

The Application Dilemma and Improvement Path of the Principle of Proportionality in Administrative Penalties for Off-Campus Training

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Abstract: Since the implementation of the "Double Reduction" policy and the Interim Measures for Administrative Penalties for Off-Campus Training, the supervision of off-campus training has entered a legalized stage. However, the broad discretion and unclear standards in administrative penalties have led to prominent problems such as inconsistent law enforcement and improper punishment. As the core principle of regulating administrative discretion, the principle of proportionality plays a key role in balancing supervision rigidity and the protection of administrative counterparts' rights and interests. This paper analyzes the application dilemmas of the principle of proportionality in administrative penalties for off-campus training from legislative, law enforcement, judicial and supporting levels, explores the causes of the problems, and puts forward targeted improvement countermeasures, aiming to promote the standardized application of the principle of proportionality and help the healthy development of off-campus training governance.

1. Introduction

1.1 Research background

With the introduction of the "Double Reduction" policy in 2021, it was clearly required to strengthen the supervision and administrative law enforcement of off-campus training and severely punish illegal and irregular behaviors in accordance with the law; the Interim Measures for Administrative Penalties for Off-Campus Training, implemented in 2023, provided special norms for administrative penalties for off-campus training. However, in practice, there are problems such as broad discretion and unclear penalty standards in the field of administrative penalties for off-campus training, leading to prominent subjectivity and arbitrariness in law enforcement, and significant differences in penalties for similar illegal behaviors. This not only affects the fairness and authority of law enforcement, but also is not conducive to the effective implementation of the "Double Reduction" policy. In this context, how to use the principle of proportionality to regulate law enforcement discretion and achieve a balance between supervision and rights protection has become an urgent legal issue to be solved.

1.2 Research significance

At the theoretical level, introducing the principle of proportionality into the field of administrative penalties for off-campus training enriches the interdisciplinary research of administrative law and education law, deepens the theoretical interpretation of the principle of proportionality, and provides theoretical support for the improvement of the Administrative Penalty Law. At the practical level, it provides specific operational guidelines for administrative penalties for off-campus training, standardizes penalty standards and discretion benchmarks, promotes law enforcement uniformity, protects the legitimate rights and interests of administrative counterparts, and enhances the authority of administrative law enforcement.

1.3 Research methods

A combination of literature research and case analysis is adopted: first, systematically sort out relevant laws and regulations such as the Administrative Penalty Law and the Interim Measures for Administrative Penalties for Off-Campus Training, as well as academic achievements related to the principle of proportionality and off-campus training governance, to lay a theoretical foundation; second, select typical cases such as the unlicensed training by Chengdu Daishi Company and the unlicensed training by Guang'an Basketball Club, and analyze the application status, problems and improvement directions of the principle of proportionality in combination with relevant laws and regulations.

2. Theoretical interpretation of the application of the principle of proportionality in administrative penalties for off-campus training

2.1 Connotation and composition of the principle of proportionality

The core essence of the principle of proportionality is that when administrative organs implement administrative acts, they need to balance the achievement of administrative goals and the protection of the rights and interests of administrative counterparts, limit adverse impacts to the minimum scope, and maintain an appropriate proportion between the two. Its "three-stage theory" has become the mainstream view in academic circles, including three interrelated and progressive sub-principles:

The principle of suitability requires that administrative measures must help achieve administrative goals; if a measure is irrelevant to the goal, it lacks legitimacy. The principle of necessity (minimum infringement principle) requires that among various feasible measures, the one that causes the least damage to the rights and interests of counterparts should be chosen. The principle of proportionality in the narrow sense requires that the disadvantage caused by an administrative act shall not significantly exceed the public interest it achieves, which is essentially an interest measurement mechanism. These three principles work together to regulate administrative discretion and protect the rights and interests of counterparts.

2.2 Necessity of applying the principle of proportionality

First, we need to regulate administrative discretion. The Interim Measures for Administrative Penalties for Off-Campus Training set a wide range of fines for behaviors such as unlicensed school-running and illegal competitions, which is prone to excessive or insufficient punishment. The principle of proportionality can provide a clear judgment standard for discretion and curb the chaos of "different penalties for the same case". Second, we need to balance the rigidity of

supervision and the protection of rights and interests. There is a certain interest tension between the goals of the "Double Reduction" policy and the legitimate rights and interests of counterparts. The principle of proportionality requires law enforcement organs to balance supervision goals and the protection of counterparts' rights and interests in the implementation of penalties, avoiding simplistic "one-size-fits-all" law enforcement. Third, we need to improve the off-campus training law enforcement system. Incorporating the principle of proportionality into the scope of application can promote the transformation of supervision from "campaign-style" to "legalized and refined", and help modernize the off-campus training governance system.

3. Current situation and problems of the application of the principle of proportionality in administrative penalties for off-campus training

Based on the practical investigation at the legislative, law enforcement, judicial and supporting levels, the application of the principle of proportionality in administrative penalties for off-campus training faces many dilemmas, which are specifically manifested as follows:

3.1 Legislative level: vague norms and lack of operability

First, the legislative positioning of the principle of proportionality is vague. Relevant laws and regulations only indirectly reflect the connotation of the principle of proportionality through principled expressions such as "appropriate punishment" and "combining leniency with severity", without clearly defining it as the core principle of administrative penalties for off-campus training, nor clarifying its core difference from the principle of "punishment commensurate with the offense" — the latter only focuses on the matching between the severity of punishment and the illegal consequences, while the principle of proportionality emphasizes more the necessity of punishment means and the adaptability between means and goals. This vague positioning makes it difficult for law enforcement personnel to form a systematic thinking on the application of proportionality in practice. Second, the detailed rules for application are insufficient. Although the Interim Measures for Administrative Penalties for Off-Campus Training stipulate the circumstances for lighter, mitigated and heavier penalties, it does not refine the specific application standards of the three sub-principles of the principle of proportionality in combination with different types of illegal acts in off-campus training (such as unlicensed school-running, illegal competitions, hidden training, etc.), and lacks quantitative guidelines for "minor violations" and "serious circumstances", leading to a lack of clear basis for law enforcement personnel in discretion and significant differences in penalties for similar cases. Third, the local discretion benchmarks are highly homogeneous, lacking differentiated standards formulated in combination with local conditions, and failing to clarify the application rules of the principle of proportionality in joint law enforcement. Fourth, the procedural norms are missing. Legislation does not clearly require law enforcement organs to explain the reasons for applying the principle of proportionality in penalty decisions, which violates the requirements of formal rule of law.

3.2 Law enforcement level: cognitive bias and prominent abuse of discretion

First, law enforcement personnel have a one-sided and superficial understanding of the principle of proportionality, often equating it with "punishment commensurate with the offense" and ignoring the application of the principles of necessity and suitability. For example, high fines are still applied to minor violations. Second, the abuse of discretion is prominent, with problems such as "different penalties for the same case" and "emphasizing punishment over education". Influenced by the thinking of "campaign-style supervision", some law enforcement personnel tend to impose heavier

penalties on all illegal acts. Third, the law enforcement procedures are irregular. Most penalty decisions do not specify the process of applying the principle of proportionality, resulting in the lack of proportionality demonstration. Fourth, the connection with comprehensive administrative law enforcement is insufficient. Different departments have inconsistent understanding and application standards of the principle of proportionality in law enforcement, which is prone to repeated penalties or conflicting penalty standards for the same illegal act.

3.3 Judicial level: weak review and unsmooth right remedy

First, judicial review focuses on legality, while the rationality review of the application of the principle of proportionality is formalistic, failing to focus on reviewing the necessity of punishment means and the proportionality of penalty intensity. Second, the standards for judicial review are unclear and lack operability. At present, in administrative litigation in China, there are no specific standards for reviewing the application of the principle of proportionality, making it difficult for courts to judge whether "the punishment means are necessary" and "the punishment intensity is proportional", leading to subjective review results and different judgments made by different courts for similar cases. Third, the channels for right remedy are unsmooth. The publicity of administrative reconsideration and administrative litigation is insufficient, and the awareness of counterparts to protect their rights is weak. The remedy procedures are complex and costly, and legal aid coverage is insufficient, making it difficult for counterparts to effectively claim the defense of improper application of the principle of proportionality. Fourth, the connection between judicature and law enforcement is insufficient. Judicial suggestions issued by courts are difficult to implement, and the problems of improper application of the principle of proportionality cannot be fundamentally corrected.

3.4 Supporting level: insufficient support and imperfect supervision mechanism

First, the professional quality of law enforcement personnel is insufficient. They lack systematic legal training and are unable to accurately apply the principle of proportionality. Second, there is a lack of special supervision for the application of the principle of proportionality, with unclear supervision standards and unsmooth channels for social supervision. Third, the supporting support system is missing, including the lack of application guidelines and case compilations, backward construction of law enforcement informatization, and failure of assessment and evaluation to highlight the standardized application of the principle of proportionality.

4. Analysis of the causes of problems in the application of the principle of proportionality

4.1 Theoretical cognitive bias

In practice, many law enforcement personnel only have a superficial understanding of the principle of proportionality and cannot accurately grasp its connotation. On the one hand, they confuse the principle of proportionality with "punishment commensurate with the offense", simply equating the two, and believing that as long as the fine amount matches the illegal circumstances, it meets the requirements, ignoring the constraints of "suitability" and "necessity" on the choice of punishment means in the principle of proportionality — that is, whether the adopted punishment method is really necessary and whether there are other methods that cause less damage to counterparts. This cognitive bias directly leads to the tendency of "emphasizing punishment over education" in law enforcement. On the other hand, their understanding of the three sub-principles of the principle of proportionality is fragmented, lacking systematic thinking, making it difficult to

flexibly apply them to specific cases. Some law enforcement personnel overemphasize the rigidity of supervision, believing that strict punishment can reflect the intensity of law enforcement, and pay insufficient attention to the protection of counterparts' rights and interests, making it difficult to find a balance between supervision efficiency and rights protection. These cognitive problems are the ideological root cause of the deviation in the application of the principle of proportionality.

4.2 Imperfect legislation

The current legislation on the principle of proportionality is still at an abstract level, which is difficult to effectively guide law enforcement practice. On the one hand, although the Interim Measures for Administrative Penalties for Off-Campus Training set the range of fines, it does not further refine the quantitative standards for concepts such as "minor violations" and "serious circumstances" in combination with different illegal circumstances such as unlicensed school-running, illegal competitions and hidden training. Faced with a wide range of discretion, law enforcement personnel can only make decisions based on subjective judgment, and discretion deviation is inevitable. On the other hand, most local discretion benchmarks simply copy the provisions of higher-level laws and fail to formulate differentiated standards in combination with local economic development level and the characteristics of the off-campus training market. For example, the same fine range is applied in economically developed areas and underdeveloped areas, which may lead to substantive injustice. In addition, the existing legislation does not stipulate the application of the principle of proportionality in scenarios such as joint law enforcement and relatively centralized punishment, which cannot solve the problems of "repeated punishment" and "inconsistent standards" in inter-departmental coordinated law enforcement. The insufficient legislative supply is the institutional root cause of the difficulty in implementing the principle of proportionality.

4.3 Lag in the construction of law enforcement teams

Administrative penalties for off-campus training involve multiple fields such as education law, administrative law and civil code, which require high professional quality of law enforcement personnel. However, in reality, especially at the grassroots level, law enforcement personnel generally lack systematic professional training. Many law enforcement personnel know little about the principle of proportionality, cannot accurately distinguish the application scenarios of "suitability, necessity and proportionality", and also lack training in typical case analysis, leading to repeated discretion deviations in similar cases. At the same time, some law enforcement personnel have weak sense of responsibility and still hold the law enforcement concept of "emphasizing results over procedures", believing that as long as the case is handled, it is enough, ignoring the full explanation of punishment reasons and proportionality demonstration. In addition, in the current law enforcement assessment and evaluation system, the standardized application of the principle of proportionality is not included in the core indicators, so law enforcement personnel lack the internal motivation to take the initiative to learn and apply it standardizedly. The insufficient professional ability of the law enforcement team is the practical cause of the deviation in the application of the principle of proportionality.

4.4 Imperfect supervision and remedy mechanisms

The supervision of administrative penalties for off-campus training mainly relies on post-event inspections and complaints and reports, lacking special supervision for the application of the principle of proportionality. The supervision standards are also not clear enough, and the

application of the principle of proportionality is not taken as the core indicator to measure law enforcement quality, leading to the lack of external constraints for law enforcement personnel to apply it standardizedly. From the perspective of remedy channels, although administrative reconsideration and administrative litigation provide remedy channels for counterparts, the publicity is insufficient, the awareness of counterparts to protect their rights is weak, and there are few cases where discretion deviations are corrected through judicial channels. When courts hear such cases, they also tend to focus on legality review, and the review of whether the punishment is reasonable and in line with the principle of proportionality is not in-depth enough. Even if judicial suggestions are made, the subsequent follow-up supervision mechanism is relatively weak, making it difficult to promote the substantive solution of problems. The absence of supervision and remedy mechanisms makes it difficult to timely correct the problems of improper application of the principle of proportionality.[1]

5. Improvement countermeasures for the application of the principle of proportionality in administrative penalties for off-campus training

5.1 Improve legislative provisions and clarify application norms

Legislative authorities should clearly establish the principle of proportionality as the core principle governing administrative penalties for off-campus training in relevant laws and regulations. They should distinguish it from the principle of “punishment commensurate with the offense,” refine the application requirements of its three sub-principles—suitability, necessity, and proportionality in the narrow sense—and provide clear theoretical guidance for law enforcement practice. At the same time, relevant administrative authorities should, in light of the trend toward comprehensive administrative law enforcement reform in the field of education, specify the application rules of the principle of proportionality in joint law enforcement and relatively centralized punishment, address the problem of inadequate inter-departmental coordination, and respond to the goal of improving the formal rule of law.

Competent administrative authorities should, in accordance with the provisions of the Interim Measures for Administrative Penalties for Off-Campus Training, formulate detailed application rules for the principle of proportionality with respect to different types of illegal acts in off-campus training (such as unlicensed operation, illegal competitions, and improper management), and specify the corresponding means and intensity of penalties for different circumstances. Local governments should be guided to formulate differentiated discretion benchmarks based on local conditions—such as the level of economic development, the law enforcement environment, and the practice of comprehensive administrative law enforcement reform in education—to avoid homogenization and enhance their operability. At the same time, supervisory authorities should, in reference to the requirements for improving the supervision responsibility system for off-campus training, align the principle of proportionality with penalty responsibilities and support proposals to amend relevant laws to improve supervisory measures.

5.2 Standardize law enforcement behaviors and improve application level

Relevant administrative authorities should carry out specialized training for law enforcement personnel engaged in administrative penalties for off-campus training, covering the theoretical foundations, application rules, and typical case analyses of the principle of proportionality, as well as training on coordination capabilities under comprehensive administrative law enforcement in education and professional knowledge of the education sector, so as to enhance law enforcement

personnel’ s understanding and application of the principle of proportionality. They should also establish a regular training mechanism by organizing periodic exchanges and learning activities, encouraging the sharing of practical experience—particularly from pilot regions—in order to improve the overall professional competence of the law enforcement team and meet the needs of strengthening law enforcement capacity.

Relevant administrative authorities should guide law enforcement personnel to adopt the law enforcement concepts of “combining punishment with education” and “balancing leniency and severity,” abandon approaches that “overemphasize punishment over education” or rely on “one-size-fits-all” measures, and emphasize the practical application of the principle of proportionality, so as to maximize the protection of the legitimate rights and interests of regulated parties while achieving regulatory objectives. At the same time, they should guide law enforcement personnel to develop a concept of coordinated law enforcement, align with the requirements of comprehensive administrative law enforcement reform in education, balance enforcement efficiency with rights protection, and adhere to the requirement of integrating legality with optimality.

Competent administrative authorities should establish standardized procedures for the exercise of discretion in administrative penalties for off-campus training, requiring law enforcement personnel to comprehensively consider factors such as the facts, nature, circumstances, and social harm of illegal acts, as well as the subjective fault and rectification efforts of the regulated parties. They should ensure that the selection of penalty types and intensity strictly complies with the three sub-principles of proportionality, so as to prevent arbitrary discretion. At the same time, in conjunction with the implementation of comprehensive administrative law enforcement in education, they should standardize discretionary procedures in joint law enforcement and relatively centralized punishment, clarify inter-departmental coordination mechanisms for the application of the principle of proportionality, and address issues such as inadequate coordination and inconsistent discretionary standards.

5.3 Strengthen judicial review and improve the right remedy mechanism

Judicial review is the last line of defense to ensure the implementation of the principle of proportionality. At present, courts focus on legality review when hearing cases of administrative penalties for off-campus training, and the rationality review is relatively weak, which to a certain extent weakens the effectiveness of judicial supervision.

First, clarify the standards for judicial review. It is recommended that the Supreme People's Court clarify the specific standards for reviewing the application of the principle of proportionality through judicial interpretations or guiding cases: suitability review whether the punishment means help achieve the supervision goal; necessity review whether the least harmful method is chosen; proportionality review whether the intensity of punishment is proportional to the illegal harm and public interests. For those with obviously improper application, revoke or change them in accordance with the law, and explain the reasons in the judgment to provide judicial guidance for law enforcement.

Second, simplify the remedy procedures and reduce costs. Administrative reconsideration organs implement "fast review and fast handling" for applications involving the principle of proportionality, and courts apply summary procedures for cases with clear facts. Require law enforcement organs to clearly inform counterparts of their remedy rights, channels and time limits in writing when delivering penalty decisions, and attach application guidelines to make counterparts "understandable and usable".

Third, establish and improve the legal aid mechanism. Judicial administrative departments, together with bar associations, provide free legal consultation, reconsideration or litigation agency

services for small and micro training institutions or individual organizers with financial difficulties, clarify the application conditions and procedures, and ensure that counterparts can effectively exercise the right to defend based on the principle of proportionality.

Fourth, clarify the subject and procedure of remedy in joint law enforcement. Counterparts may separately initiate remedies for the penalty decision of any department in joint law enforcement, or initiate them together. The administrative reconsideration organ or court shall comprehensively review whether the overall penalty decisions of each department conform to the principle of proportionality, so as to avoid ignoring the problem of overlapping penalties in phased review.

5.4 Improve supervision mechanisms and strengthen constraints on application

First, establish a special supervision mechanism. Provincial education administrative departments should take the lead in establishing a regular inspection system, under which they conduct periodic random inspections—on a quarterly or semiannual basis—of law enforcement cases handled by lower-level authorities, with a focus on examining whether the reasoning on proportionality is sufficient, whether the exercise of discretion complies with established quantitative benchmarks, and whether similar cases are treated consistently. They should issue supervisory opinions in response to identified problems, track the implementation of rectification measures, and conduct accountability interviews with responsible personnel in cases where similar problems recur.

Second, introduce social supervision to improve transparency. Except for confidential cases, penalty decisions shall be fully disclosed, including the explanation of the application of the principle of proportionality, to accept social "supervision" and provide reference for the handling of similar cases. Relevant administrative authorities should establish accessible reporting channels to encourage industry associations and the public to report manifestly improper administrative penalties, and should provide appropriate rewards for reports that are verified to be well-founded.[3]

Third, improve the inter-departmental coordinated supervision mechanism. Relevant administrative authorities should establish a coordinated law enforcement supervision mechanism among departments such as education, market regulation, and judicial administration, under which they regularly exchange information and jointly carry out special inspections, with a focus on addressing issues such as repeated penalties, inconsistent penalty standards, and excessively severe cumulative punishment, and on jointly formulating corresponding rectification measures.[4]

Fourth, incorporate the application of the principle of proportionality into the assessment and evaluation system. As a core indicator to measure law enforcement quality, it is included in the annual assessment of law enforcement personnel and institutions. Assessment indicators can be quantified: the qualification rate of proportionality demonstration, the discretion deviation rate of similar cases, the number of cases revoked or changed due to improper application of proportionality, the number of complaints, etc. The assessment results are linked to evaluation of excellence and promotion. Those who are continuously unqualified shall have their law enforcement qualifications suspended and receive on-the-job training, so as to internalize the pressure of standardized application into law enforcement habits.

6. Conclusion

As the core principle of regulating administrative discretion, the principle of proportionality plays an irreplaceable role in administrative penalties for off-campus training. At present, its application faces multiple dilemmas such as vague legislation, law enforcement deviation, weak judicature and insufficient support, which are rooted in the lack of coordination among cognition, system, team and supervision. By improving legislative norms, standardizing law enforcement

behaviors, strengthening judicial review and improving supervision mechanisms, the principle of proportionality can be effectively implemented, achieving a balance between the rigidity of off-campus training supervision and the warmth of law enforcement, helping the smooth implementation of the "Double Reduction" policy, and promoting the development of off-campus training governance in a legalized and refined direction.

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