

# LEGAL ASPECTS OF COMPLIANCE WITH THE REQUIREMENTS FOR INTERNAL QUALITY ASSESSMENT SYSTEM OF EDUCATION

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**ABSTRACT.** The subject of the study is the principles of compliance with the mandatory requirements for the implementation of educational programs of higher education in terms of the internal quality assessment system (IQAS). The purpose of the article is to determine the impact of the current status of the requirements for IQAS in higher education programs on public legal relations in the field of education and the growth of the quality of education in the Russian Federation. The relevance of the presented topic is determined by the importance of social relations arising in the framework of control and supervisory actions. The author's special contribution is the study of short stories that have recently come into force and have not yet been fully analyzed in the research literature. The novelty of the study lies in the application of interdisciplinary approaches to the study of the subject, in combining the results of the analysis of legal acts with an assessment of the impact of law enforcement practice on the management system of educational institutions of higher education and new opportunities to improve the quality of the implementation of educational programs. It is concluded that taking into account the full range of requirements for IQAS allows not only to optimize risk management in terms of the consequences of non-compliance with mandatory requirements, but also provides support for building a quality management system as a driver for the development of educational programs.

**KEYWORDS:** Federal state control (supervision), mandatory requirements, management quality, education quality assessment.

## БІЛІМ БЕРУ САПАСЫН БАҒАЛАУДЫҢ ІШКІ ЖҮЙЕЛЕРІНЕ ҚОЙЫЛАТЫН ТАЛАПТАРДЫ САҚТАУДЫҢ ҚҰҚЫҚТЫҚ АСПЕКТІЛЕРІ

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**АНДАТПА.** Зерттеу пәні сапаны ішкі бағалау жүйесі (ВСОКО) тұрғысынан жоғары білім берудің білім беру бағдарламаларын іске асыруға қойылатын міндетті талаптарды сақтау принциптері болып табылады. Мақаланың мақсаты – осындай актілердің тізбесін анықтау негізінде жоғары білім беру бағдарламаларын іске асыру шеңберінде ВСОКО-ға қойыла-

тын талаптар кешенін толық сипаттау. Ұсынылған тақырыптың өзектілігі бақылау-қадағалау әрекеттері шеңберінде туындайтын қоғамдық қатынастардың маңыздылығымен анықталады. Жазушының ерекше еңбегі – соңғы кезде қолданысқа енген, зерттеу әдебиетінде әлі толық талданбаған әңгімелерді зерттеу. Зерттеудің жаңалығы пәнді зерделеуде пәнаралық тәсілдерді қолдануда, құқықтық актілерді талдау нәтижелерін құқық қолдану тәжірибесінің жоғары оқу орындарының оқу орындарын басқару жүйесіне әсерін бағалаумен және білім беру бағдарламаларын іске асыру сапасын арттырудың жаңа мүмкіндіктерімен үйлестіруде. ВСОКО-ға қойылатын талаптардың толық спектрін ескеру міндетті талаптарды сақтамау салдары тұрғысынан тәуекелдерді басқаруды оңтайландыруға мүмкіндік беріп қана қоймайды, сонымен қатар білім беру бағдарламаларын әзірлеудің драйвері ретінде сапа менеджменті жүйесін құруға қолдау көрсетеді деген қорытынды жасалған.

**ТҮЙІН СӨЗДЕР:** Федералдық мемлекеттік бақылау (қадағалау), міндетті талаптар, басқару сапасы, білім сапасын бағалау.

## ПРАВОВЫЕ АСПЕКТЫ СОБЛЮДЕНИЯ ТРЕБОВАНИЙ К ВНУТРЕННИМ СИСТЕМАМ ОЦЕНКИ КАЧЕСТВА ОБРАЗОВАНИЯ

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**АННОТАЦИЯ.** Предметом исследования являются принципы соблюдения обязательных требований, предъявляемых к реализации образовательных программ высшего образования в части внутренней системы оценки качества (ВСОКО). Цель статьи - определить влияние текущего статуса требований, предъявляемых к ВСОКО по программам высшего образования, на публичные правоотношения в сфере образования и рост качества образования в РФ. Актуальность представляемой темы обуславливается важностью общественных отношений, возникающих в рамках контрольно-надзорных действий. Особым вкладом автора является исследование новелл не так давно вступивших в силу и еще до конца не проанализированных в исследовательской литературе. Новизна исследования заключается в применении междисциплинарных подходов к изучению предмета, в соединении результатов анализа нормативно-правовых актов с оценкой воздействия правоприменительной практики на систему менеджмента образовательных организации высшего образования и новые возможности повышения качества реализации образовательных программ. Делается вывод о том, что учёт полного комплекса требований, предъявляемых к ВСОКО, позволяет не только оптимизировать управление рисками в части последствий невыполнения обязательных требований, но и предоставляет опору для выстраивания системы менеджмента качества как драйвера развития образовательных программ.

**КЛЮЧЕВЫЕ СЛОВА:** Федеральный государственный контроль (надзор), обязательные требования, управление качеством, оценка качества образования.

**INTRODUCTION.** Russian legislation on education is developing dynamically, taking into account the current needs of society and the requirements of the labor market. One of the latest cardinal reforms that affected the education sector is the administrative reform of control and supervision activities, its integration with the education quality assessment system, the digital transformation of industry procedures [7, 12, 13], leading to a reduction in bureaucratic burdens on conscientious organizations. In addition, the trend towards taking into account international quality standards has been relevant so far in the field of higher education, and public accreditation of educational programs, carried out by international accreditation communities in accordance with the educational legislation of Russia, has become one of the points of strategic development of the direction in many higher education organizations. The specification of regulatory legal acts in the sectoral sphere has led to the fact that state accreditation of educational activities and state control (supervision) in the field of education become closely related to each other within the framework of a risk-based approach to control and supervisory activities. In line with this approach, both constant monitoring of the quality of education through accreditation monitoring and identification of the risk of violation of mandatory requirements by organizations through monitoring the safety of supervised entities is carried out. Both tools were originally planned to be used without interaction with the supervised entity, which was a novelty introduced by the reform of the state regulation of educational activities. However, at the moment, it has not yet been possible to put into practice such a principle due to the imperfection of the legal regulation of the indicators assessed in the course of monitoring procedures.

**Problem.** The root of one of the debatable issues in this regard is the fact that monitoring compliance with mandatory requirements

within the framework of administrative procedures and quality assessment can be based on the analysis of the same performance indicators of educational organizations, and therefore it is important to demarcate the principles of their analysis for different purposes. One of the subjects that is analyzed both in the framework of safety monitoring and in the framework of accreditation monitoring is a set of requirements for the internal system for assessing the quality of education (IQAS E). In turn, IQAS does not have a clear definition in the legislation, and the list of such requirements is not systematized and codified. In this regard, the purpose of the article is to determine the impact of the current status of the requirements for HSEKO in higher education programs on public legal relations in the field of education and the growth of the quality of education in the Russian Federation. To do this, the following object is being studied - the system of legislation of the Russian Federation in the part that regulates educational activities in higher education programs. The subject of the research is the regulation of the mandatory requirements for the implementation of educational programs of higher education in terms of the internal quality assessment system. In accordance with the stated goal, the following tasks are solved in the proposed article:

- a list of acts containing requirements for IQAS in higher education programs is identified;
- systematizes the list of requirements for IQAS in these acts, and the types of activities within which the assessment of IQAS is carried out;
- the responsibility of supervised entities for violation of the considered requirements is determined.

**Literature Review.** The scientific study of this issue is relevant due to the importance of public relations in the field of education and the resulting administrative and legal interaction of subjects of legal relations. Thus, the

control and supervisory activities of executive authorities in Russia are widely studied within the framework of the administrative and legal branch of legal science, which is presented both within the framework of special sections of monographs devoted to administrative law [14] and individual monographs on the topic of state control (supervision) in the field of education [7]. At the same time, in the last decade there are not so many scientific dissertations devoted to this topic, and even less those that are subject to industry specifics. Among the latter, one can name the works of B.M. Frolov [15]. The works of E.V. Maslennikova, A.A. Spiridonova, S. G. Sinelnikov-Murylev, [12, 13]. In the context of assessing the quality of education, the issue of work on state accreditation is considered [1], and the involvement of the works of foreign and some domestic authors allows us to look at the topic of regulation and assessment of the quality of education from the point of view of comparative studies [2-6, 11]. Despite this, the requirements for IQAS are analyzed in the field of educational sciences or management. Such, for example, are the works of E.V. Eremina, A.B. Zhumagulova, S.A. Kondakova and others [8, 9, 10].

In all the mentioned works, IQAS is considered as a tool for advanced development, and not as a requirement of education legislation. In addition, the results of the reform of control and supervision activities, its relationship with the assessment of the quality of education are not sufficiently meaningful in the literature. And although not much time has passed since the reform, we can note the first results, the comprehension of which opens a discussion on this issue: to what extent the stated goals are achieved in practice, what legal gaps should be corrected. Thus, consideration of the IQAS from the point of view of the so-called. The "lower bar", beyond which comes liability for non-compliance with mandatory requirements, is also an urgent need for administrative law.

#### **MATERIALS AND METHODS OF RESEARCH.**

The study used a combination of general scientific and special legal research methods, including:

- methods of analysis and synthesis, which made it possible to generalize various approaches to the proposed topic;
- formal legal method, which contributed to the analysis and interpretation of the norms of the current legislation;

The concretization of the topic for only one type of education - higher education - is associated with the peculiarity of its legal status for the student. If the right to receive basic general and secondary vocational education is guaranteed by art. 43 of the Constitution of the Russian Federation, then when considering disputes related to the consequences of a violation of mandatory requirements, for example, applying to an educational organization of higher education the revocation of a license for educational activities, the defendant's argument does not reveal grounds for appealing to constitutional norms. Violation of mandatory requirements by educational institutions of higher education (hereinafter - EIHE, organizations) has more radical consequences. Due to the fact that these features are fully applied to Russian and foreign organizations operating in the territory of the Russian Federation, the geographical scope of the study is limited to the territory of the Russian Federation, where organizations carry out educational activities under higher education programs.

**RESULTS AND THEIR DISCUSSION.** Of course, from the point of view of quality management and strategic development of educational organizations, the topic of IQAS is quite broad for understanding. The professional community continues to share experience and best practices in building this system. However, the discussion about how to implement IQAS should take into account the requirements of regulations that define the minimum indicators that

indicate the implementation of the mandatory requirements of an educational organization. It is easy to miss any requirement for IQAS not only due to the involvement of the supervised entity with management processes, or insufficient legal culture in the organization, but also due to the lack of systematization of the full list of such requirements.

The first difficulty in this regard is related to the fact that the concept of IQAS was introduced into the regulations not so long ago and has not yet received a clear definition. For the first time, it is being introduced within the framework of the updated federal state educational standards for higher education of the third generation (the so-called FGOS VO 3++), adopted by the Ministry of Education and Science of the Russian Federation in 2018-2020. In addition, it has become widespread in the context of a new tool for monitoring the education system - "monitoring of compliance with EIHE accreditation indicators, introduced in the version of Federal Law No. 273 "On Education in the Russian Federation", which entered into force on March 1, 2022, and regulations related to the regulation of this monitoring.

The second difficulty is related to the fact that not the entire complex of the mentioned acts establishing the requirements for IQAS is presented among the mandatory requirements within the meaning of the Federal Law "On Mandatory Requirements in the Russian Federation" dated July 31, 2020 No. 247. To elaborate on this thesis, these requirements should be considered.

The wording of FGOS VO 3++ contains a typical reference to IQAS in subparagraph 4.6, listing the minimum requirements for it and not giving its own definition.

Here, the connection between the introduction of these provisions and the requirements of the international standard ENQA ESG 2015 is obvious. The fact is that until recently, paragraph ESG 1.9 «Continuous monitoring and periodic evaluation of

programs» was one of two that did not have a clear correspondence in the standards of the Russian Federation. Now this requirement allows you to get closer to the requirements of ESG.

Taking into account these requirements, let's compare the IQAS assessment methodology as part of the accreditation procedure and accreditation monitoring. Thus, the value of the accreditation indicator AP6 during the accreditation examination «available» is set if:

«1. Employers and (or) their associations, other legal entities and (or) individuals, including teaching staff of the organization, are involved in the annual internal assessment of the quality of educational activities and training of students.

2. Within the framework of the internal system for assessing the quality of educational activities, students are given the opportunity to assess the conditions, content, organization and quality of the educational process as a whole and individual disciplines (modules) and practices».

The scarcity of information within the framework of the current accreditation indicators on the minimum criteria for IQAS compliance with the requirements is partly compensated by the "Methodology for calculating and applying accreditation indicators", which is included in the normative act itself by order No. 409 of April 18, 2023 and thus acquires a regulatory status.

The indicators and the methodology for their calculation, established for the accreditation monitoring procedure, expand a number of theses in comparison with the indicators established for the purposes of state accreditation. So, the list of what should be available on the official website of the organization is specified:

"1) local regulation on IQAS;

2) self-examination report..."

The placement of a local act is possible in accordance with the order of Federal Service for Supervision in Education and

Science (hereinafter – Rosobrnadzor) No. 831 dated August 14, 2020 (hereinafter referred to as Order No. 831), for example, in the “Documents” section in the heading “Local regulations and other documents”, which are posted, published by the decision of the educational organization, however, a direct requirement for the placement of such a local act cannot be found, and therefore it becomes often impossible.

In addition, within the framework of the requirements for the report on the results of self-examination, in particular, in accordance with paragraph 6 of the order: “In the process of self-examination, an assessment is carried out ... of the functioning of the internal system for assessing the quality of education ...”. The obligatory placement of such a report on the organization's website allows us to say that the presence of IQAS is the subject of control and supervisory actions at the moment.

However, at the moment, IQAS is not a mandatory requirement for any of the levels of higher education, because the provisions of subparagraphs of paragraph 4.6 of the Federal State Educational Standard of higher education are not classified by Rosobrnadzor as mandatory requirements. In addition, the IQAS analysis itself for the purposes of state accreditation cannot be the subject of control and supervision measures, due to the declarative nature of state accreditation of educational activities, and the methodology for calculating accreditation indicators that details the requirements for IQAS is not yet a normative act. If Rosobrnadzor Order No. 409, which comes into force on September 1, 2023, is not included in the list of acts containing mandatory requirements, then IQAS will continue to be taken into account only as part of accreditation monitoring. Thus, although Rosobrnadzor is obliged to assess compliance with IQAS requirements, it is not in a position to hold the supervised entity liable for their violation.

Despite the vagueness of the current

position of IQAS as a subject of control and oversight activities, attention should nevertheless be paid to a number of risks for organizations of non-compliance with IQAS requirements. So, in the absence of a self-examination report on the website of the EIHE, the organization may receive a warning from the control and supervisory authority, the presence of which in the amount of more than two within six months, according to the draft addition to the list of indicators of the risk of violation of mandatory requirements (Order of Rosobrnadzor dated October 4, 2021 N 1336) may lead to recognition of the organization as having signs of violation of the requirements of medium or high risk.

Thus, among the activities that assess compliance with the IQAS requirements in the EIHE and entail responsibility at the moment, one can name the monitoring of EIHE sites, although this is only indirectly. The analysis by the author of the article of the websites of organizations within the framework of expert activities as an expert involved by Rosobrnadzor in control (supervision) measures indicates shortcomings in compliance with the requirements for IQAS.

Obviously, such shortcomings are also affected by the identified problem of fuzzy regulation of the requirements for IQAS and their optional nature. Agreeing with E.V. Maslennikova, it can be noted that the inclusion of certain requirements in the list of mandatory ones “can affect the well-being and security of citizens” [11]. In the context of higher education, it can be added that the formation of a list of mandatory requirements also contributes to improving the quality of education. In this regard, the consolidation of the acts establishing the requirements for IQAS, as containing mandatory requirements, is an urgent need. This would be another signal for organizations to focus on the quality of education, and not on formal ways to avoid administrative responsibility, which would help identify growth points both for

the organizations themselves and for the education system as a whole.

**CONCLUSION.** The inclusion of elements of internal and external assessment of the quality of education, although imperfect at the moment, has brought Russian educational standards of higher education closer to international requirements, such as, for example, ESG. Obviously, there is still a lot of work to be done to systematize and optimize requirements, harmonize with the original practice of leading organizations. But already now we can say that the "lower bar" has been formed to ensure the functioning of IQAS in organizations. However, having considered the list of acts, the requirements established by them and administrative sanctions for their non-compliance, we can state the absence of a clear connection, the lack of grounds for holding accountable for non-compliance with the requirements for IQAS.

To do this, however, it is necessary to systematize and detail the requirements for

IQAS in regulatory acts, correlate them with each other, thereby preventing an increase in the formal burden on the EIHE. So, at the moment, the self-examination report form does not contain a clear indication of how it should reflect the results of the functioning of the IQAS, and needs to be updated. At the same time, the regulation of IQAS as a mandatory requirement should not lead to the opposite effect - an increase in the bureaucratic burden on organizations. For example, due to the fact that quality assessment in an organization is carried out for each educational program of higher education, which causes it to expand, instead linking to information within a special subsection of the organization's website. This should be provided for in order No. 831. Fixing such an instrument as a mandatory requirement in the current legislation, in our opinion, would contribute to increasing attention to quality assessment within EIHE, and as a result, the quality of education.

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