

PEEKING AT ADMINISTRATIVE DISCRETION

by:

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Administrative Discretion is a power of a leader to choose based on specific mandates, policies, guidelines or even based on his/her own logical decision on what is deemed best. Legal Service India (2022) stated that Administrative Discretion is the special authority vested on executives or heads of an institution. This includes the power to act or not to act depending on the leader's own discretion.

Moreover, it was further cited that Administrative Discretion is referred to the administrative function as 'residuary functions' due to the quantum of functions undertaken by the executive other than the law-making functions and the judicial functions. A statute uses the word 'may' and phrases such as if he is satisfied or if he is of the opinion or if he reason to believe to confer discretionary power to the executive.

In layman's term, Administrative Discretion is the freedom of choice vested upon school administrators that gives them power to make their own choices - whether strictly guided by the law and mandates, or based on the principle of what is deemed best or most applicable/suitable to the institution he/she is leading.

Moreover, to go deeper, the following are the actions that an administrator can implement:

a. Discretionary power

Discretionary power of an administrator is his bestowed power to lead and make decisions for the institution based on what he/she believes is right or best "logical"

choice. Further, it gives a leeway in doing decisions, which may not be completely aligned to what is mandated, as long as an acceptable justification is made.

Further, discretionary power allows educational leaders to, in a way, decentralize and contextualize the administrative processes based on the actual needs and direction of the institution.

b. Delegation of Power

Delegation of Power on the other hand is the ability of leaders to delegate and designate members of the institution in handling leadership/managerial functions that would aid in completion of the tasks of the institution and achievement of its goals, objectives, vision and mission.

Moreover, one might elaborate that delegation of power is based on the trust and confidence of leaders to his/her specified members. It is a testament concerning the member's qualification and skill – as perceived by the leader who delegated the power.

c. Ministerial Power.

Lastly, unlike discretionary power, ministerial power dwells on the legality and by-the-book policies mandated by the central offices of various institutions. It focuses on what is “standard” and established acceptable.

Compliance to such ensures that an institution is following what is set by the institution's main branch and the completion of what is expected to be accomplished by the leader and members.

References:

Deepali, S. 2020. Administrative Law. Administrative Powers And Discretionary Power. <https://legalraj.com/articles-details/administrative-powers-and-discretionary-power>