

Exploration on Coping Mechanism of University Safety Accident

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Abstract: With the overall advancement of the strategy of governing the country according to law, the idea of rule of law has gradually gained popularity in the field of higher education. The purpose of this paper is to actively explore the path of legalization of university safety accident handling, build a multi-department and multi-level coordination and cooperation dispute handling mechanism, constantly improve the standardization, scientific and professional level of safety accident handling, and create a social atmosphere to solve school safety accident disputes according to law.

Keywords: Safety accident; Processing mechanism; Run the school according to law

In recent years, the number of safety accidents in colleges and universities has increased significantly, and the phenomenon of private assistance has occurred frequently, which has caused legal disputes and public opinion events across the country. Due to the “uneven governance systems and governance capabilities of colleges and universities, responsibilities are not clearly defined when responding to emergencies, the subject of accountability is unclear, and disputes over various safety accidents are common, which has become a dilemma and difficult problem for colleges and universities to govern themselves according to law” [1]. In order to calm the situation, some colleges and universities often “spend money to buy safety” without making responsibility identification or knowing that the school has no responsibility. In the end, no matter whether there is fault or not, they often bear a lot of consequences that should not be borne.

1. The basic principles of dealing with college safety accidents

Safety accidents in colleges and universities refer to safety accidents that occur in the educational and teaching activities implemented by colleges and universities, as well as in the school premises and other educational and teaching facilities and living facilities under the management responsibility of schools, causing personal and property damage to students, teachers and other related personnel, as well as other safety accidents with adverse effects and serious consequences. In June 2019, the five departments of the Ministry of Education, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security and the Ministry of Justice jointly issued the Opinions on Improving the Mechanism for Handling Safety Accidents and Maintaining the Order of School Education and Teaching (hereinafter referred to as the Opinions), which clearly proposed to further improve the mechanism for handling school safety accidents. Create a social atmosphere for resolving disputes over school safety accidents according to law. Accordingly, the following principles should be followed in dealing with college safety accidents:

1.1 Clarify the principle of accident liability in accordance with the law

In the process of handling safety accident disputes, the school should adhere to the legal bottom line, and clarify the responsibilities of all parties according to the objective facts of the accident and the provisions of laws and regulations. Where the responsibility for a safety accident is clear and there are no major differences or objections between the parties, colleges and universities may, on the premise of adhering to the principles of voluntariness, legality and equality, negotiate with the injured party to solve the problem. In the process of dispute settlement, it is difficult to clarify the responsibility, both parties may jointly entrust a judicial appraisal institution to appraise. The significance of this principle is that no liability is no compensation, the accident liability is not recognized or difficult to determine according to law, the school shall not directly lose money and interest.

1.2 Dealing with the principle of procedural compliance

In the process of handling disputes over safety accidents, the school shall appoint or entrust a negotiation representative, or the school legal adviser and other professionals shall preside over or participate in the negotiation, and the negotiation shall generally be conducted in a place equipped with recording, video, security and other conditions. In this regard, the “Opinions” clearly requires that “where the number of relatives of the injured is large, representatives should be elected for consultation, and the number of representatives is generally not more than 5 and relatively fixed.” After legal professionals have clarified the responsibility for the accident, and both parties have reached an agreement through negotiation, a written agreement shall be signed to further clarify the amount of compensation and the rights and obligations of both parties. If it is difficult for the two parties to reach an agreement, it shall be resolved through judicial channels.

2. Dealing with the relevant subjects of university safety accidents

To deal with college safety accidents, a multi-department and multi-level coordination and cooperation mechanism should be established inside and outside the school, including the college safety accident handling committee and relevant functional departments, the school safety accident people’s mediation committee set up at the city and county level administrative areas, as well as local public security organs and people’s courts.

2.1 University Safety Accident Handling Committee

In order to improve the standardization, scientific and professional level of safety accident handling, colleges and universities should improve the various systems and mechanisms of school safety risk prevention and control, set up professional safety accident handling committees, and coordinate the construction of school safety accident prevention and disposal mechanisms. After the occurrence of a safety accident, the safety accident handling committee should formulate a disposal plan as soon as possible, define the lead department, standardize the disposal procedure, and improve the reporting system. In addition, the legal affairs department of the university should participate in the responsibility identification and negotiation, and provide professional legal advice for the accident handling.

2.2 People’s mediation committees and judicial organs

As one of the parties responsible for the accident, universities often lack sufficient credibility because they are involved in the process of liability identification and negotiation with the injured party. Therefore, in cases where responsibility for some accidents is complex and difficult to identify or negotiate, it is urgent for third-party institutions with credibility to solve the problem openly, fairly and transparently. According to the requirements of the Opinions, administrative areas at the city and county levels can set up school safety accident people’s mediation committees according to needs, and can make adjustments to safety accident disputes that are difficult for schools to negotiate or fail to negotiate; The people’s court shall promptly file and accept relevant cases, clearly divide responsibilities and make judgments according to law.

2.3 Public security organs

In reality, because the injured party’s psychological expectations for compensation are too high, coupled with the long judicial process trial cycle and high burden of proof requirements, the injured party often takes extreme ways to solve the problem. Once the implementation of the eight categories of “school trouble” behavior identified in the “Opinions”, the school can immediately report to the police, require the public security organs to promptly go to the police and stop it according to law. Those who carry out the act of “school disturbance”, disturb the social order, cause personal injury or property damage to others, shall be punished in accordance with the provisions of the Law on Public Security Administration Penalties.

3. Specific procedures for dealing with safety accidents in colleges and universities

College safety accidents mostly occur in education and teaching activities or school premises, so colleges and universities are always the first responsible unit for preventing, controlling and dealing with school safety accidents. In the event of a safety responsibility accident, the dispute handling should adhere to the principle of who is in charge and who is responsible, and the relevant functional departments of the school should quickly coordinate and carry out relevant work according to the disposal plan.

3.1 Prompt emergency response and preliminary investigation

After the occurrence of a safety accident, the person in charge of the accident related units (such as the department where the students and teachers are located) should quickly understand the situation, dispatch, properly handle, control the development of the situation, and reduce losses. At the same time, designated special personnel to investigate the accident, inspect the accident scene, question the relevant personnel, make a written record, and record the relevant material evidence, testimony, video materials and so

on. In particular, it is necessary to carefully sort out whether there is a certain causal relationship between the occurrence of safety accidents and the management of schools, that is, whether schools are at fault for the occurrence of safety accidents. This is because whether the school is at fault is the criterion that determines whether the school bears the liability for the student injury accident that occurs within the scope of the school's management responsibility.^[2] In addition, if a safety accident involves the rights and interests of students, the relevant departments shall notify the students' families or guardians.

3.2 Special handling and responsibility assessment

After the preliminary investigation, the relevant units of the accident will submit the investigation materials and preliminary opinions to the secretariat of the school Safety Accident Handling Committee, and the safety accident handling Committee will study and set up a special handling group. The legal affairs department of the university or the legal adviser of the university shall cooperate with the special handling team to analyze the responsibilities of all parties according to the objective facts of the accident and the provisions of laws and regulations. The degree of responsibility of a school can be divided into full responsibility, main responsibility, equal responsibility, secondary responsibility and no responsibility according to whether there is fault in its management behavior and the size of the fault. If the school is indeed responsible, legal professionals shall initially assess the standard of compensation and the amount of compensation as the basis for negotiation with the party involved in the accident.

3.3 Sign an agreement or apply for mediation

In the case that the responsibility for the safety accident is clear and there are no major differences or objections between the parties, the special team for handling the safety accident shall consult with the accident party. If both parties reach an agreement through negotiation, they shall sign a written agreement, which may include the cause of the accident, the proportion of liabilities of both parties, specific compensation or compensation amount, and supplementary rights and obligations. Here, it is especially necessary to clarify the specific types of safety accidents, mainly including three categories: first, school responsibility accidents, referring to school staff and management personnel due to intentional or negligent safety responsibility accidents; The third party liability accident refers to the safety accident caused by a third party outside the school because the school has fulfilled its legal duties; The third is the accident, which refers to the safety accident caused by unforeseeable, unavoidable and insurmountable reasons. It is clear that different types of accidents will lead to different proportions of liability. If no agreement can be reached through negotiation between the two parties, the school may apply to the local school safety accident People's Mediation Committee for mediation, or suggest that the injured person file a lawsuit with the local people's court.

To sum up, the handling of security responsibility in colleges and universities is a work that requires the coordination and cooperation of multiple departments, and its effectiveness has a very far-reaching impact on the protection of individual rights and interests, the construction of social atmosphere and the maintenance of legal authority. While continuously promoting the standardization, scientific and professional handling of safety responsibilities, relevant state organs and colleges and universities should also strengthen publicity and education on the rule of law, promote the formation of a consensus on rationally resolving disputes over school safety accidents according to law, and ensure that schools can run schools with peace of mind and educate people calmly.

References:

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