

# Similarities and differences in the way of announcing and executing the verdicts given by the courts in public university and committees in Islamic Azad University

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## ARTICLE INFO

### *Article history:*

Received 12 Apr 2016

Received in revised form 16 May 2016

Accepted 04 Jun 2016

### *Keywords:*

*Verdict Announcement,*

*Verdict Execution,*

*Handling Administrative Violations,*

*Islamic Azad University,*

*Public University,*

*Boards and Committees*

## ABSTRACT

**Objective:** To handle administrative violations in each responsible organization, handling boards including first instance and appeals courts are formed. **Methodology:** In this paper, we are investigated similarities and differences in the way of announcing and executing the verdicts given by the boards in public university and committees in Islamic Azad University, as these educational centers harbor a large number of employees. Instruction of handling administrative violations includes rules and regulations used to inspect and issue verdict about employees' violations. **Results:** Since employees of public universities are included in the law of public employees' administrative violations and the related regulations, and employees of Azad University are included in their own trial regulations; formalities of handling administrative violations in these two categories were studied by investigating judicial rules and using library resources and printed materials such as books, pamphlets, papers, journals, dissertations, internet, dictionary and researches providing information about this issue. **Conclusion:** Finally, as a conclusion regarding considerations such as geographical dispersion of employees and administrative units, it can be inferred that the formalities of handling administrative violations in public university and Islamic Azad University have much in common and also have some differences.

## 1. Introduction

If we consider that life rules are governed only by legal norms, then it can be concluded that to address the conflicts and norm disruptions in an ideal human, executing the law is more compatible with human dignity and it is of high priority to rely on the law (Vahedi, 1999). Many steps are passed until the conflict is resolved by the authorized boards. The first step begins since imitation of struggle and continues until the conflict is registered in the board and submitted to legal system. Boards of first instance and appeals are formed in the included organizations to handle the administrative violation. All employees of ministries, organizations, institutions and public companies, oil and gas national companies and petrochemical and municipalities, banks, government institutions and businesses, which subjection to the law on them, are required mention the name, and institutions that all or part of their budget funded from public funds, and employees of parliament and institutions of the Islamic revolution, when to be commit administrative violations, handling their violations in first instance board of handling administrative violations of staff (Mohammadi, 2015). Boards in handling administrative violations of government employees, as one of the specialized administrative authorities are a subset the executive government, which primary duty was to handling violations office and the police of government employees and establish peace and order in the administrative organizations include in handling violations of administrative and executive regulations. Regulatory units and managers should prevent the occurrence administrative violations and, in the event, declaring them to competent authorities, which be familiar with these violations. References are handler to fair handling should recognize examples of violations and administrative punishments and procedures handle them and about their competence. Thus, the range of persons will need to identify examples of violations and administrative punishments, administrative references, handler references and procedures to handling administrative violations

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DOI: <https://doi.org/10.24200/jsshr.vol4iss02pp76-85>

(Fard and Karimi, 2011). The necessity of discipline and administrative discipline in government and free agencies, as well as the private sector and non-private, so it has gone that is predicted mechanisms for compliance with the order and staff discipline, including the existence of a first instance and appeals boards, and ultimately, the supreme supervisory board and the administrative court to resolve a dispute, in order to provide health and get to the desired target device against organization violations (Rahimi et al., 2011). Also, in terms of the way of announcing and executing the verdicts of administrative violation of staff, there are differences and similarities between the above-mentioned law in Azad University and public university. In this article, we will investigate the similarities and differences in the way of announcing and executing the verdicts given by the courts in public university and committees in Islamic Azad University (Fahimeh and Kermani, 2011).

### 1.1 Hypothesis

Similarities and differences in the way of announcing and executing the verdicts given by the boards in public university and committees in Azad University are not quite similar.

## 2. Materials and methods

The study has a descriptive-analytical nature and was carried out by reviewing available rules and regulations' description. In this research, library studies using printed materials such as book, pamphlets, papers, journals and dissertations available at university, internet, dictionaries and research journals dealing with the topic of interest were conducted. The methodology was library-based and data were collected by taking notes from authenticated domestic and foreign references; meaning that at first, both domestic and foreign references dealing with the topic were collected and then the paper was written by studying and taking notes from these references.

### 2.1 History and review of the literature

#### 2.1.1 The history of handling administrative violations of public university employees

The first national employment law was enacted and executed in December, 1922. Specific regulations are included in the third part of this law called "on judgment trial of violating employee" (1). According to these regulations, the court of first instance and appeals are responsible for handling violations committed by public employees who do their duties based on current procedures. After revolution, in 09 March 1984, the first law of administrative violation trials was tentatively enacted according to principle 85 of Iran Constitution; and in 27 November 1993, the current law of administrative violation trials was legislated in the parliament. In this law, in order to handling administrative violations in each of the it consisting government agencies were formed boards known as the first instance and appeals boards of handling administrative violations (Mohammad Moin, 2003). These boards are included first instance and appeals boards. The government workers, if commit violation, were sentenced to seven types of punishment anticipated (at least, warning in writing without records, and maximum, separation of government services). Articles 32 and 42 of the abovementioned law, the first comprehensive law about national employment, are devoted to punishment of offending employees. According to the article 32 of mentioned law, to handle administrative violation and servants punishment was formed of research parliament and administrative mountings under the auspices of the minister or his deputy. The last law handling administrative violations was approved by 27 November 1993, which unlike previous laws, which were adopted after the Islamic revolution, is not the trial and permanently has been approved by parliament. The mentioned law is the basis of administrative violations in executive devices.

#### 2.1.2 The history of handling administrative violations of Islamic Azad university employees

To retain their health and disciplines and also to protect the rights of employees and citizens receiving their services, all social and administrative systems establish units that try to retain their position via setting rules and regulations. In December, 1982, university statute was written based on which, university was introduced as a public profiting institute whose costs are related to university's affairs (Beheshti And Mardani, 2006). Top council of university is the highest decision-making authority in this university. Islamic Azad university administration carried out by its supreme chairman. Supreme chairman of Islamic Azad University is determined by the founder board and trustees' board. Since the establishment of the Islamic Azad University goes back to the years after the Islamic revolution, then there is not history as well as public universities before the revolution. Regulations of administrative procedure of staff at the Islamic Azad University since establishment till now are as follows:

- a) Rules of administrative procedure of Azad University employees adopted in 1990.
- b) Rules of recruitment executive of Azad University employees adopted in 1992.
- c) Rules of administrative procedure of Azad University employees adopted in 2004.
- d) Rules of recruitment executive of Azad University employees adopted in 2009.

### 2.2 Definitions and legal terminology

Every action, behavior and word scratching employee's administrative position and infringing the rights of natural and legal people and disrupting the rules which is followed by punishment according to administrative violations, is called administrative violation.

**Ready to serve:** according to article 124 of national employment regulation, this expression refers to an employed person who has no tenure and is ready to receive a work to do.

**Announcement:** informing certain person(s) about a formal document with following special legal formalities.

**Real announcement:** announcing to defendant or his/her lawyer.

**Legal announcement:** when it is not possible to inform the accused person and to commit real announcement, announcement is made by other way called legal announcement.

**Accusation:** attributing criminal act or violation issue included in article eight of administrative violations to a person is called charging.

**Dismissal:** cutting the employment relation between the employee and his respective organization is called dismissal (firing) and this practice can only be made by administrative violations handling board; however, the authorities mentioned in article 17 of the aforementioned law can themselves fire the employee without referring the dossier to first instance court in the case of more than two successive or four alternate months of absence.

**Extrusion:** according to article 124 of national employment law, extrusion is disjunction of employment status.

**Redundancy:** is a legal way to terminate formal employment anticipated in the regulations.

**Retirement:** According to article 124 of the state employment law are the cases of employment and it is a situation the employee, which accordance with the law by virtue of the official warrant issued by competent references uses the pensions.

**Innocence:** According to the constitution, the principle is the presumption of innocence and no one in terms of law is not known the perpetrator, unless his crime established by a competent court.

**Researchable verdict:** every verdict issued in the handle stage of first instance, and legally, there is the possibility of objecting to it, say the researchable verdict.

**Final verdict:** any verdict which is implementable is called final verdict.

**Binding:** The judgment, which ended procedures for handling claims regarding it, and typically is executable, because of the barrier that occurs on it, have remained stop its implementation.

### 2.3 Administrative violations

#### 2.3.1 Administrative violations from perspective of procedure rules of public universities employees' violations

If an employee ignores the administrative rules has committed a violation. According to article 22 of administrative violation handling rule of public university employees, administrative violation includes inaccurate behavior represented by the employees, and not obeying administrative discipline cited in the law of administrative violation handling. According to article 8 of administrative violation handling law, administrative violations are categorized as follows (Nekuei, 2013):

1. Actions and behaviors contrary to professional or administrative matters.
2. Violation of relevant laws and regulations.
3. The creation of discontent in clients or not doing or delay in performing their legal matters without reason.
4. The objection slander and libel, violation of dignity.
5. Extortion.
6. Embezzlement.
7. Discrimination or prejudice acts or non-working relationship of the parties in the implementation of laws and regulations.
8. Turnover during official duty hours.
9. Repeating in tardiness to the place of work or repeating leaving it without permission.
10. Negligence in maintaining the property and documents and public funds and compensatory to government property.
11. Administrative disclosing confidential documents.
12. Unauthorized communication and contact with foreign nationals.
13. Violations to enforce the orders of higher authorities about administrative tasks.
14. Negligence in carrying out assigned duties.
15. Negligence managers not to report staff violations.
16. The presentation of the certificate or untrue reports in administrative matters.
17. Taking funds other than those specified in laws and regulations or obtaining any financial is considered bribery.
18. Delivery of documents to persons not entitled to receive it or refusing to submit documents to persons who are entitled to it.
19. The service shut down on administrative time.
20. The disregard of the Islamic dress code.
21. The disregard of the dignity and Islamic traditions.
22. Concealment, storage, transport, distribution and buying and selling drugs.
23. Smoking or drug addiction.
24. Having another government job except teaching and research positions.
25. Any unauthorized use affairs or job position and public facilities and property.
26. Counterfeiting and corruption or manipulation of official or government documents and papers.
27. Falsify questions, papers, documents and offices of examination, disclosure of questions on the test or replace them.
28. Giving score or rating unlike criteria.
29. Unauthorized absence for intermittent or continuous.
30. The abuse of authority and administrative positions.
31. Confiscation, concealment, inspection or open parcel and cargo post or obliterate them and eavesdropping without a license.
32. Sabotage and rumors, force or inciting others to sabotage or hypothyroidism and damage to government property and to apply personal pressure to obtain unlawful purpose.
33. Participating in sit-ins, strikes and illegal protests or incitement to holding sit-ins, strikes and illegal protests and apply pressure group to study unlawful purpose.
34. The membership of deviant sects that according to Islam have been rejected.
35. Cooperate with the Savak as an officer or source of news and having activities or unpopular reporting.
36. Membership in organizations that their constitution or statute is based on negating divine religions or advocacy activities in their favor.
37. Membership in war groups or advocacy and activities beneficial to them.
38. Membership in Freemason organizations.

#### 2.3.2 Punishment

According to article 9 of handling administrative violations of law, administrative punishment is in the following order (Nasiripoor, 2013):

1. Written warning without insert into employment records.
2. Written reprimand with insert into employment records.
3. Deduction payroll and specials occupation or similar titles up to one-third, from a month to a year.
4. Temporary suspension of one month to one year.
5. Change the service geo-location for a period of one to five years.
6. Demotion or denial of appointments to positions of authority and management.
7. Degrade one or two groups, or delay in granting one or two groups for one or two years.
8. Redundancy.
9. Retirement.
10. Expelled from their respective agencies.
11. The permanent dismissal of public services.
12. Determined punishments for some people by the law.

#### 2.4 Administrative violations from perspective of procedure rules of Islamic Azad universities employees' violations

According to article 7 of mentioned regulations, administrative errors vertices without being limited to the following, are as follows classes (Aliabadi, 2008):

**First class:**

1. Repeat on delayed entry into service place at the head of the appointed hour. 2. During the hours required to leave office without permission. 3. The unjustified absence from 1 to 7 days, whether consecutive or intermittent. 4. Negligence on implementing duties. 5. Actions and behaviors against the honor and dignity of a job. 6. Discrimination aimed at the implementation of the provisions relating to students, colleagues and other people. 7. Failure to maintain the property and funds of Islamic Azad University. 8. The disregard of the Islamic dress code.

**Second class:**

1. Disobeying in run of administrative superiors' orders about procedures. 2. Issuance of a certificate or untrue reports on administrative and student affairs. 3. The failure to provide appropriate services to clients that lead to dissatisfaction announced from them. 4. Submit documents to persons who are not legally entitled to receive it or refused to submit documents to persons who are legally entitled to receive it. 5. Failure to implement supervising the work of subordinates and not to report their error. 6. Any unauthorized use of property and facilities of the Islamic Azad University. 7. Unjustified absence from 7 to 30 consecutive days. 8. Repeat the errors contained in the first class.

**Third class:**

1. Disclose secrets and confidential documents or exams questions or change in question and university students' grades. 2. Drug addiction. 3. Taking funds other than what has given the university regulations. 4. Sabotage, gossip and participating in illegal strikes and protests and pressure for illegal purposes and concession. 5. Unjustified absences from 30 to 60 consecutive days. 6. Repeat the errors contained in the second class.

## 2.5 Punishment

Regarding punishment in accordance with article 8 of procedure regulations of administrative punishments classified and defined as follows (Sadeghimoghadam and Mirzadeh Kouhshahi, 2013):

**First class:**

(A). Written warning without insert into employment records. (B). Written reprimand with insert into employment records. (C). Deduction payroll and specials up to one-third from one month to three months.

**Second class:**

(A). Deduction payroll and specials up to one-third from three month to six months. (B). Deduction payroll and specials up to one-third from six month to one year. (C). Change positions along with administrative demotion up to two occupational groups from three months to six months. (D). Change positions along with administrative demotion up to two occupational groups from six months to one year. (E). Change positions along with administrative demotion up to two occupational groups from one year to two years. (F). Temporary suspension of one month to one year.

**Third class:**

(A). Temporary suspension from one year to two years. (B). Temporary suspension from two years to five years. (C). Expulsion permanently, from the unit and affiliated educational centers or central organization. (D). Denial permanently, from work in universities and affiliated institutions and all academic units and affiliated centers to them.

## 2.6 The references and authorities playing role in handling administrative violations

### 2.6.1 Introduction from perspective of procedure rules of public universities employees' violations

All references and authorities playing role in addressing administrative violations (Kordenaij, 2012):

- Administrative violations handling boards: including courts of first instance and appeals. Courts of first instance are authorized for primary handling. Given that the proceedings in the board is a two-stage, primary handle is inherent competence of first instance and some of the votes issued from mentioned boards in the second stage is to complain in the appeal boards.
- Inspection group: according to article 5 of administrative violations handling law of public university employees, formation of one or more inspection groups is a way of collecting evidence for completion of dossier.
- Devices staffing: office activities of boards are doing by staffing and also even do the vote execution and rulings issued by the Board.
- Excellent staff supervision: this reference to the role of coordinator between the board and supervising the implementation of laws by the board.
- Representatives of ministries and the highest authority in the boards' affairs.
- Administrative Justice Court.

### 2.7 Introduction from perspective of procedure rules of Islamic Azad universities employees' violations

There are two committees in Islamic Azad University to handle employees' violation: central organization committee located in Tehran and disciplinary committees distributed across the country. In general, the authorities for handling administrative violations in Azad University include:

1. The disciplinary committee of the located in Tehran. 2. The disciplinary committee of the university. 3. Inspection group. 4. Some authorities have the power to make the decision, directly. 5. Staffing. 6. Excellent staff handling.

Inspection and staffing group pave the road for handling administrative violations for the courts and play subsidiary role; meaning that inspection group collects the proofs and evidence for the dossier and staffing group announce the verdicts to the employee and records the procedure. Boards to handle administrative violations and some managers directly, handle administrative violations and other references such as the excellent staff supervision, court of administrative justice and coordinator of boards have a supervisory role, in other words way to handle. It is noted that, the references handling administrative violations in public universities is a fundamental difference with Islamic Azad University and can only be boards handling administrative violations of public university employees, as well as the disciplinary committees at Islamic Azad University (Mohammadi, 2015).

## 2.8 Evaluation of structure and duties of the references handling administrative violations

### 2.8.1 From perspective of procedure rules of public universities employees' violations

### **A) Courts of first instance and appeals for handling administrative violations of employees in public universities**

Administrative violations handling boards represent a tool for monitoring and coordinating the administrative units for addressing employees' violations. By handling administrative violation steps, these boards help in achieving the goal which is law dominance, justice and people's rights. According to article 1 of executive rules of administrative violations, courts of first instance are formed in each authorized unit to handle administrative violations remarked in article 18 of the abovementioned law. There is no limitation for formation of courts of first instance in province units of the corresponding organizations. According to article 5 of mentioned regulation of handling employees administrative violations of each province scope, as long as their respective devices in the provincial capital has not formed first instance board, after obtaining the opinion of the minister or the chief executive of their respective agencies is with the first instance board of the other provinces. Appeal board as an upstream reference of first instance board, in order to guarantee non-diversion of mentioned board from the law, and also correct mistakes that may occur, is intended according to note 1 of article 1 of the administrative violations handling law (Beheshti And Mardani, 2006).

### **B) Requirements and composition of first instance and appeals courts**

The requirements for membership in first instance and appeal courts are cited in article 6 of administrative violation handling law. The members should meet the following requirements: 1. Religiosity in Islam and act according to its instructions. 2. The belief and commitment to the Islamic Republic of Iran and the principle of velayat-e faqih. 3. Marriage. 4. At least 30 years of age. 5. At least an associate degree or equivalent.

### **C) Appointment, dismissal and resignation of members**

Every member of first instance and appeals courts is appointed by minister or the highest position of the corresponding organization. One way of ending the membership in the handling board is removing them from the membership.

### **D) Requirement for authenticity of trials and correspondence**

According to article 22 of executive rules of administrative violations in public universities, the trial and session is authenticated by presence of three members and the verdict is authentic when at least two members approve it.

### **E) Official affairs authority**

Board can be boards' affairs and correspondence and announced vote delegate to the public university staffing. This problem is referred to in article 11 of the executive law of administrative violations handling law.

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## **3. Discussion and results**

### **3.1 Responsibility and authority of first instance and appeals boards**

#### **A. First instance board**

- Handling administrative violations: according to article 12 of administrative violation handling law, one of responsibilities of first instance court is primary handling of employees' administrative violations.
- Formation and setting off of inspection group: according to article 12 of administrative violation handling law concerning public university employees, first instance and appeals courts form inspection group to use their professional ideas to complete information and evidence of the dossiers.
- Send violations case to the criminal describe to the competent judicial references to handle.
- Sometimes, the board issued the votes that may be wrong in terms of form and substance to recognize it carried by majority vote. In these circumstances to correct the above vote is license application from excellent staff supervision.
- Inform to the responsible for coordinating of the board to handling managers violations

#### **B. Appeals board**

- Handling administrative violations at appeal stage: when the accused employee objects about the verdicts of first instance court, he can submit his complaint within 30 days and appeal court has to reconsider the case. Otherwise, the verdict given by first instance court will be final and deterministic.
- Handling the vote violated of the appeal board by the administrative justice court and excellent staff supervision.
- The establishment and deployment of inspection groups (such as first instance board).
- Apply for a license amendment and changing final decision from supreme supervisory board: In case of detection of distortion some issued vote, which provisions of it are contrary to in terms of law of the supreme supervisory board to request permission to amend their votes.
- Handle and Issuance vote in the context of the votes issued by the administrators.
- Handling the absence of employee claims.
- Recognize the pension subject of article 11 of the administrative violations law in the field of apply punishment.
- Identify left off addiction of addicts to the drugs.

#### **C. Exceptions of boards' authority**

1. subject to the employ law of the armed forces and military civilians and police forces.
2. Judges.
3. The faculty members of universities and higher education institutions.
4. Subject to labor law.
5. The exceptions by direct taxes law.
6. The exceptions by the supreme audit court law.

### **3.2 From perspective of procedure rules of Islamic Azad universities employees' violations**

#### **3.2.1 First instance and appeals disciplinary committee**

According to article one of administrative trials of Azad University, a court called disciplinary committee- referred to as committee hereafter- is formed to handle the violations committed by the employees. Court of appeals is formed both in central organization and university branches.

### 3.2.2 Appointment, dismissal and resignation of disciplinary committee members

#### - Disciplinary committee of the central organization

According to articles 2 and 3 of the abovementioned law, members of disciplinary committee include three main members and two substitutive members; and according to article 3, main members of central organization committee include: 1. Administrative and financial deputy in organization. 2. The head of the selection. 3. A Central Authority personnel to the election of university president.

Alternate members elected by the university president and during separate decrees appointed a member of the committee.

#### - University units committees

According to article 4 of related regulations, in addition to a committee that is formed in the central organizations on university units, as well as will act to the forming a committee, independently. The committee members are: 1. Administrative and financial deputy of university units. 2. Office manager of Islamic culture in university unit. 3. A staff of the academic unit as proposed by the head of unit for a period of one year. 4. A substitute members proposed by the head of the academic unit for a period of one year.

#### - Committee chairman

Administrative and financial deputy in central organization or university branches in terms of the case.

#### - Requirement for authenticity of trials and correspondence

Committee meetings recognition by the present majority of members, but the vote should be approved half plus one of all members, both present and absent.

#### - Official affairs authority

According to article 28, personnel unit is responsible for administrative and official affairs of the committees; and according to article 29, the verdicts given by the committees are directly announced to personnel department.

#### - Responsibility and authority of first instance and appeals committees

It can be inferred from legal articles that court of first instance has authority for primary handling. In article 10 of this law, court of first instance has authority for executing the punishments included in the first class of article 8; and in the case of employee's compliant; the compliant can be submitted to court of appeal. Punishments referred to in paragraph (d) of third class on the subject of permanent exclusion from employment at the university and affiliated institutions and all university units and educational centers affiliated to it, confirmed the ruling is by the university units head and the first class, punishment without reference to the committee, applied by the presidents, directly.

#### - Exceptions of committees' authority

About the first instance and appeals committees handling violations of what employees and that in each case, includes what employees such as contract, there is no a certain contract and legal.

### 3.3 Qualitative attention

#### - Informing of committees votes

The verdicts given by the boards are important in two aspects: firstly, handling is initiated after the accusation is announced to employee so that the accused employee has enough time to prepare himself and his defense evidence. The boards are not allowed to handle the dossier before announcing the accusation either at first instance or in appeal step. Therefore, the notification is an important stage of the proceedings to the administrative violations in the broad sense. Article 4 of the administrative violations law, the certainty of the votes of boards is subject to them notification. The deadline for appeals of the accused from the votes of the board and complaints to the court begins from the date of notification of them. According to note 2 of article 4, to handling administrative violations law, notified the votes of the board are acting according to the civil procedure regulations (Nekuei, 2013).

### 3.3.1 Operator, respite and the paper of announcement from perspective of administrative violation handling in public universities

In all trials, an important factor for proper progress of the procedure is announcing paper which is important in all the steps until issuing the verdict. Inappropriate announcement disrupts a fair trial because procedure accuracy and protection of the accused person rights depend on this issue.

#### - Announcing authorities

According to article 17 of employees' administrative violation handling rule, personnel departments are responsible for announcing the verdicts given by first instance and appeal courts. Firing verdicts of abovementioned article are sent to personnel department. There is no execution enforcement for announcing authorities in the case of negligence. Only, has been satisfied this statement, in the case of negligence employment authorities in notified issued votes to the accused employee dealt with them according to the law.

#### - Announcing deadline

According to note 2 of article 4 of administrative violation handling rule and article 23 of executive rule of administrative violation handling, the verdicts should be sent to the employee within 30 days and the temporal distance between issuing and announcing the verdict shouldn't exceed 30 days; otherwise no responsibility would be created for the employee.

#### - Papers related to announcing

According to note 2 of article 4, of handling administrative violations law, announcing vote comes to action according to the civil procedure regulation. Therefore, the legislator determination about announcing the votes of boards handling administrative violations and papers litigation and the vote, and carried out in accordance with the standards prescribed in procedure law of public and revolutionary courts. But it has not been to decide in the context of other cases, such as announcing charge cases to the employee in handling administrative violations the law.

### **3.3.2 From perspective of administrative violation handling in Islamic Azad universities**

About the definition and importance of announcing in these regulations, there are no legal materials.

#### **- Announcing authorities**

According to article 29 of administrative violation handling rule of Azad University, the verdicts given by the committees are directly sent to personnel office to inform the employee as soon as possible.

#### **- Announcing deadline**

According to the article 20 of the regulations, is intended 10 days deadline to provide the employee's defense. According to article 27, is intended 15 days deadline to appeal from the uncertain votes of first instance committee.

#### **- Papers related to announcing**

In this case, the mentioned regulation is quiet.

### **3.3.3 Announcement type from perspective of procedure rules of public universities employees' administrative violations**

#### **- Real announcement**

Real announcement refers to announcing the verdict to employee with formalities (for natural persons) or an authorized agent (for legal persons) by an authorized envoi and receiving the receipt and reporting the procedure. According to the article 68 of the public and revolutionary courts procedure regulations in the civil affairs, announcing official is required submitted fights papers to respondent within two days and on the other paper refer receipt received and it paper to the office of the court.

#### **- Receiver of announcing paper**

Natural persons include relatives of the accused employee. In this case, the law maker has not determined degree of relativeness. Thus, it can be sent to an address previously cited in notification papers. In the absence of relatives or servants, the officers announcement act according to the civil procedure law, that is if you read or mentioned persons in the previous article not in place or refusal upheld from the announcement paper, officers written this issue in version warning affixing the address specified by the second version, and the first paper returned with other dispute papers.

#### **- Announcing to legal persons**

According to article 75 of civil trial rule regarding public organizations, the papers are sent to the authority or his deputy and the receipt is taken. In the case of denying paper reception, the issues are written in the notification paper and restored.

#### **- Legal announcement**

In some cases, announcement is sent to the employee by legal and hierarchal procedure and is considered authenticated as this is a legal procedure. Article 83 of public and revolution courts procedure regulations in civil affairs, about the necessary contact information in legal announcement, provides: in all cases that pursuant to the provisions of this section, papers must be delivered except one contact, if that is valid, which confirmed to the court that the papers has reached to inform the contact.

In the case that the announcing papers were considered: 1. Refusal contact to the taking papers. 2. The announcement to relatives and servants of contact. 3. The absence of relatives or abstain from taking papers. 4. Announcement to unknown persons. 5. Announcement to someone that does not reside at the seat of the court. 6. Announcement to prisoners. 7. Announcement to married women. 8. Announcement to government employees. 9. Announcement outside the country.

In all the above cases, is not anticipated in the relating rules to administrative procedures of public university employees, but given this option to the board, which acts in accordance with the civil procedure regulation.

### **3.3.4 From perspective of procedure rules of Islamic Azad universities employees' administrative violations**

In none of the cases mentioned above, there is no legal provisions in Islamic Azad University regulations, in other words, is quiet.

#### **- Legal announcement**

1. Refusal contact to the taking papers. 2. The announcement to relatives and servants of contact. 3. The absence of relatives or abstain from taking papers. 4. Legal announcement to departments and government agencies. 5. Announcement to someone that does not reside at the seat of the court. 6. Announcement to prisoners. 7. Announcement to married women. 8. Announcement to government employees.

### **3.5 Request for appeal**

Appeal is related to defense rights of the employees; meaning that to ensure accused person's rights, his request for appeal has been predicted for some cases of administrative violation handling with more severe verdicts.

#### **3.5.1 From perspective of procedure rules of public universities employees' administrative violations**

Appeal is again to judge affair were judged, initially.

#### **- Appeal punishments**

According to article 10 of administrative violation handling rule of public university, punishments under article 9 are may be appealed, which accused employee within 30 days of date of announcement can be appeal, otherwise the will certainty: 1. Temporary suspension of one month to one year. 2. Change the geo-location service for one to five years. 3. Redundancy. 4. Retirement with reduction of one or two groups. 5. Expelled from their respective agencies. 6. Permanent dismissal from government service and agencies subject to this law.

If the votes issued by the first instance boards are based on his conviction, and also it is possible to researchable, abrogated following the verdict issued.

#### **- Non-appeal punishments**

Punishments are not to complain in appeal board is as follows: 1. Written warning without insert into employment records. 2. The written reprimand with insert into employment records. 3. Deduction payroll and species jobs or similar titles up to one-third from one month to one year. 4. Demotion or denial of appointment to key positions and management in government agencies. 5. Degrade or delay in granting one or two groups for one or two years.

#### **- Appeal deadline**

1. According to article 10 of administrative violation handling rule of public university, a respite of 30 days has been assigned for appeal request. There is no difference between the people residing within country and those residing abroad.

2. According to article 17 of administrative violations handling rule, the deadline for appeal to the votes issued is up to three months after the announcement of the academic to employee. It was not the effect, which appeal submitted after the given deadline.

#### **- Appellant**

This article shows who can request for appeal; only the accused employee or his legal agent can request for appeal for the verdict of first instance court and other people don't possess this right. Only possible, general inspection office to issued vote has the right to appeal it, either by the attorney general with a deadline of 20 days.

#### **-Appeal procedure**

According to article 24 of administrative violation handling rule, first instance courts have to write deterministic or investigable nature of the verdicts and the address of appeal request reception at the end of their verdicts. If the given verdict is appealable, the accused employee can submit his complaint. Appeal to the researchable votes must be submitted within 30 days from the date of votes announcement in writing to the personnel department and get a receipt. In order to implement article, the academic units personnel are required to submit the requested of the accused employee appeal in the fastest time.

#### **- Reference to get appeal**

According to articles 12 and 17 of administrative violation handling rule of public university, personnel office is responsible for receiving appeal requests. Appeal request for first instance court should be submitted to this office by employee or his legal agent, in Persian and by explaining the reasons in written form. The criteria to get timely requested are on personnel offices record. Personnel departments devices are required to request the protest employee or his representative in the fastest time possible submit to handle to the appeal board.

### ***3.5.2 From perspective of procedure rules of Islamic Azad universities employees' administrative violations***

#### **- Appeal punishments**

Article 10 of committee votes is definite as punishments contained on the first class of article 8, however, the punishments contained in other classes article is appeal.

#### **- Non-appeal punishments**

According to article 10 of the procedure rules, the vote of the committee is definite in the punishments contained on the first class of article 8, as well as, if not to give in to protest to uncertain votes within 10 days, mentioned votes is final and binding.

#### **- Appeal deadline**

Article 27 an employee, who ruling in his case be may be appealed is obliged within at most fifteen days from the date of votes announcement make in writing appeal.

#### **- Appeal procedure**

In this context, in particular is not mentioned on how to appeal unless the protest deadline of 15 days compared to the uncertain votes to first instance committee and in the case caused by offending employee family status, the disciplinary committees can handle their opinions regarding the discount and reduce the penalty or redeem part of the service, if requested by the appeal.

#### **- Reference to get appeal**

Article 28- The administrative tasks of the committee as required is responsible for personnel the unit. Article 29- The issued votes of the committees shall be directly announcement to personnel department as soon as possible to inform levels to the employee.

#### **- Appellant**

In this context, who has the appeal right, the accused employee, his legal representative or a person announced employee violation; there is no mention of the content.

### ***3.6 Reference, formalities, the possibility of severe punishments in the appeals stage***

#### ***3.6.1 From perspective of procedure rules of public universities employees' administrative violations***

#### **- Handling authority**

Appealing board should handle the appeal request. These boards should receive the request within 30 days and the time criterion is the date of recording the request in personnel office.

#### **- Handling procedure in appeal board**

The procedure of appeal handling is similar to that executed in first instance trial; meaning that if there is necessity to collect evidence, appeal court like first instance board can use inspection group and exert opinions and explanations of aware people to complete the dossier. The remarkable thing is that the appeal boards cannot be used the same research group used first instance board.

#### **- The possibility of severe punishments in the appeals stage**

The votes that the appeal board may be issued after the initial stages completed documents and appear in the form of punishment after the necessary studies and collect the necessary documents issued by the votes that in several cases different is possible: 1. Violation the first instance votes and acquitted



the accused. 2. Violation the first instance votes and issued milder verdict. 3. Approved first instance vote. 4. Violation the first instance votes and issued more severe vote.

### **3.6.2 From perspective of procedure rules of Islamic Azad universities employees' administrative violations**

According to article 25, appeal committee of central organization is formed by this composition: 1. University culture deputy (committee chairman). 2. Management Assistant. 3. Educational Assistant. 4. The university deputy and president of the Islamic Azad schools. 5. One lawyer to select the president of the university.

In order to appeal from university units first instance committee vote, the university units appeals committee is formed with the following members in central organization: 1. Administrative and financial assistant of university (committee chairman). 2. Deputy of involving branches of member of the trespassing case. 3. One lawyer, who will be selected and appointed by the university president. 4. The head of the selection. 5. A spiritual person, approved by the university president.

Appeal committee, based on positive evidence, can intensify the verdict if the punishment assigned by first instance trial is less than the least punishment assigned for the violation. An employee, who ruling in his case be may be appealed is obliged within at most fifteen days from the date of votes announcement, make appeal in writing. Otherwise, in first instance committee's verdict is deemed conclusive.

### **3.7 Executing and monitoring the verdicts**

This is the final step of handling the violation dossiers which is responsibility of the respective organization. This organization completes handling process. Indeed, handling formalities are expressed in this step.

#### **3.7.1 From perspective of procedure rules of public universities employees' administrative violations**

##### **- Applicable verdicts**

This article refers to execution of the verdicts given by the courts. According to article 4 of administrative violation handling rule and article 47 of administrative violation handling regulation, the verdicts are not executable until the verdict of first instance and appeal courts are announced to the accused employee. This issue has also been considered for the final verdicts even the request has been issued by legal authorities.

##### **- Executive authorities**

Personnel department of ministries and administrative unites and similar bodies, are legal authorities for announcing and executing the verdicts given by the courts. According to article 26 of administrative violation handling regulation, after the vote announcement, if the votes an appeal, the office of personnel devices are required to apply the protest employee or his representative in the fastest time may be submit to address the appeal board, and in some cases, the first instance board vote be may be appealed, but the accused within the deadline does not appeal to that requested, execute the verdict from deadline communicated date.

##### **- Stop the execution votes**

1. Died accused. 2. Retirement.

#### **3.7.2 From perspective of procedure rules of Islamic Azad universities employees' administrative violations**

##### **- Applicable verdicts**

It seems that only certain votes committees are applicable. Forming a committee and how to handle these regulations referred to or appeal of definitive decisions by the committees, as well as other than committees, heads of university units and their deputies are procedures to issue a vote.

Article 10- court verdicts in the range of punishment determined in the first class of article 8 are deterministic; however, the punishments cited in other classes of the abovementioned article are appealable (Kordenaij, 2012).

Executing the final verdicts including both given by first instance and appeal courts in university units depends on agreement and order of the manager of that unit except for the cases remarked in part D of the third class of article 8 (permanent exclusion from employment in university and related institutes, university units and educational centers).

Article 11- The heads of the units can punishment issue of the first class of article 8, impose directly without reference to the committee on offending employees or discretionary punishment paragraphs (a) and (b) of the first class of article 8, in each case, a delegate to deputies unit.

Article 12- The President of the Islamic Azad University can all punishments under article 8, with the exception of punishments in paragraphs (c) and (d) of third class of article 8, impose directly without reference to the committee about each employee university and optional punishment contained on the first class of article 8, delegate to his deputies.

## **4. Conclusion**

In administrative violation handling rule of Azad University, administrative violations are categorized in to three classes which seems to be a way for citing convenience during verdict issuing process, because administrative violations are not exactly expressed and only violation class is stated. In administrative violation handling rule of public university, the violations are exactly limited to 38 cases. Administrative violation in both regulations is somewhat similar. In a few cases, has not been reference to some violations in the procedure rules of administrative violations of university employee. The boards, after the end of the proceedings and check existing documents and full attention to defendants, consider all the factors and then, the procedures to verdict and decision-making. In this way, the process is similar in executive regulations of administrative violations handling of public university employees and procedures handling violations of Islamic Azad University employee. Announcement is not exactly defined in administrative violation handling regulation of Azad University, but it can be inferred from the related legal cases that the definition presented in administrative violation handling

regulation of public university is accepted. In terms of how-to announcement and announcement papers, the papers related to announcement charges and judgments and verdicts issued by the disciplinary committee in Islamic Azad University, there is no legal article. If this stage of the proceedings is an important part of a fair trial. To not work properly announcement, will not be possible, at the trial meet. Therefore, it is possible the administration of justice and rights is subject to correct implementation of announcement. About the method of announcing and guarantees of non-implementation of the above formalities determined by the authorities, these regulations are quiet. From the issues relating to public universities can be equivalent in a way, but this is seen in the hands of the board and in fact, imposes procedural or your taste.

As mentioned before about public university, announcement is a main principle of fair trial and the outputs of handling courts and committees are represented in announcement. So, how to announcement and what people can receive announcement papers must be taken into account in administrative procedure regulations of Islamic Azad University employee.

In administrative violation handling regulation of public university, legal announcement is considered in details but this issue is not addressed in administrative violation handling regulation of Islamic Azad University. It should not be concluded in the above-mentioned, there is no in Azad university rules, so any action does not take in this regard. If at the Azad university level, there are employees, who in units abroad are serving or cases lack of qualified personnel in order to get the dispute papers, or that, there will be situations, which refuses the delivery announcement documents, all these cases, there is no in public university, but obviously given the authority to use for civil and criminal justice.

The accused employee can request for appeal for the verdicts given by first instance court. It should be mentioned that only the verdicts containing punishments of temporal dismissal, change of employment geographical location, redemption, mandatory retirement, group reduction, exclusion, permanent dismissal is appealable. Some first instance boards votes are final and binding. The deadline for appeal is different in the two regulations, we have seen appeals deadline in public university units from the date of announcement votes is 30 days, but in the Islamic Azad University has been found within 15 days. In administrative procedure regulations of Islamic Azad University employee has not been to mention to the appellant. For this reason, an accused employee and his legal representative have the right to appeal. In public university regulations, this paragraph is intended to separate the complainant and reporting violations from the accused employee. Reference receiving the appeal in both regulations acts the same, in other words, according to legal articles, the personnel department is responsible for administrative correspondence including receiving the appellant request. In both regulations have been used the term directly as soon as possible, in the sense that without delay and promptly must be done the process. Registration date of personal offices is the recognition criteria appeal date.

If the verdicts are appealable, appeal courts- according to new evidence- can exert punishment more severe than indecisive one assigned by first instance court, because appeal court can handle the dossier again and has to prepare new evidence and according to all dimensions can exert more severe punishment. Moreover, the employee can submit complaint against the verdicts given by first instance and appeal courts to high monitoring courts and administrative justice organization. This issue is also cited in administrative violation handling rule of Azad University.

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## How to Cite this Article:

Hoseinpour S., Similarities and differences in the way of announcing and executing the verdicts given by the courts in public university and committees in Islamic Azad University, *UCT Journal of Social Sciences and Humanities Research* 4(2) (2016) 76–85.