論文名稱:我國行政程序法之研究:行政行為之公眾參與 頁數:120

校(院)所組別:南華大學 社會科學院 公共行政與政策研究所 碩士班

畢業時間及提要別:九十學年度第二學期 碩士 學位論文提要

指導教授:許 仟博士 沈玄池博士

研究生: 林源峰

論文提要內容:

2001 年我國開始施行行政程序法,其內容中包含行政程序的法典化、行政行為實質及程序之引導。由於適用於行政行為範圍廣泛,行政機關除了檢視自定規章配合修正妥為因應外,如何發揮公眾參與的實質效用,以提昇行政效率並落實人民權益之保障,為當今行政部門重要的課題。

過去行政機關對人民之行政處分,除法律另有規定外,人民僅能於事後提起 行政爭訟以求救濟。公眾參與行政行為之決定過程,具有溝通、議價妥協,及發 現事實與廣納人民意見之效用。人民為表達意見、確保權利,亦應瞭解關於相關 資訊獲得,及行政決定程序之參與時機與方式。

法規命令與行政計畫之對人民權利之影響,相對於行政處分而言,具有抽象 及廣泛之特質。強勢群體與利益團體,享有較多機會去影響法規及行政計畫的制 定。關於弱勢群體的權益仍然不可輕忽,行政機關必須善盡職責,求得公共利益 與個人及壓力團體利益之衡平,尤應體察民意脈動,以滿足並回應社會大眾需求。

關鍵詞:行政程序法、行政行為、公共利益、公眾參與、程序當事人。

Title of Thesis: On Administrative Procedure Act: Administrative behavior of public participation

Key word: Administrative Procedure Act, Administrative behavior, Public interest, Public participation, Procedure standing to participate.

Name of Institute: Institute of Public Administration and Policy.

Graduate date: June 2002. Degree conferred: Master.

Advisor: Dr. Klaus C. Hsu Dr. Cen-Chu Shen Name of student: Lin, Yuan-Feng (許 仟 博士 沈玄池 博士) (林源峰)

For 2001 years, Taiwan begins to perform the Administrative Procedure Act, which includes the code of the administrative procedure, and to direct the administrative behavior essence and procedure. Because of the extensive range of the administrative behavior, the administrative organization not only examines its rules in accordance with the amendment, but also lays stress on the public participation in order to increase the administrative efficiency and protect the people's rights, for now administrative department important program.

Regarding to the administrative disciplinary measure taken by administrative organization in the past, unless the law have another stipulation, the people only can raise the administrative litigation to remedy after the event. The decision process of the public participates in administrative behavior, it has following efficacy: communication, negotiation compromise and discovery of facts and to accept people's opinion. The people have to understand the related information and the timing and the method of participating in the decision for express the opinions and to make sure the rights.

The effect of the administrative regulations and administrative plan to the people's rights relative to the administrative disciplinary measure, it has the character of the abstract and widespread. The mighty group and interest groups have much more chances to influence on enactment of the regulations and administrative plan. However, the rights and interest of the powerless group cannot be ignored. The administrative organization has to take the duties for get the fairly about the public interest and individual and pressure groups interest. Moreover the administrative organization should be observing the pulsation of the public opinion in order to satisfy and respond the needs of the social multitude.