



Supreme Prosecutors Office News Release

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With regards to the controversy of whether a professor of a public university constitutes a public servant under the Criminal Code when such professor's work duties also include procurement and acceptance inspections, the Supreme Prosecutors Office issues the following declaration:

Where a professor of a public university uses public funds (including governmental subsidies or school funding) to carry out scientific and technological research, he would not be deemed a public servant "who has statutory duties and powers by virtue of serving at an institution under a national or local self-disciplinary group according to law", pursuant to Article 10, Paragraph 2, the first part of Subparagraph 1 of the Criminal Code. However, where such professor's responsibilities also include procurement and acceptance inspections according to law, he would constitute an authorized public servant "who has statutory duties and powers by virtue of being engaged in public affairs according to law", pursuant to the latter part of the aforementioned Subparagraph (see the legislative intent and explanations for Article 10, Paragraph 2 of the Criminal Code). In the event that such public servant uses the public funds for purchase of property unrelated to research for private use, and then writing off such purchase using false receipts, he would be guilty of the offense of fraudulently obtaining property under cover of legal authority, under Article 5, Paragraph 1, Subparagraph 2 of the Anti-Corruption Act. The same view has been adopted by the Supreme Court in judgments 98-Year Tai-Shang-Zi No. 4328, 99-Year Tai-Shang-Zi No. 8093, and 100-Year Tai-Shang-Zi No. 459, which remains unchanged to date (the Tainan Court of the Taiwan High Court also held the same view in its criminal judgment 99-Year Shang-Su-Zi No. 839, although said case is currently under appeal at the Supreme Court).