

Interpretation of Predicament and Its Cause of China Campus Security Legislation

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Abstract

Chinese campus accidents have occurred frequently in recent years with more serious nature and wider scope. The lack of legislation makes it difficult to deal with the campus injury accidents in the judicial practice. In order to protect the legitimate rights and interests of students and schools and maintain normal teaching order, accelerating the pace of campus safety legislation is a new task for the legislature to research and solve.

Key words: Campus security; Present situation of legislation; Predicament solving strategy

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INTRODUCTION

Campus safety is related with the personal safety of teachers and students, the school property security and the overall situation of reform, development and stability, thus related to the future of our motherland. Now the campus in China has developed from the enclosed mode to semi-enclosed and open mode. With an increasing number of students on campus, many safety problems on campus such as violence, fires have widely spread. But the lack

of legislation makes campus injury accidents difficult to deal with in the judicial practice. Therefore, to speed up legislation on the campus safety is particularly urgent.

1. DETERMINATION OF THE CAMPUS SECURITY AUTHORITY-IN-CHARGE AND THE MANAGEMENT SYSTEM

Because of ed frequently in recent years and the nature of the scope of growing, more and more widely, also on all to make with the frequent occurrence of students' injury events and its growing serious nature and width, all parties have been influenced to different degrees and many parents begin to doubt the safety of the school. In order to ensure the security of the campus, it was proposed in 1988 that the police officers should be stationed in school with the changing form and object. Based on the campus security incidents happening in recent years, the proposal has been on the agenda again. On the campus police, there have been scholars will be defined as the campus police, public authority to police as the leading, through effective communication with the school, based on the actual situation of school. Develop targeted preventive measures, to enhance students awareness of safety, the formation of policing model a harmonious control may occur inside or around the illegal crime. In the existing school guard force or the ideas of The Campus Security Law, the school security forces include campus police and campus security, some schools having securing school teams. After studying the data of foreign countries, establishing the system of campus police and the campus safety legislation which bases on the former has become the main content of the rule of law in many modern countries, which is also an important element of bringing the police under the rule of law and building a new policing mechanism. It not only reflects the special attention from the national public power to the social vulnerable groups: students,

but also is the cause of the school's deteriorating security situation in today's society. What should be considered is who and how to manage this special campus security forces. Should we learn from the American campus police system independent of the public police system, which is under the leadership of the headmaster, responsible for the safety school with the mere cooperative relation with the police station or refer to the campus police system in Japan, which is responsible for the internal order of school. Japan mainly defends campus security through the mutual collaboration of the organizations which are under the jurisdiction of schools and Ministry of Education, Culture, Sports, Science and Technology (MEXT) including education committees, educational departments, the fire agency and social institutions. Generally speaking, MEXT simply gives guidance of the principles. Or should we base on China's reality and campus security practice, draw lessons from foreign experiences and build a campus safety police system suitable for China's actual situation and with Chinese characteristics? This is a big problem which we must deal with.

2. COORDINATION OF THE RELATIONS BETWEEN ALL KINDS OF LEGAL SUBJECTS OF CAMPUS SECURITY

Campus security relations occurring during the process of preventing and treating the campus security accidents involve many different parties such as the school sponsors, the education administrative departments at all levels, the primary and secondary schools, teachers, students, parents or other guardians of students, social organizations and individuals. They refer to the relationship between the collaborators and the school, the education administrative department and the collaborators and the relationship between the school, the school and faculty of the relationship, the relationship between school and students, school and society, the relationship between students and social relations, and so on. Among them the legal relationships between schools and their students is the key in the campus safety management system and is also the most controversial problem in the academic field currently. The analysis of the relationship between schools and students is of decisive value for the distribution and undertaking of responsibility. However, when analysing it, it's always difficult to avoid the cognizing other relationships. Due to the fact that primary and secondary school students and kindergarten kids are persons without full capacity for civil conduct, it's impossible for them to establish a legal relationship with their schools as independent legal subjects. Actually, their relationship with the school is from the behavior between the guardians and the school. What the properties of this kind of behavior are and what kind of legal relationship it belongs to become the basis and premise of recognizing the legal relationship between juvenile students and

their schools. In fact, clarifying the relationship also indirectly determines the state of the rights and duties of guardians and minors, which makes campus accident cases so particular and controversial. For general damage compensation cases, clarifying the legal relations between the parties and cognizing the fault is sufficient to determine the distribution of the liability of compensation which is not the case in the campus injury case. This is obvious in the analysis of the legal relationship in contained in the campus injury case.

3. THE RESPONSIBILITY AND AUTHORITY OF THE CAMPUS POLICE

The safety cases in school are diverse in nature. All kinds of cases such as civil, criminal, administrative and other kinds of cases are likely to occur and different kinds of cases need to be handled by different kinds of police. Therefore, the responsibility and authority of the campus police should cover all these aspects, which is essential to define their responsibility and authority. They should not only the security on campus and the social security administration of the surrounding areas, but also bear the responsibility of detecting criminal cases, managing fire control, assisting the campus food safety, and organizing the teachers and students to carry out training exercises on safety accident prevention and so on. In addition, the "campus butchers" are so cruel and armed that there will be great loss if not caught. So the campus police may use police implements in an emergency in accordance with the law.

4. THE DIVISION OF RESPONSIBILITIES OF CAMPUS POLICE AND CAMPUS SECURITY

Among all the forces of security on campus, campus police and campus security make up the most important part. But what are their respective duties? How should we differentiate? They both should be responsible for the campus safety. Their duties should be clear and independent, while cooperating with each other. Their duties should overlap sometimes while leaving many administrative subjects at a certain level making them administrative objects or the administrative relative person. Campus police are supposed to be like that and only in this way can they do well in their job and ensure the safety of the campus.

5. THE RELATIONSHIP BETWEEN THE CAMPUS POLICE AND OTHER KINDS OF POLICE

Campus police should be professional, formal, whether in the staff education level, qualifications and other

conditions, or in the emergency ability and practical ability, should have strict requirements. Culture of campus police should be in commonly above full-time bachelor's degree, and after the inspection procedure strictly, after months of training to mount guard. At the same time, the campus police shall establish a regular system of training, in order to enhance the operational capacity.

In the right position, campus police have authority and the same as ordinary police. As long as the campus case, campus police can independent investigation, and according to the needs of the case can be charged directly to the local court.

In the specific task, campus police in addition to the implementation of the general criminal task, also should take out the influence factors physical and mental health of students, in order to improve the students' learning, living environment.

The construction of campus police is a comprehensive project. Some problems cannot be fully processed only by the public security departments and education departments. This requires all departments working together to establish a good cooperative mechanism. To protect the campus safety, campus police and security are not enough. Other kinds of police are also needed to solve various problems such as fire, traffic and so on.

6. THE FINANCIAL SOURCE OF CAMPUS SECURITY

Protecting the campus safety needs funds to install the safety equipments and strengthen the security force. Where does this fund come from? Public schools can be funded by the government, but what about the private schools? Can the private schools be funded by the government? Where does the money of compensation used for campus security accidents come from?

The sources of compensation funds have gradually grown into the market-oriented operation mechanism. Many experts and scholars suggest this fund be dissolved by the way of insurance claims. Some hold that this fund can be supported by the administrative departments of education, the school and the guardian together. Some think that the source should be determined by the nature of school. Many scholars believe that the fund should be mainly supported by the government and partly supported by the companies and individual participation. Others think that we should learn from the Canada's experience to set up professional educational insurance company. The fund is the key to solve the problem, so we must explore an effective way according to the practical situation.

7. THE COORDINATION OF THE SCHOOLS IN DIFFERENT AEAS AT ALL LEVELS

Campus security legislation should be applied in kindergartens, primary and secondary schools as well as in colleges and universities where there are naive kids and grown students. What should be considered in the campus security legislation are different requirements for the security of different schools.

The level and nature of the school should be considered in campus security legislation. At present there are both public schools and private schools, both ordinary schools and vocational and technical schools in China and there are different situations in different schools.

In China's vast territory, a big gap between urban and rural areas is obvious, so the gap between urban and rural schools also cans be imagined. There is a great gap in many aspects including schools, teachers and students, safety facilities, security guards. Urban schools are well-equipped and with the assistance of traffic police and assistance police thanks to the environmental and financial advantage and can better protect teachers and students. However, in rural areas especially rural kindergartens there is still a large gap between urban and rural areas due to the remote position and limited budget.

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