

Administrative Responsibility for Violation of Educational Legislation: Perspectives on Modern Russian Legislation Development

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Abstract. The authors of the article study modern laws applied in the field of education. The article is an analysis of perspectives on development of the modern Russian legislation as well as laws concerning violation of education legislation. Studying law enforcement in education, the authors make suggestions for improvement of law enforcement practice, prevention of offences in the field of education and mitigation of consequences for society.

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Introduction

Development of education legislation has recently become a special concern in the Russian law [1]. This can be proved by the fact of adopting Federal Law N 273 “About Education in the Russian Federation” from 29.12.2012 [2].

One of the most actual tendencies towards improvement of the Russian legislation in education is to tighten state control over educational institutions [3]. It stems from the fact that educational institutions can commit offences prosecuted by the Administrative Offences Code of the Russian Federation (hereinafter as the Administrative Offences Code) [4].

The Administrative Offences Code contains several corpus delicti in education specified in the following articles:

Article 5.57 - Violation of the right to education and the rights and freedoms stipulated by legislation of the Russian Federation in the field of education, of pupils and wards of educational organisations;

Article 19.4, par. 1 – Failure to follow a lawful order or demand of an official of a body exercising state supervision (control);

Article 19.5, par. 1 – Failure to follow in due time a lawful direction (order, proposal) of a body (official), exercising state supervision (control);

Article 19.6 – Failure to take measures in compliance with a decision (proposal) of a body (official) which has considered a case concerning an administrative offence, aimed at the elimination of causes and conditions;

Article 19.7 – Failure to submit or untimely

submission of data (information);

Article 19.30 – Failure to meet requirements concerning provision of education and organization of educational process.

It should be mentioned that there are some other cases of violations of education legislation specified in the following articles:

Article 6.7 – Failure to meet the sanitary and epidemiological requirements concerning the conditions for education and training;

Article 14.8, part 2 – Violating other consumer rights;

Article 19.4.1, part 1 – Prevention of lawful actions of an official of a body exercising state supervision (control);

Article 19.20 – Conducting activities which are not connected with deriving profits, without a special permit, where such permit (license) is obligatory [5].

Beside the mentioned administrative offences, the Administrative Offences Code includes other cases of violations in the field of education [6].

For instance, in accordance with Article 19.5, part 13 of the Administrative Offences Code, failure to execute in due time a legal order of the person exercising the state fire supervision at the protected facilities where the activities in the field of public health care, education and social service are exercised shall entail the imposition of an administrative fine.

It seems that nowadays education requires tough state control [7]. Current law enforcement practice consistent of decisions of authorized bodies on eliminating education violations in the Russian legislation shows that requirements set forth in laws

are not fulfilled properly, and that administrative responsibility concerning prevention and minimization of violations in education turns ineffective.

It is known that the legislator should not only punish for violations, but prevent them [8]. This also refers to the field of education (violations) [9]. In this respect, there is need of legally established conditions that could make it impossible to commit this type offences, i.e. one should be disinterested in committing violations (by establishing significant responsibility, for instance, amount of fine) or eliminating the possibility of repeating this type of offence, etc).

In view of the foregoing, we draft some proposals on improvement of legislation concerning administrative responsibility in the field of education. These proposals can be divided in two groups. The first group contains proposals related to responsibility for the offences committed in the field of education. Accordingly, the second group combines proposals concerning improvement of mechanism of administrative responsibility and helping to eliminate causes of the administrative responsibility and conditions relevant this responsibility.

With regard to the first group, we suggest such method of improvement of the modern Russian legislation concerning administrative responsibility as strengthening of responsibility. This approach is applied on a regular basis in criminal and administrative law. Often, to strengthen responsibility means to get desirable results, i.e. to reduce negative effects in social relations concerning the field of education.

Thus, for instance, responsibility for breaking the traffic rules keeps strengthening [10] (increasing amount of fines, etc) [11]. Besides, level of responsibility for some offences has risen [12]. In view of the foregoing, we consider it possible to increase penalties for administrative responsibility in educational, making amendments in some articles of the Administrative Offences Code.

Improvement of the structure and content of the actual Administrative Offences Code is another method of increasing administrative responsibility.

In relation to recommendations concerning preventional mechanism of administrative liability in education as well as reducing causes and conditions of administrative violation (the second group), we consider it essential to point out the following.

A special method (technique) of improving the prevention mechanism of administrative liability in education is enforcement of informative work (information activity) that can be done by the Ministry of Education and Science of the Russian

Federation and a specific body taking control over education. We assume this activity should include the following:

Seminars with representatives of educational institutions, release of the relevant materials;

Information mail-out;

Roundtable discussions;

Conferences;

Summary, analysis and publication of the most common types of offences in the field of education;

Guidelines on preventing violations in the field of education.

In view of the foregoing, we assume that there should be defined an official source (sources) of publishing data concerning dynamics of legal relations in the field of education. For instance, the following information may be published: educational organizations ratings, number of active and dissolved educational organizations, statistics of the committed offences in the field of education, guidelines, research articles, etc.

At the same time, laws should have not only source (sources) of releasing this sort of information, but disclosure policy. In this respect, we can conclude that, in the first place, a source (sources) should have targets (dedicated to the problems in the field of education and possible ways of solving them and minimizing of the negative consequences), in the second, information should be disseminated to all educational institutions involved in the system of the Russian education. Students should have access to any sources. In this respect, we consider it reasonable to provide this information using Internet or sites of educational institutions.

Conclusions

In the view of the aforesaid, we can conclude that in such important sphere of social relations as education there are some important questions that require special attention of the society and legislator in particular [13].

Meanwhile, to overcome the mentioned difficulties, there should be conducted a complex study of the modern legislation stimulating its gradual improvement.

It is also important to point out that improvement of the legislation and types of responsibility for the offences in education should be held on a regular basis. In other words, it includes increasing fines for offences in the field of education, updating the structure of the Administrative Offences Code as well as enforcing informative work of specific state bodies authorized controlling the studied field.

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