

REKONSTRUKSI PERTANGGUNGJAWABAN HUKUM KEPALA SEKOLAH DALAM PENGELOLAAN DANA BANTUAN OPERASIONAL SEKOLAH PERSPEKTIF HUKUM ADMINISTRASI NEGARA

INTISARI

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Pengelolaan Dana Bantuan Operasional Sekolah (BOS) oleh Kepala Sekolah merupakan pelaksanaan kewenangan berkaitan dengan penggunaan keuangan negara, diskresi, dan pertanggungjawaban hukum. Persoalan hukum muncul ketika tindakan *switching* atau perubahan penggunaan Dana BOS untuk kebutuhan sekolah dipandang sebagai kesalahan administratif atau penyalahgunaan wewenang yang berimplikasi pada pertanggungjawaban pidana. Penelitian ini bertujuan menganalisis batas kewenangan Kepala Sekolah dalam pengelolaan Dana BOS, mengkaji perdebatan yuridis mengenai kesalahan administratif dan penyalahgunaan wewenang dalam Putusan Pengadilan Tindak Pidana Korupsi pada Pengadilan Negeri Bandung Nomor 65/Pid.Sus-TPK/2020/PN Bdg dan Putusan Pengadilan Tinggi Bandung Nomor 25/PID.TPK/2021/PT BDG, serta merekonstruksi mekanisme koreksi dan pertanggungjawaban hukum dalam perspektif Hukum Administrasi Negara.

Penelitian ini merupakan penelitian hukum normatif yang bersifat preskriptif dengan pendekatan peraturan perundang-undangan, konseptual, dan kasus. Bahan hukum dikumpulkan melalui studi kepustakaan dan didukung wawancara dengan Hakim, Jaksa, Akademisi, dan Advokat sebagai *supporting data*, dianalisis melalui penafsiran dan penalaran hukum.

Berdasarkan hasil penelitian, terdapat tiga temuan. Pertama, batas kewenangan Kepala Sekolah ditentukan oleh sumber dan legalitas kewenangan, tujuan, prosedur, AUPB, serta ketentuan teknis Dana BOS. Kedua, perdebatan yuridis antarputusan terletak pada kualifikasi tindakan *switching* dalam kaitannya dengan kewenangan, diskresi, tujuan tindakan, kebutuhan, dan penyalahgunaan wewenang. Ketiga, Rekonstruksi pertanggungjawaban hukum dilakukan secara berjenjang berdasarkan *doelmatigheid*, *rechtmatigheid*, karakter kesalahan, kerugian, dan hubungan kausal, dengan pidana sebagai *ultimum remedium* apabila unsur tindak pidana terpenuhi.

Kata Kunci: Dana BOS, Diskresi, Kepala Sekolah, Kesalahan Administratif, Penyalahgunaan Wewenang.

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RECONSTRUCTION OF THE LEGAL ACCOUNTABILITY OF SCHOOL PRINCIPALS IN THE MANAGEMENT OF SCHOOL OPERATIONAL ASSISTANCE FUNDS FROM THE PERSPECTIVE OF ADMINISTRATIVE LAW

ABSTRACT

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The management of School Operational Assistance (BOS) Funds by school principals constitutes the exercise of authority involving the use of public funds, discretion, and legal accountability. Legal issues arise when the switching or reallocation of BOS Funds for school needs is characterized either as an administrative error or as an abuse of authority carrying criminal liability implications. This study aims to analyze the limits of school principals' authority in managing BOS Funds, examine the juridical debate concerning administrative errors and abuse of authority in Decision of the Corruption Court at the Bandung District Court Number 65/Pid.Sus-TPK/2020/PN Bdg and Decision of the Bandung High Court Number 25/PID.TPK/2021/PT BDG, and reconstruct the mechanisms of correction and legal accountability from the perspective of Administrative Law.

This study employs normative legal research with a prescriptive approach, utilizing statutory, conceptual, and case approaches. Legal materials were collected through library research and supported by interviews with judges, prosecutors, academics, and advocates as supporting data, and were analyzed through legal interpretation and reasoning.

*The findings reveal three principal conclusions. First, the limits of a school principal's authority are determined by the source and legality of authority, purpose, procedures, the General Principles of Good Governance (AUPB), and the technical provisions governing BOS Funds. Second, the juridical debate between the decisions concerns the characterization of switching in relation to authority, discretion, purpose, necessity, and abuse of authority. Third, the reconstruction of legal accountability is established through a tiered assessment based on *doelmatigheid*, *rechtmatigheid*, the nature of the error, financial loss, and causation, with criminal law serving as an *ultimum remedium* where the elements of a criminal offense are satisfied.*

Keywords: BOS Funds, Discretion, School Principals, Administrative Error, Abuse of Power.

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