

2-бөлім  
**КОНСТИТУЦИЯЛЫҚ ЖӘНЕ  
ӘКІМШІЛІК ҚҰҚЫҒЫ**

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Section 2  
**CONSTITUTIONAL AND  
ADMISTRATIVE LAW**

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Раздел 2  
**КОНСТИТУЦИОННОЕ  
И АДМИНИСТРАТИВНОЕ ПРАВО**

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**TO A QUESTION OF ENSURING THE SAFETY  
OF EDUCATION IN THE REPUBLIC OF KAZAKHSTAN**

This article analyzes the existing problems in the education system of the Republic of Kazakhstan as a basic element of national security. An analysis of the implementation by Kazakhstan of basic agreements in the field of education and the protection of children's rights is being conducted.

The purpose of this work is to pose the problem of ensuring security in the field of education, to study the main threats in this field, to determine the subject and object of protection. When writing the work, both general theoretical and specifically scientific methods of cognition were used, namely dialectical, comparative legal, historical, formally dogmatic (specially legal), concrete legal and logical. The scientific and practical significance of the research lies in the results and conclusions.

Increased scientific interest in the issue of safety of education is associated with ongoing reforms in this area, in particular, with domestic and international initiatives to improve the legal mechanism of the education system in Kazakhstan. As a result, the article concluded that there is a large complex of problems in the organization of the education system, which is still far from perfect despite the huge amount of work done in this area.

The article analyzes the main stages of the creation and development of the education system in Kazakhstan, and also identifies the tasks that still face the state bodies and educational institutions of the country.

The practical significance of the article lies in the possibility of using the results obtained to improve the current legislation of the Republic of Kazakhstan on the education system.

**Key words:** education, safety, system of education.

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**Қазақстан Республикасындағы білім беру қауіпсіздігін  
қамтамасыз ету мәселесі бойынша**

Осы мақалада Қазақстан Республикасының білім беру жүйесіндегі ұлттық қауіпсіздіктің негізгі элементтерінің бірі болып табылатын мәселелер талданады.

Қазақстанның білім беру және балалардың құқықтарын қорғау саласындағы негізгі келісімдерінің орындалуына талдау жасалған.

Бұл жұмыстың мақсаты білім беру саласындағы қауіпсіздікті қамтамасыз ету, осы саладағы негізгі қауіптерді зерделеу, қорғау объектісі мен пәнін анықтау болып табылады. Жұмысты жазу кезінде жалпы теориялық және арнайы танымдық әдістер қолданылды: диалектикалық, салыстырмалы құқықтық, тарихи, ресми догматикалық (нақты құқықтық), нақты заңды және логикалық. Зерттеудің ғылыми-тәжірибелік маңызы болып алынған нәтижелер мен тұжырымдар саналады.

Білім беру қауіпсіздігі мәселесіне ғылыми қызығушылықты арттыру осы салада жүргізіліп жатқан реформалармен, атап айтқанда, Қазақстандағы білім беру жүйесінің құқықтық тетігін жетілдіру бойынша отандық және халықаралық бастамалармен байланысты. Нәтижесінде, мақала осы саладағы жасалған үлкен жұмыс көлеміне қарамастан, әлі де білім беру жүйесін ұйымдастыруды жетілдіру үшін мәселелердің көптігі анықталды.

Мақалада Қазақстандағы білім беру жүйесін құрудың және дамытудың негізгі кезеңдеріне талдау жасалып, сонымен қатар мемлекеттің мемлекеттік органдарының және оқу орындарының алдында тұрған міндеттері айқындалады.

Мақаланың практикалық маңыздылығы алынған нәтижелерді Қазақстан Республикасының білім беру жүйесіндегі қолданыстағы заңнамасын жетілдіру үшін пайдалану мүмкіндігі болып табылады.

**Түйін сөздер:** білім, қауіпсіздік, білім беру жүйесі.

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### **К вопросу об обеспечении безопасности образования в Республике Казахстан**

В данной статье проводится анализ существующих проблем в системе образования Республики Казахстан как базового звена национальной безопасности. Проводится анализ реализации Казахстаном базовых соглашений в области образования и защиты прав детей.

Целью данной работы является постановка проблемы обеспечения безопасности в сфере образования, исследования основных угроз в данной области, определения предмета и объекта защиты. При написании работы применялись как общетеоретические, так и конкретно научные методы познания, а именно диалектический, сравнительно-правовой, исторический, формально-догматический (специально-юридический), конкретно-правовой и логический. Научная и практическая значимость исследования заключается в полученных результатах и выводах.

Повышенный научный интерес к проблеме безопасности образования связан с продолжающимися реформами в данной области, в частности с отечественными и международными инициативами по совершенствованию правового механизма системы образования в Казахстане. В итоге, в статье сделан вывод о наличии большого комплекса проблем в организации системы образования, которая еще далека от совершенства несмотря на огромный объем работы, проведенной в этой сфере.

В статье проводится анализ основных этапов создания и развития системы образования в Казахстане, а также определены те задачи, которые еще стоят перед государственными органами и учебными заведениями страны.

Практическое значение статьи заключается в возможности использования полученных результатов по совершенствованию действующего законодательства Республики Казахстан о системе образования.

**Ключевые слова:** образование, безопасность, система образования.

### **Introduction**

Modern youth meets the realities of life that were unknown to our generation. The development of science is rapidly developing the standard of living and at the same time requires an adequate level of

preparation from both the users of these goods and the creators of new opportunities and prospects, that is, from new generations.

Such an adequate level is ensured by nothing else but an education, which must also meet the requirements and go ahead of the curve.

The development of the level of pre-school, school and higher education is mainly determined by methodological, competence, material, personnel, and other aspects. At the same time, in the modern world of deep and rapid informational impact, when the consciousness of all mankind was not ready for such a wide onslaught of information, the safety of education is important.

Increasingly, in scientific and methodological studies of teachers, concern has been noted about ensuring the protection of the educational system, the consciousness of teachers and students from negative impact, the corruption component and other aspects. As a result, this led to the emergence of the concept of «safety of education», which is interpreted in a rather broad perspective, encompassing the above and other aspects.

### Research methodology

In the course of the scientific and legal analysis and formalization of its results, analysis and doctrinal interpretation of regulatory legal acts were used with the use of systemic, historical, comparative legal, structural, logical-legal and legal-linguistic methods of scientific research.

When analyzing the system of threats in the field of education, the following methods were used:

1. historical and legal analysis, which allows considering the trajectory and progress of the development of the national education system;
2. comparative legal, analytical methods that allow comparing the domestic and international work methodology, organization and activity of the organization of the education system and the influence on it of modern trends in the development of society. In this context, use: functional comparison; regulatory comparison; problem comparison, conceptual comparison;
3. specifically sociological, involving the collection, analysis and processing of legal and other analytical information (official documents, law enforcement practice materials, survey materials);

### Main part

The Convention on the Rights of the Child, adopted by General Assembly resolution 44/25 of November 20, 1989, recognizing the child's right to education, states that in order to gradually achieve the realization of this right on the basis of equal opportunities, they, in particular:

a) introduce free and compulsory primary education;

b) encourage the development of various forms of secondary education, both general and vocational, ensure its accessibility for all children and take such necessary measures as the introduction of free education and the provision of financial assistance if necessary;

c) ensure accessibility of higher education for all based on the abilities of each through all necessary means;

d) ensure the availability of information and materials in the field of education and training for all children;

e) take measures to promote regular attendance at schools and reduce the number of students leaving school (Convention on the Rights of the Child, adopted by General Assembly resolution 44/25 of November 20, 1989// <http://www.un.org/ru/documents/decll>).

The domestic education system, having taken the former Soviet system as a basis, having refined it to the present level, ensures compliance with the above listed principles. At the same time, modern trends that have engulfed the entire world space also pose the problem of ensuring the safety of education before the national education system.

The issue of safety education is one of the most pressing and acute problems of our time. On the one hand, the very concept of education does not in its essence imply any threats, since it is a process aimed at the development and upbringing of the individual. But on the other hand, education is a comprehensive process covering various areas. In addition, the organization process itself is important in the education process, which often raises safety issues. Such questions are increasingly emerging both in Kazakhstan and in foreign countries with a strong, formed education system.

It should be noted that the safety issues of the education system are relevant for the whole world. However, the most concern is shown by young countries, including the post-Soviet space, which is still in search of its training model for the younger generation. The safety of education has become one of the most pressing topics and offers various positions on the interpretation of this institution.

No one disputes the actualization and importance of research in this area. This can be traced in our daily life as an educator who is confronted with various situations, covering moral issues, health issues, and social factors. So, according to Sulakhshina S.S. «The essential signs of a human being are body, mind, and soul. The nomination of these three components entails an analysis of the spheres of public and state life related to these parameters: health care,

education, enlightenment, qualifications, morality and ideological spirituality» (National security of the country and quality of education // <http://rusrand.ru/docconf/natsionalnaja-bezopasnost-strany-i-kachestvo-obrazovaniya>).

Today, the public evaluates the education system of Kazakhstan as insufficient and in a state of decline, which was facilitated by many factors of a social, economic, legal, organizational and other nature. The level of education of citizens is the first indicator of the state of national security of the country, as it affects all aspects of the life of a person, society and the state.

In this perspective, you must agree with the opinion of the Russian researcher L.E. Mindel said that «in modern conditions, national security is ensured, not least by increasing the scientific and technological component of the functioning of all its spheres, the development of intellectual capital, and a high level of competitiveness. The main systemic problem of the development of scientific, technical, innovation and educational spheres is that their development rates and structure do not fully meet the needs of the national security system and the growing demand from the economy for advanced technologies and qualified personnel» (L.E. Mindel Ensuring national security in the sphere of science, technology and education // <https://cyberleninka.ru/article/n/obespechenie-natsionalnoy-bezopasnosti-v-sfere-nauki-tehnologiy-i-obrazovaniya>).

Kazakhstan is self-sufficient for intensive socio-economic development of the country. In their program documents, President N.A. Nazarbayev has repeatedly noted the need to strengthen and develop education and science. The progress of society is achieved with an increase in the quality of education and professional qualifications in each new generation.

The progress of society is achieved with an increase in the quality of education and professional qualifications in each new generation. Recently, in Kazakhstan, the issue of the quality of educational content and the safety of education, including from religious extremism, has increasingly been raised. In this regard, the issues of legal security in education become relevant.

In the Law of the Republic of Kazakhstan dated January 6, 2012 No. 527-IV «On the National Security of the Republic of Kazakhstan» (with amendments and additions as of 07.07.2017), the types of national security in accordance with Article 4 are 1) public safety; 2) military security; 3) political security; 4) economic security; 5) information security; 6) environmental safety

(Law of the Republic of Kazakhstan dated January 6, 2012 № 527-IV «On the National Security of the Republic of Kazakhstan» // [https://online.zakon.kz/Document/?doc\\_id=31106860](https://online.zakon.kz/Document/?doc_id=31106860)).

An important element of the security system is safety in education. Education can be a reliable factor in national security, as it can stop the processes of spiritual and intellectual impoverishment of a nation, expand the educational potential of citizens, form moral qualities of an individual, and foster respect for the law, for honest work, for the historical traditions of their country, i.e. create a cultural basis for the comprehensive development of state security systems.

Moreover, the achievement and maintenance of the level and quality of education and scientific potential of the country, adequate to the needs of the socio-economic, innovation and intellectual development of society and citizens belong to the national interests of the Republic of Kazakhstan (Chapter 7, Article 5 of the Law of the Republic of Kazakhstan «On the National Security of the Republic of Kazakhstan»).

However, in the current legislation of the Republic of Kazakhstan there is no clear concept of «safety in the field of education», as well as the concepts and categories associated with this phenomenon. In this regard, it is necessary to conduct a comprehensive study of the phenomenon of security in the field of education in order to clearly define the conceptual apparatus and it is advisable to make appropriate changes in the current legislation of the Republic of Kazakhstan on education, on combating corruption and on national security.

If we talk about scientific developments on safety issues in the field of education, their analysis showed that on certain aspects of this topic were published the work of Russian scientists. For example, Nesterov V.V. considers individual issues of the relationship between education and national security (Nesterov V.V. Education and national security // Army and Society, 2009. <https://cyberleninka.ru/article/n/obrazovanie-i-natsionalnaya-bezopasnost>).

He puts forward and justifies the idea that the education system acts as a resource, object and means of state policy of national security. Another author is Mikhalev Yu.A. In its article «The National State Educational Policy of the Russian Federation as a Factor in Strengthening National Security», it considers the impact of education on the types of national security of the country (National state educational policy as a factor in strengthening national security // Bulletin of Moscow State Linguistic University. – 2013. – №2. – 134–143 p.).

Of particular note is the first dissertation research in the post-Soviet space Kamash S.V.. Security of national education: a comprehensive analysis submitted for the degree of candidate of philosophical sciences (Kamash S.V. Safety of national education: a comprehensive analysis. Thesis for the degree of candidate of philosophical sciences. – Novosibirsk, 1997.). In domestic science, this topic has not yet found its research, which is puzzling in light of the existing problems in the field of Kazakhstan education, which is clearly in a critical state.

The search and analysis of scientific literature on safety issues in the field of education showed that in Kazakhstan such studies in both pedagogical and legal science of Kazakhstan were not conducted. Consequently, it is necessary to conduct a comprehensive research study on safety issues in the field of education.

Regarding education, it is advisable to distinguish the following levels of security:

- safety of students and employees in the education system;
- safety of educational institutions and their infrastructure;
- information security in education;
- economic security in education;
- safety of educational content;
- safety of the education system of the country as a whole.

The concept of national security uses the term «threats» as an initial category, which are contained in both internal and external factors of national security. The law considers the reduction of the level and quality of education and the intellectual potential of the country to be the main threats to national security (clause 4 of article 6 of the Law of the Republic of Kazakhstan «On the National Security of the Republic of Kazakhstan»). In education, there is a continuing decline in the quality of the education system.

It largely bears the imprint of the period of the 1990s, characterized by the forced «optimization» of the existing Soviet-style system. The modern stage of development of Kazakhstan has brought new moments to this process. The discrepancy between the quantitative indicators (financing, growth in the number of material objects of the system, the adoption of new laws, and a slight increase in the material status of educators) and the qualitative parameters of the education system has become more acute. The sharp increase in the number of universities did not lead to an increase in the professional qualifications and civic culture of graduates, but to their decline. This is especially

noticeable in the health sector. Less considerably, but it is not less pernicious – in education.

Another threat to security in education is corruption. Education is one of the public spheres with the greatest risk of corruption around the world. According to the latest estimate of the Global Corruption Barometer (Transparency International 2013), the proportion of the population that considers education to be corrupt in Kazakhstan is 55%. For comparison: the same share in Japan, higher in Russia (72%) and Kyrgyzstan (82%) (National report on the state and development of the education system of the Republic of Kazakhstan (according to the results of 2017) // [http://iac.kz/sites/default/files/nacionalnyy\\_doklad\\_za\\_2017](http://iac.kz/sites/default/files/nacionalnyy_doklad_za_2017).). The rapid growth of the corruption potential of the state system for the quality control of graduates' knowledge (UNT) and the Bolashak program is indicative. The decision of the Ministry of Education to introduce the practice of retesting knowledge on entrance exams in universities does not solve the problem, creating a «second tier» of the same problem. The practical consequence of such a situation may be a significant delay in the implementation of programs to improve the competitiveness of Kazakhstan, in all senses of this concept.

Along with this, there is a preservation of sources of deviant behavior in the youth environment. The objective basis here is the gap between the socially necessary needs and the material capabilities of the country. Official crime statistics record a steady increase in the proportion of juvenile crimes. The hooligan manifestations that are not fixed by official statistics are much more widespread at the place of residence, leisure activities of young people, and most importantly, in the educational institutions themselves. Another aspect of deviant behavior is the rapid increase in drug addiction. In the youth environment, drug addiction becomes prestigious in its own way, ceasing to be the lot of the outcasts, and this further complicates the fight against it.

In addition, the insufficient social status of teachers, the level of their material support by the state, the weak connection between the administrative structures of the education system and parent organizations significantly reduce the motivation of teachers, as representatives of the state and society. Thus, the potentially most important channel for the socialization of the individual remains the state's resource that is not fully utilized. Neither the legislation on an education system, nor the Law of RK «About Civil Service», nor the labor law provided full compliance of existing rules concerning education to the conventional

principles, nor the Labor Code of the Republic of Kazakhstan regulating the provisions of the civil service (Code of the Republic of Kazakhstan of 11.23.2015 N 414-V of the «Labor Code of the Republic of Kazakhstan» // <https://pavlodar.com/zakon/?dok=05995&uro=080141>], rules.), rules of international law and also international treaties of the Republic of Kazakhstan. Among such acts, the UNESCO / ILO Recommendations «On the Status of Teachers» (adopted on October 5, 1966 by the Special Intergovernmental Conference on the Status of Teachers) (Recommendation of UNESCO / ILO on the situation of teachers in 1966 and recommendation of UNESCO on the status of teaching staff in higher education institutions in 1997. User Guide // <http://unesdoc.unesco.org/images> well as the Model Law «On the Status of an Educational Worker» 2006 (The Model Law «On the Status of an Education Worker» (adopted by a resolution ... of the Assembly of CIS Member States of November 16, 2006 No. 27-13) // [base.garant.ru/2571706/](http://base.garant.ru/2571706/)).

UNESCO at the international level has consolidated a number of professional freedoms of teachers, such as: participation in the development of new programs, textbooks and teaching aids; the appeal of unreasonable (in the opinion of the teacher) evaluations of his work; guarding the teacher from unwarranted parental interference in the scope of his professional duties (UNESCO International Regulations. – M., 1993. – 122 p.). The articles of the Recommendation list the rights of teachers to various privileges and allowances (for years of service, old age, child care and others) and their duties. The UNESCO Recommendation concerning the situation of teachers is a peculiar international standard for the status of teachers (Eremina T.I. International experience on the legal status of the teacher // <https://cyberleninka.ru/article/n/mezhdunarodnyy-opyt-po-zakonodatelnomu-formleniyu-statusa-uchitelya>).

The existing privileges and ghosts defined by the Law of the Republic of Kazakhstan «On Education» unfortunately do not pay back the moral and material costs that teachers put into their work, which makes work in education not attractive either in moral or material sense. The ongoing reforms in the field of school education have led to a certain increase in the remuneration of school teachers. But this reform did not affect higher education teachers, which leads to an outflow of professionals and, as a result, a high percentage of Kazakhstan students learning in foreign universities and low external academic mobility.

In modern conditions, the issue of organization in the education system and, above all, in institutions of higher professional education of internal control, internal security, and own economic security is relevant. At the same time, it is necessary to approve a provision on this structural subdivision, providing for issues such as information security, personnel, and identification of corruption, employees' relations with crime and other individuals and legal entities concerned.

This is due to objective necessity, since today universities are large educational and scientific economic complexes. They operate educational and laboratory buildings, in technical universities – polygons, research is being conducted on unique and expensive equipment, information and communication tools and technologies are actively used. In particular, it is advisable to undertake if universities conduct training of highly qualified personnel and scientific research in the interests of the defense and security of the country.

In the message of the President of the Republic of Kazakhstan N.A. Nazarbayev to the people of Kazakhstan. January 31, 2017 «The Third Modernization of Kazakhstan: Global Competitiveness» sets specific tasks for the state to ensure the third modernization of Kazakhstan. Within the framework of modernization, five priorities are defined:

- this is an accelerated technological modernization of the economy;
- fundamental improvement and expansion of the business environment;
- macroeconomic stability;
- improving the quality of human capital;
- institutional transformations, security and the fight against corruption (Message of the President of the Republic of Kazakhstan N.A. Nazarbayev to the people of Kazakhstan. January 31, 2017 «The Third Modernization of Kazakhstan: Global Competitiveness»).

In the message of the President of Kazakhstan of 2018 special significance is attached to education. The directions of development of preschool, secondary and higher education are separately considered. The president indicated adoptions of law on the Teacher the need and to increase financing of education to 10% of GDP of the country (The Message of the President of the Republic of Kazakhstan N.A. Nazarbayev to the people of Kazakhstan. January 31, 2017 «The Third Modernization of Kazakhstan: Global Competitiveness»).

## Findings

Thus, it seems to us important in the framework of ensuring the national security of the country to pay special attention to such areas of ensuring security in the field of education as:

1) Development of theoretical provisions and conceptual security apparatus in the field of education, taking into account the provisions of the Law of the Republic of Kazakhstan of January 6, 2012 No. 527-IV «On the National Security of the Republic of Kazakhstan». It is proposed to develop concepts and categories of ensuring security in the field of education and to develop recommendations on the legal regulation of these concepts in the relevant legislation.

2) Study of the problems of ensuring economic security in educational institutions, taking into account the provisions of the Law of the Republic of Kazakhstan of January 6, 2012 No. 527-IV «On the National Security of the Republic of Kazakhstan». Measures to ensure economic security in educational institutions largely depend on the availability and use of financial resources and, above all, on a steady flow of budget funds. As part of the study, it is planned to develop legal mechanisms to ensure the economic security of educational organizations in the Republic of Kazakhstan.

3) Study of the problems of the safety of educational content, the compliance of educational programs of educational institutions with state educational standards and international educational standards. At present, the content of educational programs at all levels of education does not always correspond to state and international standards of quality education. In this regard, within the framework of the study, it is planned to analyze educational programs of various levels of education for compliance with state and international standards of education quality.

4) Development of legal mechanisms for ensuring information security in the field of education. Information security is the protection of information systems and information resources from external and internal threats that impede the process of effective use of information, for example, in the educational process when conducting research in universities, etc. It is planned to develop requirements and recommendations for ensuring information security in educational institutions.

5) Study of problems of corruption in the education system, communication of employees with crime and other interested individuals and legal entities and the development of mechanisms

for their elimination, as well as the development of proposals to improve anti-corruption legislation on combating corruption in the field of education, including the inevitability of responsibility for committing corruption offenses. According to research, corruption is the biggest obstacle to economic growth and development that can jeopardize any transformation, including in the field of education. Any person, who has the power to distribute any resources that do not belong to him at his own discretion, determines the conditions for hiring and paying for work, accepting children in preschool institutions and students to universities, examiners, etc., can be subject to corruption. In the field of education, a strong, powerful anti-corruption system is needed, which could fully resist all corruption and crimes. A well-established, efficient personnel policy is needed as a condition for combating corruption in the field of education.

6) Development of the legal framework of the organization in the education system, including in institutions of higher professional education, internal control, internal security, and its own economic security. In order to ensure safety in education, it is necessary to create internal control services at all levels of education with a clear indication of the areas of security and security threats in education. It is planned within the framework of the study to develop regulations on internal control services in educational organizations.

7) It is necessary to strengthen the influence of corporate governance in higher education institutions, which will allow a comprehensive and comprehensive approach to the organization of educational institutions. The existing experience of corporate governance in Kazakhstan has shown its viability, as it is aimed at moving from state to state-public management and transparency of the activities of universities, and above all financial issues.

Equally relevant is the issue of organizing the safety of the educational process, which extends to the observance of sanitary and hygienic, temporary rationing, medical indicators and medical care, psychological, compliance with the technical requirements for buildings and structures in which teaching is carried out, personnel policy and many other aspects. These issues are regulated by a mass of by-laws and are monitored by education authorities, law enforcement agencies and local executive and representative authorities. However, these issues arise in the field of view of the public constantly.

A comprehensive solution of these areas will allow the state to ensure the further development



of the field of education, taking into account safety issues in education. Education is a strategically important element of national security for the state and it is very important to use all opportunities

for the further development of the Kazakhstan education system, taking into account risks and threats to national security and their prevention and elimination.

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