

Connotation, Basis and Implementation Principles of Educational Disciplinary Power in Higher Education Institutions

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Abstract: Fundamentally distinct from corporal punishment, disciplinary action is a conventional educational and managerial tool in university education. Disciplinary power is the authority granted to higher education institutions (HEIs) and teachers to manage and educate students in accordance with the law. This power is not only a mandatory professional right for teachers but also a crucial safeguard for maintaining teaching order and protecting university students' rights to education and academic freedom. The implementation of educational disciplinary power in HEIs must adhere to three principles: educationality, legality, and Democracy.

Keywords: Educational Disciplinary Power in HEIs; Teacher Management Authority; Educational Principle; Equality Principle; Democratic Principle

1. Introduction

According to authoritative dictionaries like *Ci hai* and *The Great Chinese Dictionary*, "discipline" means to punish past mistakes as a warning against future violations. It is a conventional educational practice in schools, involving penalties or warnings for students who violate institutional rules, aiming to prevent recurrence and foster the development of good character and study habits." In university education, when students defy institutional or teacher authority and commit misconduct, and mere persuasion or criticism proves ineffective, it becomes necessary for HEIs and teachers, within legal bounds, to impose appropriate and reasonable educational discipline. This helps students abandon wrongdoing and reform their behavior"[1]. As a method of criticism and management, educational discipline plays a vital role in upholding institutional regulations and promoting student development; its legitimacy and rationality are undeniable[2]. Moreover, educational disciplinary power in HEIs now has

both policy and legal foundations. For instance, to address and prevent the frequent occurrence of campus violence in recent years, Chinese document named *Guidance on Preventing Bullying and Violence Among Primary and Secondary School Students* issued by nine ministries including the Ministry of Education (MOE) in 2016 introduced the concept of "educational discipline" for the first time in a national document, emphasizing the need to "fully leverage the deterrent effect of educational disciplinary measures." The revised *Regulations on the Management of Students in Regular Higher Education Institutions*, promulgated by the MOE on December 16, 2016, also explicitly mentions "discipline": such as Article 54 in Chapter V states that institutions should combine education with discipline when imposing penalties on students; Article 20 in Chapter III mandates that institutions carry out integrity education and establish mechanisms to constrain and discipline dishonest behavior.

However, as "educational discipline" is a relatively new concept, previous Chinese educational regulations and student management documents often used terms like "penalty" or "critical education" instead. Some parents and public opinion have even equated it with corporal punishment, leading to a one-sided critical stance. This has resulted in insufficient understanding of the fundamental connotation, legal basis, implementation principles, and procedures of educational disciplinary power in HEIs, causing significant issues in university management. A study analyzing disciplinary documents from six universities in Jiangsu Province found that "the implementation of educational disciplinary power in HEIs suffers from vague formulations, inconsistent standards, and varying emphases. Incomplete implementation procedures, multifaceted contradictions in HEI-student relationships, and the ambiguous legal status of HEIs' disciplinary power are the main causes of this situation"[3]. A legal scholar points out that "educational

disciplinary power in HEIs is a statutory authority for maintaining teaching order. However, current Chinese laws and regulations inadequately regulate this power, leaving HEIs with insufficient legal constraints when exercising it. Due to the overly general legislative provisions on HEIs disciplinary power, instances of abuse occur in practice"[4]. For example, the April 18, 2024, Luzhong Morning Post report on the "Ningxia Shizuishan Vocational and Technical College Instructor Publicly Slapping Students and Verbally Abusing Them" incident exemplifies critical education and discipline devolving into severe corporal punishment. The final judgment in the Yu Yanru v. Peking University case (January 17, 2017), concerning the revocation of her doctoral degree, ruled that "the university violated due process and lacked clear legal basis," leading to the revocation of PKU's decision. Most experts also deemed the university's action "overly hasty and excessively severe." Therefore, this paper aims to clarify the fundamental connotation of educational disciplinary power in HEIs, analyze its legal and rational basis, and outline core implementation principles. It seeks to provide a theoretical foundation for HEIs to manage students scientifically based on a "student-centered" approach, safeguard students' rights (including the right to education), promote their healthy development, and advance the rule of law in university governance.

2. The Connotation of Educational Disciplinary Power in HEIs

What constitutes "educational disciplinary power"? While existing research offers varied perspectives, the core meaning converges. Based on a review of representative scholarly views, educational disciplinary power generally refers to "the educational management authority exercised by teachers, based on the educational power granted by education law, targeting students who violate behavioral norms or institutional regulations, with the aim of maintaining normal teaching order and ensuring the smooth conduct of educational activities"[5]. Its essence lies in teacher management authority. It is not only a form of coercive power stemming from teachers' professional status but also a fundamental occupational right. From the perspective of the exercising entity, educational disciplinary power

encompasses both teacher disciplinary power and institutional disciplinary power, which differ in scope and manifestation. Given the constraints of space and the author's disciplinary background and experience in teaching management, this paper primarily focuses on HEIs' educational disciplinary power while also addressing teachers' disciplinary authority.

Considering the education system, Chinese university students are typically over 18 years old, legally recognized as adults with relatively mature physical and mental development and a sense of responsibility. Consequently, HEI disciplinary power shares similarities with but also differs from that in primary and secondary schools. University discipline primarily refers to "an educational method that uses coercive measures like criticism or penalties to make the offender feel pain or shame—without harming their physical or mental health—thereby fostering deep self-awareness and voluntary correction of mistakes"[1]. Tracing its jurisprudential origin, "discipline" is a legal concept. Disciplinary power refers to the authority exercised by a legal entity based on a specific relationship (e.g., state agency-civil servant, employer-employee, school-student, parent-child) to maintain discipline and order against individuals who violate certain obligations. Accordingly, HEI disciplinary power is defined as "the authority of HEIs, for educational or managerial purposes, to establish norms and standards for student conduct and to unilaterally impose penalties on students who violate or fail to meet these requirements"[6]. In other words, it is the power of HEIs, following statutory grounds and procedures, to impose mandatory punishments or sanctions on students who violate institutional rules or fail to meet academic standards [7]. This includes:

Behavioral Discipline: Penalties imposed by HEIs for violations of laws, regulations, or institutional rules. Article 53 of the Regulations on the Management of Students in Regular Higher Education Institutions (2005, 2016) categorizes punishments into five types: warning, serious warning, demerit recording, probation within the institution, and expulsion.

Academic Discipline: Sanctions imposed by HEIs for substandard academic performance. These include six types: repeating a grade, withholding credits, grade reduction, academic probation, suspension, and after-school detention[8]. Additionally, based on daily

teaching and management regulations, academic discipline in universities can also involve make-up exams for failing grades, course retakes, leaving without a diploma, and withholding graduation certificates or degrees.

3. The Basis of Educational Disciplinary Power in HEIs

The necessity and existence of educational disciplinary power in HEIs rest on its legality, rationality, and objective inevitability.

Upholding University Autonomy and Self-Governance: Universities, as institutions dedicated to the pursuit of truth, academic freedom, teaching freedom, and a degree of institutional autonomy, bear the responsibility of cultivating qualified Chinese citizens, particularly high-level professionals, for the nation and society. Therefore, while adhering to the state's educational policies, universities should have the autonomous educational rights, including disciplinary power, granted by law to foster academic innovation and student development. Educational disciplinary power and student management rights fall within the scope of HEI autonomy. "As a power granted by state legislation to schools or teachers, educational disciplinary power is a concretization of state educational authority, possessing typical public law characteristics. The educational authority underpinning HEIs' autonomy in enrollment, teaching, and student management is neither custodial or agency power delegated by parents nor contractual power arising from providing social services; rather, it is a right derived from relevant state laws and administrative policies"[9].

Maintaining Order, Efficiency, and Educational Goals: School education is a planned, purposeful, and organized social practice for cultivating individuals, playing a dominant role in student development with strong planning and controllability. To achieve this, certain control mechanisms (e.g., attendance checks by academic and student affairs departments) are necessary to remind, deter, and correct students who intentionally or unintentionally disrupt teaching order (e.g., tardiness, sleeping, eating snacks, using phones, reading unrelated materials in class). The absence of necessary and appropriate criticism and discipline inevitably leads to unorganized, undisciplined chaos in campus life, particularly classroom order, diminishing teaching effectiveness and

infringing on other students' right to education. As a necessary coercive tool in HEIs, discipline, though lacking the positive motivation of exemplary or appreciative education, can enhance educational effectiveness through negative reinforcement, combining firmness with flexibility. Therefore, "moral integrity" and "discipline" are core standards for cultivating China's "Four-Haves" talent. Soviet educator Anton Makarenko explicitly stated: "Where punishment is necessary, the teacher has no right to abstain from it; in cases requiring punishment, it is not only a right but also a duty." University education lacking rigorous and fair discipline is incomplete, even "pseudo-education," detrimental to fostering students' autonomous learning habits, self-care abilities, resilience, and healthy personality development.

Rooted in the Professional Nature of Teaching: The teaching profession inherently entails management authority and specialized power; disciplinary power is a vital manifestation of teachers' pedagogical freedom. As early as the mid-20th century, the UNESCO Recommendation concerning the Status of Teachers affirmed that "teaching should be regarded as a profession... teachers are professionals." Teachers' educational disciplinary power arises from the public service and professional nature of their work: HEI teachers possess systematic, profound professional knowledge, skills, and authority, granting them control and judgment within their field and related work, including the right to evaluate and speak within their profession. As noted by American educator John S. Brubacher: "The faculty are in the best position to determine the content of advanced knowledge... Therefore, they should decide what subjects should be taught and how... They should also decide who is most capable of pursuing advanced study, who has mastered the knowledge and should receive a degree... Most importantly, they are better qualified than anyone else to determine who should become professors"[10].

Influenced by modern educational concepts, especially the New Curriculum Reform in basic education, university teaching should adhere to the "student-centered, teacher-guided" principle, tailoring teaching to students' needs. For HEI teachers to effectively guide, model, and take responsibility for educational quality and talent cultivation, they must uphold moral integrity,

play a decisive role in navigating and correcting students' learning and life paths, and exercise disciplinary authority when necessary. "Students' respect for teachers' instruction in knowledge and morality is not merely personal; it reflects respect for the cultural tradition and ideals represented by the teacher. This constitutes the moral foundation of positive, harmonious teacher-student relationships in Chinese education"[11]. Chinese education laws and regulations also affirm the educational disciplinary power or "management authority" of teachers and institutions, such as Article 8 of the Teachers Law, Article 28 of the Education Law, and Article 52 of the 2005 Regulations on the Management of Students in Regular Higher Education Institutions. These form the legal origin of HEI disciplinary power, signifying its recognition as a legally authorized administrative act with established legitimacy.

4. Implementation Principles of Educational Disciplinary Power in HEIs

"Principles" generally refer to the laws or standards guiding speech and action. Adherence to principles leads to smooth outcomes, while violation results in negative consequences or penalties. Given that HEI disciplinary power concerns the maintenance of normal teaching order and the protection of students' right to education and healthy development, its exercise must adhere to specific principles: the educational principle, the legality principle, and the democratic principle.

4.1 The Educational Principle

The primary purpose of discipline in HEIs is education, with correction as the secondary aim to learn from past mistakes and cure the sickness to save the patient. Thus, it must be imbued with empathy and humanistic care. Student moral development and academic progress are the fundamental starting points, with the ultimate goal being better socialization and successful maturation. If a student admits fault, criticism or punishment should be reduced or waived based on circumstances. Furthermore, discipline should align with university education principles: fostering virtue, persuading through reason, appealing to emotion, and guiding action. Discipline should never be applied for its own sake or to enforce so-called "teacher dignity" through coercion or retaliation. Students must perceive the discipline as embodying the

teacher's and institution's care, goodwill, and respect, reflecting the educator's sincere concern. Crucially, the bottom line and red line are that discipline must not endanger students' physical or mental health, demean their dignity, or violate their fundamental human rights, right to education, or academic freedom.

Implementing the educational principle requires: **Appropriate Sentencing:** Discipline must respect student dignity and prioritize persuasion and reform. The method and severity of any penalty (behavioral or academic) must align with the educational goal of fostering virtue and talent. Minor infractions warrant persuasion or light penalties; major violations merit appropriately stronger penalties. Crucially, the mindset of imposing harsher penalties to "punish the black sheep" or "set an example" must be abandoned, as it risks trampling students' fundamental rights and violates the spirit of the "proportionality principle." This principle requires that the discretionary power in HEI discipline adhere to the doctrines of minimal harm, necessity, and commensurate balance of interests. Only then can the educational principle achieve genuine justice, not merely formal fairness or egalitarianism.

Distinguishing Discipline from Corporal Punishment: The most urgent task is to clearly separate educational discipline from corporal punishment and disguised corporal punishment. Corporal punishment is an extreme form of punishment that directly harms the body or demeans the person, constituting a "transgressive" act beyond legitimate discipline. Their key differences lie in:

Purpose: Discipline aims to help students reflect deeply, repent, and genuinely choose not to reoffend. Corporal punishment aims to make students fear physical pain or humiliation to deter wrongdoing.

Degree: Discipline fundamentally does not harm physical or mental health. Corporal punishment does harm health and, in severe cases, constitutes illegal infringement of personal safety and dignity rights.

Mechanism: Both inflict pain to achieve educational aims, but the "pain" in discipline stems from remorse and insight ("heartache"), while in corporal punishment, it is primarily physical pain and resulting psychological trauma("body ache").

Effect: Discipline can lead students to willingly correct errors, even feeling gratitude for the

institution's intervention and strengthening teacher-student bonds. Corporal punishment may yield temporary compliance, but students remain passive, often harboring latent resentment towards the teacher [9].

In summary, "whether judged by motive, outcome, morality, or law, corporal punishment is wrong, a 'subjectively malicious' act fundamentally incompatible with disciplinary education" [12]. Discipline is not corporal punishment; its core purpose is correction through consequence. Discipline and corporal punishment represent a contest between justice and injustice, fairness and unfairness. It is this "educationality" that fundamentally distinguishes educational discipline from corporal punishment [9]. Consequently, Chinese laws and policies like the Education Law, the Professional Ethics Standards for Higher Education Teachers, and the Regulations on the Management of Students in Regular Higher Education Institutions explicitly prohibit corporal punishment by HEI teachers.

4.2 The Legality Principle

Any disciplinary action taken by HEIs against student violations must strictly comply with laws and regulations. Not only must the substance and subject of the discipline be legal, but the procedures must also be lawful, avoiding overstepping legal boundaries or inadvertently infringing student rights. The current legal basis for exercising HEI disciplinary power includes: Relevant education laws, regulations, and policies.

Institutional rules, teaching management systems, and student codes (e.g., Code of Conduct for College Students). While public laws generally pose no legality issues, institutional rules, especially those formulated internally ("behind closed doors") or copied without adaptation, are often imperfect. Their full legality and judicial acceptance face challenges, contributing to HEIs losing lawsuits over degree revocation or expulsion. "Self-formulated institutional rules commonly prioritize institutional power over student rights, resulting in a severe imbalance between rights-based and obligation-based norms" [13]. They emphasize punitive outcomes over procedural warnings, guidance, and prevention, leading HEIs to largely disregard legitimate student rights claims. Furthermore, influenced by philosophies of "strict

governance" and "comprehensive management," some HEI leaders and administrators tend to formulate overly strict, broad, and demanding rules, imposing harsher penalties. This can conflict with superior laws like the Constitution and the Administrative Litigation Law, obscuring students' civic or academic obligations and granting institutions excessive, even arbitrary, discretionary power. Therefore, the 2016 revised Regulations on the Management of Students in Regular Higher Education Institutions specified requirements for "disciplining students" and the basis and procedures for student appeals. For example, "Institutions imposing penalties on students shall combine education with discipline, ensuring the penalty matches the nature and severity of the violation and the degree of fault. Actions must be based on 'sufficient evidence, clear grounds, accurate determination, proper procedure, and appropriate penalty'."

The general "legal procedure" for implementing HEI disciplinary power involves:

Pre-discipline: Inform the student and guardian of the reasons and form of discipline, allowing the student the right to state their case and defend themselves.

During discipline: For severe penalties like expulsion or degree revocation, allow the right to a hearing. Decisions must be made by the President's Office or a specially authorized meeting, undergo prior legality review, and be filed with the HEI's supervisory authority and labor department if necessary.

Post-discipline: Notify the penalized student and inform them of their right to appeal. Crucially, institutions must establish a Student Appeal Committee to handle this matter [9].

The legality principle demands: Strict Enforcement for Clear Violations: Students must respect the authority of disciplinary power as an administrative function of HEI autonomy. For clear, proven violations (e.g., criminal acts, exam cheating, plagiarism), penalties must be strict and unforgiving, such as expulsion and degree revocation. For instance, a prestigious Beijing university recently announced penalties for 11 graduate students involved in misconduct like impersonating the university in social activities, extramarital affairs, overnight stays with the opposite sex in dorms, and physical assault. Penalties ranged from warnings and serious warnings to demerit recording, probation, and expulsion [14], with public opinion viewing

this as "reflecting the university's confidence and responsibility." Beyond behavioral discipline, Huazhong University of Science and Technology's Trial Measures for Converting Undergraduate Students to Junior College Status (July 29, 2017), aimed at rectifying academic ethos, gained widespread support as an effective measure to filter out unmotivated students while offering a "wake-up call" or "probation" alternative to outright expulsion.

HEI and Teacher Self-Reflection: HEIs and teachers must introspect, strictly adhering to institutional charters and professional ethics during discipline implementation, guarding against abuse of power for personal gain or illegal enforcement. As outlined in the article eight Taboos for Teachers: Things University Teachers Must Not Do:

Do not quarrel or fight with students (teachers hold institutional power and seniority).

Do not engage in romantic relationships with enrolled students (breaches professional boundaries and risks abuse of power).

Do not cancel classes without valid reason (directly infringes the right to education).

Avoid taking attendance personally (distrusts adult students' autonomy; it's the academic staff's role).

Do not use exam scores to coerce learning; foster autonomous study and beware utilitarian education.

Do not force students to accept personal views; respect independent thought and free choice.

Do not gossip about colleagues to students; uphold integrity.

Do not pressure students to buy personal publications (constitutes coercive practice).

Respecting Student Rights: Most importantly, HEIs and teachers must respect and protect students' right to education, especially academic freedom, and guard against misclassifying legitimate student rights as targets for discipline. Chapter II ("Students' Rights and Obligations") of the revised Regulations clearly delineates seven rights for university students. Academic freedom, defined as "the right of university students, while adhering to relevant institutional learning and assessment regulations, to utilize educational resources, including human resources. It primarily encompasses freedom of choice(e.g., choosing/transferring institutions, taking leaves of absence/resuming study, changing majors, selecting courses/teachers/learning

environments/methods/tools),freedom of thought, and freedom to participate in institutional governance", is a fundamental right essential for cultivating innovative talent and building an innovative nation, a learning society, and a strong educational system.

4.3 The Democratic Principle

Democracy entails the people being masters, minority submission to majority will, scientific decision-making and democratic legislation through collective wisdom, and shared responsibility. The democratic principle in HEI disciplinary power manifests in:

Democratic Formulation of Rules: The superior laws (Constitution, education laws) underpinning disciplinary power should be formulated and revised through democratic, scientific, and open legislative processes. HEIs formulating charters, rules, and disciplinary regulations must involve stakeholders—faculty congresses, student congresses, student unions—soliciting broad feedback to realize students' rights to democratic management and supervision of their institution and class, ensuring their rights to information, participation, expression, and oversight.

Democratic Enforcement Mechanism: HEIs should establish specialized bodies, such as a Student Affairs Service Center, composed of diverse stakeholders(government education officials, HEI/college teaching leaders, student/teaching functional department heads, teacher representatives, parent representatives, legal experts, ethics scholars).This body should be responsible for investigating alleged misconduct, holding hearings, and making disciplinary decisions, replacing the traditional fragmented model where departments(Student Affairs, Security, Academic Affairs) or individual teachers act independently. This enhances the democracy, scientificity, authority, and humanistic nature of discipline. **Oversight and Remedy Mechanisms:** Robust supervision and legal remedy mechanisms for HEI disciplinary power are essential. The basis, procedures, and timelines for discipline must be subject to broad democratic oversight by education authorities, parents, and public opinion. When discipline is improperly or abusively applied, students, parents, or guardians can appeal through dedicated bodies or pursue legal action for serious cases. Illegal discipline, once verified, entails civil/criminal

liability and compensation obligations.

5. Conclusion

This paper systematically elucidates the connotation, basis, and implementation principles of educational disciplinary power in HEIs. It clearly identifies this power as a professional authority for HEIs and teachers to uphold teaching order and safeguard students' right to education in accordance with the law, fundamentally distinct from corporal punishment. Its legitimacy stems from the tripartite needs of university autonomy, teaching order maintenance, and the professional nature of teaching. Implementation must adhere to the educational, legality, and democratic principles, emphasizing a "student-centered" approach, due process, proportionality, and establishing multi-stakeholder oversight and remedy mechanisms. This integration aims to achieve the unification of governing HEIs by law, scientific student management, and comprehensive student development.

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