

KWDI Issue Paper

Research Title: Study on Gender-Sensitive Improvement of Administrative Rules in the Field of Education

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Gender-Sensitive Improvement of Administrative Rules in the Field of Education

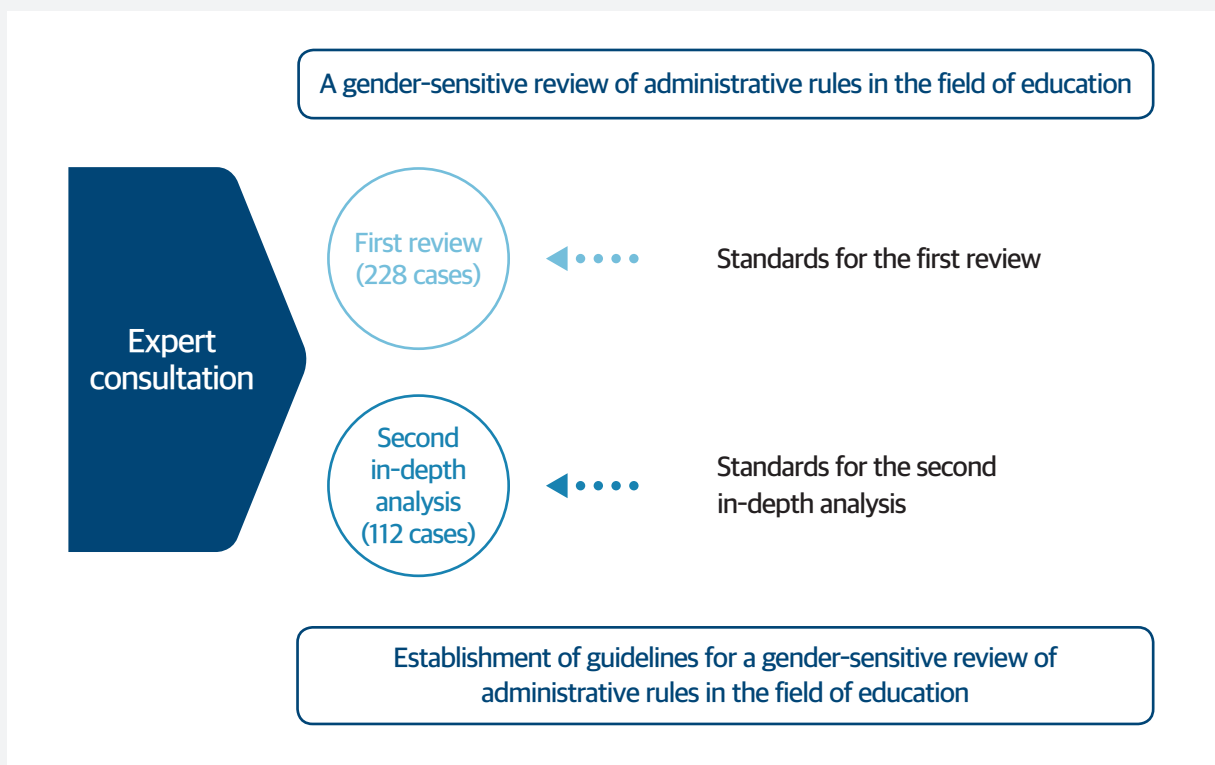
Abstract

- ◆ As citizens increasingly rely on administrative rules for daily activities, administrative rules have a growing impact on citizens' lives. However, administrative rules are not currently subject to gender impact assessments. This study conducted a gender-sensitive review of the education sector's administrative rules and proposed specific improvement in education policies when needed.
- ◆ A gender-sensitive examination of 228 administrative rules and 514 related annexes and forms (as of July 12, 2022) under the jurisdiction of the Ministry of Education revealed the need for improvements to address elements of gender discrimination. For instance, a few terms used in the administrative rules contained gender stereotypes, while others lacked a consideration of physical, social, and cultural differences based on gender. Specific proposals were made to improve these administrative rules.
- ◆ Meanwhile, this study confirmed that no administrative rules specified a particular gender to reflect stereotypes of gender roles, or stipulated qualifications requirements for committee formation to disadvantage a specific gender. Based on these findings, the study proposed guidelines to be used by the Ministry of Education in enacting and revising administrative rules to promote gender equality.

Background and Issues

- As citizens' reliance on administrative rules for daily activities has intensified recently, these rules now have an increasing influence on citizens' lives. However, administrative rules are currently not subject to gender impact assessment. Thus, there is a need to review administrative rules overseen by the central administrative agency from a gender perspective.
- Also, in a society where gender conflicts are escalating, there is a heightened demand for the implementation of gender-equal education policies in the education sector, as education is closely related to the lives of citizens. In this context, it is necessary to apply a gender perspective to examine the education sector's administrative rules, which form the basis of education policies.
- As of July 12, 2022, there were 228 administrative rules which were accompanied by 514 annexes and forms under the Ministry of Education's jurisdiction (Korean Law Information Center > Ministry of Education, Search date: July 12, 2022). It is essential to examine whether these administrative rules and annexes/forms contain gender stereotypes, make unnecessary gender segregation, consider physical/social/cultural differences based on gender, produce or utilize gender statistics, and so on. The review was conducted in two phases.

<Figure 1> Research Implementation System



- Meanwhile, there is a need to establish a gender-sensitive self-review system when enacting or revising administrative rules in the field of education. To facilitate this, it is also necessary to prepare self-review guidelines for the gender-sensitive improvement of administrative rules that can be utilized by public officials.

Analyses and Results

● Gender Issues in the Field of Education

- ▶ According to previous research (Kim et al., 2021: 49-63), there is a strong demand for addressing gender discrimination and creating a gender-equal education and culture in schools. Gender issues include: gender biases in career education; stereotypes and prejudices in the regulations of uniforms and hairstyles among middle and high school students; discrimination in the curriculum and school life; and the presence of gender-discriminatory expressions in education materials.
- ▶ There are several gender issues in the education sector's gender impact assessments found in policy improvement case studies (Ministry of Gender Equality and Family, 2021a; 2022a). These include: the persistence of gender stereotypes in education-related legislations, school regulations, and textbooks; failure to achieve a gender balance among key stakeholders in education or related committees; insufficient production and use of gender statistics for advancing gender equality in education policies; neglect of socio-cultural, economic, and physical differences based on gender; unnecessary gender segregation clauses in legislation that could trigger gender discrimination; the inclusion of gender-discriminatory contents in education and promotion materials; a lack of gender sensitivity among education sector workers; and gender stereotypes or outdated language in education-related laws.

● Discussions in Gender-Sensitive Studies on Administrative Rules

- ▶ Administrative rules are generally defined as "general and abstract regulations issued within administrative organizations or by higher-level administrative agencies to lower-level ones, concerning the organization, work processes, relevant procedures/standards, and so on" (Korea Ministry of Government Legislation, 2021: 3).
- ▶ The formal types of administrative rules include directives, instructions, established rules, public notifications, and public announcements (Korea Ministry of Government Legislation, 2021: 48).

<Figure 2> Administrative Work Guide: Formal Types of Administrative Rules

| | |
|----------------------|--|
| Directives | Orders issued by a higher-level agency to instruct a lower-level agency to exercise its authority in general over extended periods |
| Instructions | Orders issued individually and specifically by a higher-level agency to a lower-level agency either by its own authority or at the request of a lower-level agency |
| Established rules | Documents, excluding legal documents, that present standards for the processing of repetitive administrative affairs in order to standardize administrative tasks |
| Public notifications | Documents that inform the public of certain matters as prescribed by law |
| Public announcements | Documents that inform the public of certain matters |

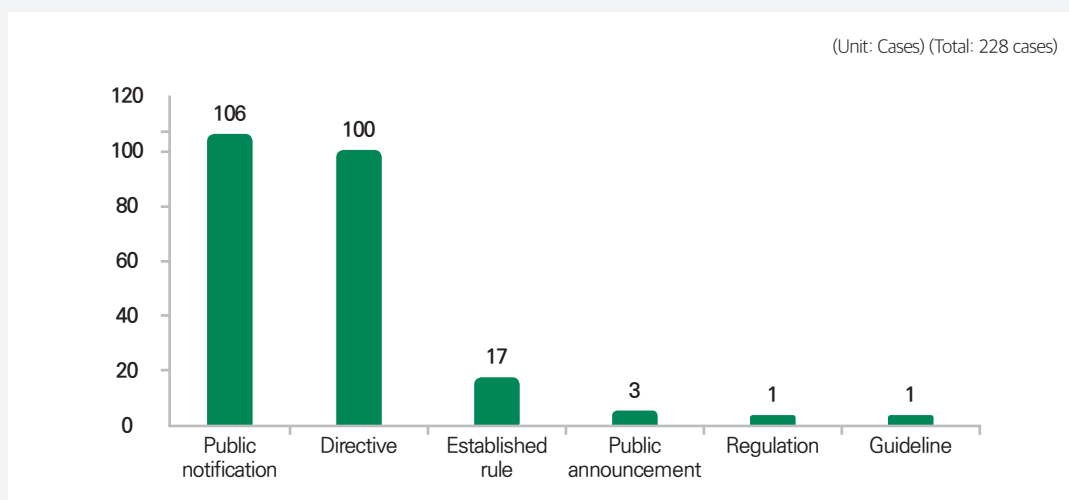
Source: Korea Ministry of Government Legislation (2021: 48)

- ▶ According to gender-sensitive reviews on administrative rules, the Korean National Police Agency's gender impact assessment on administrative rules in 2019 revealed that 94 out of 163 administrative rules required no improvements, while 69(42.3%) were identified as needing improvements (Korean National Police Agency, 2019a). In the field of health and welfare, there were studies conducted by Choi and others in 2020 and 2021. An in-depth review by Choi et al (2021: 85) suggested that gender ratios should be improved for two directives and two established rules. Meanwhile, Jeon et al. (2021) conducted a gender-sensitive review on administrative rules in the field of employment and labor. In their study, out of 378 rules from the Ministry of Employment and Labor, 261 were selected for in-depth analysis, while 117 were excluded from the analysis (Jeon et al., 2021: 16). Their in-depth analysis of the 261 rules revealed that no rules containing gender segregation clauses were identified in relation to '① the presence of gender segregation clauses within the scope of administrative rules' (Jeon et al., 2021: 21-33). Also, no rules explicitly stated the production of gender statistics in relation to '⑦ the stipulation on the production of gender statistics' (Jeon et al., 2021: 21-33). Their study also identified rules that needed relevant improvements according to other five review points (Jeon et al., 2021: 21-33). Based on these review results, Jeon et al (2021: 47-52) proposed the 'Gender Equality Guidelines for the Enactment and Revision of Administrative Rules'. These guidelines were for the application to the Ministry of Employment and Labor's administrative rules that were enacted or revised starting from September 2021.

Results on the Gender-Sensitive Review of the Ministry of Education's Administrative Rules

- ▶ A breakdown of the Ministry of Education's 228 administrative rules (as of July 12, 2022) revealed that there were 106 'public notifications' and 100 'directives', which made up the majority of the ministry's administrative rules. Additionally, there were 17 'established rules', 3 'public announcements', 1 'regulation', and 1 'guideline'.

<Figure 3> Types of Current Administrative Rules Under the Ministry of Education



Source: Korean Law Information Center > Administrative Rules > Category Search 'Ministry of Education'
(<https://www.law.go.kr/LSW/admRulAstSc.do?menuId=391&subMenuId=397&tabMenuId=441&query=#AJAX>, Search date: July 12, 2022)

- Based on the results of the first review, out of 228 administrative rules under the Ministry of Education as of July 12, 2022, 116 rules (50.9%) were excluded from the second in-depth analysis, and 112 rules were selected for the second review.

<Table 1> Exclusion and Inclusion of Cases for the Second In-Depth Analysis

(Unit: Cases) (As of July 12, 2022)

| Category | Total | Public notification | Directive | Established rule | Public announcement | Regulation | Guideline |
|----------|-------|---------------------|-----------|------------------|---------------------|------------|-----------|
| Total | 228 | 106 | 100 | 17 | 3 | 1 | 1 |
| Excluded | 116 | 70 | 34 | 9 | 3 | 0 | 0 |
| Included | 112 | 36 | 66 | 8 | 0 | 1 | 1 |

Source: Korean Law Information Center > Administrative Rules > Category Search 'Ministry of Education'
(<https://www.law.go.kr/LSW/admRulAstSc.do?menuId=391&subMenuId=397&tabMenuId=441&query=#AJAX>, Search date: July 12, 2022)

- The review points and results for the second in-depth analysis were as follows. The review points were derived from the gender impact assessment review points provided by the Ministry of Gender Equality and Family (Ministry of Gender Equality and Family, 2022b: 22), relevant previous studies (as cited in Ministry of Gender Equality and Family, 2021b; Ministry of National Defense internal document, 2021; Choi et al., 2020; Korean National Police Agency, 2019b; Jeon et al., 2021: 16), and expert consultations. The review points included eight aspects, including 'presence of gender segregation clauses in the scope of administrative rules', 'presence of expressions reflecting gender stereotypes', and so on. Other issues, if identified, were analyzed further.

Policy Recommendations

Gender-Sensitive Improvement Measures on Each Review Point for Administrative Rules in the Field of Education

<Table 2> Key Improvement Measures by Review Point

| Review point | Improvement measures |
|---|---|
| Improvement in gender segregation clauses in the scope of administrative rules | The review on the presence of gender segregation clauses showed that it is required to revise the regulations on differentiated disability level based on gender under the 「Detailed Standards for the Determination of Disability Levels Under the School Safety Act」. |
| Improvement in terms used, such as expressions that reflect gender stereotypes | The results showed that the 「Standards for the Expenditure Budget Execution of the Education Expenses Special Account for Local Governments」 includes expressions that reflect gender stereotypes. The 「Standards for the Methods of Conducting School Health Examinations, Determination of Results, Documentation, Etc.」 stipulates that only adolescent males should be tested for the presence and degree of acne, so improvement in these standards are required. Also, the 「Procedures for Handling Special Admissions to Middle and High School」 <Annex> should replace family registers with basic certificates. Moreover, the 「Guidelines for Implementing a Principal/Director Tenure System」, the 「Personnel Management Regulations for Public Officials in Education」, and the 「Standards for the Methods of Conducting School Health Examinations, Determination of Results, Documentation, Etc.」 require improvements in terminology. |
| Improvement in relevant clauses related to physical, social, and cultural differences based on gender | In the 「Advanced Technical School Curriculum」, the basic guidelines mandate integrating gender equality education into curriculum organization, operation, and assessment. Similarly, the 「Personnel Management Regulations for Public Officials in Education」 prohibits gender discrimination in performance evaluations, so these cases are considered good practices. Meanwhile, improvements are required in the administrative rules for the 「Standards for the Methods of Conducting School Health Examinations, Determination of Results, Documentation, Etc.」 annexed table and the 「Standards for School Environmental Hygiene and Food Sanitation Inspections」. |
| Whether gender is explicitly considered when forming committees, etc. | Only the following four cases explicitly consider gender or specify that the number of committee members from a specific gender should not exceed six out of ten appointees: The 「Ministry of Education Control Reviews and Active Administration Operation Regulations」, the 「Regulations on the Fire Safety Facility Status Survey in Educational Facilities, Etc.」, the 「Ministry of Education Policy Research Service Management Regulations」, and the 「Standards for Designation of Higher Education Evaluation and Accreditation Agencies」. In addition, four administrative rules do not explicitly specify gender considerations but require either considering women or appointing women committee members. These indicate a need for improvement to ensure more explicit gender consideration in forming committees. |
| Whether qualification requirements are acted against a particular gender in forming committees | It is assessed that the qualifications requirements for organizing committees presented in the current Ministry of Education's administrative rules are appropriate from a gender perspective. |

| Review point | Improvement measures |
|--|---|
| Specification of the production of gender statistics | Administrative rules related to statistical presentation, such as 'Regulations on Educational Information Statistics Management,' and 'Regulations on the Ministry of Education Public Data Quality Management,' need to establish new clauses related to the presentation of gender statistics. For efficient project operation and management, it is essential to develop gender statistics under the 'Regulations on the Integrated Operation of Government Overseas Internship Program,' the 'Public Notification on the Public Disclosure of Personal Information on Executives Etc. of School Corporations,' the 'Regulations on the Provision of Career Experience by Administrative Institutions, Etc.,' the 'Ministry of Education Policy Research Service Management Regulations,' and the 'Ministry of Education's Guidelines on the Prevention of Sexual Harassment/Violence and Secondary Damage.' |
| Improvement in the clauses of the Ministry of Education's rules on personnel, service, disciplinary action, etc. that disadvantage a specific gender | The 'Ministry of Education's Guidelines on the Prevention of Sexual Harassment/Violence and Secondary Damage' considers gender aspect in the handling of sexual harassment and sexual violence grievance counseling, the designation of grievance counselors, and the organization of relevant experts. Meanwhile, the 'Management Regulations of Workers for National Schools Under the Jurisdiction of the Minister of Education' requires 'improvement as it lacks a consideration of gender characteristics'. The regulations currently restrict parental leave to workers employed for less than a year, but based on the 'Equal Employment Opportunity and Work-Family Balance Assistance Act,' this clause should be revised to make the regulations apply only to those employed for less than six months. |
| Other improvements | To swiftly respond to the recent rise in sexual harassment, sexual violence, and human rights issues, the 'Regulations on the Operation of Consultant Lawyers for the Ministry of Education' needs to expand the scope of advice. For institutions involved in the 'Regulations on Education Policy Network Operation,' it is recommended to expand participation to include organizations dedicated to preventing school violence and promoting gender equality awareness among youth. |

Guidelines on the Enactment and Revision of Gender Equal Administrative Rules in the Field of Education

- ▶ Purpose and direction of guidelines development: It is aimed to guide the enactment and revision of the education sector's administrative rules in ways that promote gender equality.
- ▶ Users: The guidelines are recommended for public officials from various departments of the Ministry of Education who are tasked with enacting and revising administrative rules in education. The guidelines are also advised for officials in the Regulation Reform and Legal Affairs Division, who coordinate the systematization, wording, and legal consultations necessary for draft enactment/revision of administrative rules.
- ▶ Utilization of checklist review results
 - 'The results from the checklist review for the 'Enactment/Revision preparation phase' should be attached as a submission when requesting discussions with the legal review consultation department (currently the Regulatory Reform and Legal Affairs Division) regarding the enactment/revision of administrative rules.
 - The legal review consultation department (currently the Regulatory Reform and Legal Affairs Division) inspects the result of checklist review for the 'Enactment/Revision preparation phase'. If it is checked that the draft enactment/revision of administrative rules contains gender discriminatory elements but not addressed, a modification must be requested from the relevant department.

- Checklist for the administrative rules' enactment/revision preparation phase and the legal review consultation phase to promote gender equality in the field of education
- The checklist that can be used by working-level public officials in charge of draft enactment/revision consists of four clauses and six detailed review points. The result of the review can be answered either 'Yes' or 'No'. The review points were adopted from the statutory gender impact assessment indicators provided by the Ministry of Gender Equality and Family (Ministry of Gender Equality and Family, 2022: 22).
 - The checklist for the system, wording, and legal review consultation phase consists of one clause and one review point.

<Table 3> Checklist for the Administrative Rules' Enactment/Revision Preparation Phase and the Legal Review Consultation Phase to Promote Gender Equality in the Field of Education

| Clause | | Review Point | Review Result |
|--|---|---|---|
| Enactment/ Revision Preparation Phase | 1. Gender segregation or stereotypes | 1-1. Does the administrative rules' proposed enactment/revision include any gender segregation clause? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | 1-2. Do the terms or measures in the administrative rules' proposed enactment/revision contain any gender stereotypes? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | 2. Gender characteristics | 2-1. Does the administrative rules' proposed enactment/revision consider socio-cultural, economic, and physical differences based on gender? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | 3. Gender-balanced participation | 3-1. Does the administrative rules' proposed enactment/revision require gender consideration for the composition of committees (excluding official positions), etc.? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | | 3-2. Do the qualifications for the composition of committees in the administrative rules' proposed enactment/revision act against a specific gender? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| | 4. Gender statistics | 4-1. Does the administrative rules' proposed enactment/revision ensure gender identification in personal information, statistics, status surveys, etc.? | <input type="checkbox"/> Yes <input type="checkbox"/> No |
| System, Wording, and Legal Review Consultation Phase | 1. Verification of the checklist results for the enactment/revision preparation phase | 1-1. Did the department preparing the administrative rules' proposed enactment/revision submit the checklist review results for the enactment/revision preparation phase? | <input type="checkbox"/> Yes <input type="checkbox"/> No |

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Responsible Ministry : Ministry of Education (Gender Equality Policy Division, Regulation Reform and Legal Affairs Division)