Investigating formalities in handling employees’ administrative violations in public university and Islamic Azad University

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Abstract

Knowing administrative violations is the primary requirement for avoiding such crimes. Therefore, employees should know administrative violations. The goal of this paper is to evaluate the formalities in handling administrative violations among employees of public university and 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. 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. 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.

Keywords: Formalities, Handling Administrative Violations, Azad University, Public University, Regulation of Violations.
1. Introduction
Human society has been always moving toward God and justice and has achieved some approaches based on wisdom and logics such as establishment of law and law-orientation and development of judgment and training judges with social positions. In this regard, human society has issued verdict and judged between claimant and defendant, plaintiff and defendant; by development of dependent and independent organizations, the need for a judgment among employees of these institutes has been felt much more and this demand has been finally addressed by the law. An effective law in this field is the law of administrative violations which deals with the struggle between employees and their respective organizations. Regulation of handling administrative violations includes the rules and laws used to address employee’s administrative offences and the way addressing and issuing the verdicts. 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. (Zeraat, Abbas and Bakhtar, Ahmad, 1997, 23). Also, it should be noted that university employees are not exempt from this law and should be addressed to violations of this kind of employees in competent authority. Initial handle of the case the accused employee is associated with the first instance body. Unless the authorities referred to in article 12 of the law, shall directly apply the prescribed punishment in that article, or authorities under article 17 of the law are laid off employees, who have committed absence to the prescribed extent in the article. This handling violations of staff administrative, in general, is one of the most important issues discussed in public law and administrative law, so that 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. Mechanisms devised in this regard, in some quarters is intended for determination of employee violations and in front of it, the punishments prescribed. Of course, it should be noted that only employees of public universities are include to the handling administrative violations of government employees, not staff at the Azad University, so for this reason in this study, we now turn to examine the procedures for handling violations administrative staff of public universities and Azad universities. As a big non-governmental authority, Islamic Azad University has numerous branches and employees and thus, we are going to reveal what the steps are assigned for handling administrative violations in public and Azad universities to address the ambiguities.

Hypothesis
Steps and formalities of addressing employees’ administrative violations are not identical in public and Azad universities.

Methodology
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. History and review of the literature
2.1 The history of handling administrative violations of public university employees
The first law of national employment was enacted and executed in December, 1922. Specific regulations are included in the third part of this law called “on judgment and types of administrative violations” [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. Governmental employees are convicted to seven predicted types of punishment (at least written notice without recording in dossier and at most, discharging from public services). Articles 32 and 42 of the abovementioned law, the first comprehensive law about national employment, are devoted to punishment of offending employees. In addition to parliament, the executive government with the authority of their constitution imposed regulations on the issue of the above. The most important laws and regulations, which lay in the constitutional period and before the Islamic Revolution about handling disciplinary and administrative violations of public servants, it can be noted, the state employment law adopted in 1922, regulations of administrative procedure adopted in 1936, the state employment law adopted in 1966, regulations of administrative procedure adopted in 1967, regulations of state companies administrative procedure adopted in 1974, and enforcement proceedings law against the dignity and business of state and municipal employees adopted in 1975 [2].

2.2 The history of handling administrative violations of Islamic Azad university employees
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. Top council of university is the highest decision making authority in this university. Members of this association include: founder board or their constant agencies, agent of supreme leader, agent of teachers’ community of Qom Hozeh Elmieh (religious science school) or representative of fighting clergies, minister of culture and high education or his constant agent, representative of cultural revolution staff (currently known as high association of cultural revolution) or legal successor of cultural revolution staff and university manager. Since the establishment of the Islamic Azad University goes back to the years after the Islamic Revolution, then not have history as well as public universities before the revolution. Regulations an administrative hearing of staff at the Islamic Azad University adopted in 1990, is the first regulation that in the context of offenses and punishments, as well as due handling violations administrative of staff at the Azad University is composed of thirty articles. Regulations an administrative hearing of staff at the Islamic Azad University adopted in May 2004, is the latest source of running for the first instance and appeal committees in Islamic Azad University, which is comprised of thirty-one articles. The difference with regulations of staff administrative hearing adopted in 1990, that is the provided excellent staff handles for in Regulations to coordinate the committees and objecting to the final vote.
3. Definitions and legal terminology

**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 [3].

**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.

**Notification:** in words, notification means reminding or recalling and in administrative literature, notification refers to formal reminding of one or more issues within current regulations.

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

**Temporal extrusion:** refers to situation of an employee who is transiently deprived from public employment by the verdict of administrative or criminal court.

**Permanent extrusion:** refers to situation of an employee who is always deprived from public employment by the verdict of administrative or criminal court.

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

**Administrative violation:** any act or not doing an act for which a punishment has been determined by administrative violation handling law.

**Written reprimand:** refers to censure or reproach in the words, and in administrative context, it refers to a paper containing censure topic which is announced to the reproached employee.

**Crime:** is the practice banned by the law via determining punishment. In the other word, any act or not doing an act for which a punishment is predicted in the law is called crime.

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

4. References for handling administrative violations

4.1 References for handling administrative violations of public university employees

Procedure boards use authenticated laws for issuing the verdicts. These laws are the references related to handling administrative violations of employees of public university which can be used to identify violations and punishments and the way of addressing the violations. In terms of hierarchy, the constitution is at the helm compared to other laws that is as the most immediate references of handling employees’ administrative violations. After constitution, the rules are as follows: procedure regulations of general and revolutionary courts in civil matters, the Islamic penal code, administrative justice court law and regulations and judicial precedent, the instructions of the supreme supervisory board, and the management services country law in line with other references.
4.2 References for handling administrative violations of Islamic Azad university employees


If you see that, there is a fundamental difference between presented references handling administrative violations of public university and Islamic Azad University staff. Given that the history of establishment of Islamic Azad University is much less than public universities and goes back to the early years of the Islamic Revolution, naturally handling references to the Committee in Islamic Azad University, due to low history and privatization of it is very limited and different.

5. Administrative violations
5.1 Administrative violations from perspective of procedure rules of public universities employees’ violations

Some practices made by the employees cause disruption of administrative discipline of university; these practiced are regarded as violation by the legislators and punishments have been assigned for them. 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 [4]. According to article 8 of administrative violation handling law, administrative violations are categorized as follows:

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.
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 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.
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.

5.2 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:

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.

6. Handling formalities
6.1 Handling formalities from perspective of procedure rules of public universities employees’ violations

Initiation of handling process
Handling preparations are the cases by which the boards initiate their work. This practice represents the aspects of handling of administrative violations for which the handling boards should inspect, handle and issue verdict. According to article 15 of executive rules of administrative violations and article 18 of administrative violations handling instruction, the boards start handling process in the following cases:

- **Complaints persons**: According to article 7 of the instructions handling administrative violations, the plaintiff is the person living that the perpetration violation attributed to the employee and the subject be stated in writing to the board or employees of their respective agencies. Of course, the board, if there is reason to its accuracy, providing begins to address.

- **Complaints or employees’ reports**: To the people that are working in the same university, if they see a violation, can make report to the board. According to the note 1, article 18 instructions handling administrative violations is not necessary comply with the administrative hierarchy in violation announced to the board, and staff can individually declare the matter to the board, in case of violation of other employees in first instance board administrative violations [5].

- **Administrators, office managers’ reports**: One of the tasks among managers in university is announced violation report of his subordinate staff to the board.

- **Inspectors’ excellent staff supervision report**: Including those who may disclose an employee's violations to board are inspectors’ excellent staff supervision. According to the note 3, article 22 of the administrative violations law, excellent staff supervision can be deployed inspectors to the organization are subject to the law, and if they observe violations, introduce the offending staff to handle their case to the handle administrative violations board.

- **Inspection offices and responding to complaints announced**: inspection offices and responding to complaints are required to handle to the complaints of the people and as soon as possible, provide appropriate answers to the beneficiary and in case of detection of violations by employees and officials to take action against the referred offending employee case to handling administrative violations boards [6].

- **General Inspection Office (GIO) announced**: According to paragraph (a), article 2 of GIO law adopted in 1981, including work organization, continuous inspection of all ministries, departments and police and armed forces, institutions and public companies, and municipalities and institutions dependent on them, and notarial and public institutions, and revolutionary institutions and organizations that all or part of the capital or their shares is owned by the government or the government, somehow makes supervision or assistance to their administrative violations of civil servants, be announced to handling administrative violations board, and the boards are required to handle.

- **Violation vote by the administrative justice court or the supreme supervisory board**: In cases where, the accused employee have protested to issue a final vote by the handling administrative violations boards, according to article 21, up to one month can complain to the administrative justice court, as well, according to the law 22 of handling violations administrative and article 35 of the same law regulations, can complain to the votes of handling administrative violations boards to excellent staff supervision.

- **Received complaints boxes**: This refers to the installation of complaint boxes in all university buildings, which have been predicted in article 49 of instructions handling administrative violations.
Conducting the necessary inspections by the boards
This step, which is highly important, is deals with confirming the accusation of the employee to verify if the violation can be attributed to the employee or not? Handling boards provide the prerequisite to charge the employee with the violation. According to article 17 of the Executive Regulations of handling violations employees of public university: handling administrative violations boards are required then conduct necessary studies, the charges notified to the employee in writing and after 10 days, in order to deadline defense for employees. "These boards, if requested by the employee, put the necessary documentation in his possession.

Announcing the accusation
According to article 17 of executive rules of administrative violations, it is necessary to announce the accusation after completing the inspection so that the accused person has enough time to defend himself. Based on note2 of the article and note 2 of article 18 of administrative violations handling instruction, the accused employee or his agent can ask for extension to prepare defense list. Decision making in this situation is the responsibility of the boards and the extension should not exceed five days. If employee’s accusation is not really announced, then legal announcement may be implemented [7]. According to article 39 of executive regulations handling violations of public university employees, all boards handler obliged for the verdict use of special forms that will be prepared and notified by the office for the coordination and monitoring of the handling administrative violations. That is the form set in three versions, one version in board file archive, it sent two copies, one of those 2 versions remain the accused and the other version returning is delivered to the recipient's signature, and committed to date seen or communicated and signing official notification with the name and last name in the provided form to continue the proceedings.

Taking accused person’s defense
According to administrative violations handling instruction, the boards have to announce the accusation clearly and in writing form and assign ten days to take his defense. This issue should be clearly cited in the announcement and based on article 18 of administrative violations handling instruction; the accused person can submit his written defense to the board. Otherwise, the board can handle the accusation cases and issue the verdict. About the contents of the counter employee, there is no explicit provision, only in articles 17 and 18 of executive regulations pointed out that employees could be placed in the interposed 10 days, and if necessary request for an extension provide evidence of their defense to board for within 15 days.

Holding the trial
Holding the trial depends on completion of the dossier and readiness or the preparations: 1. Get the plaintiff's evidence or blazer. 2. Request provides reason of the plaintiff's or request a more detailed description of the hanger person if possible. 3. Use working group reports that allow it had been anticipated in article 5 of the handling administrative violations law. 4. The request comment or announced the security and judicial institutions incident under article 29 of executive regulations. 5. Notified of a request for information through the article 29 application. 6. Use of defense or oral statements made by the accused against article 22 of the executive regulations. Boards meetings are recognized by 3 members of main and alternate members, and
votes issued will be valid in situations where approval of at least two members and in the absence of three members, there is not a possibility consideration and verdict.

**Necessity for presence of violation announcer in the trial**
This article shows if the violation announcement is written or, based on note 2 article 69 of general courts of revolution in criminal cases, can be oral; in this case, the issues are reflected in the proceeding prepared by the court and signed and fingerprinted by the plaintiff. Judges have to accept written or oral complaints. According to mentioned rules, we can conclude that violation announced should not be necessarily be written, it is possible orally. Therefore, referring to article 22 of the instructions of handling administrative violations, in cases where boards knowing necessary to the presence of charge announced to obtain explanations without presence of the accused invited of him. Of course, in case of lack of refusing of violation announced at the intended meeting does not prevent the proceedings.

**Informing the accused about trial time**
This informing is done so that the accused person participates in the trial and submits his defense proofs. This is also related to defense rights of the accused employee. If he denies, no prosecution will occur. Also, in accordance with article 54 of national employment law, defiance of orders from a superior officer is concerned within the scope of duties and obligations positions, and because the absence of the accused employee is not hearing his homework, not considered disobey.

**Established papers notification by the boards**
The boards, if they can form the meetings, which they believe in good faith the notification of the charges or done, the time of handling the notification tab. If the diagnosis, when is correct that was need for notification, which are conducted in accordance with the regulation of civil procedure [8].

**Preparing trial proceeding**
According to article 102 of trial instruction of general courts of revolution about civil affairs [9] and article 193 of trial instruction of general courts of revolution about criminal matters [10]: In the event, is required presence of the accused in the hearing or to his request be invited to the employee or be meeting of the statements, and if the acknowledgment of the violation, the meeting his affidavit that the board can then refer to it. After setting the meeting, which included a statement and defense, and possibly confession accused, it must be signed by the accused.

**Trial finishing**
Trial finishing by the boards implies ending of the inspection about verification of the accusation to the employee so that there would be no need to further work thereafter. After these steps, the boards can issue the verdict. According to article 33 of administrative violations trial instruction; the maximum time from initiation of the trial or accusation announcement to issuing the verdict is three months. In mentioned article, extend the deadline mentioned, it is predicted as well as a maximum of one month. Implementation warranty of non-compliance with this law is come as
negligence in the handling by the excellent staff supervision, in paragraph (c) of article 22 of the administrative violations law, which has led to the dissolution of boards.

6.1.1 Issuing and writing the verdict

Citation of the verdict
According to article 21 of executive rules of administrative violations, the verdicts should be based on law and rules and according to article 23 of administrative violations regulations; the assumption is based on innocence. Thus, if employee’s dossier is under trial in the board, his violation should be approved based on evidence and proofs and according to the laws and regulations. Otherwise, the verdict of innocence will be issued [11].

Proportion of punishment to violation
According to article 21 of executive rules of administrative violations which is in agreement with legal, justice and religious principles, the punishment imposed to an employee should be proportional to his violation. So, for minor violations shall be applied minor punishment, and in proportion to important violations and has many negative effects are considered to be more severely punished.

Issuing and writing the verdict
According to article 21 of executive rules of administrative violations and article 41 of According to article 21 of trial rules of administrative violations, the boards make decisions and issue the verdict in the absence of the accused employee after completing the trial and considering the evidence, paying full attention to accused employee’ defense and other issue such as the magnitude of harm (either material or spiritual) exerted to government or natural and legal persons, negative social and administrative consequences, employees’ position and background and presence or absence of bad intention. No punishment intensifying for violation repeat has been anticipated in handling rules of administrative violations enacted in 1993. About administrative violations, the legislator should provide the possibility of more severe punishment for repeat violations. Considering that, according to the article 21 of handling administrative violations law, including those boards should be considered at the time of verdict is employee history and violations repeat, in general, is one of the employee negative history. It seems, the legislator stipulated time, and the board can be at the time of handling and the verdict of repeating violations being considered as a factor for more severe punishment.

Issuing verdict
Boards’ votes should contain the following:
- Profile of the accused;
- A violation or alleged violation to the accused [12];
- The reasons and legal documents based on which the decision is issued [13];
- First and last name of the board representing vote members;
- Signing of the board representing vote members;
- The definitive or researchable the vote in the first instance board;
- The place of appeal, if being may be appealed;
- The one-month deadline complaints to the Administrative Justice Court in the final vote [14].
Stop trial
In some cases, it may be the boards handling stopped the following reasons and lead to the termination of proceedings:

- **Death of accused:** In accordance with governing legal principles by the death of an employee accused have not matter his case. Of course, this issue will not be eligible prevent criminal violations dossier to the judicial authorities. Death of an accused does not resolve the responsibility of his office.
- **Retirement:** Accused retirement was causing deterioration of the board handling and the defendant's case is closed and exits the command handling, namely through retirement, loses its relevance the boards handling.
- **Other factors:** Other factors is causing disrupted the accused employment relationship with the device, there is no possibility of punishment for employers, such as: redemption, resignation, permanent dismissal from government service.

Trial out of turn
Principally, open dossiers should be handled in turn. The necessary condition has been predicted in article 34 of handling rules of administrative violations for special cases when a dossier should be handled out of turn. These cases can be summarized as follows:

- In case that handle it have urgency to identify the highest authority concerned.
- In the case that handle it have urgency to identify the relevant representative of the highest authority and responsible for coordinating to handling administrative violations boards.
- Proceedings that will be conducted, followed by reports GIO.

In addition to article 34 of handling rules of administrative violations, national inspection organization law also has determined out of turn trial for these cases. According to article 6 of national inspection organization law enacted on 15/07/2008, organization’s reports are addressed in legal authorities and administrative, disciplinary and law enforcement violations boards out of turn and at most within three months [15].

Handling respite
According to article 33 of handling rules of administrative violations, the maximum time devoted to addressing a violation dossier from receiving the dossier to issuing the verdict is three months and the boards should provide the necessary requirements. In note 1 of mentioned article, prolonged mentioned above duration in certain proceedings cases may require more time, added up to a month to the deadline in this article. In note 2 above-mentioned article, lack of boards handling at the deadline is considered negligence and will be the subject of follow-up, based on article 22 of the administrative violations law. According to the article 13 of the administrative violations law, some authorities can for a maximum period of three months ready to serve the employees who in their case, referred or to be to the boards.

Sending violating employees’ dossiers with criminal description to legal authorities
According to article 19 of handling rules of administrative violations, when employee’s violation includes a crime listed in criminal laws, the administrative violations handling board should hold
the trial and issue the legal verdict and send the result to legal authority. Any decision made by the legal authority should be followed by the handling board.

**Impossibility to impose multiple punishments for an administrative violation by the board**

According to note 4 of article 9 of handling rules of administrative violations, when the violation of an employee is approved, the board can assign one of the punishments cited in article 9. A significant aspect is the number of employee violations, which is also the board cannot impose a number of punishment, but could also consider more severe punishment, otherwise, a higher references, namely excellent staff supervision or Administrative Justice Court violation that these votes.

**Impossibility to execute punishment out of administrative punishments by the boards**

According to note 3 of article 9 of handling rules of administrative violations, boards of first instance or appeals are government’s agents and their verdict is authenticated only within the range of administrative punishments and doesn’t imply approving crimes of Islamic punishment law. As a result, the board cannot be sentenced accused to punishment, which not stipulated in the administrative violations law. Article 14 of administrative violations instructions, which are confirming this.

### 6.2 From perspective of procedure rules of Islamic Azad universities employees’ violations

**Initiation of handling process**

According to article 6 of administrative procedure rule for employees of Azad University, the following directions cause invitation of employees’ violation trials:

- The order of the university head or head of unit.
- Direct the chief officer reported.
- Violation announced in writing by the natural or legal persons.

**Handling formalities**

**Executing the inspections by disciplinary committees**

According to article 19 of administrative procedure rule for employees of Azad University, the committee should make the inspections and announce the accusation to the employees and according to article 17, all supervisors of the violating employee should assist the committee and submit the required evidence and information. According to these articles, the committees are required to complete the case, do the necessary research and collect relevant documentation and can even, in the course of this activity ask the officials and heads based at the academic departments respective accused employee to provide the necessary documents, cooperate with the committee. Committees, after collecting evidence and documents necessary to obtain accusations against accused employee, should bring the matter to the notice to the employee.

**Announcement of the accusation**

The committees of Azad University should announce the accusation to the employee and according to articles 19 and 20 of administrative procedure rule of Azad University, the committee should inform the employee about the charge and he is given a ten-day respite to prepare and submit his defense.
Taking accused person’s defense
According to article 20 of the relevant regulations, the employee can within 10 days after notice of the charges, their answer and document, which is in self-defense submit to the committee. This paragraph refers to the need to receive defense and necessary documents of committees to establish the charge of alleged employee. Note the following in this article and is subject to renewal time.

Holding the trial
Before the holding the trial, the committee should already perform the necessary measures in order to complete the referenced file, including violation report or complaint objection on behalf of persons who are authorized, then establish the charges against the employee, as well as taking defense and necessary documents and reports, the experts procedures communicated to the charges citing the accused employee documentation.

Informing the accused about trial time
This paragraph will not be seen in the mentioned regulations, but cannot be ignored it. According to article 21 of mentioned regulation, whenever it detects that a committee is invited from employees to attend the holding the trial. In general, the principle is on being closed and the absence of accused employee.

Trial finishing
From the date of notification of the charges until holding the trial, only referred to defense employees accused deadline and the possibility of extending it. Of course, committees after due process handling can finish handling with the verdict.

6.2.1 Issuing and writing the verdict
Citing the verdict
According to article 23 of the regulation, the committee should consider these issues for issuing the verdict and punishment: -The amount of loss incurred, both material and spiritual, to the natural and legal persons. -The adverse effects of social and administrative. -Frustration and severe financial need. -Cooperation accused with the committee. -Regret and remorse employee. -Good reputation. - Non-repetition or frequency violation. -Lack of malice.

Proportion of punishment to violation
In this regard, there are no certain laws, but the classification of offenses and punishments into three categories: mild, moderate and severe, conclude that it is also anticipated in these regulation.

Issuing and writing the verdict
Only with reference to articles 23 and 24 of the regulation, the committee should vote on during issue follow the above mentioned factors, may apply as well as has been specific conditions of the vote issued credit. In terms of how to vote in writing issued by the committee, there is no mention of the content.
Stop trial
- **Death of accused:** It is one of the states that there is a possibility of it, but is not anticipated in the mentioned regulations.
- **Retirement:** Except that an employee, with the completion of its 30-year history, is found eligible for retirement, is not anticipated in cases other than this, that there's much risk of act it.
- **Other factors:** Other factors is causing disrupted the accused employment relationship with the device, there is no possibility of punishment for employers, such as: redemption.

**Handling respite**
Except that the deadline for presentation accused defense employee to the committee and its extension and the deadline for appeals, there is no prescribed interval.

**Sending violating employees’ dossiers with criminal description**
According to article 13 of this regulation, if employee’s violation includes a crime listed in criminal laws, the committee has to send the dossier to legal authorities before handling it. The verdict of legal authority should be obeyed by the committee and legal procedure in the committee should be stopped until legal authority’s verdict is issued.

**Impossibility to execute punishment out of administrative punishments by the boards**
This paragraph refers to article 14 of the administrative procedure regulations, which committees cannot after receiving the verdict of the judiciary, impose other punishment in addition to it.

### 7. Conclusion
In the administrative procedure rule of Azad University, the topic of violations are cited by these are not limited; meaning that the violation will be addressed if occurs. In contrast, the administrative procedure rule of public university has determined the violation cases one by one and violation types are limited to these cases. The law maker in this case has determined various directions for starting trial procedure. After receiving the boards to report by the above persons, if it is proven competence of the committee, of course, in accordance with articles 15 and 18 of handling administrative employees’ violations instructions of public universities, the boards shall start to proceedings. Also, the employee violations regulations at the Islamic Azad University are considered the procedure, ie, to initiate handling, it is considered different directions to announced employees’ violations at the Islamic Azad University. The following, we now turn to examine the differences and similarities. The following are considered in two regulations:

**Initiation of handling process**
1. In the event of a complaint or announced of individuals, ranging from clients and other people.
2. In the event of a complaint or other employees announced.
3. In the event of a complaint or announced of managers, administrative directors, heads of units, the Ministers.
4. In the event of complaints or inspectors excellent staff supervision announced.
5. In the event of complaints or inspection office and responding to complaints announced.
6. In the event of complaints with the announcement of GIO.
7. In violation vote by an administrative justice court or the supreme supervisory board.
8. Through received complaints boxes.

Cases one to three are common in both rules; however, cases 5 to 8 are not included in administrative procedure rule of Azad University. It can be inferred that since this university is included in properties of private sector, inspection office is not included in its cases. Concerning
row 4, like top monitoring board in administrative procedure rule of Azad University, top handling board has been predicted to coordinate the committees and monitor the execution of the rules and the employee can submit his compliant to top handling board if he has objection.

**Executing the inspections by disciplinary committees**
In the case of this paragraph, activities related to taking charge of the assignment to the accused employee is the same in both regulations, that is both universities, both public and Azad to do this step, receiving the necessary reports from the persons authorized to violations announced and employee defenses. In both regulations has been anticipated the use of expert opinions.

**Announcement of the accusation**
In the announcement of the accusation method to the accused employee, there is same process that is both regulations, the purpose of the notification of the charge was to provide an employee defense to handler references. Intended deadline is not the same.

**Necessity for employee’s request for submitting the evidence**
No apparent item exists for this case in administrative procedure rule of Azad University; while this is related to employee’s defense rights that should be considered by Azad University because it is his right that the accusation be accompanied by acceptable proofs.

**Taking accused person’s defense**
This problem is similar and also grants a 10-day deadline to provide defense and to extend the mentioned period is quite similar in their approach.

**Holding the trial**
Both references handler procedures are almost the same in this field. It is quite similar in terms of public and closed holding the trial, because they not see necessary the presence of accused employee.

**Necessity for presence of violation announcer in the trial**
No legal article exists in administrative procedure rule of Azad University for this issue; while it has been predicted by the rule of public university because lack of description about the violation may be illegal.

**Informing the accused about trial time**
This article is not cited in administrative procedure rule of Azad University, but can’t be ignored. According to article 21 of this rule, the employee is invited to trial whenever the committee wants. However, this issue has been anticipated in the rule of public university; meaning that trial date is announced to the employee although the assumption is based on absence of the employee.

**Established papers notification by the boards**
Administrative procedure rule of Azad University is silent in this case. Handling boards are ensured about announcement by taking and visiting the receipt. Not predicting this issue in administrative procedure rule of Azad University doesn’t imply that this topic has not been considered by the committees, as we can see that employees center of university units are obliged to do official affairs and to send the announcement.
Trial finishing
The closed of cases under handling are similar possible modes. In other cases, such as death and retirement, they will cause the end of the proceedings. There is no nothing in the administrative procedure regulation of Islamic Azad University.

Citation of the verdict
There are some differences about what items are cited for issuing the verdicts and that the issued verdict should be based on law; meaning that there is no legal material in Azad University about reasonability of the verdicts; in contrast, the handling board can consider employee’s position when issuing the verdict; the case that is not true for public university.

Proportion of punishment to violation
Unlike regulations and administrative procedure rules of public university employees, which are not considered as such limitation proportionality to impose punishments for references handler, the administrative procedure regulation of Islamic Azad University employees with the classification of offenses and punishments to the three classes: mild, moderate and severe, practically has provided restrictions and punishment to the committee.

Issuing and writing the verdict
On the things, references should pay attention to it during verdict, including: documentation, defense, the amount of losses incurred as a result of violation, adverse effects, position and employee records observed in both regulations. In the context of the wording of votes issued, it can be concluded that is completely different, so that the content of votes and even being researchable or the certainty of it, is not stated in the administrative procedure regulation at the Azad University employees. However, suggests from the legal provisions that must be followed strictly.

Stop trial
Death of an accused is one of the states that there is a possibility of it, but it is not anticipated by the proceedings Islamic Azad University regulations. Retirement is quite different, except that the employee with the completion of its 30-year history becomes eligible for retirement. In cases other than this, that there is much chance of that is not anticipated. Other factors, such as redundancy, except in the following amendment to article 23 of the administrative procedure regulations at Azad University employees is not anticipated in other areas. In the case of resignation, permanent separation, death of a defendant and retirement, not any anticipated in sub-factors to stop the handling in the administrative procedure regulations of Islamic Azad University.

Trial out of turn
Related regulations are quiet about this clause. In the event, will take place as appropriate. In order to handling case in turn out to be given command of the proceedings out-of-bounds.

Handling respite
In contrast to handling rules of administrative violations in public university in which a three-month respite is assigned for verdict issuing; in handling rules of administrative violations of Azad University, there is only a respite of 15 days for submitting the defense by accused employee and another 15 days for appeal.
Sending violating employees’ dossiers with criminal description
This issue has been cited in both rules. Thus they are similar. According to article 13 of this rule, if employee’s violation includes a crime listed in criminal laws, the committee has to send the dossier to legal authorities before handling it. The verdict of legal authority should be obeyed by the committee and legal procedure in the committee should be stopped until legal authority’s verdict is issued.

Impossibility to execute punishment out of administrative punishments by the boards
This article refers to article 14 of administrative procedure rule based on which the committees can’t execute another punishment after receiving the verdict of legal authorities.
References

Article 102 of the Public and Revolutionary Court Procedure Law in civil matters.

Article 193 of the Public and Revolution Courts Procedure Law in Criminal matters.

Sadeghimoghadam and Mirzadeh Kouhshahi, Mohammad Hassan and Nader, former reference, P. 184.

Article 21 of the executive law of the handling Administrative Violations law.

Article 42 of handling administrative violations instructions.

Article 27 of the executive law of the handling Administrative Violations law.


Sadeghimoghadam and Mirzadeh Kouhshahi, Mohammad Hassan and Nader, former reference, Page 161 and 162.


Sadeghimoghadam and Mirzadeh Kouhshahi, Mohammad Hassan and Nader, former reference, P. 177.

Sadeghimoghadam and Mirzadeh Kouhshahi, Mohammad Hassan and Nader, former reference, P. 192.