192 United States Census Bureau, “Final Report: 2018 Estimates of Compact of Free Association (COFA) Migrants,” accessed at <https://bsp.guam.gov/compact-impact/>.

193 United States Government Accountability Office, “Military Buildup on Guam: Costs and Challenges in Meeting Construction Timelines,” 2011, accessed at <https://www.gao.gov/new.items/d11459r.pdf>.

194 Department of Defense, Department of the Navy, “Record of Decision for the Final Supplemental Environmental Impact for Guam and Commonwealth Northern Marianas Islands Military Relocation,” accessed at <http://guammarines.s3.amazonaws.com/stat-ic/20150828%20-%20ROD%20with%20Signature%20-%20FINAL.pdf>.

195 Steve Limtiaco, “NAVFAC: Building spending, construction, will peak in 2022,” Pacific Daily News, February 22, 2018, accessed at <https://www.guampdn.com/story/news/2018/02/22/navfac-buildup-spending-construction-peak-2022/362109002/>.

196 Limtiaco, “NAVFAC.”

Guam has the Customs and Quarantine Agency (CQA) which is responsible for enforcing “hundreds of laws and regulations both local and federal, and is responsible for protecting borders, securing ports of entry, and facilitating trade, commerce, and travel.”¹⁹⁷ CQA is funded by the government of Guam General Fund and the Customs, Agriculture, and Quarantine Inspection fund, generated from inspection fees.

For FY2020, CQA’s budget was \$14,974,987 of which eighty-eight percent came from the special fund and the remaining 11% came from the government of Guam’s General Fund.¹⁹⁸ Despite the fees covering a majority of the budget, in 2019, CQA recommended that the agency revisit the inspection fees since they had not been updated in five years and do not “accurately reflect today’s operational costs.”¹⁹⁹ It noted that a major challenge was the lack of personnel, especially at the airport. At the A.B. Won Pat International Airport (ABWIA), customs officers from CQA are responsible for inspecting all incoming passengers and goods when they arrive in Guam. In CQA’s FY2019 report to the Office of Public Accountability, CQA reported that:

49 uniformed officers were staffed at the Antonio B. Won Pat International Air Terminal (ABWIAT) to facilitate the entry of over 1.7 million visitors to Guam. According to a rudimentary study conducted a few years ago, successful security of our borders requires 100 officers to be staffed at the ABWIAT per 1.6 million visitors annually.

The current shortage of customs officers affects our ability to effectively protect our island community against: (1) Illegal narcotics and drugs (Methamphetamine, Ecstasy, Cocaine, and Marijuana); (2) Biosecurity threats (i.e.: Influenza, Foot and Mouth Disease); (3) Communicable diseases (i.e.: Ebola, Hepatitis A, Tuberculosis, and Zika); and (4) Invasive species (i.e.: Coconut Rhinoceros Beetle, Greater Banded Hornet, and the Little Fire Ant).²⁰⁰

The lack of personnel makes it difficult for CQA to effectively screen incoming visitors and immigrants to the island. Without being able to effectively screen those entering Guam, migrants can transport goods, products, or diseases that will not otherwise be allowed into the island.

Statehood

As a state, Guam would not control immigration and the island’s immigration policies would continue to follow federal US immigration laws and protocols. The state of Guam would be a formal part of the United States, where immigrants to the island can establish residency requirements for naturalized US citizenship. States cannot formally restrict immigrants from entering their respective states. However,

197 Customs and Quarantine Agency, “Citizen Centric Report 2018,” accessed at https://www.opaguam.org/sites/default/files/cqa_ccr18.pdf, 1.

198 35th Guam Legislature, “FY Budget Act PL 35-36.”

199 Customs and Quarantine Agency, “Citizen Centric Report 2018,” 6.

200 Customs and Quarantine Agency, “Citizen Centric Report 2018,” 6.

states can create different policies that address immigrants in their states (not regarding their status as immigrants, but for things such as employment and professional licensure agreements). For example, states differ on the work and education requirements for immigrants. In 2018, forty-four states had a collective total of 175 laws regarding immigrants. States have also restructured their work requirements so that foreigners in specialized areas can work in their states. According to the National Conference of State Legislatures, in 2018, states like:

California prohibited professional licensing boards from requiring individuals to disclose their immigration status. Maryland authorized that immigrant dentists trained in foreign dental programs are qualified to take a state board examination and apply for a general license to practice dentistry. Mississippi allowed provisional licensed professional counselors to be licensed if they meet certain educational and exam requirements if they are US citizens or if they have verified immigration documentation that authorizes work status.²⁰¹

Michele Waslin, at the Institute for Immigration Research, explains the relationship between the federal and state government when it comes to immigration policy. She writes that,

federal immigration priorities play an important role in expanding who may be considered ‘criminal aliens,’ and state laws can further broaden the range of crimes for which immigrants will be drawn into the criminal justice system. State laws can even criminalize the day-to-day behavior of certain migrants. For example, states can make unauthorized immigrants ineligible for a driver’s license and therefore vulnerable to charges of driving without a license.²⁰²

Waslin further explains the importance of states when enforcing immigration policies. Some states are more immigrant-friendly and others have policies that make it difficult for immigrants to live there. She also observed that more states lean toward making things easier for immigrants. She notes that,

the last decade has seen a variety of laws and de facto practices that limit cooperation with federal immigration enforcement and create conditions in which fewer noncitizens are arrested and identified for deportation. Many localities have chosen not to detain immigrants for ICE if they have not been convicted of serious offenses. Several localities have declined to prosecute minor drug possession cases so that legal immigrants would not face the serious immigration-related consequences of the charge.²⁰³

201 National Conference of State Legislatures, Report on State Immigration Laws 2018, accessed at <http://www.ncsl.org/research/immigration/report-on-state-immigration-laws.aspx>.

202 Michele Waslin, “How State and Local Governments Affect Federal Immigration Enforcement,” Scholars Strategy Network, accessed at <https://scholars.org/contribution/how-state-and-local-governments-affect-federal-immigration-enforcement>.

203 Waslin, “Federal Immigration Enforcement.”

As a state, Guam will follow federal requirements for entry into the island. However, as evidenced with existing states, the state of Guam will have flexibility when it comes to addressing immigrants within the state.

Under statehood, immigration may see the least change, compared to the other two statuses. However, “as a state, the preference for immigration into Guam could increase because of the improvement of perceived prestige of Guam’s political status. Thus, there may be a slight-to-moderate increase in the number of new immigrants entering Guam.”²⁰⁴ Guam may continue to have a steady stream of people coming to the island because it will continue to be a naturalization hub for neighboring Asian countries. The FAS COFA agreements will still apply to the state of Guam. Therefore, Guam may still see an influx of COFA migrants to the island. For short-term visitors, the US Visa Waiver Program and the Guam-CNMI Visa Waiver Program may still apply. Also, Guam would continue to be affected by any military-related issues regarding immigration and labor.

Independence

As an independent country, Guam would have exclusive control over immigration. Countries need to develop immigration policies that will be most beneficial to them. The benefits of immigration include the possibility of economic growth and development. According to the United Nations, “migration can play a critical role in economic growth and development including by helping to fill labor market shortages and by providing jobs and sources of revenue for individual migrants and families.”²⁰⁵ However, others argue that immigration can negatively affect employment for some groups during some periods, including locals with similar skills, experience, and job preferences. Immigration can also reduce old-age dependency ratios. In many countries, immigrants comprise a large proportion of the working-age population. This helps to explain why meeting labor demands is a huge factor in determining a country’s immigration policy. As empirical studies have shown,

Immigration can either cost taxpayers money or deliver fiscal benefits, or lead to either increased or decreased service quality. These varying findings do not reflect confusion or inconsistency. They indicate that answer in different settings can be very different. All these effects are blunted or accentuated by choices. They depend on how policymakers choose to regulate labor markets, benefits systems, and mobility itself. These choices either reap the rewards of immigration or create negative outcomes for the citizens of host countries, migrants, and migrants’ home countries. The answer to legitimate questions about the effects of migration is this: migration is what you make it.²⁰⁶

204 Joseph Bradley, “An Analysis of the Economic Impact of Guam’s Political Status Options,” 2000, 161, accessed at <http://www.senbenp.com/PDF/Decolonization/JoeBradleyRptPoliticalStatus.pdf>.

205 United Nations, Department of Economic and Social Affairs, Population Division, “International Migration Policies: Data Booklet,” 2017.

206 Cindy Huang and Jimmy Graham, and Kate Gough, “Migration is What You Make It: Seven Policy Decisions that Turned Challenges into Opportunities,” *Center for Global Development*, May 30, 2018.

According to researchers at the Center for Global Development, there are seven guiding principles that can help create successful immigration policies:

1. Policies that allow immigrants to fill labor shortages create jobs, increase labor force participation rates, and increase incomes for natives. When policies restrict immigrants from filling shortages, economic opportunities are lost.
2. Temporary migration programs are an effective means to fill labor shortages. Whether they are accompanied by visa overstays and violations of workers' rights depends on the incentives created by the program.
3. When policymakers create new legal channels for migration, irregular migration can decrease—when other key elements are in place. When these legal channels disappear, irregular migration may reappear.
4. Immigrants can (and often do) contribute more in taxes than they receive in government services over time—especially if policies support and enable their successful integration into labor markets.
5. When policies lower barriers to business ownership, immigrants invest in their host economy, hire natives, and boost economic growth.
6. Skilled emigration creates a range of potential economic benefits for the migrants, the destination country, and the origin country—benefits that can be turned into real harms by policies designed for an immobile world. Skill partnerships between origins and destinations offer one path toward mutual benefit.
7. Immigration can either contribute to or harm service quality. Policy choices, such as creating integrated health systems for refugees and host communities, can determine the impact.²⁰⁷

Thus, an independent Guam will have to examine the trends of mobility, global economy, geopolitics, and the domestic attitude of immigration of the time to help guide the development and progression of the country's immigration policies.

In the first few years of independence, it is likely that liberal visa requirements will be established so the island can meet its labor requirements. Guam may allow foreign workers into the island as long as it is not a detriment to Guam's citizens. Controls will likely stay in place, such as how long foreign workers

207 Cindy Huang and Jimmy Graham, and Kate Gough, "Migration is What You Make It: Seven Policy Decisions that Turned Challenges into Opportunities," *Center for Global Development*, May 30, 2018.

may stay in the island and a quota for the number of workers that a company can bring in. The details of these terms may change over time, but an independent Guam will adjust in order to address these issues and determine changes as needed for the protection of Guam's labor force.

With the island's reliance on the tourism industry, it is unlikely that an independent Guam will adopt strict immigration requirements for visitors to the island. As an independent country, Guam will have control over its immigration, which means it can close its borders as it sees fit for a variety of reasons involving health, political relationships, as well as the economy. Therefore, to protect the island's tourism industry and to possibly develop new industries, the island may choose to have a more expansive visa waiver program that will allow citizens from countries to come into Guam as long as they have a valid passport or other appropriate forms of identification.

Immigrants would no longer be able to live in Guam to meet US residency requirements for naturalization. However, like the countries included in the US visa waiver program, an independent Guam may meet the qualifications to be placed on the list. If accepted, Guam citizens may be able to travel into the United States without a visa but must submit the proper documentation.

Regarding immigration, an independent Guam will likely see a decrease in the number of FAS migrants, as COFA agreements for the FAS will likely no longer apply to the island. The COFA countries will have to negotiate a separate agreement with an independent Guam if they would like to establish a visa-waiver program.

An independent Guam will also have to make some policy changes and negotiate with other countries for immigration. For example, regarding short-term visitors, an independent Guam may create visa-waiver programs for neighboring countries in the Pacific Islands and Asia. Guam will also have to negotiate immigration policies with the United States if Guam citizens want to continue to visit or live in the US. Lastly, under independence, Guam will be in charge of and will be responsible for immigration enforcement.

Status Example: United Kingdom (UK)

Before leaving the European Union (EU), the United Kingdom (UK) followed the EU's immigration policies in which the UK accepted all citizens of the EU member states into the country. However, now with Brexit,²⁰⁸ the UK is reforming its immigration policy since deciding to leave the EU. The UK announced that it would reform its immigration policies to entice a more skilled labor force into the UK. A plan entitled, "The UK's future skills-based immigration program" was presented to Parliament in December 2018 from the Secretary of State for the Home Department by the Command of Her Majesty.

In the plan, visitors to the UK who are citizens of the EU member states will be able to travel visa-free. For tourists and visitors from countries outside of the EU, countries fall into two different categories, visa nationals and non-visa nationals where:

208 The popular term for the UK or Britain's exit from the EU.

‘Visa nationals’ (e.g. Nigerians, Ukrainians or Pakistanis) always require a visa to cross the UK border, even as visitors. ‘Non-visa nationals’, (e.g. Canadians or Japanese), do not need a visa to come to the UK as visitors. However, they must obtain permission in advance of travel to work or study in the UK.²⁰⁹

Overall, visitors are allowed to stay in the UK for up to six months.

The system becomes more complex for workers looking to enter the UK. With the new system, citizens of the EU are able to work in the UK with no restrictions on the incoming worker’s salary or skill level. However, there are more restrictions for non-EU citizens coming to work in the UK. These individuals must be considered “highly skilled workers” and they need to be sponsored by their employers.²¹⁰ The plan goes on to say that the UK “will not impose a cap on the numbers of skilled workers, to ensure the brightest and best who wish to come to the UK may do so, and employers have access to the skills that add most value to the UK economy.”²¹¹

As the UK example shows, an independent Guam will have the ability and responsibility to establish immigration laws and policies that work best for the country and its workforce. An independent Guam will also have to make some policy changes and negotiate with other countries for immigration. For example, regarding short-term visitors, an independent Guam may need to create visa-waiver programs for neighboring countries in the Pacific Islands and Asia. Guam will also have to negotiate immigration policies with the United States if Guam citizens want to continue to visit or live in the US. Lastly, Guam will also have to negotiate with other countries regarding the entry of Guam citizens into those countries.

Free Association

As a freely associated state, Guam will have control of its immigration policies, subject to specific items negotiated and outlined in Guam’s potential Compact of Free Association (COFA) agreement or other legal instrument with the United States. If so, a freely associated Guam may have to decide how to establish its visa programs with different countries, especially regarding tourism, education, work, and visiting relatives. Guam will need to determine how long individuals can stay in the island for those reasons and how often they can apply for and renew each respective visa, just as it would if it were independent.

As a freely associated state, Guam will likely cease to be considered a COFA jurisdiction. Therefore, citizens of the COFA countries will be unable to travel to Guam visa free, unless otherwise agreed upon with Guam or negotiated in a potential agreement between the United States and Guam. If a visa-free status is not established, then FAS citizens will have to follow Guam’s established requirements for visas. On the other hand, Guam can potentially negotiate for its citizens to travel visa free into the United States.

209 Secretary of State for the Home Department by Command of Her Majesty, “The UK’s future skills-based immigration program,” 2018, 23, accessed at https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/766465/The-UKs-future-skills-based-immigration-system-print-ready.pdf.

210 Secretary of State for the Home Department by Command of Her Majesty, “The UK’s future skills-based immigration program,” 15.

211 Secretary of State for the Home Department by Command of Her Majesty, “The UK’s future skills-based immigration program,” 15.

If this status is given to Guam citizens, the island's citizens will be able to travel to the United States for education, work, and healthcare opportunities for an unspecified amount of time. However, there are certain guidelines as described in Section 141 (f) of the COFA with the FSM. Per Section 141 (f), the guidelines for applicability of the Immigration and Nationality Act are outlined.

The Immigration and Nationality Act (INA), as amended, shall apply to any person admitted or seeking admission to the United States (other than a United States possession or territory where such act does not apply) under the Compact or the Compact, as amended, and nothing in the Compact or the Compact, as amended, shall be construed to limit, preclude, or modify the applicability of, with respect to such person:

(1) any ground of inadmissibility or deportability under such Act (except sections 212(a)(5) and 212(a)(7)(B)(i)(II) of such Act, as provided in subsection (a) of this section), and any defense thereto, provided that, section 237(a)(5) of such Act shall be construed and applied as if it reads as follows: “any alien who has been admitted under the Compact, or the Compact, as amended, who cannot show that he or she has sufficient means of support in the United States, is deportable”;

(2) the authority of the Government of the United States under section 214(a)(1) of such Act to provide that admission as a nonimmigrant shall be for such time and under such conditions as the Government of the United States may by regulations prescribe

(3) except for the treatment of certain documentation for purposes of section 274A(b)(1)(B) of such Act as provided by subsection (d) of this section of the Compact, as amended, any requirement under section 274A, including but not limited to section 274A(b)(1)(E)

(4) section 643 of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, Public Law 104–208, and actions taken pursuant to section 643; and

(5) the authority of the Government of the United States otherwise to administer and enforce the Immigration and Nationality Act, as amended, or other United States law.

In the case of free association with similar negotiated immigration provisions, similar applicability of the INA may be followed.

Should Guam negotiate an agreement with the United States as a freely associated state, it is likely that the U.S will seek provisions that allow exclusive military access to the island. With the continued presence of U.S bases positioning Guam as a theatre for US power projection in the region, the island may continue to support a population of military personnel and their dependents. Negotiations with the US as a freely associated state will afford the island more political agency with which to establish agreements, but the island may have to consider US security, as outlined in the agreement with the United States,

when it comes to immigration policy.

Status Example: The Federated States of Micronesia (FSM)

The Federated States of Micronesia (FSM) comprises four states: Chuuk; Kosrae; Yap; and Pohnpei. Each state has its own airport and local office of the federal customs bureau. To enter any of these states, visitors must present a passport (or documentation equivalent to a passport respective to their country) which must be good for 120 days from the date of entry into FSM. If they do not possess any of those documents, visitors must complete an “FSM Immigration Arrival and Departure Record. Additionally, if their visit exceeds thirty days, visitors may extend their stay by applying for an entry permit.²¹²

The FSM Department of Justice’s Division of Immigration and Passport Services is responsible for enforcing immigration laws because it must:

regulate the entry of foreign citizens (legally titled ‘aliens’), manage and supervise the Border Management System (this is essentially a database of who comes and goes, including where they’re from, what they’re doing, how long they’re staying, etc.), and to maintain the security and quality of FSM passports, including ways to improve the processing of passport applications.²¹³

The FSM also offers passport services at its embassy in Washington, D.C., and its three consulates in: Portland, Oregon; Honolulu, Hawai‘i; and Guam.²¹⁴

Regarding emigration, all FSM citizens are able to travel visa-free to the United States, with no restriction on the length of time they can stay in the country. When FSM citizens arrive in the United States at a port of entry, they have to present a valid passport to US Customs and Border Protection (CBP), and an I-94 form is electronically created for them. A paper version of the completed form can be obtained by logging on to CBP’s I-94 website. Entrants can also request paper versions when they arrive at a port of entry, if they prefer. This form does not expire, even after one’s FSM passport does. However, once an FSM citizen leaves the US, their I-94 form will no longer be valid.²¹⁵

The US is not the only place that the FSM citizens can travel to visa-free. In September 2016, the FSM signed a mutual visa waiver agreement with the European Union (EU). In the agreement, FSM citizens can travel to the twenty-six member states of the EU for up to ninety days. The agreement is valid until

212 Federated States of Micronesia Visitors Board, “Customs Regulations,” 2012, accessed at <http://www.visit-micronesia.fm/guide/regulation.html>.

213 Government of the Federated States of Micronesia Visitors Board, “Press Release: President Panuelo Signs Executive Order to Enhance the Department of Justice’s Capacity to Serve the Citizens of the Federated States of Micronesia,” accessed at <https://gov.fm/index.php/component/content/article/35-pio-articles/news-and-updates/158-president-panuelo-signs-executive-order-to-enhance-the-department-of-justice-s-capacity-to-serve-the-citizens-of-the-federated-states-of-micronesia>.

214 Government of the Federated States of Micronesia Visitors Board, “Press Release.”

215 United States Citizenship and Immigration Status, 2019, “Status of Citizens of the Freely Associated States of the Federated States of Micronesia and the Republic of the Marshall Islands,” accessed at https://www.uscis.gov/sites/default/files/document/fact-sheets/FactSheet-Status_of_Citizens_of_Micronesia_Marshalls_Islands.pdf.

2022. The FSM has a separate visa-waiver agreement with the United Kingdom.²¹⁶

As a freely associated state, Guam will have the ability to classify non-citizens in the island and will be able to create visa requirements for each classification (i.e., students, employees, spouses of citizens, etc.). It is also likely that Guam will continue to bring in private investments which will require the issuance of visas for alien workers of private employers. A freely associated Guam may also be able to establish visa waiver programs with other countries, similar to the agreement made between the FSM and the EU.

216 European Travel Information and Authorization System, "ETIAS Waiver for Micronesians," accessed at <https://www.etiasvisa.com/etias-requirements/micronesians>.

IMMIGRATION	
STATUS	EFFECTS
<i>Statehood</i>	<ul style="list-style-type: none"> • The US federal government will control immigration. • Immigration policies in Guam will likely stay the same, especially regarding visas. • Guam will remain a COFA jurisdiction where COFA residents can travel to and stay visa-free. • The people of Guam will continue to be citizens of the United States, making it possible for residents to relocate to and seek employment or educational opportunities in the United States. • The island will remain a naturalization hub for US citizenship, wherein foreign nationals may reside in order to meet the requirements for naturalization.
<i>Independence</i>	<ul style="list-style-type: none"> • Guam will have exclusive control over immigration.

	<ul style="list-style-type: none"> • The island will need to establish its visa (or visa waiver) programs with different countries, especially regarding tourism, education, work, and visiting relatives. • Immigrants will no longer be able to live in Guam to meet US residency requirements for naturalization. • Guam will no longer be a COFA jurisdiction and the island may see a decrease in migrants from the COFA countries. • The island will likely adopt less strict immigration protocols to expand the tourism market.
<p style="text-align: center;"><i>Free Association</i></p>	<ul style="list-style-type: none"> • Guam may have exclusive control over its immigration policies, apart from potential provisions outlined in the island’s potential COFA treaty or other legal document with the United States. • If Guam has exclusive control over its immigration, the island will need to decide how to establish its visa (or visa waiver) programs with different countries, especially regarding tourism, education, work, and visiting relatives. • Immigrants will no longer be able to live in Guam to meet US residency requirements for naturalization.

Healthcare

Currently, Guam's healthcare system is comprised of a network of organizations, institutions, and programs that work collectively to provide the island's residents with their healthcare needs. Prior to colonial rule, the island heavily relied upon the makåhna and kakåhna (suruhånu and suruhåna; yo'åmte) for healing. These individuals were trained traditional healers who often acquired the gift of healing through the family line, from generation to generation. At a young age, an individual was chosen to apprentice with a family member who held the knowledge of medicine-making and healing. These native traditional healers used a variety of plants to produce medicines to treat spiritual and physical ailments. They held spiritual ceremonies and used indigenous chant to aid in healing. Millenia later, the practice of traditional medicine is still maintained, and many in the island seek the services of a suruhånu(a) as well as other healthcare professionals simultaneously, as can be found at Sågan Kotturan CHamoru or the various Guma' Yo'åmte.²¹⁷

The structure and institutionalization of Guam's healthcare happened gradually. The most drastic shifts to the island's contemporary healthcare system occurred after World War II. After returning to Guam, the US military set up both civilian and military hospital wards in a complex of metal buildings in the village of Tamuning. The civilian ward was renamed Guam Memorial Hospital Authority (GMHA) in 1946 in honor of the CHamoru casualties of World War II. The hospital came under civilian administration in 1950 and in 1956 moved into a modern reinforced concrete structure nearby. In 1964, GMHA transitioned from a military-administered hospital to a line agency under the government of Guam. After more than a decade, in 1977, GMHA became a "public corporation and has since been operating as a government, not-for-profit entity."²¹⁸ To date, GMHA is the island's only public hospital.

In addition to GMHA, the island also has a military hospital, Naval Hospital Guam, and a private hospital, the Guam Regional Medical City (GRMC). Naval Hospital Guam is available exclusively to

217 Tricia Lizama, "How are Traditional Chamoru Healing Practices Being Perpetuated and Preserved in Modern Guam: A Phenomenological Study" (PhD diss., Capella University, 2011).

218 Connor Murphy, "Guam Memorial Hospital," Guampedia, October 14, 2019, accessed at <https://www.guampedia.com/guam-memorial-hospital/>.

active military personnel, military dependents, and military retirees. Residents of Guam who do not meet the requirements for entry into Naval Hospital are granted access to the facilities in cases of extreme emergencies. In the event of an emergency, a resident of Guam may be transported to the Naval Hospital if it is the closest facility.

The third and newest of Guam's hospitals is the Guam Regional Medical Center, which opened for operation in 2015. It is the island's only private hospital. GRMC is owned and managed by The Medical City, a company based in the Philippines that oversees a network of hospitals and clinics.²¹⁹ Residents of Guam are allowed to utilize GRMC, which accepts payments from Medicaid and Medicare federal insurance programs as well as some private insurance companies. In addition to the hospital itself, GRMC houses specialty clinics for areas such as cardiology, neurology, and oncology to name a few.²²⁰

Aside from the hospitals, a majority of government funded healthcare services are administered by the Guam Department of Public Health and Social Services (DPHSS). Currently, DPHSS is responsible for maintaining adequate health standards for the community. This is to be accomplished through immunization programs, sanitation inspections of private and public facilities, special programs to control specific contagious diseases, such as tuberculosis, and the provision of public clinics for the prevention and early detection of disease. DPHSS has five major divisions: General Administration (DGA); Public Health (DPH); Environmental Health (DEH); Public Welfare (DPW); and Senior Citizens (DSC).²²¹ DGA is responsible for supervising all other divisions and controlling the institution's budget and finances. The remaining four divisions coordinate and operate programs specific to their missions. DPW is responsible for overseeing and managing local and federal assistance programs, which include Medicaid, the Medically Indigent Program (MIP), and the Supplemental Nutrition Assistance Program (SNAP).²²²

Guam residents also have access to the Guam Behavioral and Health and Wellness Center (GBHWC) for behavioral and mental health services. Mental health services were provided by GMHA until 1983. With the introduction of Public Law 17-21, GBHWC officially became a Government of Guam line agency.²²³ Today, the institution is open to the Guam public and operates with both local and federal funding. GBHWC provides counseling for all age groups, rehabilitative services for drug and alcohol abuse, and outpatient/inpatient treatment and recovery care. It also collaborates with, provides training to, and receives service referrals from GDOE and DPHSS.

Guam's healthcare institutions are funded by local appropriations and federal grants. For FY 2020, the government of Guam allocated more than \$115 million to operate its healthcare institutions. In addition to local funds, the institutions also utilize federal grant monies to provide supplemental programs to meet the healthcare needs of Guam's residents. For Guam's healthcare institutions, much of the federal money comes from grants or programs that require the government of Guam to provide these institutions with

219 The Medical City Center, "Our History," accessed at <https://www.themedicalcityclinic.com/history/>.

220 Guam Regional Medical City, "About Us," accessed at <https://www.grmc.gu/about-us/>.

221 Guam Department of Public Health and Social Services, "Homepage," accessed at <https://dphss.guam.gov/#>.

222 Guam Department of Public Health and Social Services, "Homepage."

223 Guam Behavioral Health and Wellness Center, "About GBHWC," accessed at <https://gbhwc.guam.gov/department/about-gbhwc>.

local funds or other such resources (in-kind contributions) in order to match the amount given by the federal. The percentage of money needed to match federal funding varies, based on the federal grant or program. These grants include, but are not limited to Medicaid, past MIP appropriations, and the Children’s Health Insurance Program (CHIP).²²⁴

Considering the financial needs of Guam’s healthcare institutions, it is important to note that a significant number of people in Guam are reliant on public health insurance programs to access healthcare services. On average, around 55,000 people are enrolled in either Medicaid or MIP, which means that a significant amount of Guam’s residents are categorized as impoverished by federal standards and entitled to subsidized healthcare programs.

224 35th Guam Legislature, “FY Budget Act PL 35-36.”

Number of People Enrolled in Public Healthcare Programs (Medicaid and MIP)²²⁵

225 Guam Department of Public Health and Social Services Bureau of Health Care Financing Administration, “FY2014, FY2015, FY2016, FY2017, FY2018 Medicaid and MIP Expenditure & Demographic Report- End of 4th Quarter,” accessed at <http://dphss.guam.gov/resources-bh-cfa/>

	FY 2014	FY 2015	FY 2016	FY 2017	FY 2018
Medicaid	44,528	44,033	43,673	43,476	43,600
MIP	12,471	12,033	11,757	10,861	10,998
Total	56,999	56,066	55,430	54,337	54,598

The quality of Guam’s healthcare system and its ability to respond to the needs of the island community is critical since the island’s residents suffer from high rates of chronic disease, including diabetes and kidney disease. DPHSS administrators cited similar challenges across their respective departments: limited/decreased funding and funding sources; outdated operating procedures, policies, and plans; lengthy processes for procurement and retirement; and an aging and unsustainable workforce.²²⁶ Administrators expressed worry that as older workers leave, so will institutional knowledge, as there is a shortage of new employees entering their departments. DPHSS needs time to reform and update many of its processes in order to streamline its services. Such reform may help improve response times and prevent the overextension

226 Documents provided by DPHSS for the Self-Governance Study, January 2020.

of employees. Shorter response times and more sustainable workloads carried by employees could allow for the expansion of services.

The island is experiencing a shortage of medical specialists alongside overextended public health clinicians. Due to the shortage of medical specialists, many of Guam's residents seek healthcare services off-island. Seeking off-island medical care, residents go through the Guam Medical Referral Assistance Office, which falls under the Office of the Governor of Guam. The Guam Medical Referral Assistance Office currently has three locations in: Manila, Philippines; Honolulu, Hawai'i; and Los Angeles, California. The Referral Assistance Office provides caseworkers who assist Guam residents by coordinating with the patient's insurance company, medical providers, and arranging transportation and travel for the patient and their escort.²²⁷ Combining FY2019 and FY2020, the Guam Medical Referral Office sent a total of 1,286 patients off-island for medical care.²²⁸

In addition to the Guam Medical Referral Assistance Office, residents in Guam may also go through The Medical City's referral office. As mentioned earlier, The Medical City is the parent company that owns and manages GRMC. The Medical City referral office opened in December 2019 to provide "help to those seeking medical care unavailable on Guam and to those seeking treatment outside of the territory."²²⁹ With the assistance of The Medical City referral office, patients gain access to the company's extensive healthcare network, which includes more than five hospitals and fifty clinics in the Philippines. GRMC provides this service to Guam residents recognizing that while "the services offered at the facility [Guam GRMC] are extensive, there are certain procedures that aren't readily available on the island."²³⁰

In addition to its need for institutional reform, DPHSS faces the challenge of providing services to FAS clients. As a COFA jurisdiction, citizens of freely associated states (FAS) throughout the Micronesian sub-region can come to Guam for healthcare services. Since the signing of the COFA treaties in the 1980s and 1990s, Guam has seen a steady increase of COFA migrants who use health care services in Guam, but there has not been a proportionate increase in COFA impact funding from the US federal government to Guam. It is important to note that the Compact agreement itself does not specifically state that FAS migrants are allowed access to healthcare, this access comes from the policies and laws that govern healthcare in the affected jurisdictions where COFA migrants reside.

Citizens of the FAS can move to the United States and its territories, in many cases to get access to better healthcare. As a result, COFA migrants will often choose to receive healthcare services in either Hawai'i or Guam. In 2018, the Census Bureau reported that most COFA migrants, 49.5% (18,874), resided in Guam.²³¹ With the island's status as an unincorporated territory, Guam had no say during the negotiations of COFA, but provides healthcare services with little-to-no federal funding. To date, Guam

227 Lannie Walker, "Medical referrals continue during pandemic," The Guam Daily Post, September 7, 2020, accessed at https://www.postguam.com/news/local/medical-referrals-continue-during-pandemic/article_966a08be-ec05-11ea-8a21-13f682b05749.html.

228 Darlean S.N. Salas, Medical Referral Office, data given on September 11, 2020.

229 Lannie Walker, "Medical City open Guam office," The Guam Daily Post, December 9, 2019, accessed at https://www.postguam.com/news/local/medical-city-opens-guam-office/article_27c90008-212c-11ea-bcad-bf7ba3cda634.html.

230 Amanda Dedicataria, "The Medical City opens new Guam referral office," Pacific News Center, December 17, 2019, accessed at <https://www.pncguam.com/gmrc-to-open-medical-city-referral-office/>.

231 United States Census Bureau, "2018 Estimates of Compact of Free Association (COFA) Migrants."

receives less than twenty percent of the annual reimbursements that the United States owes the government of Guam for resources used by COFA migrants.²³² Before moving forward, it must be made clear that this is not the fault of the citizens of the FAS or the FAS themselves, and this analysis should not be misconstrued as implying such.

In a report written by the Office of the Governor of Guam, it was noted that for FY2017 Guam spent more than \$38 million providing healthcare services to COFA migrants. From FY2004 to FY2017²³³, Guam's healthcare institutions collectively spent more than \$329 million. In the US Government Accountability Office's June 2020 report entitled, "Compacts of Free Association: Populations in US Areas Have Grown, with Varying Reported Effects," it was noted that "Guam reported \$1.2 billion in total estimated compact impact costs."²³⁴ However, in the same report, it details that Guam was given only \$259.7 million in compact impact grants to "defray costs due to the residence of compact migrants."²³⁵

Statehood

As a state, the healthcare system will remain intact for the most part. Residents of the state of Guam will likely continue to get access to healthcare through employer-sponsored insurance and/or federally funded healthcare insurance. All public and private clinics, healthcare providers, hospitals, and government programs will likely remain the same, unless otherwise changed as a result of specific provisions of the state of Guam's constitution. One change that may occur is that the state of Guam may have to establish a healthcare insurance exchange program to comply with the 2010 Affordable Care Act (ACA) if still intact at the time.²³⁶

Regarding federally funded health insurance, Medicaid would remain federally funded and all services available under Medicaid would likely remain the same. With the passage of the Consolidated Appropriations Act, 2021, the US Congress included a provision in Section 208²³⁷ that would give citizens of the FAS access to Medicaid again.²³⁸ Therefore, as of December 2020, US citizens and non-US citizens, including COFA migrants, who meet the poverty guidelines for Medicaid (less than one hundred percent Federal Poverty Line) would be eligible to participate in this program.

232 Ed Case, "Case calls on Federal Government for full reimbursement of costs of migrants from the Republic of the Marshall Islands, the Republic of Palau, and the Federated States of Micronesia, November 27, 2019, accessed at <https://case.house.gov/media/press-releases/case-calls-federal-government-full-reimbursement-costs-migrants-republic>.

233 The Office of the Governor of Guam wrote a cumulative report of COFA impact in the island spanning more than a decade. The data is only analyzed up to fiscal year 2017. As of its June 2020 report on COFA impacts, the US Government Accountability Office also reported that it did not receive COFA costs from Guam after FY2017.

234 US Government Accountability Office, "Compact of Free Association: Populations in US Areas Have Grown, with Varying Reported Effects," June 2020, accessed at <https://www.gao.gov/assets/710/707555.pdf>, pgs. 22-25.

235 US Government Accountability Office, "Compact of Free Association: Populations in US Areas."

236 Henry J. Kaiser Family Foundation, "Focus on Health Reform," 2012, accessed at <https://www.kff.org/wp-content/uploads/2013/01/8332.pdf>.

237 Manatt Health, Princeton University. "Omnibus Funding Package with COVID-19 Relief, Health Care Extenders, and Surprise Billing Ban," January 2021, accessed at <https://www.shvs.org/wp-content/uploads/2021/01/Omnibus-Funding-Package-with-COVID-19-Relief-Health-Care-Extenders-and-Surprise-Billing-Ban-01.13.2021.pdf>.

238 US Congress, Senate Rules Committee. "Consolidated Appropriations Act, 2021." 116th Cong. 116-68. accessed at <https://rules.house.gov/sites/democrats.rules.house.gov/files/BILLS-116HRI335A-RCP-116-68.pdf>.

In the state of Guam, COFA would still apply because Guam would be fully integrated into the United States. Support for federal programs would increase, not only because of Medicaid expansion to COFA migrants, but also because the federal medical assistance percentage (FMAP) is based on each state's per capita income, which usually ranges from fifty percent to eighty-three percent. Historically, Guam's share of Medicaid and other federal programs is determined periodically by Congress. This will no longer be the case under statehood. It will be based on regulations generally applied to all states and this "could help to reduce the local government's expenditures on health care, or improve the level of services available."²³⁹ Guam and the territories have often had a Medicaid cap of fifty-five percent FMAP, in which the federal government caps their funding at fifty-five percent and the local government is responsible for the remaining forty-five percent.²⁴⁰ The territories continue to petition the federal government for more health care funding and have found some success, such as the Consolidated Appropriations Act of 2020, cosponsored by Guam Delegate Michael San Nicolas.

It should also be noted that as a state, Guam will be required to pay into the federal coffers. Therefore, Guam residents will start to pay federal income tax as well as state taxes. However, most states receive more money from the federal government than they give to it. In January 2020, the SUNY Rockefeller Institute of Government issued a report that:

found that just eight states gave more to the federal government in 2018 than they received in federal spending: New York, New Jersey, Massachusetts, Connecticut, Colorado, Minnesota, Utah and Nebraska. Over the past four years, New York contributed \$116.2 billion more to the federal government than it got back in federal spending. The remaining 42 states received more than they contributed, with Virginia, Maryland, Kentucky, Alabama and Ohio leading.²⁴¹

Most states receive more federal funding than they give for a variety of reasons: the number of federal employees in their states; how many residents receive federal benefits; and how much the state gives to the federal coffers, etc.²⁴² The federal dollars received will help the state of Guam to fund its healthcare institutions and to expand its services to more of the state's residents.

It should be noted that, due to the federal nature of the United States, states have flexibility in the administration of certain medical programs, which is why there is inequality and variation amongst the states. For example, uninsured rates among non-elderly adults with incomes below 200% of the federal poverty level varied across the states, from seven percent in Massachusetts to forty-three percent in Texas. This can be seen in the case of Medicaid. Medicaid is a health insurance program in which the federal

239 Bradley, "Economic Impact of Guam's Political Status Options," 72.

240 Congressional Research Service, "Medicaid Funding for the Territories," July 2019, accessed at <https://fas.org/sgp/crs/misc/IF11012.pdf>.

241 Melissa Quinn, "State bailouts and federal spending: Which states give, and which receive?" CBS News, April 30, 2020, accessed at <https://www.cbsnews.com/news/state-bailouts-federal-spending-give-receive/>.

242 John Tierney, "Which States are Givers and Which are Takers?" The Atlantic, May 5, 2014, accessed at <https://www.theatlantic.com/business/archive/2014/05/which-states-are-givers-and-which-are-takers/361668/>.

government gives money to state governments to pay for the costs of healthcare for lower-income patients. However, the healthcare itself is provided by private/nonprofit hospitals, clinics, and providers. Thus, the actual administration of the program is dependent on spending decisions of state capitals, health insurance companies, and the state's leverage over financial intermediaries. According to political scientist Donald F. Kettl, "Medicaid thus is a federal program brought to life in the decisions of in the states, a state-managed program with private contractors on the front administrative lines, a program that is different in every state and marked by immense administrative complexity— and a program that, as a result, has bred enormous variation and inequality."²⁴³ In describing the relationship between federalism and healthcare, he expands,

Over the centuries, the Tenth Amendment had certainly receded in importance, but the states had never forgotten it. Its basic provisions remained clear: if the Constitution did not give the federal government explicit power over a particular policy issue, it could not mandate state action. When it came to expanding federal authority over the states, it was one thing to create inducements, through grant programs, that no state would want to refuse. It was another to coerce them into doing something that no state would want to refuse. It was another to coerce them into doing something that was not otherwise authorized in the Constitution.²⁴⁴

Overall, federal statutes have often allocated implementation authority to states. Therefore, Guam, as a state, will have flexibility regarding certain healthcare programs and initiatives.

Status Example: Hawai'i

Hawai'i's Department of Health (HIDOH) oversees three major program areas: Health Resources; Environmental Health; and Behavioral Health. In FY2019, HIDOH had an operating budget of \$1.79 billion. Health Resources and Behavioral Health made up 81% of the budget, utilizing more than \$1.4 billion. Environmental Health took up the next largest portion, with 18% of the budget (\$316 million). The remainder of HIDOH's budget 1% (\$24 million) went to social services for the Disability and Communications Board as well as the Executive Office on Aging.²⁴⁵ The institution has district offices in four of the Hawaiian islands: O'ahu; Hawai'i (Big Island); Kaua'i; and Maui. The Maui District health office is responsible for overseeing the neighboring islands of Lāna'i, Moloka'i, and Kaho'olawe.²⁴⁶

In 2019, the Commonwealth Fund conducted a study of all fifty US states, where they ranked each

243 Donald F. Kettl, *The Divided States of America: Why Federalism Doesn't Work*, (Princeton and Oxford: Princeton University Press), 2021, pg. 95.

244 Donald F. Kettl, *The Divided States of America: Why Federalism Doesn't Work*, (Princeton and Oxford: Princeton University Press), 2021, pg. 101.

245 State of Hawaii Department of Budget and Finance, "Department of Health Department Summary," accessed at <https://budget.hawaii.gov/wp-content/uploads/2017/12/19-Department-of-Health-FY-19-SUPP.2eM.pdf>.

246 State of Hawaii Department of Health, "Neighbor Island Offices," accessed at <https://health.hawaii.gov/maui/>; <https://health.hawaii.gov/kauai/>; <https://health.hawaii.gov/big-island/>.

state's healthcare system. Hawai'i ranked #1 overall.²⁴⁷ When comparing the state to the US national average, it was found that "approximately 5.5% of adults in the state are uninsured, well below the national average of 13.8%. Additionally, the obesity rate in the Aloha State, at 23.8%, was below the national average of 31.3%."²⁴⁸ The state's incredibly low uninsured rate is due in part to actions taken by the Hawai'i Legislature.

The enactment of the Hawai'i Prepaid Health Care Act greatly reduced the amount of health-care costs for employees in the state. Codified into law in 1974, the act was the "first in the nation to set minimum standards of health care coverage for workers."²⁴⁹ There was a brief hiatus with the bill, when it was replaced by the Federal Employee Retirement Income Security Act of 1974 (ERISA), but it was brought back on March 1, 1983.²⁵⁰ The Act mandates "Hawaii employers to provide healthcare coverage for eligible employees to insure protection against the high cost of medical and hospital care for nonwork-related illness or injury."²⁵¹ The Act's monthly premium pay structure sets it apart from current plans implemented on Guam that require employers to provide health insurance. Employees in Hawai'i can pay their premium using two formulas: fifty percent of the premium is paid by the employee and the remaining fifty percent is paid by the employer; or the employee contributes no more than 1.5% of their monthly income for their insurance premium. Employees then pay the lesser of the two options. HMSA, one of Hawai'i's health insurance giants, gives an example to explain this payment structure:

Malia works forty hours a week. Her monthly paycheck is \$1,733. Her health insurance costs \$300 a month, half which is \$150, 1.5% of her net salary is \$26. According to the law, Malia pays the lesser of the two amounts—\$26. Her employer pays the rest.²⁵²

The new structure significantly cuts the cost of healthcare insurance for employees, thereby increasing their ability to access quality healthcare services.

As a state, it is expected that only minor changes will have to be made to the current system with the establishment of a healthcare exchange program. Guam will have to connect to the healthcare marketplace managed by the US Department of Health and Human Services (HHS). As a state, Guam would remain a COFA jurisdiction. With its new political status, Guam would have more power to negotiate the terms of healthcare coverage provided to COFA migrants and have more say in how to accomplish

247 The Commonwealth Fund, "2019 Scorecard on State Health System Performance: Hawaii," accessed at <https://scorecard.commonwealthfund.org/state/Hawaii>.

248 Honolulu Star Advertiser, "Hawaii health care takes No. 1 spot in nationwide survey," May 15, 2019, accessed at <https://www.star-advertiser.com/2019/05/15/breaking-news/hawaiis-health-care-takes-top-spot-in-annual-nationwide-survey>.

249 State of Hawaii Department of Labor and Industrial Relations Disability Compensation Division, "Highlights of the Hawaii Prepaid Health Care Act," October 2018, accessed at <http://labor.hawaii.gov/dcd/files/2013/01/PHC-highlights.pdf>.

250 State of Hawaii Department of Labor and Industrial Relations Disability Compensation Division, "Highlights of the Hawaii Prepaid Health Care Act."

251 State of Hawaii Department of Labor and Industrial Relations Disability Compensation Division, "Highlights of the Hawaii Prepaid Health Care Act."

252 HMSA, "Hawaii Prepaid Health Care Act," March 9, 2020, accessed at <https://hmsa.com/help-center/hawaii-prepaid-health-care-act/>.

this task. It is important to note that because of its responsibility to the United States, the state of Guam cannot opt to completely disregard the provisions of the Compact agreements.

Independence

In an independent Guam, the government and people will have to decide how to best develop or maintain the island's healthcare system. This can open doors to opportunities and best practices by learning from examples around the world. However, it is important to note that, with independence, the creation and structure of the healthcare institutions are dependent on the type of system the island follows and the associated costs for implementing that healthcare model. The island may desire free medical care for all citizens paid for by the government of Guam, or perhaps some other program more comprehensive, more suitable and more affordable than what is currently in place. This would be dependent on the economic feasibility of the development of this system and how the new country will replace the federal funds currently available which assist in the maintenance and operation of the healthcare network of the island. This will be a serious undertaking that will be needed to ensure the legitimacy of the new government. On this note, one of the authors in his 2000 report notes,

Because health and healthcare are high US and international priorities, the US government is likely to make substantial efforts to maintain a baseline level of health care services in Guam, despite the transition to independence. However, funding for the attendant programs will change, with a phased discontinuance of formal, direct US health care funding through grants. Support will come in the form of advisory services and technical assistance, as well as through foreign aid, whether directly or through third-party international organizations.²⁵³

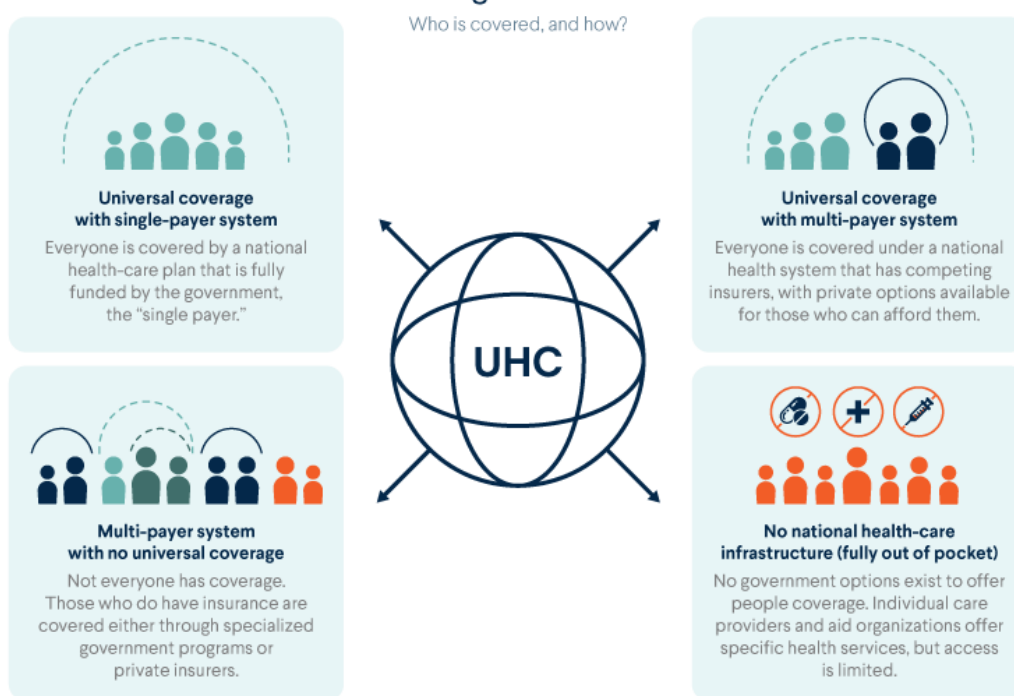
In addition, the development of the island's healthcare will be in the creation of a healthcare system.

There are four main models for healthcare that countries follow: Beveridge Model; Bismarck Model; National Health Insurance Model; and Out-of-pocket Model.²⁵⁴ Many countries use one of the models as their main foundation and introduce elements of other models within their healthcare infrastructure.

253 Bradley Report, 2000, pg. 103.

254 Mimi Chung, "Health Care Reform: Learning from Other Major Health Care Systems," December 2, 2017, Princeton Public Health, accessed at <https://pphr.princeton.edu/2017/12/02/unhealthy-health-care-a-cursory-overview-of-major-health-care-systems/>.

Health Coverage Around the World



Source: World 101, Council on Foreign Relations

World101

The Beveridge Model was developed in the United Kingdom in 1948. This model identifies “health as a human right,” where “universal coverage is guaranteed by the government and all citizens have the same access to care.”²⁵⁵ The country’s government is responsible for paying for health care in the country, with healthcare being funded by direct income tax deductions and the hospitals being owned and operated by the government, which lowers the cost of healthcare. This makes health services free at the point of use for citizens. However, this model is often criticized for producing long wait times for citizens seeking care, as the model facilitates the overuse of healthcare services. Another problem, particularly in countries with aging populations, is how to generate funding when tax revenues are reduced. Today, the United Kingdom still uses this model, as do countries like Spain, Cuba, and New Zealand.²⁵⁶

The next model, the Bismarck Model, is like the Beveridge Model because the government still has control over the price of healthcare. However, citizens get access to healthcare with private insurers who handle the person’s “sickness fund” which the individual pays into. Insurers cannot make a profit from healthcare services, so it is unlikely that someone will go into substantial debt because of medical care. Most hospitals and health providers are private, although the funds are considered public. The main critique with the Bismarck Model is that it privileges those who are employed. Therefore, countries who use this model struggle with providing access to healthcare for citizens who are unemployed or when there is a larger number of older, retired residents than there are residents who are actively employed. Germany,

255 Chung, “Health Care Reform.”

256 Chung, “Health Care Reform.”

France, Belgium, and Japan are some of the countries that structure their healthcare according to the Bismarck Model.²⁵⁷

The National Health Insurance Model uses a blend of the Beveridge and Bismarck models. Within this model, the government is the only payer for healthcare services, but all providers are private clinicians. Funds are raised via a country's operated insurance scheme that all citizens pay into. Costs are kept low for residents because it remains government controlled. Healthcare practitioners prefer this model because they can operate independently without having to work in government-run clinics and hospitals. However, many residents complain that like the Beveridge model, waiting lists for medical care can take weeks or sometimes months. Canada and South Korea are some countries that use the National Health Insurance Model.²⁵⁸

The last model for healthcare is the Out-of-Pocket Model. Countries who use this model tend to be poor and developing countries who do not have the means to establish a permanent and robust infrastructure for healthcare. They simply cannot afford to maintain healthcare institutions. Therefore, residents must pay for their medical care on their own, which results in wealthy residents having access to the healthcare they need. Poorer residents must save money to afford medical care or forgo medical treatment altogether because there is no clear government healthcare structure in place. Countries that implement the Out-of-Pocket model include rural areas in India and countries in Africa.²⁵⁹

Status Example: Luxembourg

Luxembourg has one of the best state-funded healthcare systems in the world. Luxembourg uses a single-payer fund as well as employer-based healthcare plans and uses a combination of the Beveridge and Bismarck models. The country's healthcare system is managed by a single-payer fund, the Caisse iNational de Santé – National Health Insurance (CNS). Funding for healthcare comes from the government at forty percent and the remaining sixty percent is funded through employers and the country's insured. On average, employees give the country about five percent of their gross income to pay for healthcare. Employers then match that contribution. Although ninety-nine percent of the population is covered under the country's insurance, approximately seventy-five percent have additional private insurance to cover medical care that is not considered basic care.²⁶⁰ Once one receives medical services, one must go through Luxembourg's healthcare reimbursement system. For outpatient services, patients are required to pay the healthcare providers for their services. The patient then goes to CNS to get their money back. Reimbursements for medical services usually fall within a range of sixty percent to one hundred percent.²⁶¹

257 Chung, "Health Care Reform."

258 Chung, "Health Care Reform."

259 Chung, "Health Care Reform."

260 Healthmanagement.org, "Overview of the Healthcare System in Luxembourg," 12, no. 4 (2010): accessed at <https://healthmanagement.org/c/hospital/issuearticle/overview-of-the-healthcare-system-in-luxembourg>.

261 European Commission, "State of Health in the EU Luxembourg Country Health Profile 2017," 2017, accessed at http://www.euro.who.int/_data/assets/pdf_file/0011/355988/Health-Profile-Luxembourg-Eng.pdf?ua=1.

Within Luxembourg's system, the costs of healthcare services are negotiated with the government. The Union of Sickness Funds is responsible for setting the fixed costs of healthcare services, resources, and medications. Individual hospital boards are also required to work with the Union of Sickness Funds to determine their budgets. Luxembourg has no private hospitals. All hospitals are public, and emergency services are provided to citizens and long-term residents at no cost.²⁶²

On the other hand, Luxembourg has one of the highest rates for healthcare spending when compared to the rest of the European Union. Therefore, one of the fundamental critiques of Luxembourg's system is that they do not have strong primary care services, which makes it difficult to appropriately manage specialized services and treatments. The citizens are instead free to go directly to specialists, which drives up the cost of healthcare in the country.²⁶³ Primary care physicians will play an integral role in keeping costs down by acting as the gatekeepers before patients are referred to specialists. Luxembourg is a wealthy country whose residents can afford to seek specialty services. Residents of Guam will be less able to afford immediate specialty services, resulting in greater emphasis on primary care and preventative screenings.

An independent Guam would have the opportunity and responsibility to learn from other countries throughout the world and implement a healthcare model suited to its unique needs and economic situation. It is important to note that healthcare will be dependent on the health of Guam's economy and how Guam is able to transition from territory to independent country, particularly regarding the phasing of US healthcare funding (please refer to the independence portion of the Economic Impacts section of this study for a clearer economic picture and how this could affect healthcare). In addition to local funding, as an independent country, Guam could access international assistance and cooperation to help improve its healthcare infrastructure.

Free Association

As a freely associated state, Guam can negotiate to receive money from the United States or international organizations to help develop infrastructure for healthcare in the island. If Guam's potential compact follows a similar pattern to the existing Compact of Free Association (COFA) agreements with the United States, the island could negotiate for visa-free travel without residency limitations for its citizens who travel to the United States to access healthcare services (although care should be taken to avoid being labeled as "public charges" and therefore subject to deportation).

Like other freely associated states in the Micronesia sub-region, a freely associated Guam may also want to consider negotiating with the US to allow for the use of regulatory federal healthcare agencies, such as the Food and Drug Administration (FDA), the US Department of Agriculture (USDA), and the US Department of Health and Human Services, at least temporarily. Guam could also try to negotiate not only for assistance from federal healthcare organizations but from other types of federal agencies as well.

262 Healthmanagement.org, "Overview."

263 Sarita Mantravadi and Dallas Snider, "Comparing Healthcare Systems of Luxembourg and the United States," *Journal of Applied Business and Economics*, 19, no. 7 (2017); accessed at http://www.na-businesspress.com/JABE/JABE19-7/MantravadiS_19_7_.pdf.

As it would with independence, a freely associated Guam would be able to solicit healthcare providers and services from non-US sources. The island would be able to utilize its neighboring countries in Asia to procure healthcare resources that may be more cost effective. It is likely that Guam can change its licensing requirements for medical practitioners from foreign countries, thereby enticing them to practice in the island.

Status Example: The Republic of Palau

Palau's healthcare system runs on funding from a variety of avenues, such as local appropriations, COFA funds, and outside aid from international organizations and governments. For example, stipulated in Palau's compact with the United States, Palau receives \$2 million annually to assist in creating healthcare initiatives and programs as stated in Section 232 which invokes the country's 1996 National Master Development Plan.²⁶⁴ In addition to compact funds, Palau reported that "seventy-six percent of financing for those activities that constitute the stated health care priorities of the nation – health promotion, prevention, and primary health care – are funded by US federal programs."²⁶⁵ The Secretariat of the Pacific Regional Environment Programme, headquartered in Samoa, released an update on Palau's National Master Development Plan with a report entitled, "Actions for Palau's Future: The Medium-Term Development Strategy 2009 to 2014." It outlines how US federal grants helped the country move forward with its health initiatives. The report states,

in FY 2007, the nation spent \$15.6M on health... The Ministry of Health generated 90 percent of these expenditures (\$14M) while the private sector generated 10 percent (\$1.6M). Government funding (Palau Government and donor governments) provided \$12.1M of the total while private out-of-pocket expenditures totaled \$3.5M.²⁶⁶

Regarding individual health insurance, Palau operates under a social health insurance model managed by the Health Care Fund (HCF). Codified into law in 2010, the "National Healthcare Financing Act" created the HCF which runs two financial streams for healthcare: Medical Savings Account (MSA); and National Health Insurance (NIH).²⁶⁷ Both the MSA and NIH are funded by the employees and employers of Palau. Employees contribute 2.5% of their income every pay period and employers match the contributions. Self-employed individuals are required to contribute five percent.²⁶⁸ The MSA funds

264 Republic of Palau, Compact of Free Association, 1994, accessed at https://pw.usembassy.gov/wp-content/uploads/sites/282/2017/05/rop_cofa.pdf.

265 Secretariat of the Pacific Regional Environment Programme, Actions for Palau's Future The Medium-Term Development Strategy 2009 to 2014, 62, accessed at <https://www.sprep.org/att/IRC/eCOPIES/Countries/Palau/43.pdf>.

266 Secretariat of the Pacific Regional Environment Programme, "Actions for Palau's Future."

267 Republic of Palau Social Security Administration, "An Introduction To The Healthcare Fund," 2010, accessed at <http://www.ropssa.org/pdf/brochures/hcf/An%20Introduction%20to%20the%20Healthcare%20Fund%20-%20English.pdf>.

268 Republic of Palau Social Security Administration, "An Introduction."

medical care for individuals who contribute to the fund. The NIH provides medical care to individuals who are uninsured or who cannot afford medical care. The NIH fund was built with the philosophy of “People coming together to help one another.”²⁶⁹

A freely associated Guam can consider the country of Palau when formulating its own healthcare system. The Asian Development Bank concludes that Pacific Island countries would need to have the following in order to establish social health insurance: existence of good-quality health services with fairly uniform access; a large share of employment in the formal sector; presence of administrative capacity for operating a social health insurance scheme; and a strong commitment on the part of the population to social solidarity.²⁷⁰ As a freely associated state, Guam would have the freedom, but also the responsibility, to choose a model that works best for its people.

269 Republic of Palau Social Security Administration, “An Introduction.”

270 Asian Development Bank, “Sustainable Health Care Financing in the Republic of Palau,” 2011, 24.

HEALTHCARE	
STATUS	EFFECTS
<i>Statehood</i>	<ul style="list-style-type: none"> • The island will likely see an increase in FMAP, supplying Guam with additional money for established federal healthcare programs (i.e., Medicaid). • Guam may have to create a healthcare marketplace program like that of other US states. • Guam will have increased access to federal dollars for the creation of healthcare programs. • Guam will remain a COFA jurisdiction • Guam will not likely be able to receive international aid for healthcare.
<i>Independence</i>	<ul style="list-style-type: none"> • Guam will have the flexibility and agency to create a healthcare insurance program and infrastructure suited to its unique needs.

	<ul style="list-style-type: none"> • It may be difficult for Guam to establish a new healthcare system if it is vastly different from its existing one, requiring new institutions, services, and facilities. • Guam will have to replace the federal funding source that currently assists healthcare needs in the island • Guam may have access to international aid to create health programs and improve infrastructure. • Guam will no longer be a COFA jurisdiction and may be able to negotiate access to the island by other residents of Micronesian states with complete agency.
<p style="text-align: center;"><i>Free Association</i></p>	<ul style="list-style-type: none"> • Guam will have the flexibility and agency to create a healthcare insurance program and infrastructure suitable to its unique needs. • Guam’s citizens may receive access to the United States visa-free, and access healthcare services as a result. • It may be difficult for Guam to establish a new healthcare system if it is vastly different from its existing one, requiring new institutions, services, and facilities. • Guam may have access to international aid to create health programs and improve infrastructure. • Guam will no longer be a COFA jurisdiction. Access to Guam can be negotiated.

Education

Today, the Guam Department of Education (GDOE) is a centralized school system that oversees grade levels kindergarten through twelfth grade. The public school system has around 30,000 students across 41 schools.²⁷¹ The island also has three higher education institutions: Guam Community College, a vocational college that offers Associate Degree programs, professional certificates, and a Bachelor of Science program in Career Technical Education; Pacific Islands University, a private Christian college that offers Associate and Bachelor degrees in Liberal Studies and Bible Studies; and the University of Guam, the region's only public four-year college.

Currently, the Guam Department of Education oversees all public schools and the Archdiocese of Hagåtña manages all private, Catholic schools. Guam charter schools were formally under the supervision of GDOE until July 2019, when the Guam Legislature separated the charter schools' budget from GDOE's. Budgets are now solely approved by the Guam Academy Charter Schools Council and monies are distributed through the government of Guam's Department of Administration (DOA).²⁷² The Department of Defense Education Activity (DODEA) also runs schools for dependents of applicable members of the US Armed Forces. Most of Guam's students do not have access to DODEA schools.

GDOE is an institution falling under the purview of the Guam Education Board. The Guam Education Board has nine voting members and three non-voting members.²⁷³ The relationship between the board and the superintendent is outlined in the Guam Code Annotated, in 17 GCA. The board is given the responsibility to hire the GDOE superintendent as well as create policies that the superintendent must implement. The board is responsible for creating policies that affect all aspects of GDOE, such as discipline, personnel relations, etc. The superintendent is fully responsible for managing all decisions related

271 Guam Department of Education, 2019, accessed at <https://sites.google.com/a/gdoe.net/gdoe/>.

272 35th Guam Legislature, Bill 106-35, July 2019, accessed at [http://www.guamlegislature.com/Bills_Passed_35th/Bill%20No.%20106-35%20\(LS\).pdf](http://www.guamlegislature.com/Bills_Passed_35th/Bill%20No.%20106-35%20(LS).pdf).

273 17 Guam Code Annotated Education, § 3102.3. "Composition and Terms of Office for Board Members," accessed at <http://www.guamcourts.org/CompilerofLaws/GCA/17gca/17gc003.PDF>.

to personnel, operations, expenditures, and procurement.²⁷⁴

Unfortunately, numerous public educational K-12 facilities in Guam are near the end of their useful lifespan, yet still remain in full use. Some schools are crowded and in need of significant upgrades. In some districts, new facilities are crucial. Upgrading the infrastructure is arguably too costly for the local government to afford. With federal funding, GDOE can use funding from the US Department of Agriculture (USDA) to supplement but not supplant local funding. The USDA will not pay for expenses that it feels should be the responsibility of the state or local government. Buildings fall under that category, so it will not give funding to improve or construct buildings.²⁷⁵ The US Department of the Interior (USDO I) allocates funding for capital development, but the funding is unsustainable and not always for education purposes. For example, in FY2011, USDO I gave Guam more than \$5 million for the Department of Public Health and Social Services and the Nieves M. Flores Public Library.²⁷⁶ In FY2016, DOI granted Guam over \$6 million, of which \$1 million went to GDOE to “convert Tiyan educational administration facilities into a central high school to alleviate overcrowded conditions at the John F. Kennedy High School in Tamuning and the George Washington High School in Mangilao.”²⁷⁷

Since funding is not always guaranteed from federal agencies, Guam uses local funding for long-term capital development projects. If available local funding is limited, the government of Guam can issue bonds to repair facilities and use that funding, which is an avenue it is considering for the construction of Simon Sanchez High School and other public school facilities.²⁷⁸ For the building of Tiyan High School and the reconstruction of John F. Kennedy High School, the government of Guam entered into lease financing agreements where “a private company leases a property from the Government of Guam—they build the school and they lease the school back to the government.”²⁷⁹

On an annual basis, the Guam Department of Education requires approximately \$300 million for operations, making it the one of most expensive line agencies in the government of Guam. The public school system in Guam is dependent on federal aid from the US Department of Education and other US-based grants to run its supplemental programs (HeadStart, SPED, etc.). In total, GDOE is given approximately \$60 million in federal money annually, with a small portion given to the island’s private schools. Approximately \$40 million a year is given to GDOE from the USDOE in the form of consolidated and competitive discretionary grants.²⁸⁰ GDOE also receives an additional \$20 million a year from several federal agencies to include, but not limited to the USDA, the USDO I and the US Department of Health

274 Personal Communication with GDOE Superintendent, Jon Fernandez, July 2020.

275 Personal Communication with GDOE Superintendent, Jon Fernandez, July 2020.

276 US Department of the Interior, “DOI Awards \$5,026,000 for Guam Infrastructure Projects,” accessed at <https://www.doi.gov/oia/press/2011/Guam-Infrastructure-Projects>.

277 US Department of the Interior, “DOI Awards \$5,026,000 for Guam Infrastructure Projects,” accessed at <https://www.doi.gov/oia/press/2011/Guam-Infrastructure-Projects>.

278 Lannie Walker, “Phase 1 to rebuild Simon Sanchez High ‘starts now,’” Guam Daily Post, accessed at https://www.postguam.com/news/local/phase-to-rebuild-simon-sanchez-high-starts-now/article_ff9731a4-6709-11e9-aca3-23d3815aa423.html.

279 Krystal Paco, “JFK High to cost \$157M in 30 years,” KUAM News, accessed at <https://www.kuam.com/story/15885720/2011/10/26/jfk-high-to-cost-157m-in-30-years>.

280 Haidee Eugenio, “GDOE to get more federal funds ‘highly confident’ in managing its own money,” Pacific Daily News, April 23, 2018, accessed at <https://www.guampdn.com/story/news/2018/04/23/gdoe-get-more-federal-funds-highly-confident-managing-its-own-money/541066002/>.

and Human Services.²⁸¹ Overall, eighty percent of GDOE’s annual budget is from local appropriations and twenty percent is a combination of consolidated and discretionary grants.²⁸²

The eighty percent from local appropriations is used to support core operational costs, such as hiring personnel, general operations, and textbooks. The island uses federal funding to supplement its schools with technology, additional instructional materials, and professional development. With local appropriations, GDOE can only meet the basics. The island can decline federal funding, but with the current system in place, doing so will limit the institution’s ability to manage some of its programs.²⁸³ As a result, to keep its federal funding, GDOE mirrors its structures according to US models, which are prevalent in the curricula and standards of Guam public and private schools.

Superintendent Jon Fernandez said, to keep in line with federal education requirements, GDOE has limits with supplies and learning materials. GDOE has fallen into the habit of mirroring the curriculum with state models, which are not framed by the local culture of the island. This practice is unsurprising since Guam’s education system was initially formalized during the Naval administration and was later reinforced to model the US system with the signing of the Organic Act of Guam. Today, many of the resources used in Guam’s classrooms are produced and published by companies in the United States, and therefore are not written with Guam’s students in mind. Additionally, costs increase because these resources need to be shipped. Overall costs related to materials are also high because many of the federal funds for education come with “Made in America” provisions that make it difficult to procure or source supplies from neighboring countries. It is important to note that GDOE is taking small steps to change this practice while still adhering to federal standards. Fernandez said the UOG Press is creating a series of new textbooks tailored to Guam. GDOE still must align its content standards with federal requirements in order to maintain accreditation, but the institution can also design and shape its curricular materials so that they relate more to students’ experiences and worldviews.

In combination with the focus of curricular materials and the limited time allotted for instruction of the CHamoru language, Guam also follows content standards set by the United States. In 2010, teacher cohorts met to update the standards across all grade levels and content areas.²⁸⁴ Most standards were taken from different states throughout the US and guidelines given by various US organizations. The standards were updated using a mixture of “national standards, exemplary state standards, and the 1996 Guam DOE standards.”²⁸⁵ In addition to revising content standards in 2010, GDOE also changed standards in specific content areas to align with federal education standards. In 2012, GDOE adopted Common Core standards for English, language arts, and math. Then recently, in late 2018, the system changed its

281 Guam Department of Education, Citizen Centric Report FY2017 and FY2018.

282 Personal Communication with GDOE Superintendent, Jon Fernandez, July 2020.

283 Personal Communication with GDOE Superintendent, Jon Fernandez, July 2020.

284 Guam Department of Education, “Guam Department of Education K-12 Content Standards and Performance Indicators”, 2010, accessed at http://www.arkansased.gov/public/userfiles/Learning_Services/Curriculum%20and%20Instruction/Resource%20Mat/Foreign%20Lang/FW%20Com%20Files/US%20States%20and%20Territories/Guam%20ContentStandardsfinalJune15,2010.pdf.

285 Guam Department of Education, “K-12 Content Standards,” iii.

science education standards to reflect the Next Generation Science Standards.²⁸⁶ Even with this curricular focus, GDOE is taking steps to teach, protect, and preserve the indigenous culture and language. GDOE currently has the CHamoru Studies and Special Projects Division, which ensures the development of a more permanent program structure for CHamoru language and culture within the public school system.

It is significant to note that as a territory, Guam is given more flexibility than the states to use federal funding. GDOE operates under a consolidated grant. The island is smaller in comparison to other states and receives less federal funding. However, having a smaller amount also allows GDOE to have more flexibility with the funding. Unlike states, GDOE's federal funding is put into one pot, while states must distribute money by purpose or program (i.e., Title 1, Professional Development, etc.). Not having to specifically allocate money by category, GDOE has more options to funnel federal funding into areas prioritized by the institution.

Even though GDOE currently can control how federal monies are disseminated, it was cited in 2010 for having a lack of accountability. As a result, GDOE hired a third-party fiduciary to oversee the distribution of the institution's federal funding. It spends between \$2 million to \$4 million a year for these services. Fernandez explained that, normally in these circumstances, the educational system is given time to prove that it can properly manage its funding. Since Fernandez's hiring in 2012, GDOE has received seven clean audits, which would allow GDOE to become reclassified as a "low-risk" grantee. Fernandez emphasized that GDOE is stuck in this pattern because Guam does not have a voting member in Congress to put a stop to the special conditions placed on GDOE and the mandate for the third-party fiduciary. In other states, their representatives and senators can assist in changing this classification.²⁸⁷

Guam is also impacted by the Compacts of Free Association (COFA) that exist between the United States and the Freely Associated States (FAS). The island renders educational services for COFA migrants and waits for the federal government to reimburse it. In a report written by the Office of the Governor of Guam, it was noted that for FY2017 Guam spent more than \$72 million providing educational services to COFA migrants. From FY2004 to FY2017²⁸⁸ Guam's educational institutions collectively expended more than \$637 million (see Table below).

286 Guam Department of Education, "Parent Community Information and Policy Input Sessions on Standards-based Grading," March 2020, accessed at http://lbtjames.weebly.com/uploads/1/9/7/6/19765921/3.6.2020_parent_community_information_and_policy_input_sessions_on_standards-based_grading.pdf.

287 Personal Communication with GDOE Superintendent, Jon Fernandez, July 2020.

288 The Office of the Governor of Guam wrote a cumulative report of COFA impact in the island spanning more than a decade. The data is only analyzed up to fiscal year 2017. As of its June 2020 report on COFA impacts, the US Government Accountability Office also reported that it did not receive COFA costs from Guam after FY2017.

COFA-Related Costs for Educational Services²⁸⁹

289 Office of the Governor Government of Guam, "Impacts of the Compacts of Free Association on Guam FY2004 to FY2017," January 2018, 10.

INSTITUTION	COST FOR FY 2017	CUMULATIVE COST FY2004-FY2017
GDOE	\$66,532,509.00	\$574,112,533.00
Guam Community College	\$2,397,919.00	\$26,620,772.00
University of Guam	\$1,927,717.00	\$21,650,426.00
Department of Public Works- Bus Operations	\$1,728,832.00	\$15,407,617.00

In the US Government Accountability Office's June 2020 report entitled, "Compacts of Free Association: Populations in US Areas Have Grown, with Varying Reported Effects," it noted that "Guam reported \$1.2 billion in total estimated compact impact costs."²⁹⁰ However, in the same report, they wrote that Guam was only given \$259.7 million in compact impact grants to "defray costs due to the residence of compact migrants"²⁹¹ meaning that Guam only received approximately twenty percent of the funds owed to it by the federal government. Of the \$637 million spent on education, only a fraction of the reimbursements was given to Guam by the federal government.

Statehood

Throughout the United States, individual states have autonomy over their school systems. "Every state has its own department of education and laws regulating finance, the hiring of school personnel, student attendance, and curriculum."²⁹² Therefore, as a state, Guam would also have this amount of control over its education system.

Funding for GDOE under the state of Guam is unlikely to change significantly. As a state, Guam may see an increase in federal funds if there is an influx of students attending GDOE schools. The government of Guam will likely continue to provide for eighty percent of the institution's budget with

290 US Government Accountability Office, "Populations in US Areas Have Grown," 22-25.

291 US Government Accountability Office, "Populations in US Areas Have Grown," 22-25.

292 Antonella Corsi-Bunker, "Guide to the Education System of the United States," International Student & Scholar Services, University of Minnesota, accessed at <https://iiss.umn.edu/publications/USEducation/2.pdf>.

local appropriations, and twenty percent from federal funds. Currently, the eighty percent comes from legislative appropriations collected from local taxes. However, the state of Guam will have to start paying into federal coffers, thereby changing Guam’s current tax structure, meaning that Guam may need to introduce alternate revenue streams to generate the local funds needed for education, such as increasing property taxes. For a more detailed explanation, refer to Section: “Revenue and Taxation” of this study.

On the other hand, Guam’s status as a state may mean that the strings attached to federal funding may become more stringent. Although education is considered a state or local responsibility, historically, the United States uses federal funding as leverage to implement educational reform. Oftentimes, funding gets tied to national policies and their respective goals tend to fluctuate with each administrative change.²⁹³ For example, with former Presidents George W. Bush and Barack Obama, the focus was on standardized testing. Based on the test results, schools were either penalized or given more options. President Obama used the funding to incentivize schools, making it a federal political issue instead of a state-level issue.²⁹⁴

Despite federal funding flexibility, one critical issue with Guam as a territory is that it does not have voting representation in the Senate or the House of Representatives. As a state, Guam will have representatives and senators who can advocate for and vote on bills that are in the best interest of the state of Guam. For example, in the case of GDOE, a voting member of Congress could ask that the institution be reclassified as “low-risk” so that it is no longer required to undergo additional audits and special conditions. The United States can exclude territories from grants. An example is the Race to the Top grant, a competitive grant championed by former President Obama, which only allowed states, the District of Columbia, and Puerto Rico to apply for the funding.²⁹⁵ Under Race to the Top, over \$4 billion was distributed among the 19 states that won grants to restructure their school systems.²⁹⁶ If Guam were to be a state, the island may be eligible for these grants, bills, and programs when they are introduced. Additionally, higher education students will continue to have access to federal student aid in the form of lower interest loans or grants.

Lastly, the state of Guam will still act as a Compact of Free Association (COFA) jurisdiction. Consequently, it may struggle to get federal reimbursements for the use of the island’s education resources. It is important to note that even states struggle to get federal reimbursements.

Status Example: Massachusetts

To date, the state of Massachusetts ranks the highest in student achievement when compared to other states. For the last two decades, the state has consistently remained in the nation’s top ten. To get its educational institutions to this point, Massachusetts underwent massive educational reform in 1993.

293 Personal Communication with GDOE Superintendent, Jon Fernandez, July 2020.

294 Personal Communication with GDOE Superintendent, Jon Fernandez, July 2020.

295 US Department of Education, “Race to the Top Fund Eligibility,” accessed at <https://www2.ed.gov/programs/racetothetop/eligibility.html>.

296 The White House President Barack Obama, “Race to the Top,” accessed at <https://obamawhitehouse.archives.gov/issues/education/k-12/race-to-the-top>.

Outlined in the Massachusetts Education Reform Act of 1993 (MERA), the state established education standards for core subjects and reallocated funding to lower-performing schools. Following the standards, the Massachusetts school system created curriculum frameworks for mathematics and English language arts. By 2003, nearly a decade after the reform act, the school system began to turn around and was soon considered one of the most successful school systems in the nation.²⁹⁷

Nearly twenty years after the overhaul of its school system, other states look to Massachusetts when reforming their institutions. In an interview with *The Seattle Times*, former Massachusetts secretary of education, Paul Reville, opined that the “three strategies — all of them costly and most aimed at low-income schools — are making the difference: beefed-up early education; an expanded school day resulting in significant salary increases; and huge boosts to teacher training.”²⁹⁸ With these three pillars in place, Massachusetts decided to address the significant gaps between the higher income schools and those with a larger portion of students who fell below the poverty line. They found that when measuring achievements “black and Latino students lag behind Asians and whites by more than thirty percentage points.”²⁹⁹

Noting these disparities, school officials decided that the best way to close the gap would be to extend the school day. The state filtered more money and resources into lower performing schools so they could revamp their curriculum and restructure their school days. In some schools, their budgets went up as much as \$5 million a year. In those schools, they updated textbooks and added more advanced mathematics classes.³⁰⁰ For example, the mayor of Boston decided to extend the school day for grades K-8 by adding forty more minutes.³⁰¹ However, schools were not to fill the time by instructing students in traditional subjects like math and English. At Matthew J. Kuss Middle School, a notoriously underperforming school, principal Nancy Mullen along with teachers and staff:

wove music, theater, martial arts, video production, cooking and other so-called ‘enrichment’ subjects into morning and midday hours, each taught with an eye toward pointing out academic connections — the fractions necessary for cooking, the writing skills essential in a script.³⁰²

Teachers in the “traditional” subjects instead used the additional time to prep and meet with other teachers to expand and enrich the curriculum. It resulted in students being more well-rounded and better prepared to apply their skills to the real world.

Educational reform in Massachusetts also encompasses the mental health of students. In some districts,

297 Massachusetts Department of Elementary and Secondary Education, “Building on 20 years of Massachusetts Education Reform,” November 2014, accessed at <http://www.doe.mass.edu/commissioner/BuildingOnReform.pdf>.

298 Claudia Rowe, “Massachusetts is a lot like us, so why are its schools so much better?,” *The Seattle Times*, April 27, 2016, accessed at <https://www.seattletimes.com/education-lab/massachusetts-is-a-lot-like-us-so-why-are-its-schools-so-much-better/>.

299 Claudia Rowe, “A longer school day? In Massachusetts, some schools see big payoff,” *The Seattle Times*, April 27, 2016, accessed at <https://www.seattletimes.com/education-lab/what-can-a-school-do-with-an-extra-300-hours-in-massachusetts-many-see-big-payoffs/>.

300 Kirk Carapezza, “How Massachusetts Schools Went From The Middle of the Pack to First Place,” WGBH News, April 5, 2018, accessed at <http://blogs.wgbh.org/on-campus/2018/4/5/how-massachusetts-schools-went-middle-pack-first-place/>.

301 Rowe, “A longer school day?”

302 Rowe, “A longer school day?”

especially those with higher rates of poverty, they have assistant superintendents for “social-emotional learning and wellness”³⁰³ Following suit with other states, the Massachusetts school system wanted to address childhood trauma and to examine its influence on achievement. One of the districts was awarded \$1.6 million in federal monies “to address the early symptoms of trauma in students.”³⁰⁴ Additionally, the Massachusetts’ Office of the Attorney General’s Trauma-Informed Care for Young Children Grant Program awarded over \$500,000 to eight organizations to provide healthcare services and interventions that will:

assist children who have experienced childhood trauma stemming from violence, from separation from parents and caregivers, and stress due to poverty or related to the opioid crisis. Supporting these providers will result in a higher quality of care for vulnerable children and in more effective classroom environments.³⁰⁵

Attorney General Maura Healey went on to add that “young children who have experienced trauma need special support from childcare and early education providers.”³⁰⁶ The state felt it was imperative to address these concerns in order to close the academic gaps throughout its school system. As a state, Guam would have powers similar to what it has today and could learn from other states. One significant difference would be that the state of Guam will have voting representation in the US Congress. These congressional members will have more leverage to advocate for bills to benefit the island’s education system and increase the federal funding that Guam receives.

Independence

If Guam were to choose independence, it would have the ability to create an educational system tailored specifically to its needs. It is likely that the system’s management structure will remain the same. Guam may choose to keep its system as a unified, centralized educational institution, due to the island’s size and existing familiarity with centralized management. Considering the size of Guam’s school system, it may be beneficial to continue to have only one superintendent oversee the public school system to ensure consistency.

Additionally, Guam would not have to adhere to US federal education requirements, so it may choose to create standards better suited to the culture of the students who attend Guam’s schools and for the industries the island develops. Education may take on a new philosophy. The Catholic school system

303 Alia Wong, “What are Massachusetts Public Schools Doing Right?,” *The Atlantic*, May 23, 2016, accessed at <https://www.theatlantic.com/education/archive/2016/05/what-are-massachusetts-public-schools-doing-right/483935/>.

304 Wong, “Massachusetts Public Schools.”

305 Office of the Attorney General Maura Healey, “AG Healey Awards More Than \$500,000 in Grants to Improve Care for At-Risk Children,” June 19, 2019, accessed at <https://www.mass.gov/news/ag-healey-awards-more-than-500000-in-grants-to-improve-care-for-at-risk-children>.

306 Office of the Attorney General Maura Healey, “AG Healey Awards More Than \$500,000.”

would likely stay the same, as a large majority of Guam’s population identifies as Roman Catholic and may choose to keep that system intact. Should DODEA schools remain in Guam, they will follow US education standards and all other local schools would follow educational standards set by the country of Guam. As an independent country, Guam will have the ability to work freely with other countries to build its educational infrastructure. For example, in 2019-2020, Australia supported Papua New Guinea (PNG) to secure a \$10.3 million grant funded by the Global Partnership for Education. Through the grant, PNG could “provide teacher training on remote lessons, distribute school hygiene kits, install handwashing stations and distribute learning materials for vulnerable children.”³⁰⁷

Additionally, an independent Guam will no longer have to adhere to American curricula and state models for the purchasing of materials or textbooks, giving the island more opportunities to include learning tools that speak directly to the unique histories and identities of students in the Pacific region. The use of classroom texts and resources more tailored to the island’s community will enable students to develop solutions and participate in discussions that address immediate community needs and apply lessons to their lived experiences. Ngugi Wa Thiong’o’s groundbreaking book, *Decolonising the Mind: the Politics of Language in African Literature*, addresses the impact of an educational system that is not centered around the students’ cultural background through the concept of the *cultural bomb*. Thiong’o posits that colonial education is in effect a cultural bomb designed to defeat a people’s languages, their heritage of struggle, their unity, and their capacities to identify in themselves as a people. Through education, the colonized learn of their past as one of non-achievement and easily distance themselves from their culture.³⁰⁸ The memory of how people perceive themselves and live in their own culture is not taught but erased over time through the controlling nation’s educational curriculum, content, and teaching.

The ability to detach from Western models and policies as an independent country may also help to reduce the cost of classroom materials. Without having to abide by federal standards, under independence, GDOE could have greater leverage to build capacity to use these kinds of curricula materials. Being able to create different standards may make it easier to incorporate classroom resources that are manufactured or printed in countries closer to Guam (unless textbooks are printed in the island).

Status Example: Finland

For decades, Finland has ranked as one of the most successful school systems in the world. Journalist Amanda Ripley (2013), in her book, *The Smartest Kids in the World: And How They Got That Way*, explains that “in Finland and all top countries, spending on education was tied to need, which was only logical. The worse off the students, the more money their school got.”³⁰⁹ In addition to the relatively small divide among students on different echelons of the socioeconomic ladder, education scholars continually study

307 Australian Government Department of Foreign Affairs and Trade, “Education Development Cooperation Factsheet: March 2021,” accessed at <https://www.dfat.gov.au/sites/default/files/development-cooperation-fact-sheet-education.pdf>.

308 Ngugi wa Thiong’o, *Decolonising the Mind: The Politics of Language in African Literature*, (New Hampshire: Heinemann), 1986.

309 Amanda Ripley, *The Smartest Kids in the World: And How They Got That Way*, (New York: Simon & Schuster), 2013, 140.

the small country because not only do most students perform well, but its methods vastly differ from other education systems. Author and journalist Anu Partanen (2016) in her book, *The Nordic Theory of Everything: In Search of a Better Life*, writes that in Finland, children “get very little homework, their school days are short, and most children attend their neighborhood schools.”³¹⁰

Partanen took things a step further by directly comparing the education systems of the Nordic countries with the United States. She concludes that “those whose educational policies and school systems are more like America’s are not doing especially well—despite the cultural value they put on education, and despite the same sort of homogeneity Finland has.”³¹¹ Unlike the United States, the Finnish school system has a strong national core curriculum that is used across Finnish schools. With oversight over each school, Finland’s Ministry of Education and Culture can easily ensure that all educators teach the same content using similar pedagogical methods.

The Ministry is also committed to ensuring that the country’s educators are the most-qualified individuals. Among professions, teaching is considered one of the most rigorous and respected jobs in the country. In Finland, pursuing an education degree is comparable to attending medical school in the United States. To teach in Finnish schools, teachers in elementary and secondary schools are required to have a master’s degree. Also, if one were to attend a Finnish higher education institution, admission into an education program is highly competitive and all programs require at least 700 hours of practicum hours in classrooms.³¹² As more teachers became better trained, Finland decided to relax its grip on the curriculum.

After a few decades of a strict national curriculum, the Ministry of Education and Culture gave more autonomy to municipalities to tailor the curriculum to their distinct communities. The Finnish school system still has a national curriculum which was first implemented in 1985. The curriculum is overseen and updated every ten years by the Finnish National Agency for Education (EDUFI). The last round of updates occurred in 2016, where the EDUFI added transversal competencies and project-based learning.³¹³ The EDUFI introduced transversal competencies to drive its curricular content. The national curriculum has seven transversal competencies, all centered around the students’ “development as a human being and citizen.”³¹⁴ The competencies are as follows:

1. Thinking and learning to learn
2. Taking care of oneself and others, managing daily activities, safety
3. Cultural competence, interaction and expression
4. Multi-literacy
5. Information and Communication Technologies (ICT) competence
6. Competence for the world of work, entrepreneurship and

310 Anu Partanen, *The Nordic Theory of Everything: In Search of a Better Life*, (New York: HarperCollins Publishers), 2017, pg. 113.

311 Partanen, “The Nordic Theory,” 151.

312 Partanen, “The Nordic Theory,” 133-134.

313 Jenna Lähdemäki, “Case Study: The Finnish National Curriculum 2016- A Co-created National Education Policy,” in *Sustainability, Human Well-Being, and the Future of Education*, ed. J.W. Cook (Helsinki, Finland: The Finnish Innovation Fund).

314 Lähdemäki, “The Finnish National Curriculum,” 403.

7. Participation and influence, building the sustainable future³¹⁵

The EDUFI incorporates these competencies into all grade levels and across content areas.

In addition to the competencies, the national curriculum focuses on project-based learning. The motivation for project-based learning was to have students solve problems in real-world settings. They created this education model with the foundational belief that:

studying strictly unattached subjects is artificial and does not prepare children to both face and deal with real-world challenges. This does not have to mean solving highly complex challenges like climate change and poverty, but rather everyday life situations that require an understanding of how different systems relate to each other.³¹⁶

These projects give different municipalities an opportunity to have students apply their skills to problems and issues relevant to their local districts. Schools in Kittilä, Simpele, and places in western Finland had project themes that centered around their districts. For example, at the Raattama school in Lapland in the Kittilä municipality, they had students do projects centered around the statement, “I am a Kittilä resident.”³¹⁷ Students are encouraged to create projects that center around either their districts, or in the case of the Simpele school in eastern Finland, the entire country. In 2017, the Simpele school made its project-based learning module theme, “Finland 100 years.”³¹⁸

As illustrated with Finland, an independent Guam may choose to focus more on teacher training as a way to create a cadre of educators who can critically apply their teaching experience and expertise to their curricular materials and classroom activities. With an emphasis on the educators themselves, an independent Guam may choose to direct funding toward teacher compensation. Teacher recruitment and retention in GDOE is difficult because public school teachers in Guam are paid less in comparison to educators who are employed by the DODEA schools in the island. In 2019, then President of the Guam Federation of Teachers, Sanjay Sharma shared that GDOE has difficulty recruiting licensed educators. He noted that the widening gap in pay was a motivator. Sharma shared that:

The starting salary of a fully certified teacher with a bachelor’s degree is \$34,383 ... in comparison a (Department of Defense Education Activity) DoDEA teacher starts at \$49,842 as their base salary... The salary for teaching positions for GDOE are not competitive. In the early 1990s, GDOE was able to recruit teachers from places like Wisconsin because Guam remained competitive with its teacher pay. However, the stagnant teacher salary made it difficult for GDOE to

315 Lähdemäki, “The Finnish National Curriculum,” 403.

316 Lähdemäki, “The Finnish National Curriculum,” 405.

317 Lähdemäki, “The Finnish National Curriculum,” 406.

318 Lähdemäki, “The Finnish National Curriculum,” 406.

recruit stateside teachers and retain existing teachers.³¹⁹

Sharma said these pay disparities make it especially difficult to recruit educators in STEM fields or ones who have higher education degrees because they would get paid more money in the continental US or other countries.

Continuing with the discussion on finances, an independent Guam would no longer be able to depend on US federal money to supplement its educational programs. However, since GDOE receives approximately eighty percent of its annual budget from local appropriations, the government of Guam could afford to keep the public school system in operation (depending on the economic situation of the country). If an independent Guam experiences economic uncertainty, then alternate revenue streams will need to be explored, such as increasing local taxes, creating new industries, or working with private companies to invest in the island's educational institutions to train and prepare the future workforce. In addition to losing federal aid for the island's educational institutions, an independent Guam will have to replace the federal student aid that is currently available to eligible US citizens through the Free Application for Federal Student Aid (FAFSA) process, which determines what types of lower interest loans or grants that students can use to fund their higher education programs.

Free Association

As a freely associated state, Guam may continue to align its education system with US national education standards. An existing familiarity with the U.S framework will improve the likelihood of this happening. However, there is a possibility that a stronger cultural framework could be applied to curricular materials since the island will have the flexibility to tailor classroom materials. For example, Palau allocated \$100,000 to its Curriculum and Instruction Office to “increase literacy, numeracy, Palauan knowledge, and essential life skills.”³²⁰

Although the structure of the education system will likely remain the same, the funding sources for GDOE will likely change. Like an independent Guam, GDOE may be able to afford to run its general operations. With current legislative appropriations, the institution may not have difficulty keeping the schools functioning, paying personnel, and running the central office, however this is dependent on the economy. (For a fuller picture, please see the free association portion of the Economic Impacts section of the study.) As a freely associated state, the island may have to restructure or suspend some of its supplemental programs, such as professional development, Head Start, etc. If Guam negotiates an agreement similar to the existing COFA agreements with the United States, then it can negotiate how much the island will receive for education.

319 Guam Daily Post, “GDOE faces teacher shortage,” accessed at https://www.postguam.com/news/local/gdoe-faces-teacher-shortage/article_37fae01c-97df-11e9-b964-17ee7fbfb500.html.

320 Ministry of Education, “Education Master Plan 2006-2016 Republic of Palau,” October 2006, accessed at <http://www.unesco.org/education/edurights/media/docs/e51733290f3523016b8384e8a0ec6da32de9fcff.pdf>.

Status Example: The Republic of Palau

The Ministry of Education (MOE) in Palau is responsible for overseeing and managing the country's education system. MOE's structure is managed by a Minister of Education who supervises two bureaus: Curriculum and Instruction and Educational Administration. The Minister of Education is a cabinet level member who is appointed by the president of Palau. All policies enacted by the minister and the directors of the bureaus are made by the president and the Palau Board of Education.³²¹

Additionally, the MOE manages the country's primary schools (grades one-eight) and one secondary school (grades nine-twelve). They are also responsible for chartering the six church-owned private schools (two primary and four secondary).³²² In FY2017, the country spent 13.5% of its national budget on education or approximately \$11.3 million. Aside from its national budget, the Republic of Palau also receives education grant funding from the United States via its Compact of Free Association (COFA) agreement. In the compact, the United States agreed to give the Republic of Palau \$631,000 a year for fifteen years to support a cadre of students pursuing higher education. Stipulated in Section 211, Subsection D, it states that the money is:

for a scholarship fund to support the post-secondary education of citizens of Palau attending United States accredited, post-secondary institutions in Palau, the United States, its territories and possessions, and states in free association with the United States. The curricular criteria for the award of scholarships shall be designed to advance the purposes of the plan referred to in Section 231.³²³

Any students who received such funding were eligible for the money for only a "maximum of four years."³²⁴ In addition to the scholarship funding, the United States promised to give Palau:

the sums of \$4.3 million, \$2.9 million and \$1.5 million, respectively, during the first, second and third years after the effective date of this Compact, which sums shall be used by the government of Palau as current account funds to finance programs similar to those programs of the United States that applied to Palau prior to the effective date of this Compact and that provided financial assistance for education to any institution, agency, organization or permanent resident of Palau or to the College of Micronesia.³²⁵

321 Ministry of Education, "What We Do," accessed at <http://www.palaumoe.net/>.

322 Republic of Palau, "Pathway to 2030 1st Voluntary National Review on the SDGs," June 2019, 17, accessed https://sustainabledevelopment.un.org/content/documents/23606VNR_FINAL_21June2019_UN_Version.pdf.

323 Compact of Free Association, Republic of Palau, 1994, https://pw.usembassy.gov/wp-content/uploads/sites/282/2017/05/rop_cofa.pdf.

324 Section 223, Republic of Palau Compact of Free Association.

325 Section 223, Republic of Palau Compact of Free Association.

Stated in Section 221, Subsection B of the compact, the money was an acknowledgement on behalf of the United States of “the special needs of Palau particularly in the fields of education and health care.”³²⁶

Funding from the US also helps Palau with its pre-kindergarten and kindergarten (or pre-primary) programs. For pre-primary grades, the Ministry of Education does not run any preschool or kindergarten programs. Instead, the country’s pre-primary programs are managed by the non-governmental Palau Community Action Agency. It runs Head Start centers where children in Palau attend pre-kindergarten classes. These centers are financed by US federal grants. Additionally, the churches provide three private kindergarten programs.

The Ministry of Education (MOE) is working toward running these programs under its institution. It decided to expand the pre-K and kindergarten programs so that they become “free and universal” for all. To accomplish this task, in its Education Master Plan, the MOE recommended that by 2026 it would be “establishing kindergartens in the remote islands of Angaur, Peleliu, and Kayangel, which have previously been excluded from the preprimary network.”³²⁷ Beyond pre-primary education, the MOE oversees grades one through twelve. In Palau, the compulsory age for education is six to fourteen years old. The languages of instruction are Palauan and English.

As a freely associated state, if an agreement similar to COFA is established between Guam and the United States, the island can negotiate for a scholarship fund, or grant, to allow students from Guam to seek higher education in the United States, as is done in the compacts with RMI, FSM, and Palau. It is important to note that as noncitizens, COFA citizens are eligible for federal student aid to an extent. For example, Palauan citizens are eligible for “federal pell grants, federal supplemental educational opportunity grants, and federal work-study.”³²⁸ Citizens of the Federated States of Micronesia and the Republic of the Marshall Islands are only eligible for federal Pell Grants.³²⁹ Many of Guam’s students already attend higher education institutions in the United States. The negotiation of visa-free travel and settlement in the United States will allow citizens of Guam to continue to go to the US for school. However, to entice citizens of Guam to stay in the island, negotiated funding through the compact can be used to improve Guam’s existing institutions of higher education.

326 Section 221, Republic of Palau Compact of Free Association.

327 Section 221, Republic of Palau Compact of Free Association.

328 Federal Student Aid US Department of Education, “Many non-US citizens qualify for federal student aid,” accessed at <https://studentaid.gov/understand-aid/eligibility/requirements/non-us-citizens>.

329 Federal Student Aid US Department of Education, “Many non-US citizens qualify.”

EDUCATION

STATUS	EFFECTS
<p><i>Statehood</i></p>	<ul style="list-style-type: none"> • Guam will adhere to federal education laws (i.e, NCLB, ESSA, etc.). The island will have access to grants and funding produced by these policy changes. However, as a state, Guam will have significant control over its education system. • Voting members of the US Congress can advocate for policies that will benefit Guam’s educational institutions. • Guam’s education standards and curricular materials/content align to federal requirements; little change will be required to meet current guidelines. • Guam will remain a COFA jurisdiction, with limited reimbursement from the federal government for educational services provided to FAS students • Guam could see an increase in federal funding for education, but that funding may come with more restrictions or rewards from the federal government, depending on the performance of the island’s schools.
<p><i>Independence</i></p>	<ul style="list-style-type: none"> • The island will have complete autonomy over the education system, structure, budget, licensure requirements, etc.

	<ul style="list-style-type: none"> • The country could create curricula more fitting to the island and have this be a much more substantial component of children’s education in the country than it currently is as an unincorporated territory. • The government of Guam may be able to afford to keep the public-school system in operation. If Guam experiences economic uncertainty then alternate revenue streams will need to be explored, such as increasing local taxes or creating new industries. • Guam may have more funding opportunities through international aid and organizations such as the United Nations.
<p style="text-align: center;"><i>Free Association</i></p>	<ul style="list-style-type: none"> • If a COFA agreement is established, federal dollars for education are contingent on negotiations and concessions made in the document. If compact funding is given, it may be unsustainable since it is likely to run out dependent on durability of relevant economic provisions. • There may be more scholarship opportunities for the citizens of Guam to attend schools in the United States. • Guam may have more funding opportunities provided by other countries and/or international organizations.

CHamoru Culture Preservation/ CHamoru Programs

The CHamoru culture lives today and can be seen in many aspects of life in contemporary Guam. Even as an unincorporated territory with centuries of colonization, the CHamoru people have retained their language, values, and traditions despite challenges facing the island. Despite these waves of colonialism, the CHamoru culture has adapted without losing its core. Many contemporary CHamorus challenge popular discourse asserting the death and continued erosion of “authentic” CHamoru culture. In Guam today, there is a cultural revival by the island’s younger generations. They embrace the culture as deeply important to their lives and show that the culture is living, even if there are certain aspects of it that are in need of revitalization. They embrace it despite the presence of certain discourses that are harmful to the flourishing of the CHamoru culture.

Colonialism and Culture

The link between the state of the CHamoru culture and colonialism is clear. International relations scholar Sankaran Krishna defines modern colonialism as “the combination of economic, social, political, cultural and other policies by which an external power dominates and exploits the people, ideas and resources of an area.”³³⁰ It is impossible to discuss the social impacts of political status without the understanding that colonialism is not just a political process. As one of the longest running colonies in the modern world, having undergone three different colonial administrations, Guam’s colonial history has affected nearly every aspect of life in the island, not just politics. It affects things such as spirituality, social relationships, and culture.

There is an interesting cultural landscape in Guam today. On one hand, there are many in Guam who embrace the CHamoru culture and view it as important to their lives. On the other are those who view the culture as marginal to everyday life in Guam. Even more complex are those who have pride in

330 Sankaran Krishna, “How Does Colonialism Work” in *Global Politics: A New Introduction* (New York: Routledge, 2019), 350.

the culture yet think negatively of CHamoru self-determination or political status change. In many ways, the CHamoru culture is acknowledged and even celebrated (i.e. Mes CHamoru) today, but often is still treated superficially, as a supplementary component, and not as the core of government policy or ethics. CHamoru cultural values have not necessarily become fully incorporated as a foundation of governance in the island.

Despite this, the CHamoru culture lives and in certain sectors of society, even flourishes. Yet, there still exist those who either misuse CHamoru cultural values, only use it on a superficial level, or believe that CHamoru culture is marginal and unimportant. This is why efforts at decolonization and discussions of self-determination should take cultural preservation and cultural programs seriously. Cultural health is related to psychological health, and thus has ramifications for governance. Moves to transform the political status of the island should address psychological and cultural health. Having a positive cultural grounding and a positive perspective of one's people can be critical to the success or failure of any attempt at self-determination.

US Military Activity and Cultural Preservation

One issue facing cultural preservation today is US military activity in the island. There is a significant connection between military activity and threats to historical preservation, and this has been heightened by events surrounding the military buildup in the island.³³¹ Historical preservation is cultural preservation, as artifacts are cultural resources and embodiments of the past. Clearing land for military projects impacts historic preservation. A recent example is the military's clearing of the ancestral latte site at Mågua'. Located in the northern part of the island, the site was located in the area being cleared for the new Marine Corps base. In October 2018, acting Speaker of the Guam Legislature, Therese Terlaje stated, "Today, the Guam State Historic Preservation Officer confirmed that Mågua', an ancient Chamorro settlement area, had been cleared of latte, artifacts, and other cultural evidence, and then bulldozed."³³² Joint Region Marianas responded, writing, "Out of respect for the cultural significance of the displaced latte stones, the Navy recovered these artifacts and carefully placed them in a secure area pending a joint decision on their future interpretive use."³³³ This, and the subsequent disturbance of human remains, has led to community organizing to stop the continued desecration. Legislators have called for further transparency and military accountability. The State Historic Preservation Officer called for a halt to construction. Blue Ocean Law, acting on behalf of activist group Prutehi Litekyan, submitted a report on the buildup to the United Nations Special Rapporteur on the rights of indigenous peoples. It should be noted that, despite these efforts, the military continues to disturb the area and Guam's current political

331 For an overview of current military presence in Guam right now, the history of this military presence, and its relationship to Guam's political status, please read the "Defense-External Affairs Overview" portion of this study.

332 Therese Terlaje, "Statement From Legislative Committee on Culture and Justice on the Bulldozing of Mågua', Ancient Chamorro Settlement Area," October 30, 2018, accessed at <http://senatorterlaje.com/statement-from-legislative-committee-on-culture-and-justice-on-the-bulldozing-of-magua-ancient-chamorro-settlement-area/>.

333 Kevin Kerrigan, "Questions raised over clearing of ancient latte site," Guam Daily Post, October 31, 2018, accessed at https://www.postguam.com/news/local/questions-raised-over-clearing-of-ancient-latte-site/article_1ea7bdec-db56-11e8-9176-c35be3651863.html.

status as an unincorporated territory provides the island with fewer avenues of addressing this than if the island were a state, freely associated or independent.

Another example is Pãgat. In 2006, the governments of Japan and the United States discussed relocating 8,000 marines and their dependents from Okinawa to Guam. This plan also included installing anti-missile defense systems, dredging of reef for an aircraft carrier berth, and the taking of the ancestral CHamoru village (Pãgat) for a firing range. As described by archaeologist John Craib,

One of only four recorded latte sites on the northeastern coast of Guam; Pãgat (which means to counsel or advise in the CHamoru language) is an important cultural resource for the CHamoru people; the indigenous people of the Mariana Islands. The archeological site contains the remnants of a large latte village that is believed to have been a part of a larger exchange network. The area has been included on the Guam Register of Historic Places as well as the National Register of Historic Places, since 1974. These designations by the Guam Department of Parks and Recreation and the US National Park Service attest to the historic significance of the site. In 2010, the National Trust for Historic Preservation included Pãgat on America's eleven Most Endangered Historic Places. Today, local healers continue to visit Pãgat to seek advice from the spirits and collect herbs for medicines.³³⁴

Many in Guam opposed the US military taking this culturally rich site. One of the main actions taken was a lawsuit filed by the National Trust for Historic Preservation, the Guam Preservation Trust, and We Are Guåhan. According to the Guam Preservation Trust's Joe Quinata on the lawsuit, "This action does not challenge the buildup itself, but seeks to compel the Department of Defense to comply with the National Environmental Policy Act and the National Historic Preservation Act by giving adequate consideration to alternative location for the firing ranges, as mandated by law."³³⁵ Multitudes of people organized and showed up to public hearings, thousands of comments were collected by the organization We Are Guåhan, and protests/informational sessions were organized by the community.

Mãgua' and Pãgat are just two examples of the tension between military projects and historic preservation. The taking of land by the US military after World War II clearly involved the disturbance of artifacts and the severing of family ties to their genealogical land.³³⁶ Thus, political status matters when it comes to how much power Guam has in negotiating with the military on matters such as historic and cultural preservation.³³⁷

334 John Craib, "Pãgat," Guampedia, accessed at <https://www.guampedia.com/pagat/>.

335 Mindy Aguon, "Lawsuit filed over Pagat," KUAM News, accessed at <https://www.kuam.com/story/13527034/2010/11/Thursday/lawsuit-filed-over-pagat>.

336 For more on this, refer to the "Land" subsection of this study.

337 For more information on this, please see the "Bases" and "Defense Treaties/Agreements" subsections of this study.

Current CHamoru Programs and Cultural Preservation Efforts

There is a CHamoru cultural renaissance happening in the island. The island is filled with cultural talent and excellence, including a multitude of dance groups, weavers, musicians, blacksmiths, chanters, storytellers, chefs, carvers, textile creators, fisherfolk, visual artists, and writers. We also see the revival of CHamoru medicinal practices and traditional navigation techniques. Now, there is also University of Guam Press, which publishes culturally relevant books. There is a cultural center named Săgan Kotturan CHamoru, which features the work of respected cultural artisans, and a CHamoru immersion program at P.C. Lujan Elementary School in partnership with Hurao Academy, which has been at the forefront of language revitalization in Guam. In addition to these artists, the government has played an active role in supporting this cultural renaissance. These examples of revival help challenge the narrative that the CHamoru culture is dying. In the face of colonialism and attempts to erase CHamoru culture, the culture has remained and has adapted to a modern context through CHamoru agency and innovation, even if there are still problems to discuss and resolve.

The government of Guam has established agencies which aid CHamoru cultural preservation and perpetuation, recognizing the need to preserve CHamoru language and heritage. The government of Guam continues to engage in discussion and debate to further support and establish cultural agencies and programs. Examples of agencies include: the Department of CHamoru Affairs; i Kumision i Fino' CHamoru yan i Fina'nă'guen I Historia yan i Lina'la' i Taotao Tăno' (Commission on CHamoru Language and the Teaching of the History and Culture of the Indigenous People of Guam); the Guam Preservation Trust; the CHamoru Land Trust Commission; the Ancestral Lands Commission; and the Council on the Arts and Humanities.

The primary body in charge of CHamoru culture program management is the Department of CHamoru Affairs, also known as DCA. It was established by Public Law 25-69 and was tasked with the perpetuation, promotion, and preservation of the CHamoru heritage. Its mission statement is,

To create, develop, implement and maintain an integrated program for the preservation, promotion, and advancement of the native Chamorro³³⁸ people of Guam. It is intended that the public corporation be the guiding force in all aspects of Chamorro culture, language, preservation, education, arts, humanities, and history, through public advocacy, research, publication, authentication, restoration, presentation, and production, and by providing and overseeing a repository for historical documents, cultural artifacts and documentary and narrative film and video.³³⁹

Currently, the Department of CHamoru Affairs handles the Guam Museum, CHamoru village, or I Sengsong CHamoru, along with a research/publication/training section.

338 In direct quotes in the study, the spelling of "Chamorro" will not be changed to reflect the official spelling "CHamoru."

339 Department of CHamoru Affairs, A Report To Our Citizens, Fiscal Year 2016, accessed at http://www.opaguam.org/sites/default/files/dca_ccr16.pdf.

The Guam Preservation Trust is another important body for cultural preservation. It was created as a nonprofit public corporation in 1990 via P.L. 20-151 and recodified in P.L. 27-89. The Trust receives most of its revenue from the building permit fees administered by the Guam Department of Public Works, but also gets revenue from various grants and interest income on investments. It has the following duties:

- To acquire title to threatened Guam properties for the preservation of their historical value, whether in fee simple, by leasehold, or by easement, and whether through donation, transfer, dedication or purchase
- To award grants for historic property documentation and historic register nomination
- Architectural and archaeological history and documentation of historic structures and sites
- Protection of historic structures and sites through stabilization, rehabilitation, reconstruction, or restoration, including lighting when appropriate on such sites being utilized for non-profit and non-commercial purposes, such as private homes, schools, churches, public buildings and facilities
- Ethnography and oral history
- Archival and archaeological research and investigations for locating, recording and protecting sites of historic or prehistoric interest and value
- To support other activities directly related to increasing the public appreciation of, and benefit from historic places, including public interpretation and presentation
- To seek outside grants and donations

There is also the Council on the Arts and Humanities Agency, also known as CAHA. CAHA was initially created in 1967 by Dr. Pedro Sanchez of the University of Guam as the Insular Arts Council. Through Executive Order 75-23, then-Governor Ricardo Bordallo re-established the council as part of his executive office. It was then established as Guam's state arts agency by Public Law 16-122. Its mission is "to perpetuate the arts and humanities with programs and initiatives that enhance our quality of life through education, creative expression, and the professional development of our local artists."³⁴⁰ CAHA has been one of the primary funders of arts projects, many of which are cultural projects. These bodies provide examples of CHamoru cultural preservation in Guam today as an unincorporated territory.

Statehood

CHamoru culture preservation in the state of Guam may face some threats but is not antithetical to becoming a state of the United States. Some argue that becoming a state may lead to a further decline of the island's culture due to continued westernization. There is definitely a sound argument for this, related to control of land and immigration (which are larger issues explored in other sub-sections of this

340 Council on the Arts and Humanities, "Citizens Centric Report," 2018, accessed at https://opaguam.org/sites/default/files/caha_ccr18.pdf.

study). However, the CHamoru culture can be preserved as a state via funding for cultural programs and the power of being a state afforded by the US federal structure.^{341, 342} Furthermore, if the United States retains its economic power, Guam's economy may benefit from an increase in funding that would possibly allow for the continuation and expansion of programs that assist CHamoru culture preservation and perpetuation. As a state, US citizens in Guam could have access to the full repertoire of federal programs and grants that help cultural preservation and cultural resource management.

One example is the National Endowment For The Humanities (NEH). NEH is a federal agency created in 1965 which funds humanities programs (cultural projects and programs) in the United States via grants. According to the NEH, the grants "typically go to cultural institutions such as museums, archives, libraries, colleges, universities, public television, and radio stations, and to individual scholars."³⁴³ In 2020, NEH was appropriated a total of \$162,250,000 to include grants as well as federal/state partnerships. For FY 2021, NEH received congressional appropriations totaling \$167,500,000.

Guam currently has access to funding from NEH via the establishment of Humanities Guåhan, which is part of a network of State Humanities Councils (STC). Many important cultural projects have been funded by Humanities Guåhan, and therefore have been supported by federal funds. Some of these projects and programs include exhibits like "Transitional Table—Guam's shifting food traditions during and after World War II," cultural workshops like "15th Anniversary *Writing the Pacific* with Albert Wendt," and the funding of conferences, such as the Marianas History Conference and the Pacific Literature Conference. If Guam were to become a state, it is highly likely that it would continue to receive funds from NEH through a body such as Humanities Guåhan.

Another funding source for cultural programs in the United States is the Department of Health and Human Services' "Administration for Native Americans," or ANA. Its stated intent is to "promote self-sufficiency for Native Americans by providing discretionary grant funding for community-based projects, and training and technical assistance to eligible tribes and native organizations."³⁴⁴ ANA's goals are as follows:

- Fostering the development of stable diversified local economic and economic activities to provide jobs, promote community and economic well-being, encourage community partnerships and reduce dependency on public funds and social services;
- Supporting local access to, control of and coordination of services and programs that safeguard the health and well-being of native children and families;

341 For a discussion on the US federal system, please refer to the introduction to the study under the descriptions of the three political statuses.

342 It is important to note that the context of what counts as "culture" or "cultural flourishing" may also contribute to these differences of perspective.

343 National Endowment For The Humanities, "About the National Endowment for the Humanities," accessed at <https://www.neh.gov/about>.

344 Administration for Native Americans, "What We Do," accessed at <https://www.acf.hhs.gov/ana/about/what-we-do>.

- Increasing the number of projects involving youth and intergenerational activities in Native American communities.

Funding is available to CHamorus in Guam, as ANA serves what it considers native populations throughout the Pacific Basin, of which CHamorus are included. Many CHamoru cultural programs have been funded. Grant awards for Guam include Para Probechun Taotaota Inc., which received a grant to establish a cultural industry for employing CHamoru youth and young adults who are cultural practitioners. The examples of NEH and ANA show that federal funding has contributed to cultural preservation and cultural programs. It is highly expected that as a state, CHamorus and others in Guam will have continued access to funding for these programs.

Status Example: Hawai'i (with emphasis on O'ahu)

Hawai'i is an appropriate status example for looking at the balance between access to funding and cultural preservation and perpetuation. The government body charged with matters pertaining to Kanaka Maoli (Native Hawaiians) is the Office of Hawaiian Affairs also known as OHA, which began in 1978. The agency was created to improve the well-being of Native Hawaiians. According to OHA, it enhances “well-being by collaborating with various organizations to strengthen our community’s resources.”³⁴⁵ To do this, it has given more than \$800,000 in scholarship loans and \$34 million in loans for Native Hawaiians. It also awarded nearly \$16 million to organizations who aid Kanaka Maoli. Hawai'i also has its own Native Hawaiian TV station named 'Oiwī TV, multiple Hawaiian immersion and charter schools, and Hawaiian as an official state language. As a state of the US, Hawai'i gets access to federal funds and grants, which helps fund many cultural programs.

It is important to put this in the context of Hawaiian history. The Kanaka Maoli went from having an independent country, with a royal lineage and monarchy, to being treated as a minority within Hawai'i. Native Hawaiians are often at odds with the state government, and hold little political power within the State of Hawai'i's government or federal representation. For example, neither Hawai'i's governor, lieutenant governor, or two senators in the US Senate, are Kanaka Maoli at the time of writing. Only one of their representatives in the House of Representatives, Kaiuli'i Kahele, elected in 2021, is Kanaka Maoli. Furthermore, few Hawaiian cultural practices, besides the commodification of “Aloha,” are used as a basis or foundation for the State of Hawai'i's government policy. Although native Hawaiians have access to funding that allows cultural preservation, their political power has been diminished as a result of the overthrow of the Kingdom of Hawai'i.

One possible threat to CHamoru cultural preservation if Guam becomes a state is a shift in demographics. There is the possibility under statehood that, as a state and a more secure part of the United States, many will seek to reside in Guam, seeking the American dream, resulting in a continued decline in the

345 Office of Hawaiian Affairs, “About,” accessed at <https://www.oha.org/about/>.

percentage of CHamorus living in Guam. Many people choose to move to Guam because it is American soil. Statehood provides a more stable foundation for the continuation of Guam being American soil, and therefore may lead to increased immigration and the possibility of the diminution of the indigenous CHamoru culture. It is important to note, however, that it is not the mere presence of diverse cultures that may lead to a decline in CHamoru culture vitality.

Overall, if Guam becomes a state, it is important that island residents consider the degree to which they will be able to incorporate CHamoru beliefs, values, and customs into governance despite increased access to funding and the creation of new programs.

Independence

Independence offers increased opportunities for cultural preservation and the development and maintenance of CHamoru programs. As an independent country, CHamoru cultural values and customs could more easily become the foundation of government structures and policies. As a colony since the 1600s, Guam has never been given the opportunity to develop a system that is most fitting for its geography, cultural practices, social fabric, demography, and way of life. As Guam would be able to craft its own government system and social/economic/land policies, independence offers opportunity for the continued survival and thriving of the CHamoru culture. Under independence, it is possible that CHamoru values such as *inafa'maolek* (to make good for one another), *respetu* (respect), *chenchule'* (reciprocity), and *ina-goffi'e'* (friendship) can be guiding principles of policy in the formation of the country's political system. Independence could provide an opportunity for CHamoru ways of being, taking care of the land, and protecting the environment to become legitimately implemented into the policies and laws of the country. To put it another way, an independent Guam allows the island's people to use their historical experiences as legitimate guiding principles in the formulation of the island's political and economic system.

However, the blueprint for policies and political culture under an independent Guam will be determined by the people and shaped by the geopolitical, social, and economic circumstances of the time. There is also a chance that CHamoru culture preservation will not be meaningfully incorporated into the new country's laws, policies, or day-to-day operations. It should not be assumed that CHamoru culture will become the basis for government policy in an independent Guam. This will need to be a deliberate and agreed-upon principle of government design. It is also possible that the CHamoru culture could be pushed to the periphery under independence. However, it is more likely in an independent Guam that cultural revitalization and cultural programs will be taken seriously.

Status Example: Bolivia

In South America, Bolivia is well-known for its large indigenous population and for government policies that often benefit its indigenous peoples. This was most recently demonstrated under the presidency of Evo Morales, an indigenous Bolivian. Most prominently was Morales' drafting of a new constitution for

the country in 2009, which not only addresses indigenous peoples and cultures, but also uses the country's past experiences as a basis for the constitution's formulation. This is something that an independent Guam could do: write a constitution that outlines the new government, learning from history to produce a more-fitting system of government.

Article 2 of the Bolivian constitution directly addresses indigenous peoples, reading, "Given the pre-colonial existence of nations and rural native indigenous peoples and their ancestral control of their territories, their free determination, consisting of the right to autonomy, self-government, their culture, recognition of their institutions, and the consolidation of their territorial entities, is guaranteed within the framework of the unity of the State, in accordance with this Constitution and the law."³⁴⁶ The Bolivian Constitution acknowledges all the languages of the indigenous people as official languages of the state, and Article 8 uses indigenous values to describe the ethical and moral principles of their plural society. Article 8 adopts and promotes the following: *ama qhilla*, *ama lulla*, *ama suwa* (do not be lazy, do not be a liar or a thief), *suma qamaña* (live well), *ñandereko* (live harmoniously), *teko kavi* (good life), *ivi maraei* (land without evil), and *qhapaj ñan* (noble path for life). Guam could do something similar by embedding CHamoru values into a constitution to legitimize the values as a basis of governance.

Chapter IV of the Bolivian constitution is entitled "Rights of the Nations and Rural Native Indigenous Peoples." Part II of Article 30 enumerates eighteen rights specifically for indigenous peoples, such as the right:

- to their cultural identity, religious belief, spiritualities, practices and customs, and their own world view
- that the cultural identity of each member, if he or she so desires, be inscribed together with Bolivian citizenship in his identity card, passport and other identification documents that have legal validity
- to self-determination and territoriality
- that its institutions be part of the general structure of the state
- to the collective ownership of land and territories
- to the protection of their sacred places
- to create and administer their own systems, means and networks of communication
- that their traditional teachings and knowledge, their traditional medicine, languages, rituals, symbols and dress be valued, respected and promoted
- to live in a healthy environment, with appropriate management and exploitation of the ecosystems

An independent Guam can learn from Bolivia's example in determining substantive ways to create and institutionalize CHamoru programs and preserve and perpetuate the CHamoru culture.

346 Article 2 of the Constitution of Bolivia, 2009, accessed at https://www.constituteproject.org/constitution/Bolivia_2009.pdf.

Free Association

Similar to statehood and independence, a freely associated state of Guam will be able to develop programs aimed at cultural preservation and perpetuation. The island's leaders could ensure that this principle of cultural preservation and perpetuation is highlighted foremost in the preamble to the island's Constitution, as will be examined below with Palau and the Federated States of Micronesia. The discussion above on independence, both the positive and negative aspects, is directly applicable to free association, so it does not bear much reiteration. The most substantial differences between free association and independence regarding CHamoru culture preservation and revitalization are: the nearly guaranteed presence of the US military; higher possibility of continued direct American influence from funding especially for education; and the possible long-term out-migration of Guam's people to the United States if a visa-free requirement is negotiated. This latter point leads to a potential loss of qualified and educated local residents, changing the cultural landscape due to the possibility of a more permanent population outside of the military bases.

As will be discussed further in the defense section of this study, American military bases will most likely stay in the case of free association, as defense and security purposes will be the key factor in the US agreeing to enter into a free association relationship with Guam. The presence of the US military in Guam has had negative effects on the CHamoru culture, primarily because of land-taking and land transformation. Indigenous cultures are rooted in and thrive on their connection to land. The dispossession of land has devastating cultural and psychological effects on the island and the CHamoru people. Land is at the heart of indigenous belonging and identity and "land, culture and government are inseparable... each depends on the other and this means that the denial of one aspect recludes recovery as a whole." Guam, when negotiating the freely associated agreement, will have to make tough decisions when it comes to military bases in the country, and will need to balance security needs with the importance of land to CHamoru cultural preservation and perpetuation.

Free association, although putting Guam under the US defense umbrella, does not prevent the island from creating programs aimed at cultural preservation and perpetuation. As explained below, in the Federated States of Micronesia, cultural preservation can occur in an arrangement of free association. The largest difference is that Guam already has a heavy US military presence, unlike the FSM.

Status Example: Federated States of Micronesia

The Federated States of Micronesia serves as a strong example of cultural preservation while being freely associated with the United States. The FSM incorporates culture into its governance. Article V of the Constitution of the Federated States of Micronesia reads,

Section 1: Nothing in this Constitution takes away a role or function of a traditional leader as recognized by custom and tradition, or prevents a traditional leader from being recognized,

honored, and given formal or functional roles at any level of government as may be prescribed by this Constitution or by statute.

Section 2: The traditions of the people of the Federated States of Micronesia may be protected by statute. If challenged as violative of Article IV, protection of Micronesian tradition shall be considered a compelling social purpose warranting such governmental action.

Section 3: The Congress may establish, when needed, a Chamber of Chiefs consisting of traditional leaders from each state having such leaders, and of elected representatives from states having no traditional leaders. The constitution of a state having traditional leaders may provide for an active, functional role for them.³⁴⁷

The FSM clearly incorporates its traditional leadership in the government of its freely associated state.

Status Example: Palau

Palau has also been able to incorporate the Palauan culture into its governance. Article V of the Palauan Constitution, entitled “Traditional Rights,” reads:

Section 1: The government shall take no action to prohibit or revoke the role or function of a traditional leader as recognized by custom and tradition which is not inconsistent with this Constitution, nor shall it prevent a traditional leader from being recognized, honored, or given formal or functional roles at any level of government.

Section 2: Statutes and traditional law shall be equally authoritative. In case of conflict between a statute and a traditional law, the statute shall prevail only to the extent it is not in conflict with the underlying principles of the traditional law.

Section 6 of Article VIII establishes a Council of Chiefs. The council, which is comprised of one traditional chief from each state of Palau, advises the president on matters concerning traditional laws, customs and their relationship to the constitution and the laws of Palau. This section states that “no person shall be a member of the Council of Chiefs unless he has been appointed and accepted as a chief in a traditional manner and is recognized as such by the traditional council of chiefs of his state.” Beyond the Constitution, Palau has also invoked tradition in government initiatives. Palau is internationally known for its maritime sanctuary initiatives. Palau created a no-take Marine Sanctuary covering roughly 80% of its Exclusive Economic Zone. It was inspired to do this through its 1,000-year-old tradition known as

347 Article V of the Constitution of the Federated States of Micronesia.

bul. Palau’s chiefs can declare a bul, making certain reefs off limits, allowing the number of fish to grow and be sufficient for providing for the community later in the year.

It should be noted that in Guam today there is not a clear chiefly system. Traditional leadership is not as emphasized or recognized in Guam as it is in the FSM. One may read the above example and wonder what implications this has for the island. These status examples are not meant to recommend that a traditional leader system will be implemented in Guam under free association. These decisions must be made collectively. However, what is emphasized through this status example is that in a relationship of free association with the United States, Guam could look toward CHamoru culture and local customs as a basis for government policy, just as the Federated States of Micronesia and the Republic of Palau do.

CULTURAL PRESERVATION/CHAMORU PROGRAMS	
STATUS	EFFECTS
<i>Statehood</i>	<ul style="list-style-type: none"> • Continued access to federal funding for cultural programs and projects • Under the federal system of the United States, Guam, as a state, could provide avenues for CHamoru programs in domains which states have primary control over, such as the public school system, although some federal constraints may still exist • Continued Americanization could push (though this is not guaranteed) CHamoru culture to the periphery, along with continued US military activity impacting historical preservation • Difficult to make CHamoru culture and values foundational to governance and policy
<i>Independence</i>	<ul style="list-style-type: none"> • Provides great latitude for the establishment and continuation of CHamoru programs and cultural preservation

	<ul style="list-style-type: none"> • Ability to incorporate the CHamoru culture and values into policy, governance, economic development, and political culture • CHamoru culture preservation is not guaranteed and is dependent upon effort and deliberate action of island leaders and community • Cultural programs may be deprioritized in the face of larger challenges encountered by a newly formed independent country (economic problems as an example)
<p style="text-align: center;"><i>Free Association</i></p>	<ul style="list-style-type: none"> • Provides latitude for CHamoru culture to be incorporated into policy, governance, and political culture • Economic assistance from the United States may help stabilize the new FAS of Guam allowing for cultural programs to be established • CHamoru culture preservation is not guaranteed and is dependent upon effort and deliberate action of island leaders and community • Guam will have to take cultural preservation and cultural programs into account during its negotiation with the United States for the development of a Compact of Free Association or other legal instrument as it pertains to military use of land

Fino' CHamoru (CHamoru Language)

Fino' CHamoru is an Austronesian language which shares common words with languages such as Tagalog, Bahasa Indonesia, Hawaiian, and even the Malagasay language of Madagascar. It is the native language of the indigenous CHamoru people of the Mariana Islands. The language today is in a critical state in Guam. According to the 2010 Census³⁴⁸, only around ~16-17% of the population of Guam reported to have spoken the language. Furthermore, most of the speakers still alive today are over the age of fifty-five. Below is a table and graphic showing the continuous decline of Fino' CHamoru use in Guam.

348 As the 2020 Census results not yet released at the time of writing, the 2010 Census results are used.

Current Data on CHamoru Speakers:

This table provides information on the number of speakers of CHamoru in a 20-year period (1990–2010), in comparison to the total population of Guam. (Guam Bureau of Statistics and Plans, as cited in Teria, 2013)

YEAR	NUMBER OF CHAMORU SPEAKERS	GUAM POPULATION
1990	34,598	133,152
2000	30,708	154,805
2010	25,827	159,358

This decline in the CHamoru language is predicted to continue if no fundamental efforts are made toward comprehensive language revitalization. Most of the current speakers of the language are senior citizens, which represents a fundamental problem for the survival of the language. The United Nations' Educational, Scientific and Cultural Organization's (UNESCO) Ad Hoc Group on Endangered Languages has created a guideline for assessing language vitality or the health of a language.

The nine identified factors are:

Factor 1: Intergenerational language transmission

Factor 2: Absolute number of speakers

Factor 3: Proportion of speakers within the total population

Factor 4: Trends in existing language domains

Factor 5: Response to new domains and media

Factor 6: Materials for language education and literacy

Factor 7: Governmental and institutional language policies, including official status and use

Factor 8: Community member's attitudes toward their own language

Factor 9: Amount and quality of documentation

The CHamoru language in Guam is lacking in many of these factors, with the most urgent being intergenerational language transmission or the process in which speakers of a language pass it down to their children and the next generation. Only when children are learning and using the language does the language have a chance at long-term use. The absolute number of speakers of a language matters, but if that language is not being transmitted to the next generation, the language's chance of surviving is poor. Based on the intergenerational transmission factor alone, the CHamoru language has around ten-to-fifteen years in which a majority of the fluent generation (aged fifty-five and over) will still be alive. Once this generation passes, with the absence of intergenerational transmission or strengthened revitalization programs, it is expected that the number of speakers in the island will drop dramatically to a single digit percentage. This is a critical time for action, and political status has effects on the language's vitality.

Importance of Language

Language is important for a people's culture and worldview. From a language, one can understand and respect the values of a people, their psychology, and epistemology. Kenyan scholar Ngugi Wa Thiong'o articulates this, writing, "The choice of language and the use to which language is put is central to a people's definition of themselves in relation to their natural and social environment, indeed in relation to the entire universe."³⁴⁹ While the bullet was the means of physical colonization, language erasure became

349 Thiong'o, "Decolonising the Mind," 4.

the means of spiritual subjugation and mental colonization. Language is a powerful tool of colonization because language does not simply include words, but rather has a power beyond the surface meaning of words. When one learns a language, one learns to view the world in that language's particular cultural lens. Language carries with it values which form the basis of a person's identity and thus acts as a memory bank of a peoples' experience.

Some examples of finding the CHamoru worldview in the CHamoru language include the words *geftao* and *chattao*. *Geftao* means generous and *chattao* means selfish. *Gef* is an intensifier, equivalent to the word "very" (similar to *gof*), while *chat* is a prefix indicating "not quite," while *taotao* means "person or people." Thus, in the CHamoru worldview, to be selfish or "chattao" means to be not quite human, while to be generous or "geftao," means to be very human. These glimpses of the CHamoru worldview are ubiquitous in Fino' CHamoru. A very common word found in Guam, "Taotaomo'na" also displays much about the CHamoru worldview. Many in Guam know this word as referring to ancestral spirits who live amongst the land. Many ask permission from the *taotaomo'na* before using the restroom in the jungles. The word *taotaomo'na* is a combination of the words "taotao" and "mo'na." *Taotao* means people and *mo'na* means front or forward. This is a very interesting glimpse into the CHamoru conception of time. In CHamoru epistemology, time is not linear, but rather circular. As described by CHamoru scholar Michael Lujan Bevacqua,

A circular interpretation, however, sees time and history as never moving forward, but always returning to the same points, always moving in a grand circle. The diverse uses and meanings of the term *mo'na* indicate that the CHamoru worldview was a circular one, or one in which the past, the present and the future were not discrete units or blocks on a straight timeline, but rather points that linked together in a circle.³⁵⁰

Another prime example is the word for friendship or *inagoffi'e'*. Breaking this word down grammatically:

Li'e' (to see) + *gof* (intensifier) + *a* (reciprocal marker) + *in* (nominalizer)

Thus, friendship in the CHamoru worldview is the act of seeing one another frequently. This helps to explain why many CHamorus in Guam are very concerned with "showing face" at parties, events, and other social gatherings. It is very common to hear parents telling their children they have to go "show face" even if it is only for thirty minutes or so. Collectively, all of these words show that much of the epistemology and worldview of the CHamoru people can be found in the grammar of the language. The way we put words together and describe emotions and values is incredibly important to understanding how CHamorus think, and therefore is worthy of being revitalized and perpetuated.

350 Michael Lujan Bevacqua, "Mo'na: Circular Concept of History," *Guampedia*, accessed at <https://www.guampedia.com/mona-circular-concept-of-history/>.

CHamoru Language Colonialism History

Language colonialism can be described as a process through which a colonial language displaces an indigenous language so that the indigenous language is oppressed and seen as inferior. This was a long process which began primarily with American colonialism of the island. The Spanish viewed the CHamoru language as a tool of Catholic conversion and did not insist on its eradication. However, during the Spanish Era, many Spanish words became embedded into Fino' CHamoru. It is important to note that this did not lead to an overhaul of the CHamoru language. As written by linguist Donald Topping, "There was wholesale borrowing of Spanish words and phrases into Chamorro, and there was even some borrowing from the Spanish sound system. But this borrowing was linguistically superficial. The bones of the Chamorro language remained intact; a little Spanish flesh was added through vocabulary borrowing, but Chamorro remained basically Chamorro."³⁵¹ While the Spanish Era had deleterious effects for CHamorus in general, the language remained alive during this time.

The American naval era of Guam's history marks the beginning of policies aimed at eradicating Fino' CHamoru. In early 1900, Governor Richard Leary gave orders (General Order No.12) to provide instruction in English for the children of Guam. As stated in the order, it was expected that "the present force of native teachers will cheerfully and harmoniously cooperate with the teachers of English that the greatest benefits may be derived by both scholars and preceptors."³⁵² In 1917, Naval Government General Order No. 243 banned the speaking of Fino' CHamoru by "designating English as the only official language of Guam and ordered that Chamorro must not be spoken except for official interpreting."³⁵³ In 1920, during the administration of naval Governor Adelbert Althouse, CHamoru-English dictionaries were gathered and then burned. This came out of frustration from the fact that despite these policies, few CHamoru children were speaking English. The irony in this is that the CHamoru-English dictionaries were actually printed by the Navy to help CHamorus learn the meaning of English words.³⁵⁴ In addition to this burning policy, Althouse demanded that no Fino' CHamoru be spoken in the playground or in the classroom.³⁵⁵ There was the beginning of various penalty policies that affected CHamoru students in the school system. Eventually, there would also be new policies instituting monetary fines for any student caught speaking Fino' CHamoru during school hours.³⁵⁶

It was not just the denigration of CHamoru that was used to spark the language's decline. It was also the idea of "English-as-Progress." According to Dr. Robert Underwood in his article, "Language Survival, The Ideology of English and Education in Guam," the decline of Fino' CHamoru did not just begin

351 Donald M. Topping and Bernadita Dungca, *Chamorro Reference Grammar* (Honolulu: University of Hawaii Press, 1973), 6.

352 Michael Clement, "English and Chamorro Language Policies," *Guampedia*, accessed at <http://guampedia.com/us-naval-era-language-policies/>.

353 Clement, "English and Chamorro Language Policies."

354 Robert A. Underwood. *American Education and the Acculturation of the Chamorros of Guam*. (PhD diss., University of Southern California, 1987).

355 Underwood, "American Education."

356 Underwood, "American Education."

due to discriminatory policies towards Fino' CHamoru, but because of the strength of the discourse that knowing English was progress and that English was the language of success. He argues that the downfall of the language came with the decline of the language's use in the homes in favor of English.³⁵⁷ The four reasons outlined for the success of English and the decline of speaking Fino' CHamoru were that English led to academic success, the development of a modern society, economic success, and American assimilation.³⁵⁸

Despite all of this, it is important to understand that CHamorus continued to speak Fino' CHamoru during this period. It was not until the post-war decision of whether to teach the language to the post-war generation that this oppression manifested itself. This was a post-war phenomenon. CHamorus for the most part during the naval period of 1898-1941 primarily spoke Fino' CHamoru in the home, even if the Americans wanted them to make English the language of society, including at home. CHamorus did not give up their mother tongue and returned to speaking it as soon as they went home and were with family and friends. Fino' CHamoru was still the language of their everyday lives.³⁵⁹ World War II would change this political and psychological landscape.

Language Loss and Colonialism

Colonialism has accelerated the rate of language loss around the world, primarily due to discriminatory educational practices, government bias in language policy, and the soft power of dominant culture. There is a direct connection between language loss and colonial projects of dispossession. This is best captured in these two quotes from respected linguists who study language shift and revitalization. "The loss of language is part of the oppression and disenfranchisement of indigenous peoples, who are losing their land and traditional livelihood involuntarily as the forces of national or world economy impinge upon them. Indigenous efforts toward language maintenance or revitalization are generally part of a larger effort to retain or regain their political autonomy, their land base, or at least their own sense of identity."³⁶⁰ Furthermore, Lenore Grenoble writes, "In most, if not all cases, language shift is the result of a history of colonization, unequal power relations, and other imbalances. This is the background against which language revitalization takes place, and for an external linguist to ignore this background is not only disrespectful and mindless, it can be very detrimental to the work that both sides want to accomplish."³⁶¹ Historically, indigenous language loss is intimately connected to the dispossession of indigenous land, involuntary incorporation of indigenous people into the colonial culture, and the environmental

357 Robert A. Underwood, "Language Survival, The Ideology of English and Education in Guam", *Educational Research Quarterly*, 20, no. 4 (1984).

358 Underwood, "Language Survival."

359 Kenneth Gofigan Kuper, *Na'lá'la' I Fino'ta, Na'matatnga i Taotao-ta: Chamorro Language as Liberation from Colonization*, (M.A. thesis, University of Hawai'i at Manoa, 2019), 32.

360 Kuper, "Na'lá'la'," 5.

361 Lenore Grenoble, "Linguistic Cages and the Limits of Linguists," In *Indigenous Language Revitalization: Encouragement, Guidance & Lessons Learned*, edited by J. Reyhner and L. Lockard, (Flagstaff, AZ: Northern Arizona University, 2009), 62.

destruction of indigenous land, seas, and water. Thus, political status matters in conversations about language perception and language revitalization.

Statehood

If Guam were to become a state, it could implement policies at the state level to help the revitalization and perpetuation of the language. While some argue that statehood would endanger the CHamoru language, this is not a guarantee, and the state of Guam could still make concerted efforts at revitalization and perpetuation. One method of language revitalization available to the state of Guam is the utilization of the Department of Education. Currently, there is a CHamoru immersion program (in which Fino' CHamoru is used as the medium of education in most subject areas including Science and Mathematics) for a Kindergarten, 1st Grade, and 2nd Grade class within the Guam Department of Education. If the government of the state of Guam views language revitalization as a priority, it could explore how to fund and provide resources to continue public immersion programs. Under statehood, there could potentially be more funding and resources available to fund language revitalization programs such as public school immersion.

As a state, Guam could make CHamoru an official language of the state, as it is today in the unincorporated territory of Guam. Hawai'i has made Hawaiian an official language, Alaska has made various Inuit languages official indigenous languages, and South Dakota has made Sioux an official indigenous language of the government.

Status Example: Hawai'i

The Hawaiian language, also known as 'Ōlelo Hawai'i, is an example of a language that benefited from successful language revitalization programs and which Guam can look to for guidance. For the purposes of statehood, a well-funded Department of Education in the state of Guam could follow Hawai'i's footsteps through the establishment of public immersion. Currently, there are eighteen public schools throughout the Hawaiian archipelago that offer Hawaiian immersion, with two schools offering this from K-12. As Guam would be a state and have continued or greater access to more federal monies, the prospect of developing and maintaining similar programs exists. One recent example occurred in 2020, when US Senator from Hawai'i Brian Schatz announced that Hawai'i was receiving \$26,992,923 in federal funding to support grants under the Native Hawaiian Educational Program. According to Schatz, the funding would be used for "early childhood education, family engagement, Hawaiian language education, creation of STEM pathways, curriculum and professional development, and more."³⁶² As part of this Hawaiian immersion language nest, Aha Punana Leo received \$830,899 for a kindergarten readiness program.

Another possible funding source for the state of Guam could be the National Science Foundation's

³⁶² Brian Schatz, "Schatz Secures \$27 million in new federal funding for Native Hawaiian education," 2020, accessed at <https://www.schatz.senate.gov/press-releases/schatz-secures-27-million-in-new-federal-funding-for-native-hawaiian-education>.

“Documenting Endangered Languages” program, also known as DEL. Per its synopsis,

This funding partnership between the National Science Foundation (NSF) and the National Endowment for the Humanities (NEH) supports projects to develop and advance knowledge concerning endangered human languages....The program supports projects that contribute to data management and archiving, and to the development of the next generation of researchers. Funding can support fieldwork and other activities relevant to the digital recording, documenting, and archiving of endangered languages, including the preparation of lexicons, grammars, text samples, and databases.³⁶³

Only institutions of higher education in the US, non-profits in the US, or individuals in the US who are US citizens or foreign nations who have been living in the US for at least three years prior to the proposal deadline are eligible. Lastly, there is also the Administration for Native Americans. Although CHamorus are not federally recognized as a tribe, CHamorus are included under the “Native Pacific Islander” definition, making them eligible for grants. Overall, being a state of the United States leads to a high probability of continued access to multiple funding sources for language revitalization projects and programs.

However, it is important to point out that many of these funding sources are either universities, private organizations or trusts, and very small federal grants. In the United States, “sustainable funding from the state or the federal government is not available, leading to a state of linguistic emergency.”³⁶⁴ A study on indigenous language funding across 10 affluent countries concluded that, “Despite being the largest and by far the most prosperous country in the study, the United States ranks very low in terms of ILR (Indigenous Language Revitalization) funding; its per-capita funding is only 14 cents per year.”³⁶⁵ Within the United States, there are only sixteen states with indigenous language policies. Out of these sixteen states, only Hawai‘i, Alaska, and South Dakota have recognized indigenous languages as official languages of the state. Therefore, as a state, Guam should not expect a vast amount of direct federal funding for language revitalization purposes. The state of Guam may have to turn to other sources of funding available for US citizens.

Status Example: Alaska

Alaska has a native population of around 85,000 people and a diversity of twenty native languages. It is an example of a state pursuing language revitalization efforts using the mechanisms of the state. Sustainable funding for language issues is an issue, and thus requires action to be taken to remedy the

363 National Endowment for the Humanities, “Documenting Endangered Languages,” accessed at <https://www.neh.gov/grants/preservation/documenting-endangered-languages>.

364 Heather Bliss, “A Global Perspective on Costing Indigenous Language Revitalization,” 3, First Peoples’ Cultural Council, September 2018, accessed at <http://www.fpcc.ca/files/PDF/Publications/Bliss-Global-ILR.pdf>.

365 Bliss, “A Global Perspective,” 35.

situation. In March 2018, Representative Dan Ortiz of Alaska called for a “state of emergency” to protect the indigenous languages of Alaska. In his State House resolution, he outlined the urgency of language revitalization, writing, “WHEREAS the state is in critical danger of losing those languages and, according to the Alaska Native Language Preservation and Advisory council, the state may lose the last fluent speakers by the end of the twenty-first century if current rates of language loss continue as they have since the 1970s.” At the time of the resolution, funding for native languages was not sufficient. Most funding for Alaska came from the creation of the Alaska Native Language Preservation and Advisory Council, which received very little funding and had only one full-time staff member for a long time. Following Ortiz’s call, Governor Bill Walker signed an administrative order declaring a linguistic emergency. He ordered state agencies to work with tribal partners and to start using traditional place names on state signs. The order requires state commissioners to create a plan for better collaboration with Alaskan natives and directs the commissioners of the Department of Education to find ways to promote native languages in the public education system. Although there is clearly more work to be done for Native Alaskan language revitalization, Alaska as a model helps to show the difficulties as well as the political push needed for government action on this issue. Guam is different in that a significant amount of political power in the state of Guam likely may be held by those who realize the importance of Fino’ CHamoru, which could enhance language revitalization efforts.

Independence & Free Association

The differences between free association and independence are not vastly significant enough when it comes to the prospect of Fino’ CHamoru to warrant two separate analyses for the purposes of this study. The binding thread between the two statuses is that of sovereignty and not being tied to the same legal and constitutional infrastructures and jurisdiction of the United States. Under both statuses, Guam would have to develop its own language policies in relation to education and the government as well as decide whether or not to develop a language commission. In addition, these policies will be dictated by the vitality of the language at the time of entering into this new status. If Fino’ CHamoru remains between “disappearing” and “moribund,” (per language vitality scales), it is recommended that the government of Guam develop a governmental entity dedicated to the preservation and revitalization of the language. If the language is healthy at the time of transition to a new political status, the government may feel less inclined to implement language preservation and revitalization programs, but rather increase its use in government and public spaces. The vitality of the language at the time of the transition status needs to be situated to develop a plan for the new country.

Language Policy

One policy to be debated is whether to make CHamoru an official language of the country. It is currently an official language of the unincorporated territory of Guam and the new government will decide

whether to continue this or not. It is unknown what the relationship between the CHamoru people and the non-CHamoru residents of the island will be at the time of decolonization. This relationship will be a factor when debating the potential centering of CHamoru culture, language, and rights.

When deciding on an official language for the island, the government of Guam should consider two official languages, and not just one. It is highly expected that English, as a global language and the most widely used language in Guam, will remain a dominant language in the country and should be made an official language. This does not mean that English should be the only official language. Simply declaring CHamoru as an official language does not automatically lead to language revitalization. On the surface, declaring an official language can have little to no consequence, akin to declaring a state flower or state animal. It can simply become enshrined in government documents without implication or enforcement. A language policy only works with enforcement, adequate funding, and government commitment.

Language Revitalization Body

The country would also have to decide whether to establish a language revitalization body or language regulatory body. The role of a language revitalization body would be to guide the government's role in overseeing or supporting language revitalization programs and/or initiatives. The role of a language regulation body is typically to regulate and standardize languages. While many language regulatory bodies are private institutions or bodies, others are governmental bodies or have associations with the government of the country. Depending on the state of the language of the time, the language priorities will be different. If the language still needs drastic revitalization, it is recommended that language revitalization be the focus of the new government, and not orthography enforcement or language regulation.

Example: Kumision i Fino' CHamoru yan I Fina'na'guen I Historia yan I Lina'la' I Taotao Tâno'

Guam has established a CHamoru language commission. In any of three political status options, there is potential for strengthening this type of commission. The most recent CHamoru language body is the implementation of the Commission on CHamoru Language and the Teaching of the History and Culture of the Indigenous People of Guam. According to the law that created it, it is tasked with the following regarding the language:

- a. Continually study and update the orthographic rules of the CHamoru language; and to provide notification to public and private institutions of updates to the CHamoru orthography
- b. Consult with government leaders and others in the Commonwealth of the Northern Mariana Islands who are interested in the standardization of the CHamoru language orthography and seek to recognize and establish agreement relevant to the orthography, as well as existing regional differences
- c. Advise public and private institutions, broadcast and written media, to include magazines

and individuals, on issues related to the alignment of both spoken and written media, publications, signage and manuscripts with the grammatical and orthographic rules established by the commission

- d. Provide requisite updates to the CHamoru-English dictionary
- e. Establish a CHamoru translation service for public and private entities and individuals, broadcast and written media, with an appropriate fee structure for such services
- f. Conduct research, publish, and produce multi-media and print materials relating to the CHamoru language, history and culture
- g. Coordinate with the Department of Education, charter schools and other educational institutions, including private schools and businesses, on Guam to ensure the appropriate use of the adopted standardized CHamoru orthography and grammar
- h. Work with I Sagan Plānu Siha yan Emfotmasion (the Bureau of Statistics and Plans) to plan and conduct a survey, which may seek to determine the existing number of CHamoru speakers, and/or the existing number of children learning CHamoru and the occurrence of intergenerational transmission, which may be used to direct CHamoru revitalization programs efforts

The Kumision i Fino' CHamoru, which is active today, serves as an example of what a freely associated or independent Guam could continue and possibly provide more funding for, although a stronger emphasis on revitalization is needed, as opposed to orthography regulations. The infrastructure is already in place and it is highly advised that a freely associated or independent Guam take steps to establish a language regulatory body like the Kumision I Fino' CHamoru.

Status Example: Wales

In 2011, the Welsh Language Measure was passed, which created the body of the Welsh Language Commissioner, whose primary goal is to promote and facilitate the use of Welsh. In carrying out the office, the Language Commissioner has two underlying principles guiding its work. The first is that the Welsh language should be treated no less favorably than English and the second is that people in Wales should be able to live their lives through the medium of Welsh if they choose to do so. This is embodied in the motto of the office, "A Wales where people can use the Welsh language in their everyday lives." The current commissioner, Aled Roberts, works on five primary objectives: influencing the consideration given to the Welsh language in policy developments; ensuring justice for Welsh language users; imposing statutory duties and regulating them; encouraging, promoting, and facilitating the use of the Welsh language on a voluntary basis; and operating and communicating appropriately and effectively. The CHamoru and Welsh example show that language bodies can be useful not only in the standardization of language, but in perpetuating the language.

Overall, a freely associated or independent Guam will have to make important decisions regarding the role of the CHamoru language in the new country, such as official language policy, the establishment of a

language regulatory body, and government support and/or funding for language revitalization programs. If the new country is struggling economically, citizens of the country may disapprove of any funding being directed toward revitalization. However, the new country must also think about the consequences for the CHamoru citizens if the language is not properly revitalized.

Under each status, the CHamoru language can be revitalized and perpetuated if it is made a priority, with resources, government commitment, and a comprehensive plan.

CHAMORU LANGUAGE	
STATUS	EFFECTS
<i>Statehood</i>	<ul style="list-style-type: none"> • High chance of continued funding for language programs from sources available to American citizens • Could still make Fino' CHamoru an official language of the state of Guam • Continued Americanization could exacerbate perception of CHamoru as a “useless” language for the modern world • Unlikely that language will be used beyond a form of communication (not used meaningfully as a basis for policy or governance values)
<i>Independence & Free Association</i>	<ul style="list-style-type: none"> • Language could be used as more than a form of communication; similar to the CHamoru culture section, the language could become the basis for policy and government ethics • Could create government incentives for speaking the language • Possible lack of funding for CHamoru language revitalization programs or projects • Revitalization is not an automatic priority in free association or independence

CHamoru Indigenous Rights

One issue facing decolonization and self-determination in Guam is differing opinions on the role of CHamorus in the decolonization process, the role of indigeneity, and the treatment of CHamorus in the new chosen political status. Depending on the status chosen, the people of Guam will need to decide whether or not indigenous rights of the CHamoru people will be recognized or written into the new constitution. In Guam today, some programs and statutes dealing with CHamoru issues were challenged in the US legal system. The *Davis v. Guam* case, regarding eligible voters for a political status plebiscite in Guam, and the CHamoru Land Trust are the most prominent and recent examples.

The most common argument from opponents of a native inhabitant vote and the existence of a CHamoru land trust is that they discriminate against non-CHamorus and are racist policies. This discourse has reached the national level as well. For example, the alt-right media outlet, Breitbart News, wrote regarding the *Davis v. Guam* case, “Many of the territory’s elected officials and anti-American activists are starting to resemble the unabashed segregationists of the Old South of the 1950s. Think of it as a Pacific Islander version of *Plessy vs. Ferguson*.”³⁶⁶ Furthermore, another conservative media outlet, *National Review*, published “To base decisions on your ancestry when parceling out political power is anathema to the 15th Amendment. It is the sort of vile evil that the Voting Rights Act of 1965 rooted out. But it is alive and well on Guam and will continue unless a federal judge finally acts to stop this modern, progressive ‘identity politics’ version of Jim Crow discrimination.”³⁶⁷ These analyses are dehistoricized and blind to Guam’s history. All of these issues have ramifications for indigenous CHamoru rights in the new state, freely associated state, or independent Guam.

366 Hans Von Spakovsky and Roger Clegg, “Guam Is Recreating The Old Segregationist South,” *Breitbart*, March 27, 2017, accessed at <http://www.breitbart.com/national-security/2017/03/27/guam-recreating-old-segregationistsouth/>.

367 Hans Von Spakovsky, “Jim Crow Rears Its Ugly Head in Guam,” *National Review*, August 30, 2016, accessed at <http://www.nationalreview.com/article/439477/guam-voters-face-race-based-discrimination-reminiscent-jim-crow>.

Davis v. Guam

Codified into Guam law under 1 GCA Chapter 21, Public Law 23-147 originally created the Commission on Decolonization. In accordance with its enabling act, the purpose of the Commission on Decolonization is to:

ascertain the intent of the Native Inhabitants of Guam as to their future political relationship with the United States of America. Once the intent of the Native Inhabitants of Guam is ascertained, the Commission shall promptly transmit that desire to the President and the Congress of the United States of America, and to the Secretary General of the United Nations.³⁶⁸

The law defines who in Guam would be considered “Native Inhabitants.” In § 2102. “Definitions,” Native Inhabitants are considered “persons who became US Citizens by virtue of the authority and enactment of the 1950 Organic Act of Guam and descendants of those persons.”³⁶⁹

In 2011, the constitutionality of this “native inhabitant-only” vote was called into question when Guam resident Arnold “Dave” Davis sued the Guam Election Commission. Davis tried to register for the Decolonization Registry but was denied registration because he did not meet the criteria of being a “native inhabitant.” He filed suit, claiming Guam’s “2000 plebiscite law’s voting restriction violated the Fourteenth and Fifteenth Amendments, the Voting Rights Act of 1965, and the Organic Act of Guam.”³⁷⁰ The case was brought to the US District Court of Guam. There was a move to dismiss the complaint on the ground that it failed to present a case or controversy. District Court of Guam Chief Judge Frances Tydingco-Gatewood granted the motion to dismiss, stating that the case was not ripe for adjudication. Davis appealed, and on May 8, 2015, the Ninth Circuit Court of Appeals found that Davis had standing and that the claim was ripe. On Oct. 30, 2015, motions for summary judgment were heard. On March 8th, 2017, Tydingco-Gatewood granted Davis’ motion for summary judgment and found moot the Election Commission’s motion for summary judgment. In her ruling, she wrote that, “Having found that the classification is racial, this court finds that the plebiscite statute impermissibly imposes race-based restrictions on the voting rights of non-Native Inhabitants of Guam, in violation of the Fifteenth Amendment. Further, the court also finds that the plebiscite statute violates the Fourteenth Amendment.”³⁷¹

After the ruling, the government of Guam appealed the case, and it was heard in the Ninth Circuit Court of Appeals. Lead attorney representing the government of Guam, Julian Aguon, argued that decolonization was not meant to be applied to all because rights were not taken from everyone. He argued

368 “1 GCA Chapter 21 Commission on Decolonization for the Implementation and Exercise of Chamorro Self Determination,” Guam Code Annotated, accessed at <http://extwprlegs1.fao.org/docs/pdf/gum68908.pdf>.

369 “1 GCA Chapter 21 Commission on Decolonization for the Implementation and Exercise of Chamorro Self Determination,” Guam Code Annotated.

370 Harvard Law Review, “Davis v. Guam Ninth Circuit Holds That Guam’s Plebiscite Law Violates Fifteenth Amendment,” 133 Harv. L. Rev. 683, December 10, 2019, accessed at <https://harvardlawreview.org/2019/12/davis-v-guam/>.

371 Davis v. Guam, Civil Case No. 11-00035, accessed at https://www.cir-usa.org/legal_docs/davis_v_guam_granting_sj.pdf, pg. 25.

decolonization is instead,

a remedy to restore a right that was taken away. This cure is meant for a particular harm that was inflicted on a particular group of people. US Congress itself defines this group as those who were made citizens by the enactment of the 1950 Organic Act of Guam and their descendants.³⁷²

Aguon argued that the definition of native inhabitant did not make the classification race-based, but that it was a political designation.

The Court ruled in favor of Davis. An opinion by Judge Marsha S. Berzon on the case, filed July 29th, 2019, affirmed the District Court of Guam’s summary judgment in favor of Davis. Berzon opined, “History and context confirm that the ‘Native Inhabitants of Guam’ voter eligibility restriction so closely parallels a racial classification as to be a proxy for race. Its use as a voting qualification therefore violates the Fifteenth amendment as extended by Congress to Guam.”³⁷³ The Ninth Circuit decided the appeal only on Fifteenth Amendment grounds. The government of Guam petitioned to appeal to the Supreme Court of the United States but was denied. At the time of writing, the government of Guam is planning how to proceed with the issue, from rewriting the law to pushing the issue forward on the international stage.

CHamoru Land Trust

Another challenge was the US Department of Justice’s complaint against the CHamoru Land Trust Commission in *United States v. Guam*. The CHamoru Land Trust Act was passed in the Guam Legislature in 1975 to “administer leases for lands that the United States had seized from Guam inhabitants during and after World War II and had later returned to the Guam government.”³⁷⁴ Only those defined as Native Chamorros were permitted to apply for leases. Per the CLTC’s 2014 Citizens’ Report, “The Chamorro Land Trust Commission (CLTC) was created through Public Law 12-226 to administer Chamorro Homelands. CLTC offers three types of lease programs which are residential, agriculture and commercial.”³⁷⁵

While the law was meant to reverse a long history of US military taking of CHamoru land, it was still challenged in the US legal system. The catalyst was an African American man who lost the home he built on a CHamoru Land Trust plot after his CHamoru wife, who received the lot from the CLTC, died. The lawsuit asked the court for an order that “declares that the defendants’ actions constitute violations of the Fair Housing Act” and enjoins the defendants to “refuse to rent or to negotiate for the renewal of,

372 Samantha Marley Barnett, “Challenge to CHamoru Self-Determination: Davis v. Guam,” Guampedia, accessed at <https://www.guampedia.com/challenge-to-chamoru-self-determination-davis-v-guam/>.

373 Davis V. Guam, Berzon Opinion, July 29, 2019, accessed at <https://cdn.ca9.uscourts.gov/datastore/opinions/2019/07/29/17-15719.pdf>, pg. 4.

374 Davis V. Guam, Berzon Opinion, 12.

375 CHamoro Land Trust Commission, Citizens’ Report 2014, accessed at http://www.opaguam.org/sites/default/files/cltc_ccr14.pdf.

or otherwise make unavailable or deny, a dwelling to any person because of race or national origin”³⁷⁶ as well as listing four other actions. In December 2018, a US District Court sided with the government of Guam, stating that the US “has failed to demonstrate that the Chamorro Land Trust Act is based on an improper race or national origin classification, as opposed to relying on a political classification” and “fails to meet its burden of demonstrating that it is entitled to judgment as a matter of law.”³⁷⁷

Based on the premise that the Land Trust is more of a land restoration program, the CLTC and the Department of Justice worked out a settlement and CLTC approved a term sheet outlining the conditions of the settlement in late 2019. As per the settlement, “all references to the terms “Chamorro,” “native Chamorro” and “Chamorro homelands” (or any variations thereof) shall be replaced with “beneficiary,” “eligible beneficiary,” and “Chamorro Land Trust property)” with two exceptions outlined in the subsequent paragraphs of the settlement.³⁷⁸

These two examples show that CHamoru rights and programs are being challenged, with the core of the challenge lying in claims of violation of US law. “As with the foregoing cases, a federal court would once again need to examine where the rights of indigenous peoples in the US territories fit within the broader principles of equal protection and individual rights that are guaranteed under federal statutes and the US Constitution.”³⁷⁹ Guam’s future political status will determine whether this remains the case.

What Is “Indigenous?”

This begs the question, “What is indigenous?” The most common definition of indigenous people found in international law comes from a 1986 UN study by Special Rapporteur Jose Martinez Cabo. In his study, he defines indigenous peoples as:

Indigenous communities, peoples and nations are those which, having a historical continuity with pre-invasion and pre-colonial societies that developed on their territories, consider themselves distinct from other sectors of the societies now prevailing in those territories or parts of them. They form at present non-dominant sectors of society and are determined to preserve, develop and transmit to future generations their ancestral territories, and their ethnic identity, as the basis of their continued existence as peoples, in accordance with their own cultural patterns, social institutions and legal systems.³⁸⁰

376 United States of America vs. Government of Guam; Chamorro Land Trust Commission, September 29, 2017, accessed at <https://www.justice.gov/crt/case-document/file/999971/download>.

377 United States v. Gov’t of Guam, Civil Case No. 17-00113, Susan Oki Mollway, December 21, 2018.

378 “Settlement Agreement Between the United States of America and Government of Guam, Chamorro Land Trust Commission & Administrative Director of the Chamorro Land Trust Commission,” 6.

379 Rose Cuison Villazor, “Problematizing the Protection of Culture and the Insular Cases,” *Harvard Law Review*, 131 *Harv. L. Rev.F.* 127, (April 10, 2018): accessed at <https://harvardlawreview.org/2018/04/problematizing-the-protection-of-culture-and-the-insular-cases/>.

380 Working Group on Indigenous Populations Report, 379, U.N. Doc. E/CN.4/Sub.2/1986/7/Add.4, accessed at <http://www.cwis.org/fwdp/International/96-12980.txt>.

The crux of defining indigenous appears to be two-pronged: a long-established deep connection to the land (predating historical displacement by other groups) and the existence of an unjust social relationship, usually as a result of colonialism and/or current state repression.

Statehood

CHamoru indigenous rights, distinct from individual rights, will be challenging under statehood without the process of federal recognition. Since Guam would be a state of the union, the US Constitution would fully apply, and Guam would remain under the American legal system. Typical American jurisprudence requires strict scrutiny of any policy or program that uses racial or ethnic classifications. Therefore, programs that benefit indigenous people or promote indigenous culture have and would continue to be open to judicial attack on the premise that they are racist unless they are passed by Congress. Former political science professor at the University of Guam, Robert Statham Jr., writes, “strict indigenous group preservation is irreconcilable with the principle of equality that animates the American polity.”³⁸¹ Some have argued that CHamorus becoming a federally recognized tribe would grant more legal authority to establish programs and policies intended to benefit or further CHamoru rights. This would likely have to be approved by Congress, and is not explored further in this study.

Independence

An independent Guam allows for the greatest flexibility regarding indigenous rights because the people of Guam would be crafting a new government and political system. This new system could allow for the exercise of indigenous rights. This will be contingent upon the will of the people and their desires at the time. The people of Guam could choose to essentially mimic the governmental style of the United States of America, which they are most accustomed to. Alternatively, they could ensure that indigenous rights are recognized, no matter what government type is chosen.

Independence allows the possibility for the CHamoru and indigenous worldview to be central to governing. Independence offers a chance to use cultural grounding for governance, which indigenous rights will logically flow from, such as the potential designation of rivers, mountains, or the aquifer as legal persons in the legal system of the island.³⁸² In a government that does this, land reserved for the indigenous inhabitants will not be seen as a violation of civil rights or as a discriminatory practice. Rather, the government and legal system could acknowledge the historical wrong and proactively aim to fix the problem. Independence does not just offer the potential for rights for indigenous peoples, but it can offer rights and policies based on indigenous worldviews. This is a key distinction. The former concedes a space for indigenous peoples in the political entity, while the latter transforms the space meaningfully.

381 Robert Statham Jr., *Colonial Constitutionalism: The Tyranny of United States' Offshore Territorial Policy and Relations*, (Lanham: Lexington Books, 2001) 79.

382 For an example of this, one should research New Zealand's Whanganui River.

Once again, this is not guaranteed. Depending on the conditions and events prior to Guam achieving independence, it is possible that indigenous rights will not be included in the new government. It is also possible that the push for indigenous CHamoru rights may cause conflict in the formation of the new country. Another possibility is that indigenous rights or protection of land conflict with the new country's desire for economic integration into the world market. This may force the hand of the government to prioritize these over policies and protections which may not help stimulate Guam's economy. These are all currently unknowns and are issues the island would have to consider under independence. If the relationship is contentious, implementing CHamoru indigenous rights may be a more arduous journey as calls of "unfairness" and "racism" may remain at play. However, if the relationship is not contentious during the transition to either free association or independence, indigenous CHamoru rights may be seen as natural for the country to implement, considering CHamorus are the indigenous people of the island and many countries in the Pacific Islands region have similar protections for indigenous land, culture, language, and customs.

Furthermore, an independent Guam would have international laws it can use in the formulation of indigenous CHamoru rights, and US domestic law will no longer be a factor in these decisions. Lastly, on the surface, indigenous CHamoru rights do not mean unfair treatment of non-indigenous citizens of the country. There are countries in which ethnic groups have attempted to take control of the mechanisms of the country, and this has led to ethnic conflict. However, indigenous CHamoru rights do not automatically equate to this, although the government and citizenry of an independent Guam should take every precaution to prevent this from happening because CHamoru domination of the island and CHamoru indigenous rights do not equate to each other, which is a common misconception.

Free Association

A freely associated Guam offers many of the same benefits and responsibilities to the island and its people as independence when it comes to indigenous rights. Guam could also craft a new government system that is cognizant of its histories and particularities (depending on the type of relationship negotiated by Guam and the United States). Furthermore, a freely associated Guam could use international law to legitimately protect indigenous rights.

One note in reference to indigenous rights is the near-guaranteed military presence in the island under free association, which can be at odds with indigenous rights at certain junctures. If Guam became a freely associated state, it would have a history of militarization, and this can either be used advantageously or detrimentally for Guam. Indigenous land protection rights could possibly be pushed aside by the US military's desire for ranges, training areas, and bases. This would have to be negotiated between Guam and the United States, but it is likely that the US will request access to land. This is not an argument of inevitability, but of possibility. To put it another way, it is not guaranteed that military plans are going to overwhelmingly interrupt the prospect of indigenous rights in a freely associated Guam but is something the government of a freely associated state of Guam will have to watch carefully.

CHAMORU INDIGENOUS RIGHTS

STATUS	EFFECTS
<i>Statehood</i>	<ul style="list-style-type: none"> • Continued federal interference into indigenous affairs • If desired, the possibility of CHamorus being granted tribal status • US Constitution is blind to the historical context of Guam’s indigenous struggle and legacy of colonialism
<i>Independence</i>	<ul style="list-style-type: none"> • Ability to craft policies that protect indigenous rights • Can have a government cognizant of colonial history • The creation and implementation of indigenous rights policies could lead to disagreements with non-indigenous citizens in an independent Guam • Indigenous rights policies could possibly be at odds with Guam’s economic development
<i>Free Association</i>	<ul style="list-style-type: none"> • Ability to craft policies that protect indigenous rights • Can have a government cognizant of colonial history • Military plans could be in direct odds with indigenous rights

