

Student Search: The Study of Ethics Educational Leadership Management

Suriyadi, Bismar Sibuea, Suardi, Amiruddin Siahaan, Inom Nasution

Universitas Islam Negeri Sumatera Utara, Medan
romosuriyadi@gmail.com

ABSTRACT

Student Search is often interpreted as "looking for students", while in the context of management, the term means examination or search of students. The "legal umbrella" regarding the application of student search in educational institutions in Indonesia is still not specifically regulated by the government, especially the ministry of education and culture. This study aims to analyze student search from the ethical point of view of educational leadership management. This research uses a qualitative approach with a literature study method. The sources of data and study analysis materials are based on relevant scientific literature, including books, articles, proceedings (national/international), and final projects (thesis, thesis, or dissertation). The results of this study indicate that student search still leaves confusion (polemic) in its application, because until now there has been no regulation from the relevant ministry or government that specifically addresses the ethics of examination of students. This is because the Criminal Procedure Code only regulates the procedures for searching the public in general (not specifically on students), as well as in the Regulation of the Minister of Education and Culture Number 19 of 2007 concerning Education Management Standards which does not specifically contain the rules for student search. Furthermore, the regulation only concludes that school rules and regulations are entrusted to the principal with the consideration of the education board and school committee.

Keywords: *Management Ethics, Educational Leadership, Student Search.*

ABSTRAK

Student Search kerap dimaknai sebagai “mencari siswa”, sedangkan dalam konteks manajemen, terma tersebut bermakna pemeriksaan atau pengeledahan siswa. “payung hukum” tentang penerapan *student search* pada lembaga pendidikan di Indonesia masih belum diatur secara spesifik oleh pemerintah khususnya kementerian pendidikan dan kebudayaan. Penelitian ini bertujuan untuk menganalisa tentang *student search* dari sudut pandang etika manajemen kepemimpinan pendidikan. Penelitian ini menggunakan pendekatan kualitatif dengan metode studi kepustakaan. Adapun sumber data dan bahan analisis kajian berbasis pada literatur ilmiah relevan, meliputi buku, artikel, prosiding (nasional/internasional), dan tugas akhir (skripsi, tesis, atau disertasi). Hasil penelitian ini menunjukkan bahwa *student search* masih meninggalkan kerancuan (polemik) dalam penerapannya, karena hingga kini belum ada peraturan dari kementerian terkait atau pemerintah yang membahas spesifik tentang etika pemeriksaan terhadap siswa. Sebab, KUHAP hanya mengatur tatacara pengeledahan pada masyarakat secara umum (tidak khusus pada siswa), begitu juga dalam Peraturan Menteri Pendidikan dan Kebudayaan Nomor 19 Tahun 2007 tentang Standar Pengelolaan Pendidikan tidak memuat secara khusus tentang aturan pemeriksaan siswa (*student search*). Lebih lanjut, dalam peraturan tersebut hanya menyimpulkan bahwa peraturan dan tata tertib sekolah dipercayakan kepada kepala sekolah dengan pertimbangan dewan pendidikan dan komite sekolah.

Kata kunci: *Etika Manajemen, Kepemimpinan Pendidikan, Student Search.*

A. INTRODUCTION

Educational institutions have a vital function in helping and facilitating the development of children, both in academic and non-academic aspects (Maujud, 2018: 31-51; Alfiansyah, *et.al.*, 2020: 52-67). On this basis, special regulations are needed for schools (educational institutions) in managing educational process standards (Anwar, 2017: 15-27). This is based on various phenomena that also appear in the school environment, especially for students.

Phenomena that appear among students show various new things, both from the aspect of achievement and negative cases. The negative case that is often juxtaposed among students is juvenile delinquency (Hariyati, 2017). Juvenile delinquency cannot be separated from the delinquency of school children (students) who are considered to need serious attention, measurable handling, and a concrete legal basis (Febriana, 2019).

One example of a case that occurred in America was experienced by a teacher named La Donna. La Donna is the assistant principal of Johnson City Middle School (JCMS), who works on the administrative side. JCMS is surrounded by residential areas. The yard is only separated by an old fence and hedge plants. Concerns about school safety have given birth to an official regulation called territorial. One day, it became a special day for La Donna who was carrying out a weekly assignment. He spends his time walking around, looking at car parks, behind bushes, and other areas where students may misbehave. Out of the corner of his eye, he caught a glimpse of someone behind the neighbour's banning bush. He decides to investigate and to his surprise he finds a student, named Tasha. Hiding in the bushes and wearing a school uniform, skinny outfit, tank top, and an oversized oxford boy's t-shirt.

Tasha is an intellectual and popular student who has been chosen in the class as secretary. Tasha lives with her mother who lives near the city, Tasha has a lot of unsupervised time. Another student told La Donna that Tasha would often bring "pills" to school and sell them to some of her friends. However, La Donna chose to find the evidence itself. After La Donna brought Tasha to the office and checked her, La Donna was very surprised, because she found several pills, contraceptives, and other illegal drugs in her small bag. In fact, La Donna found another drug that Tasha had kept in her bra. Tasha argued that the medicine was being used for her toothache and she was asked to call her mother.

From the above case, in the 4th amendment of the American Constitution, "The right of everyone to be safe in his privacy, home, works, writings, and securities, against search

without reason cannot be violated". However, the 4th Amendment does not invalidate all searches, only searches that are deemed unreasonable or unreasonable. Simply put, the 4th Amendment does not protect all personal interests, it all depends on the circumstances and context. For example, in some places, searches of personal belongings are commonplace, and even mandatory for security reasons, such as at airports, presidential palaces, major sporting events. Schools or educational institutions are expected to do the same for security reasons as well as to search their property and privacy.

Quoted from the book "Law and Ethics in Scholarship" written by David L Stader, the American high court has even confirmed/claimed a limiting search of a person is a substantial invasion of privacy (Terry V, Ohio 1967). However, American courts have carved out special booths for students on school grounds and sponsored events. Consequently, students are not treated the same in the 4th amendment in schools as they are outside. There are some searches that are declared unconstitutional in the community (For example, City of Indianapolis v. Edmond 2000) Using random detection for drugs with dog searches, stopping vehicles is unconstitutional. As students, they are not exempt from all rights in the first amendment to the school gate, they are inseparable from all 4th amendments to be free from unreasonable searches. The problem is how to determine a reasonable search with an unreasonable search.

In fact, academic studies on examinations (searches) on students for certain cases, have been widely studied before. These include discussing aspects of students' personal hygiene (Ramadhian, *et.al.*, 2018; Rahmadhini & Mutiara, 2015: 113-117), physical health checks (Theno, *et.al.*, 2016; Puspitasari, 2013: 52-56; Rafika, *et.al.*, 2020: 15-22; Gama, 2019: 30-35), mental health examination (Pratama, *et.al.*, 2019), personal sociology approach (Tamayao, 2017), efforts to overcome juvenile delinquency (Sukari, 2018; Ardiani, *et.al.*, 2018: 40-50; Anggraini, 2020), implementation of school rules (Irwansa & Maf'ul, 2016: 1-13), student character building (Al Amin, *et.al.*, 2019: 28-38; Nu'man, 2019), juvenile delinquency of broken home children (Ramadhan, 2017), the influence of parenting (Rosyidah, 2017), and the application of cooperative learning (Nurdiana & Wati, 2022: 154-163).

Observing the literature review above, it is understood that the study of student examinations is discussed around the themes of students' physical and psychological (mental) examinations, efforts to overcome juvenile delinquency, and the role of educational institutions in fostering student character. Likewise, the specific theme of the legal basis for examining students in juvenile delinquency cases has not been discussed.

On this basis, as part of the research gap analysis, the title was summarized, "*Student Search: An Ethical Study of Educational Leadership Management*".

B. METHOD

This research uses a qualitative approach with a literature study method. The main sources of research are taken from books and scientific articles about examining various student cases, which is termed student search as a study of the ethics of educational leadership management. Meanwhile, other sources are obtained from the final project (thesis, thesis, or dissertation), scientific proceedings, and other research (Assingkily, 2021). Furthermore, the validity of the data will be tested systematically using research data materials and sources.

C. RESULTS AND DISCUSSION

1. *Student Search: Examination or Search on Students*

Etymologically, student search is defined as "student search". This is found in various translations or translations from English to Indonesian. In the context of education, student search means an examination or search of students in certain cases. Of course, this examination effort is used to find evidence of violation or not (Junaidi, 2011).

Examination of students is still a debate in the context of educational ethics. Because, in certain aspects female students have privacy in their school bags. Whereas in the legal context, examination means the investigator's actions are justified by the Indonesian legislation (constitution), against a person's body and clothes, as well as to make arrests and confiscations (Santoso & Kuswardani, 2017; Prihatin, 2011). This is clearly stated in the Decision of the Constitutional Court (MK) number 21/PUU-XII/2014 and Article 7 of the Criminal Procedure Code.

The issuance of the Constitutional Court's decision related to the expansion of the pretrial object is certainly not unfounded, because its expansion is still at a logical level, and all of the investigator's actions are actions that are forced efforts by investigators, which are closely related to human rights. However, the problem is whether all acts of coercion by investigators must be in a certain order, this is sometimes always a matter of debate among law enforcement officials.

Examination of students (student search) is carried out by the school if there are suspicious movements in students. However, when dealing with the law, the school has not yet obtained the authority to "forcefully" examine something related to student privacy,

because it would violate human rights. To address this, the government should give legal legitimacy to schools to regulate applicable norms, in the form of school rules or regulations to prevent contradictory handling of juvenile delinquency cases in schools.

2. *Legal Basis of Student Search on Students*

Student searches of course have different legal systems. The legal basis applied varies, of course, in this article, we review the legal basis for student search that applies in America which has become a reference for most countries in the protection of human rights and the legal basis applied in Indonesia as the country where the author is domiciled.

Referring to the example of the case of "Tasha" a student at Johnson City Middle School (JCMS) America, who was accidentally caught skipping school, and hiding in one corner of the school, which was eventually searched by La Donna, one of the assistant principals. Tasha, who incidentally is a bright student in her class, was caught hiding by the assistant principal and upon inspection, found contraceptives, nicotine, pills, and paper to smoke marijuana. In fact, the assistant principal continued the search by checking Tasha's small bag until she asked Tasha to open her bra, suspected of still having something.

Many educators and parents think. In the above case, although it is considered to reduce the good comfort of the culture at school, they can also agree on some reasonable points. However, at what point are students' expectations of privacy far more important with a school leader's obligation to correct the demands of good and discipline in schools, or in other words, what points are considered reasonable and which are unreasonable.

After being reviewed and discussed with several school leaders, Tasha's case, it was clear that Tasha had made a mistake by skipping school or subjects, but what was debated was whether it was permissible to search Tasha's small bag, even asking her to open, or reveal her bra even though she is a female Officer/Teacher allowed? Wasn't Tasha a student who wasn't in a smuggling case it was possible to smuggle something?

According to Mutaqin, *et.al.* (2020: 132-142), the government should give authority to educational institutions in determining internal policies in the form of regulations, norms, or rules as joint guidelines, of course the guidelines in question are legal derivatives or refer to the official Indonesian constitution. The normative principles regulated by the school include (1) The first object is to prevent, as far as it is possible and beneficial, all kinds of mistakes; (2) The next object by persuading the person not to commit a violation that is too serious; (3) When a person expressly commits a particular offense, in order to

dispose of that person so as not to cause more offenses to achieve his goal; and (4) whatever the trouble, try to prevent it at the lowest possible cost.

In line with the above, Alfiansyah, *et.al.* (2020: 52-67) put forward the principles in determining internal policies in educational institutions, including (1) The amount of punishment must be proportional to the violation; (2) The greater the distraction, the more beneficial it is to spend energy on executing the punishment; (3) When two offenses come in competition, the punishment for the offense is getting bigger in order to support the student to reduce the offence; (4) The punishment should be in accordance with the rules/customs in each particular violation; (5) The punishment should be no more than what is necessary to make it worth it; (6) The penalty should be increased for the same offense committed by the same person; and (7) In adjusting the amount of punishment, we must take into account the circumstances in which all penalties may be unfavorable.

Educational Institutions Policy in Implementing Student Search

Educational institutions have an internal “space” in educating students. On this basis, educational institutions are allowed to formulate the vision, mission, and goals of the institution, with reference to the applicable laws and regulations. In determining the institution's internal policies, it is allowed to contain such rules regarding or appreciation, prohibitions or punishments, and fines or sanctions on students while in the learning environment.

According to Anshori (2016: 19-56), the community's need for the realization of superior human resources through educational institutions requires educational institutions to "compete" to create student creations and innovations that survive the various advances of the times. In addition, public concerns about efforts to filter children and adolescents (school age) in responding to current technological sophistication, are still the joint task of managers and stakeholders of educational institutions.

In the context of education, juvenile delinquency caused by promiscuity is now increasingly widespread, coupled with the current of globalization which has an increasingly unstoppable negative impact on students. How come? Watching pornographic films, drug abuse transactions, and online prostitution involve students as the main actors. Ironically, parents or the community are often deceived by the behavior of children or adolescents who look normal at home or at school.

This phenomenon was further strengthened by the finding that students were positive for taking drugs when they were tested for urine. For this reason, cooperation from educational institutions, the government, the community and relevant ministries is needed

in establishing legal policies for student examinations, examination limits, and legal arguments for teachers in examining, so that they are not haunted by worry or fear of being penalized for human rights violations against students (Pewangi, 2016: 1-11).

Given the importance of rules or regulations in schools, educational institutions are given the authority to establish a code of ethics for school/madrasah citizens that makes norms regarding (1) Relations among citizens within the school/madrasah and the relationship between school members and the community; and (2) a system that can provide rewards for those who comply and sanctions for those who violate. Then, this code of ethics should be socialized by the school, either directly to students or through parents/guardians of students. Thus, the code of ethics can become a common guideline and be internalized in the student's personality. In addition, educational institutions are also required to prepare clear programs (academic and non-academic) to equip and fortify students from negative influences around them.

In general, the code of ethics that must be considered by educational institutions includes; (1) Performing worship according to their religion; (2) Respect educators and education staff; (3) Following the learning process by upholding the provisions of learning and complying with all applicable regulations; (4) Maintaining harmony and peace to create social harmony with peers; (5) Loving family, community, and loving others; (6) Loving the environment, nation and state; and (7) Maintain and maintain facilities and infrastructure, cleanliness, order, security, beauty, and comfort of the school/madrasah (Sidiq, 2020).

Students in maintaining educational norms need to receive guidance by example, guidance by building will, and creativity development from educators and education staff. On this basis, a code of ethics is also set that must be obeyed by educators as role models for students, including; (1) Selling textbooks, school/madrasah uniforms/clothing materials, and/or other school equipment, either directly or indirectly to students; (2) Collect fees in providing tutoring/or tutoring to students; (3) Collect fees from students, either directly or indirectly which is contrary to the laws and regulations; (4) Doing something either directly or indirectly that injures the integrity of the results of school/madrasah exams and national exams (Sadikin & Wedra, 2021: 154-159; Patta, 2019). Finally, the code of ethics in educational institutions is decided by a board of educators meeting and determined by the principal of the school/madrasah.

From the description above, it can be concluded that the ministry of education only regulates the procedures and contents of school rules, regulations, and ethics, but the

details of the search case specifically are not included. Thus, if schools consider it necessary to have clear laws or regulations regarding student searches in schools, special exchanges related to searches should be made, with the consideration of the education board, committee, and other education citizens. So as to avoid parties who object later to the holding of the said search.

D. CONCLUSION

Based on the description above, it can be concluded that student search still leaves confusion (polemic) in its application, because until now there has been no regulation from the relevant ministry or government that specifically discusses the ethics of examination of students. This is because the Criminal Procedure Code only regulates the procedures for searching the public in general (not specifically on students), as well as in the Regulation of the Minister of Education and Culture Number 19 of 2007 concerning Education Management Standards, it does not contain specifically the rules for student search. Furthermore, the regulation only concludes that school rules and regulations are entrusted to the principal with the consideration of the education board and school committee.

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